

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1294 Session of  
2011

INTRODUCED BY GODSHALL, PRESTON, AUMENT, BEAR, BRENNAN, BUXTON,  
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DEASY, GIBBONS, M. SMITH, GERGELY, CHRISTIANA, KILLION,  
BRIGGS, STABACK, WAGNER, OBERLANDER, SABATINA, HENNESSEY,  
LONGIETTI AND EVERETT, APRIL 6, 2011

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JANUARY 24, 2012

AN ACT

1 ~~Amending Title 66 (Public Utilities) of the Pennsylvania~~ ←  
2 ~~Consolidated Statutes, further providing for valuation of and~~  
3 ~~return on the property of a public utility; and providing for~~  
4 ~~alternative regulatory mechanisms.~~

5 AMENDING TITLE 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA ←  
6 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR LAW BUREAU,  
7 OTHER BUREAUS, OFFICES AND POSITIONS, FOR THE BURDEN OF  
8 PROOF, FOR THE RECOVERY OF THE COSTS OF DISTRIBUTION SYSTEM  
9 IMPROVEMENT PROJECTS AND FOR CIVIL PENALTIES FOR VIOLATIONS.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 ~~Section 1. Section 1311(c) of Title 66 of the Pennsylvania~~ ←  
13 ~~Consolidated Statutes is amended and the section is amended by~~  
14 ~~adding a subsection to read:~~

15 ~~§ 1311. Valuation of and return on the property of a public~~  
16 ~~utility.~~

1       ~~\*\*\*~~

2       ~~(c) Segregation of property. When any public utility~~  
3 ~~furnishes more than one of the different types of utility~~  
4 ~~service, the commission shall segregate the property used and~~  
5 ~~useful in furnishing each type of such service, and shall not~~  
6 ~~consider the property of such public utility as a unit in~~  
7 ~~determining the value of the rate base of such public utility~~  
8 ~~for the purpose of fixing rates. A utility that provides water~~  
9 ~~and wastewater service shall be exempt from this subsection and~~  
10 ~~may combine all components of its water and wastewater revenue~~  
11 ~~requirement for the purposes of fixing rates on a consolidated~~  
12 ~~basis.~~

13       ~~\*\*\*~~

14       ~~(c) Definition. As used in this section, the term "utility~~  
15 ~~that provides both water and wastewater service" shall include~~  
16 ~~subsidiary companies that individually provide water or~~  
17 ~~wastewater service so long as the companies are wholly owned by~~  
18 ~~a common parent company.~~

19       ~~Section 2. Title 66 is amended by adding a section to read:~~  
20 ~~§ 1329. Alternative regulatory mechanisms.~~

21       ~~(a) Declaration of policy. Many fixed utilities and city~~  
22 ~~natural gas distribution operations in this Commonwealth have~~  
23 ~~incurred and will continue to incur significant costs to~~  
24 ~~maintain, enhance or modernize their physical facilities in~~  
25 ~~order to continue to provide customers with safe and reliable~~  
26 ~~service. Under traditional regulatory mechanisms developed under~~  
27 ~~this title, these utilities and distribution operations~~  
28 ~~experience delay in the recovery of the revenue requirements~~  
29 ~~associated with those costs. The opportunity for more timely~~  
30 ~~recovery of those costs, including the recovery of capital~~

1 ~~costs, including return of and on capital investments, and,~~  
2 ~~where applicable, debt service and debt service coverage, should~~  
3 ~~encourage investment to replace facilities for continued~~  
4 ~~reliability, should enhance the efficiency of the construction~~  
5 ~~cycle and should attract lower cost debt, which would reduce the~~  
6 ~~overall cost of these investments and should create jobs in the~~  
7 ~~Commonwealth. Accordingly, it is in the public interest to~~  
8 ~~provide for alternative regulatory mechanisms as set forth under~~  
9 ~~this section.~~

10 ~~(b) Authority.~~

11 ~~(1) Notwithstanding any other provision of this title~~  
12 ~~that would prohibit implementation of this section, upon~~  
13 ~~petition by a fixed utility or a city natural gas~~  
14 ~~distribution operation, filed in its sole discretion, the~~  
15 ~~commission shall have the authority to approve, modify or~~  
16 ~~reject additional regulatory procedures and mechanisms~~  
17 ~~proposed by a fixed utility or a city natural gas~~  
18 ~~distribution operation to provide for timely recovery of~~  
19 ~~reasonable and prudent costs incurred for the improvement of~~  
20 ~~physical facilities to maintain safety or reliability.~~

21 ~~(2) (i) The additional procedures and mechanisms under~~  
22 ~~paragraph (1) shall include, but are not limited to:~~

23 ~~(A) The use of a fully projected future test~~  
24 ~~year in a general rate proceeding under section~~  
25 ~~1308(d).~~

26 ~~(B) An automatic adjustment clause to recover~~  
27 ~~capital costs and incremental expenditures accounted~~  
28 ~~for as expense of certain projects, as approved by~~  
29 ~~the commission under this section that are placed~~  
30 ~~into service between base rate proceedings.~~

1           ~~(ii) For purposes of this paragraph, a fully~~  
2           ~~projected future test year shall be the 12-month period~~  
3           ~~beginning with the first month that the new rates could~~  
4           ~~be placed in effect after application of the full~~  
5           ~~suspension period permitted under section 1308(d).~~

6           ~~(c) Construction and interpretation. Except as otherwise~~  
7           ~~expressly provided under this section, nothing under this~~  
8           ~~section shall be construed as limiting the existing ratemaking~~  
9           ~~authority of the commission, including, but not limited to, the~~  
10           ~~commission's existing authority to permit recovery of operating~~  
11           ~~expenses through an automatic adjustment clause, or as~~  
12           ~~indicating that the existing authority of the commission over~~  
13           ~~rate structure or design is limited.~~

14           ~~(d) Commission. The commission, by regulation or order,~~  
15           ~~shall prescribe the specific procedures to be followed in~~  
16           ~~establishing the alternative regulatory procedures and~~  
17           ~~mechanisms authorized in this section. An alternative regulatory~~  
18           ~~mechanism approved by the commission under this section shall:~~

19           ~~(1) Provide for reasonable allocation of costs to the~~  
20           ~~customer class responsible for those costs.~~

21           ~~(2) Provide for adjustment of the mechanism, including a~~  
22           ~~process to provide:~~

23           ~~(i) Credit to customer accounts for over collections~~  
24           ~~and collections for ineligible projects.~~

25           ~~(ii) Charges to customer accounts for under~~  
26           ~~collections.~~

27           ~~(3) Provide for a cap on the amount that may be~~  
28           ~~collected from customers through an alternative regulatory~~  
29           ~~mechanism authorized by subsection (b) (2) (i) (B).~~

30           Section 3. This act shall take effect in 60 days.



1 SECTION 1. SECTIONS 308(B), 308.2(A)(11) AND 315(E) OF TITLE  
2 66 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO  
3 READ:

4 § 308. BUREAUS AND OFFICES.

5 \* \* \*

6 (B) LAW BUREAU.--THE LAW BUREAU SHALL BE A MULTIFUNCTION  
7 LEGAL STAFF, CONSISTING OF A PROSECUTORY FUNCTION, AN ADVISORY  
8 FUNCTION, A REPRESENTATIONAL FUNCTION AND AN ENFORCEMENT  
9 FUNCTION. THE DIRECTOR OF THE LAW BUREAU SHALL BE THE CHIEF  
10 COUNSEL OF THE COMMISSION AND SHALL SERVE AT THE PLEASURE OF THE  
11 COMMISSION. THE COMMISSION MAY ALSO, FROM TIME TO TIME, APPOINT  
12 SUCH ASSISTANT COUNSEL TO THE COMMISSION AS MAY BE REQUIRED FOR  
13 THE PROPER CONDUCT OF THE WORK OF THE LAW BUREAU. ASSISTANT  
14 COUNSEL MAY BE REMOVED BY THE COMMISSION ONLY FOR GOOD CAUSE.  
15 THE LAW BUREAU SHALL ADVISE THE COMMISSION ON ANY AND ALL  
16 MATTERS. NO COUNSEL SHALL IN THE SAME CASE OR A FACTUALLY  
17 RELATED CASE PERFORM DUTIES IN THE PROSECUTORY AND ADVISORY  
18 FUNCTIONS, IF SUCH PERFORMANCE WOULD REPRESENT A CONFLICT OF  
19 INTEREST. EXCEPT FOR LITIGATION REFERRED TO THE ATTORNEY GENERAL  
20 OR OTHER APPROPRIATE OUTSIDE COUNSEL, THE LAW BUREAU SOLELY  
21 SHALL BE RESPONSIBLE TO REPRESENT THE COMMISSION UPON APPEALS  
22 AND OTHER HEARINGS IN THE COURTS OF COMMON PLEAS AND IN THE  
23 COMMONWEALTH COURT, SUPREME COURT OR OTHER COURTS OF THIS  
24 COMMONWEALTH OR IN ANY FEDERAL COURT OR AGENCY AND IN ACTIONS  
25 INSTITUTED TO RECOVER PENALTIES AND TO ENFORCE REGULATIONS AND  
26 ORDERS OF THE COMMISSION. IF NECESSARY TO PROTECT THE PUBLIC  
27 INTEREST, THE LAW BUREAU, PURSUANT TO ITS PROSECUTORIAL  
28 FUNCTION, MAY INITIATE AND PARTICIPATE IN PROCEEDINGS BEFORE THE  
29 COMMISSION [UNLESS DIRECTED BY THE COMMISSION TO DO SO IN A  
30 PROCEEDING INVOLVING TRANSPORTATION, SAFETY, EMINENT DOMAIN,

1 SITING, SERVICE ISSUES HAVING NO IMPACT ON RATES OR ABILITY TO  
2 PAY OR ASSIST THE OFFICE OF TRIAL STAFF IN CARRYING OUT THE  
3 DUTIES OF THE OFFICE OF TRIAL STAFF, NOR SHALL ANY MEMBER OF THE  
4 LAW BUREAU RECEIVE ASSISTANCE FROM THE OFFICE OF TRIAL STAFF IN  
5 THE PERFORMANCE OF HIS DUTIES. EXCEPT AS PROVIDED IN THIS  
6 SECTION, THE LAW BUREAU MAY RECEIVE ASSISTANCE FROM ANY OTHER  
7 BUREAU OR OFFICE OF THE COMMISSION AS DETERMINED TO BE  
8 NECESSARY].

9 \* \* \*

10 § 308.2. OTHER BUREAUS, OFFICES AND POSITIONS.

11 (A) ESTABLISHMENT OF OTHER BUREAUS, OFFICES AND POSITIONS.--  
12 IN ADDITION TO THE SPECIFIC BUREAUS ESTABLISHED IN THIS PART,  
13 THE COMMISSION MAY ESTABLISH OTHER BUREAUS, OFFICES AND  
14 POSITIONS TO PERFORM THE FOLLOWING FUNCTIONS:

15 \* \* \*

16 (11) TAKE APPROPRIATE ENFORCEMENT ACTIONS, INCLUDING  
17 RATE PROCEEDINGS, SERVICE PROCEEDINGS AND [ALLOCATION]  
18 APPLICATION PROCEEDINGS, NECESSARY TO INSURE COMPLIANCE WITH  
19 THIS TITLE, COMMISSION REGULATIONS AND ORDERS.

20 \* \* \*

21 § 315. BURDEN OF PROOF.

22 \* \* \*

23 (E) USE OF FUTURE TEST YEAR.--IN DISCHARGING ITS BURDEN OF  
24 PROOF THE UTILITY MAY UTILIZE A FUTURE TEST YEAR OR A FULLY  
25 PROJECTED FUTURE TEST YEAR, WHICH SHALL BE THE 12-MONTH PERIOD  
26 BEGINNING WITH THE FIRST MONTH THAT THE NEW RATES WILL BE PLACED  
27 IN EFFECT AFTER APPLICATION OF THE FULL SUSPENSION PERIOD  
28 PERMITTED UNDER SECTION 1308(D) (RELATING TO VOLUNTARY CHANGES  
29 IN RATES). THE COMMISSION SHALL PROMPTLY ADOPT RULES AND  
30 REGULATIONS REGARDING THE INFORMATION AND DATA TO BE SUBMITTED

1 WHEN AND IF A FUTURE TEST PERIOD OR A FULLY PROJECTED FUTURE  
2 TEST YEAR IS TO BE UTILIZED. WHENEVER A UTILITY UTILIZES A  
3 FUTURE TEST YEAR OR A FULLY PROJECTED FUTURE TEST YEAR IN ANY  
4 RATE PROCEEDING AND SUCH FUTURE TEST YEAR OR A FULLY PROJECTED  
5 TEST YEAR FORMS A SUBSTANTIVE BASIS FOR THE FINAL RATE  
6 DETERMINATION OF THE COMMISSION, THE UTILITY SHALL PROVIDE, AS  
7 SPECIFIED BY THE COMMISSION IN ITS FINAL ORDER, APPROPRIATE DATA  
8 EVIDENCING THE ACCURACY OF THE ESTIMATES CONTAINED IN THE FUTURE  
9 TEST YEAR OR A FULLY PROJECTED FUTURE TEST YEAR, AND THE  
10 COMMISSION MAY AFTER REASONABLE NOTICE AND HEARING, IN ITS  
11 DISCRETION, ADJUST THE UTILITY'S RATES ON THE BASIS OF SUCH  
12 DATA. NOTWITHSTANDING SECTION 1315 (RELATING TO LIMITATION ON ←  
13 CONSIDERATION OF CERTAIN COSTS FOR ELECTRIC UTILITIES), THE  
14 COMMISSION MAY PERMIT FACILITIES WHICH ARE PROJECTED TO BE IN  
15 SERVICE DURING THE FULLY PROJECTED FUTURE TEST YEAR TO BE  
16 INCLUDED IN THE RATE BASE.

17 SECTION 2. THE HEADING OF CHAPTER 13 OF TITLE 66 IS AMENDED  
18 AND THE CHAPTER IS AMENDED BY ADDING A SUBCHAPTER HEADING TO  
19 READ:

20 CHAPTER 13  
21 RATES AND [RATE MAKING] DISTRIBUTION SYSTEMS  
22 SUBCHAPTER A  
23 RATES

24 SECTION 3. SECTION 1307(G) OF TITLE 66 IS REPEALED:

25 § 1307. SLIDING SCALE OF RATES; ADJUSTMENTS.

26 \* \* \*

27 [(G) RECOVERY OF COSTS RELATED TO DISTRIBUTION SYSTEM  
28 IMPROVEMENT PROJECTS DESIGNED TO ENHANCE WATER QUALITY, FIRE  
29 PROTECTION RELIABILITY AND LONG-TERM SYSTEM VIABILITY.--WATER  
30 UTILITIES MAY FILE TARIFFS ESTABLISHING A SLIDING SCALE OF RATES

1 OR OTHER METHOD FOR THE AUTOMATIC ADJUSTMENT OF THE RATES OF THE  
2 WATER UTILITY AS SHALL PROVIDE FOR RECOVERY OF THE FIXED COSTS  
3 (DEPRECIATION AND PRETAX RETURN) OF CERTAIN DISTRIBUTION SYSTEM  
4 IMPROVEMENT PROJECTS, AS APPROVED BY THE COMMISSION, THAT ARE  
5 COMPLETED AND PLACED IN SERVICE BETWEEN BASE RATE PROCEEDINGS.  
6 THE COMMISSION, BY REGULATION OR ORDER, SHALL PRESCRIBE THE  
7 SPECIFIC PROCEDURES TO BE FOLLOWED IN ESTABLISHING THE SLIDING  
8 SCALE OR OTHER AUTOMATIC ADJUSTMENT METHOD.]

9 \* \* \*

10 SECTION 4. SECTION 1311(C) OF TITLE 66 IS AMENDED AND THE  
11 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

12 § 1311. VALUATION OF AND RETURN ON THE PROPERTY OF A PUBLIC  
13 UTILITY.

14 \* \* \*

15 (C) SEGREGATION OF PROPERTY.--WHEN ANY PUBLIC UTILITY  
16 FURNISHES MORE THAN ONE OF THE DIFFERENT TYPES OF UTILITY  
17 SERVICE, THE COMMISSION SHALL SEGREGATE THE PROPERTY USED AND  
18 USEFUL IN FURNISHING EACH TYPE OF SUCH SERVICE, AND SHALL NOT  
19 CONSIDER THE PROPERTY OF SUCH PUBLIC UTILITY AS A UNIT IN  
20 DETERMINING THE VALUE OF THE RATE BASE OF SUCH PUBLIC UTILITY  
21 FOR THE PURPOSE OF FIXING BASE RATES. A UTILITY THAT PROVIDES  
22 WATER AND WASTEWATER SERVICE SHALL BE EXEMPT FROM THIS  
23 SUBSECTION UPON PETITION OF A UTILITY TO COMBINE WATER AND  
24 WASTEWATER REVENUE REQUIREMENTS. THE COMMISSION WHEN SETTING  
25 BASE RATES, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, MAY  
26 ALLOCATE A PORTION OF THE WASTEWATER REVENUE REQUIREMENT TO THE  
27 COMBINED WATER AND WASTEWATER CUSTOMER BASE IF IN THE PUBLIC  
28 INTEREST.

29 \* \* \*

30 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM "UTILITY



1 THAT PROVIDES BOTH WATER AND WASTEWATER SERVICE" SHALL INCLUDE A ←  
2 SUBSIDIARY COMPANY SEPARATE COMPANIES THAT INDIVIDUALLY PROVIDES ←  
3 PROVIDE WATER OR WASTEWATER SERVICE IF THE COMPANY IS SO LONG AS ←  
4 THE COMPANIES ARE WHOLLY OWNED BY A COMMON PARENT COMPANY.

5 SECTION 5. SECTION 1327(B) INTRODUCTORY PARAGRAPH OF TITLE  
6 66 IS AMENDED TO READ:

7 § 1327. ACQUISITION OF WATER AND SEWER UTILITIES.

8 \* \* \*

9 (B) PROCEDURE.--THE COMMISSION, UPON APPLICATION BY A PUBLIC  
10 UTILITY, PERSON OR CORPORATION WHICH HAS AGREED TO ACQUIRE  
11 PROPERTY FROM ANOTHER PUBLIC UTILITY, MUNICIPAL CORPORATION OR  
12 PERSON, MAY APPROVE AN INCLUSION IN RATE BASE IN ACCORDANCE WITH  
13 SUBSECTION (A) PRIOR TO THE ACQUISITION AND PRIOR TO A  
14 PROCEEDING UNDER THIS [CHAPTER] SUBCHAPTER TO DETERMINE JUST AND  
15 REASONABLE RATES IF:

16 \* \* \*

17 SECTION 6. CHAPTER 13 OF TITLE 66 IS AMENDED BY ADDING A  
18 SUBCHAPTER TO READ:

19 SUBCHAPTER B

20 DISTRIBUTION SYSTEMS

21 SEC.

22 1350. SCOPE OF SUBCHAPTER.

23 1351. DEFINITIONS.

24 1352. LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN.

25 1353. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE.

26 1354. CUSTOMER NOTICE.

27 1355. REVIEW.

28 1356. ASSET OPTIMIZATION PLANS.

29 1357. COMPUTATION OF CHARGE.

30 1358. CUSTOMER PROTECTIONS.

1 1359. PROJECTS.

2 1360. APPLICABILITY.

3 § 1350. SCOPE OF SUBCHAPTER.

4 THIS SUBCHAPTER SHALL PROVIDE AN ADDITIONAL MECHANISM FOR A  
5 DISTRIBUTION SYSTEM TO RECOVER COSTS RELATED TO THE REPAIR,  
6 IMPROVEMENT AND REPLACEMENT OF ELIGIBLE PROPERTY.

7 § 1351. DEFINITIONS.

8 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER  
9 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
10 CONTEXT CLEARLY INDICATES OTHERWISE:

11 "CAPITALIZED COST." COSTS PERMITTED TO BE CAPITALIZED  
12 PURSUANT TO THE UNIFORM SYSTEM OF ACCOUNTS AND GENERALLY  
13 ACCEPTED ACCOUNTING PRINCIPLES.

14 "DISTRIBUTION SYSTEM." A SYSTEM OWNED OR OPERATED BY A  
15 UTILITY. THE TERM INCLUDES A NATURAL GAS DISTRIBUTION COMPANY, A  
16 CITY NATURAL GAS DISTRIBUTION OPERATION, AN ELECTRIC  
17 DISTRIBUTION COMPANY, A WATER UTILITY AND A COLLECTION SYSTEM  
18 FOR A WASTEWATER UTILITY.

19 "DISTRIBUTION SYSTEM IMPROVEMENT CHARGE." A CHARGE IMPOSED  
20 BY A UTILITY TO RECOVER THE REASONABLE AND PRUDENT COSTS  
21 INCURRED TO REPAIR, IMPROVE OR REPLACE ELIGIBLE PROPERTY THAT IS  
22 PART OF THE UTILITY'S DISTRIBUTION SYSTEM.

23 "ELIGIBLE PROPERTY." PROPERTY THAT IS PART OF A DISTRIBUTION  
24 SYSTEM AND ELIGIBLE FOR REPAIR, IMPROVEMENT AND REPLACEMENT OF  
25 ~~EXISTING~~ INFRASTRUCTURE UNDER THIS SUBCHAPTER. INCLUDED PROPERTY ←  
26 SHALL BE AS FOLLOWS:

27 (1) FOR ELECTRIC DISTRIBUTION COMPANIES, ELIGIBLE  
28 PROPERTY SHALL INCLUDE:

29 (I) POLES AND TOWERS.

30 (II) OVERHEAD AND UNDERGROUND CONDUCTORS.

1           (III) TRANSFORMERS AND SUBSTATION EQUIPMENT.

2           (IV) ANY FIXTURE OR DEVICE RELATED TO ELIGIBLE  
3 PROPERTY UNDER SUBPARAGRAPHS (I), (II) AND (III),  
4 INCLUDING INSULATORS, CIRCUIT BREAKERS, FUSES, RECLOSERS,  
5 GROUNDING WIRES, CROSSARMS AND BRACKETS, RELAYS,  
6 CAPACITORS, CONVERTERS AND CONDENSERS.

7           (V) UNREIMBURSED ~~FUNDS~~ COSTS RELATED TO HIGHWAY ←  
8 RELOCATION PROJECTS WHERE AN ELECTRIC DISTRIBUTION  
9 COMPANY MUST RELOCATE ITS FACILITIES.

10          (VI) OTHER RELATED CAPITALIZED COSTS.

11          (2) FOR NATURAL GAS DISTRIBUTION COMPANIES AND CITY  
12 NATURAL GAS DISTRIBUTION OPERATIONS, ELIGIBLE PROPERTY SHALL  
13 INCLUDE:

14           (I) PIPING.

15           (II) COUPLINGS.

16           (III) GAS SERVICES LINES AND INSULATED AND  
17 NONINSULATED FITTINGS.

18           (IV) VALVES.

19           (V) EXCESS FLOW VALVES.

20           (VI) RISERS.

21           (VII) METER BARS.

22           (VIII) METERS.

23           (IX) UNREIMBURSED ~~FUNDS~~ COSTS RELATED TO HIGHWAY ←  
24 RELOCATION PROJECTS WHERE A NATURAL GAS DISTRIBUTION  
25 COMPANY OR CITY NATURAL GAS DISTRIBUTION OPERATION MUST  
26 RELOCATE ITS FACILITIES.

27           (X) OTHER RELATED CAPITALIZED COSTS.

28          (3) FOR WATER UTILITIES, ELIGIBLE PROPERTY SHALL  
29 INCLUDE:

30           (I) UTILITY SERVICE LINES, METERS AND HYDRANTS

1 INSTALLED AS IN-KIND REPLACEMENTS FOR CUSTOMERS.

2 (II) MAINS AND VALVES INSTALLED AS REPLACEMENTS FOR  
3 EXISTING FACILITIES THAT HAVE WORN OUT, ARE IN  
4 DETERIORATED CONDITION OR ARE REQUIRED TO BE UPGRADED TO  
5 MEET UNDER 52 PA. CODE CH. 65 (RELATING TO WATER  
6 SERVICE).

7 (III) MAIN EXTENSIONS INSTALLED TO ELIMINATE DEAD  
8 ENDS AND TO IMPLEMENT SOLUTIONS TO REGIONAL WATER SUPPLY  
9 PROBLEMS THAT PRESENT A SIGNIFICANT HEALTH AND SAFETY  
10 CONCERN FOR CUSTOMERS CURRENTLY RECEIVING SERVICE FROM  
11 THE WATER UTILITY.

12 (IV) MAIN CLEANING AND RELINING PROJECTS.

13 (V) UNREIMBURSED FUNDS COSTS RELATED TO HIGHWAY ←  
14 RELOCATION PROJECTS WHERE A WATER UTILITY MUST RELOCATE  
15 ITS FACILITIES.

16 (VI) OTHER RELATED CAPITALIZED COSTS.

17 (4) FOR WASTEWATER UTILITIES, ELIGIBLE PROPERTY SHALL  
18 INCLUDE:

19 (I) COLLECTION SEWERS, COLLECTING MAINS AND SERVICE  
20 LATERALS, INCLUDING SEWER TAPS, CURBSTOPS AND LATERAL  
21 CLEANOUTS INSTALLED AS IN-KIND REPLACEMENTS FOR  
22 CUSTOMERS.

23 (II) COLLECTION MAINS AND VALVES FOR GRAVITY AND  
24 PRESSURE SYSTEMS AND RELATED FACILITIES SUCH AS MANHOLES,  
25 GRINDER PUMPS, AIR AND VACUUM RELEASE CHAMBERS, ←  
26 CLEANOUTS, MAIN LINE FLOW METERS, VALVE VAULTS AND LIFT  
27 STATIONS INSTALLED AS REPLACEMENTS OR UPGRADES FOR  
28 EXISTING FACILITIES THAT HAVE WORN OUT, ARE IN  
29 DETERIORATED CONDITION OR ARE REQUIRED TO BE UPGRADED BY  
30 LAW, REGULATION OR ORDER.

1           (III) COLLECTION MAIN EXTENSIONS INSTALLED TO  
2           IMPLEMENT SOLUTIONS TO WASTEWATER PROBLEMS THAT PRESENT A  
3           SIGNIFICANT HEALTH AND SAFETY CONCERN FOR CUSTOMERS  
4           CURRENTLY RECEIVING SERVICE FROM THE WASTEWATER UTILITY.

5           (IV) COLLECTION MAIN REHABILITATION INCLUDING INFLOW  
6           AND INFILTRATION PROJECTS.

7           (V) UNREIMBURSED FUNDS COSTS RELATED TO HIGHWAY ←  
8           RELOCATION PROJECTS WHERE A WASTEWATER UTILITY MUST  
9           RELOCATE ITS FACILITIES.

10          (VI) OTHER RELATED CAPITALIZED COSTS.

11          "UTILITY." A NATURAL GAS DISTRIBUTION COMPANY, ELECTRIC  
12          DISTRIBUTION COMPANY, WATER OR WASTEWATER UTILITY OR CITY  
13          NATURAL GAS DISTRIBUTION OPERATION.

14          § 1352. LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN.

15          (A) SUBMISSION.--IN ORDER TO BE ELIGIBLE TO RECOVER COSTS  
16          UNDER SECTION 1353 (RELATING TO DISTRIBUTION SYSTEM IMPROVEMENT  
17          CHARGE), A UTILITY MUST SUBMIT A LONG-TERM INFRASTRUCTURE  
18          IMPROVEMENT PLAN. THE PLAN SHALL INCLUDE THE FOLLOWING:

19           (1) IDENTIFICATION OF THE TYPES AND AGE OF ELIGIBLE  
20           PROPERTY OWNED OR OPERATED BY THE UTILITY FOR WHICH THE  
21           UTILITY WOULD SEEK RECOVERY UNDER THIS SUBCHAPTER.

22           (2) ~~A~~ AN INITIAL SCHEDULE FOR THE PLANNED REPAIR AND ←  
23           REPLACEMENT OF ELIGIBLE PROPERTY.

24           (3) A GENERAL DESCRIPTION OF THE LOCATION OF THE  
25           ELIGIBLE PROPERTY.

26           (4) A REASONABLE ESTIMATE OF THE QUANTITY OF ELIGIBLE  
27           PROPERTY TO BE IMPROVED.

28           (5) PROJECTED ANNUAL EXPENDITURES TO IMPLEMENT THE PLAN  
29           AND MEASURES TAKEN TO ENSURE THAT THE PLAN IS COST EFFECTIVE.

30           (6) THE MANNER IN WHICH THE REPLACEMENT OF AGING



1 INFRASTRUCTURE WILL BE ACCELERATED AND HOW THE REPAIR AND,  
2 IMPROVEMENT OR REPLACEMENT WILL ENSURE AND MAINTAIN ADEQUATE,  
3 EFFICIENT, SAFE, RELIABLE AND REASONABLE SERVICE.

4 (7) IF THE PLAN IS NOT ADEQUATE AND SUFFICIENT TO ENSURE  
5 AND MAINTAIN ADEQUATE, EFFICIENT, SAFE, RELIABLE AND  
6 REASONABLE SERVICE, THE COMMISSION SHALL ORDER A NEW OR  
7 REVISED PLAN.

8 (B) PERIODIC REVIEW.--

9 (1) THE COMMISSION SHALL PROMULGATE REGULATIONS FOR THE  
10 PERIODIC REVIEW AT LEAST ONCE EVERY FIVE YEARS OF LONG-TERM  
11 INFRASTRUCTURE PLANS. THE REGULATIONS MAY AUTHORIZE A UTILITY  
12 TO REVISE, UPDATE OR RESUBMIT A PLAN AS APPROPRIATE.

13 (2) THE REGULATIONS SHALL ENSURE THAT A DISTRIBUTION  
14 SYSTEM IMPROVEMENT CHARGE SHALL TERMINATE IF THE COMMISSION  
15 DETERMINES THAT THE UTILITY IS NOT IN COMPLIANCE WITH THE  
16 APPROVED PLAN.

17 § 1353. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE.

18 (A) AUTHORITY.--EXCEPT AS PROVIDED UNDER THIS SUBCHAPTER,  
19 AFTER JANUARY 1, 2013, A UTILITY MAY PETITION THE COMMISSION  
20 FOR, OR THE COMMISSION, AFTER NOTICE AND HEARING, MAY APPROVE  
21 THE ESTABLISHMENT OF A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE TO  
22 PROVIDE FOR THE TIMELY RECOVERY OF THE REASONABLE AND PRUDENT  
23 COSTS INCURRED TO REPAIR, IMPROVE OR REPLACE ELIGIBLE PROPERTY  
24 IN ORDER TO ENSURE AND MAINTAIN ADEQUATE, EFFICIENT, SAFE,  
25 RELIABLE AND REASONABLE SERVICE.

26 (B) PETITION.--A PETITION FOR COMMISSION APPROVAL OF A  
27 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL INCLUDE THE  
28 FOLLOWING:

29 (1) AN INITIAL TARIFF THAT COMPLIES WITH A MODEL TARIFF  
30 ADOPTED BY THE COMMISSION. THE PROPOSED TARIFF SHALL INCLUDE

1 THE FOLLOWING:

2 (I) A DESCRIPTION OF THE ELIGIBLE PROPERTY.

3 (II) THE EFFECTIVE DATE OF THE DISTRIBUTION SYSTEM  
4 IMPROVEMENT CHARGE.

5 (III) COMPUTATION OF THE DISTRIBUTION SYSTEM  
6 IMPROVEMENT CHARGE.

7 (IV) THE METHOD BY WHICH THE UTILITY WILL PROVIDE  
8 QUARTERLY UPDATES OF THE DISTRIBUTION IMPROVEMENT CHARGE.

9 (V) A DESCRIPTION OF CONSUMER PROTECTIONS.

10 (2) TESTIMONY, AFFIDAVITS, EXHIBITS OR OTHER EVIDENCE  
11 THAT DEMONSTRATES THAT A DISTRIBUTION IMPROVEMENT SYSTEM  
12 CHARGE IS IN THE PUBLIC INTEREST AND WILL FACILITATE UTILITY  
13 COMPLIANCE WITH THE FOLLOWING:

14 (I) THE PROVISION AND MAINTENANCE OF ADEQUATE,  
15 EFFICIENT, SAFE, RELIABLE AND REASONABLE SERVICE  
16 CONSISTENT WITH SECTION 1501 (RELATING TO CHARACTER OF  
17 SERVICE AND FACILITIES).

18 (II) COMMISSION REGULATIONS AND ORDERS RELATING TO  
19 THE PROVISION AND MAINTENANCE OF ADEQUATE, EFFICIENT,  
20 SAFE, RELIABLE AND REASONABLE SERVICE.

21 (III) ANY OTHER REQUIREMENT UNDER FEDERAL OR STATE  
22 LAW RELATING TO THE PROVISION AND MAINTENANCE OF  
23 ADEQUATE, EFFICIENT, SAFE, RELIABLE AND REASONABLE  
24 SERVICE.

25 (3) A LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN UNDER  
26 SECTION 1352 (RELATING TO LONG-TERM INFRASTRUCTURE  
27 IMPROVEMENT PLAN).

28 (4) CERTIFICATION THAT A BASE RATE CASE HAS BEEN FILED  
29 WITHIN ~~THE LAST~~ FIVE YEARS PRIOR TO THE DATE OF THE FILING OF ←  
30 THE PETITION UNDER SECTION 1308 (D) (RELATING TO VOLUNTARY

1 CHANGES IN RATES).

2 (5) IF A BASE RATE CASE HAS NOT BEEN FILED WITHIN FIVE  
3 YEARS PRIOR TO THE EFFECTIVE DATE OF THIS SECTION DATE OF THE ←  
4 FILING OF THE PETITION, THE UTILITY MUST FILE A BASE RATE  
5 CASE IN ORDER TO BE ELIGIBLE FOR A DISTRIBUTION SYSTEM  
6 IMPROVEMENT CHARGE.

7 (6) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.  
8 § 1354. CUSTOMER NOTICE.

9 UTILITIES SHALL PROVIDE NOTICE TO CUSTOMERS IN BILL INSERTS  
10 OR THROUGH OTHER MEANS AS PRESCRIBED BY THE COMMISSION OF THE ←  
11 FOLLOWING:

12 (1) SUBMISSION OF THE PROPOSED DISTRIBUTION SYSTEM  
13 IMPROVEMENT CHARGE AND INITIAL TARIFF.

14 (2) NOTICE OF THE COMMISSION'S DISPOSITION OF THE  
15 SUBMISSION UNDER PARAGRAPH (1).

16 (3) ANY CHANGES THAT OCCUR AS A RESULT OF QUARTERLY  
17 ADJUSTMENTS.

18 (4) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.  
19 § 1355. REVIEW.

20 FOLLOWING THE FILING OF A PETITION IN COMPLIANCE WITH SECTION  
21 1353 (RELATING TO DISTRIBUTION SYSTEM IMPROVEMENT CHARGE), THE  
22 COMMISSION SHALL, AFTER NOTICE AND OPPORTUNITY TO BE HEARD,  
23 APPROVE, MODIFY OR REJECT THE DISTRIBUTION SYSTEM IMPROVEMENT  
24 CHARGE AND INITIAL TARIFF. THE COMMISSION SHALL HOLD EVIDENTIARY  
25 AND PUBLIC INPUT HEARINGS AS NECESSARY TO REVIEW THE PETITION.

26 § 1356. ASSET OPTIMIZATION PLANS.

27 A UTILITY WITH AN APPROVED DISTRIBUTION SYSTEM CHARGE AND  
28 LONG-TERM INFRASTRUCTURE PLAN SHALL FILE ANNUAL ASSET  
29 OPTIMIZATION PLANS. THE PLAN SHALL INCLUDE THE FOLLOWING:

30 (1) A DESCRIPTION THAT SPECIFIES ALL ELIGIBLE PROPERTY



1 REPAIRED, IMPROVED AND REPLACED IN THE IMMEDIATELY PRECEDING  
2 12-MONTH PERIOD PURSUANT TO THE UTILITY'S LONG-TERM  
3 INFRASTRUCTURE IMPROVEMENT PLAN AND PRIOR YEAR'S ASSET  
4 OPTIMIZATION PLAN.

5 (2) A DETAILED DESCRIPTION OF ALL THE FACILITIES TO BE  
6 IMPROVED IN THE UPCOMING 12-MONTH PERIOD.

7 § 1357. COMPUTATION OF CHARGE.

8 (A) RECOVERY.--THE FOLLOWING SHALL APPLY:

9 (1) THE INITIAL DISTRIBUTION SYSTEM IMPROVEMENT CHARGE  
10 SHALL BE CALCULATED TO RECOVER THE FIXED COST OF ELIGIBLE  
11 PROPERTY THAT HAS:

12 (I) NOT PREVIOUSLY BEEN REFLECTED IN THE UTILITY'S  
13 RATES OR RATE BASE.

14 (II) BEEN PLACED IN SERVICE DURING THE THREE-MONTH  
15 PERIOD ENDING ONE MONTH PRIOR TO THE EFFECTIVE DATE OF  
16 THE DISTRIBUTION IMPROVEMENT SYSTEM CHARGE.

17 (2) AFTER CALCULATION OF THE INITIAL CHARGE UNDER  
18 PARAGRAPH (1), THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE  
19 MUST BE UPDATED ON A QUARTERLY BASIS TO REFLECT ELIGIBLE  
20 PROPERTY PLACED IN SERVICE DURING THE THREE-MONTH PERIOD  
21 ENDING ONE MONTH PRIOR TO THE EFFECTIVE DATE OF EACH  
22 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE UPDATE.

23 (3) THE FIXED COST OF ELIGIBLE PROPERTY SHALL CONSIST OF  
24 DEPRECIATION AND PRETAX RETURN, EXCEPT AS PROVIDED FOR IN  
25 SUBSECTION (C) FOR CITY NATURAL GAS DISTRIBUTION OPERATION.

26 (B) DEPRECIATION CALCULATION.--DEPRECIATION SHALL BE  
27 CALCULATED BY APPLYING THE ORIGINAL COST OF THE ELIGIBLE  
28 PROPERTY TO THE ANNUAL ACCRUAL RATES EMPLOYED IN THE UTILITY'S  
29 ~~LAST~~ MOST RECENT BASE RATE CASE FOR THE PLANT ACCOUNTS IN WHICH  
30 EACH RETIREMENT UNIT OF DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

1 ELIGIBLE PROPERTY IS RECORDED. THE FOLLOWING SHALL APPLY:

2 (1) THE PRETAX RETURN SHALL BE CALCULATED USING THE  
3 FEDERAL AND STATE INCOME TAX RATES, THE UTILITY'S ACTUAL  
4 CAPITAL STRUCTURE AND ACTUAL COST RATES FOR LONG-TERM DEBT  
5 AND PREFERRED STOCK AS OF THE LAST DAY OF THE THREE-MONTH  
6 PERIOD ENDING ONE MONTH PRIOR TO THE EFFECTIVE DATE OF THE  
7 DISTRIBUTION SYSTEM ~~OR COLLECTION SYSTEM~~ IMPROVEMENT CHARGE ←  
8 AND SUBSEQUENT UPDATES.

9 (2) THE COST OF EQUITY SHALL BE THE EQUITY RETURN RATE  
10 APPROVED IN THE UTILITY'S ~~LAST~~ MOST RECENT FULLY LITIGATED ←  
11 BASE RATE PROCEEDING FOR WHICH A FINAL ORDER WAS ENTERED NOT  
12 MORE THAN TWO YEARS PRIOR TO THE EFFECTIVE DATE OF THE  
13 DISTRIBUTION SYSTEM ~~OR COLLECTION SYSTEM~~ IMPROVEMENT CHARGE. ←

14 (3) IF MORE THAN TWO YEARS HAVE ELAPSED BETWEEN THE  
15 ENTRY OF A FINAL ORDER AND THE EFFECTIVE DATE OF THE  
16 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE, THE EQUITY RETURN  
17 RATE USED IN THE CALCULATION SHALL BE THE EQUITY RETURN RATE  
18 CALCULATED BY THE COMMISSION IN THE ~~LATEST~~ MOST RECENT ←  
19 QUARTERLY REPORT ON THE EARNINGS OF JURISDICTIONAL UTILITIES  
20 RELEASED BY THE COMMISSION.

21 (C) RECOVERY OF COSTS.--UTILITIES MAY FILE TARIFFS  
22 ESTABLISHING A SLIDING SCALE OF RATES OR OTHER METHOD FOR THE  
23 AUTOMATIC ADJUSTMENT OF THE RATES OF THE UTILITY TO PROVIDE FOR  
24 RECOVERY OF THE DEPRECIATION AND PRETAX RETURN FIXED COSTS OF  
25 ELIGIBLE PROPERTY, AS APPROVED BY THE COMMISSION, THAT ARE  
26 COMPLETED AND PLACED IN SERVICE BETWEEN BASE RATE PROCEEDINGS.  
27 FOR CITY NATURAL GAS DISTRIBUTION OPERATIONS, RECOVERABLE COSTS  
28 SHALL BE AMOUNTS REASONABLY EXPENDED OR INCURRED TO PURCHASE AND  
29 INSTALL ~~RECOVERY~~ ELIGIBLE PROPERTY AND ASSOCIATED FINANCING ←  
30 COSTS, IF ANY, INCLUDING DEBT SERVICE, DEBT SERVICE COVERAGE AND

1 ISSUANCE COSTS.

2 (D) CALCULATION.--

3 (1) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE  
4 EXPRESSED AS A PERCENTAGE CARRIED TO TWO DECIMAL PLACES AND  
5 SHALL BE APPLIED IN A MANNER CONSISTENT WITH SECTION 1358  
6 (RELATING TO CUSTOMER PROTECTIONS) TO EACH CUSTOMER UNDER THE  
7 UTILITY'S APPLICABLE RATES AND CHARGES. THE CHARGE SHALL NOT  
8 BE APPLIED TO AMOUNTS BILLED FOR PUBLIC FIRE PROTECTION  
9 SERVICE BY WATER UTILITIES AND THE STATE TAX ADJUSTMENT  
10 SURCHARGE.

11 (2) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE  
12 CALCULATED BY DIVIDING ONE-FOURTH OF THE ANNUAL FIXED COSTS  
13 ASSOCIATED WITH ALL ELIGIBLE PROPERTY UNDER THE DISTRIBUTION  
14 SYSTEM IMPROVEMENT CHARGE BY THE PROJECTED REVENUE FOR THE  
15 QUARTERLY PERIOD DURING WHICH THE DISTRIBUTION SYSTEM WILL BE  
16 COLLECTED. THE PROJECTED REVENUES SHALL NOT INCLUDE REVENUES  
17 FROM PUBLIC FIRE PROTECTION SERVICE EARNED BY WATER UTILITIES  
18 AND THE STATE TAX ADJUSTMENT SURCHARGE.

19 (3) SUPPORTING DATA FOR EACH QUARTERLY UPDATE SHALL BE  
20 FILED WITH THE COMMISSION AND SERVED UPON THE COMMISSION, THE  
21 OFFICE OF CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS  
22 ADVOCATE AT LEAST TEN DAYS PRIOR TO THE EFFECTIVE DATE OF THE  
23 UPDATE.

24 § 1358. CUSTOMER PROTECTIONS.

25 (A) LIMITATION.--AS FOLLOWS:

26 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), THE  
27 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE MAY NOT EXCEED 5% OF  
28 THE AMOUNT BILLED TO CUSTOMERS UNDER THE APPLICABLE RATES OF  
29 THE WASTEWATER UTILITY OR DISTRIBUTION RATES OF THE ELECTRIC  
30 DISTRIBUTION COMPANY, NATURAL GAS DISTRIBUTION COMPANY OR

1 CITY NATURAL GAS DISTRIBUTION OPERATION. THE COMMISSION MAY  
2 UPON PETITION GRANT A WAIVER OF THE 5% LIMIT UNDER THIS  
3 PARAGRAPH FOR A UTILITY IN ORDER TO ENSURE AND MAINTAIN  
4 ADEQUATE, EFFICIENT, SAFE, RELIABLE AND REASONABLE SERVICE.

5 (2) A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE GRANTED TO  
6 A WATER UTILITY UNDER FORMER SECTION 1307(G) (RELATING TO  
7 SLIDING SCALE OF RATES; ADJUSTMENTS) OR THIS SUBCHAPTER MAY  
8 NOT EXCEED 7.5% OF THE AMOUNT BILLED TO CUSTOMERS. ALL  
9 PROCEEDINGS, ORDERS AND OTHER ACTIONS OF THE COMMISSION  
10 RELATED TO A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE GRANTED  
11 TO A WATER UTILITY AND ALL PRACTICES AND PROCEDURES OF A ←  
12 WATER UTILITY OPERATING UNDER A DISTRIBUTION SYSTEM  
13 IMPROVEMENT CHARGE PRIOR TO THE EFFECTIVE DATE OF THIS  
14 PARAGRAPH SHALL REMAIN IN EFFECT UNLESS SPECIFICALLY AMENDED  
15 OR REVOKED BY THE COMMISSION.

16 (B) CHARGE RESET.--

17 (1) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE ←  
18 RESET AT ZERO AS OF THE EFFECTIVE DATE OF NEW BASE RATES THAT  
19 PROVIDE FOR PROSPECTIVE RECOVERY OF THE ANNUAL COSTS  
20 PREVIOUSLY RECOVERED UNDER THE DISTRIBUTION SYSTEM OR ←  
21 IMPROVEMENT CHARGE.

22 (2) AFTER THE RESET DATE UNDER PARAGRAPH (1), ONLY THE  
23 FIXED COSTS OF NEW ELIGIBLE PROPERTY THAT HAVE NOT PREVIOUSLY  
24 BEEN REFLECTED IN THE UTILITY'S RATE BASE SHALL BE REFLECTED  
25 IN THE QUARTERLY UPDATES OF THE DISTRIBUTION SYSTEM  
26 IMPROVEMENT CHARGE.

27 (3) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE  
28 RESET AT ZERO IF, IN ANY QUARTER, DATA FILED WITH THE  
29 COMMISSION IN THE UTILITY'S MOST RECENT ANNUAL OR QUARTERLY  
30 EARNINGS REPORT SHOW THAT THE UTILITY WILL EARN A RATE OF

1 RETURN THAT WOULD EXCEED THE ALLOWABLE RATE OF RETURN USED TO  
2 CALCULATE ITS FIXED COSTS UNDER THE DISTRIBUTION SYSTEM  
3 IMPROVEMENT CHARGE.

4 (C) CONSTRUCTION.--EXCEPT AS OTHERWISE EXPRESSLY PROVIDED  
5 UNDER THIS SUBCHAPTER, NOTHING UNDER THIS SUBCHAPTER SHALL BE  
6 CONSTRUED AS LIMITING THE EXISTING RATEMAKING AUTHORITY OF THE  
7 COMMISSION, INCLUDING THE AUTHORITY TO PERMIT RECOVERY OF  
8 OPERATING EXPENSES THROUGH AN AUTOMATIC ADJUSTMENT CLAUSE, OR AS  
9 INDICATING THAT THE EXISTING AUTHORITY OF THE COMMISSION OVER  
10 RATE STRUCTURE OR DESIGN IS LIMITED.

11 (D) COMMISSION.--THE COMMISSION, BY REGULATION OR ORDER,  
12 SHALL PRESCRIBE THE SPECIFIC PROCEDURES TO BE FOLLOWED TO  
13 APPROVE A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE. A DISTRIBUTION  
14 SYSTEM IMPROVEMENT CHARGE APPROVED BY THE COMMISSION SHALL  
15 PROVIDE:

16 (1) THAT THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE  
17 SHALL BE APPLIED EQUALLY TO ALL CUSTOMER CLASSES AS A  
18 PERCENTAGE OF EACH CUSTOMER'S BILLED REVENUE, CONSISTENTLY  
19 WITH SUBSECTION (A).

20 (2) A PROCESS TO ADJUST THE CHARGE AND TO PROVIDE:

21 (I) CREDIT TO CUSTOMER ACCOUNTS FOR OVER COLLECTIONS  
22 AND COLLECTIONS FOR INELIGIBLE PROJECTS.

23 (II) CHARGES TO CUSTOMER ACCOUNTS FOR UNDER  
24 COLLECTIONS.

25 (3) A CAP ON THE AMOUNT THAT MAY BE COLLECTED FROM  
26 CUSTOMERS UNDER THIS SUBCHAPTER.

27 (E) AUDIT AND RECONCILIATION.--THE FOLLOWING SHALL APPLY:

28 (1) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE  
29 SUBJECT TO THE FOLLOWING:

30 (I) AUDIT AT INTERVALS DETERMINED BY THE COMMISSION.

1           (II) ANNUAL RECONCILIATION BASED ON A RECONCILIATION  
2           PERIOD CONSISTING OF THE 12 MONTHS ENDING DECEMBER 31 OF  
3           EACH YEAR. THE COMMISSION MAY ALSO PERMIT QUARTERLY ←  
4           RECONCILIATION.

5           (2) THE REVENUE RECEIVED UNDER THE DISTRIBUTION SYSTEM  
6           IMPROVEMENT CHARGE FOR THE RECONCILIATION PERIOD SHALL BE  
7           COMPARED TO THE UTILITY'S ELIGIBLE COSTS FOR THAT PERIOD. THE  
8           DIFFERENCE BETWEEN REVENUE AND COSTS SHALL BE RECOUPED OR  
9           REFUNDED, AS APPROPRIATE, IN ACCORDANCE WITH SECTION 1307(E)  
10          (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), OVER A  
11          ONE-YEAR PERIOD OR QUARTERLY PERIOD COMMENCING APRIL 1 OF ←  
12          EACH YEAR.

13          (3) IF REVENUES RECEIVED FROM THE DISTRIBUTION SYSTEM ←  
14          IMPROVEMENT CHARGE EXCEED ELIGIBLE COSTS, THE OVER  
15          COLLECTIONS SHALL BE REFUNDED WITH INTEREST. INTEREST ON THE  
16          OVER COLLECTIONS SHALL BE CALCULATED AT THE RESIDENTIAL  
17          MORTGAGE LENDING RATE SPECIFIED BY THE SECRETARY OF BANKING  
18          IN ACCORDANCE WITH THE ACT OF JANUARY 30, 1974 (P.L.13,  
19          NO.6), REFERRED TO AS THE LOAN INTEREST AND PROTECTION LAW,  
20          AND SHALL BE REFUNDED IN THE SAME MANNER AS AN OVER  
21          COLLECTION.

22          (F) COMPLAINT.--THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE  
23          SHALL BE SUBJECT TO COMPLAINT UNDER SECTION 701 (RELATING TO  
24          COMPLAINTS).  
25          § 1359. PROJECTS.

26          (A) STANDARDS.--THE COMMISSION SHALL ESTABLISH STANDARDS TO  
27          ENSURE THAT WORK ON UTILITY SYSTEMS TO REPAIR, IMPROVE OR  
28          REPLACE ELIGIBLE PROPERTY IS PERFORMED BY QUALIFIED EMPLOYEES OF  
29          EITHER THE UTILITY OR AN INDEPENDENT CONTRACTOR IN A MANNER THAT  
30          PROTECTS SYSTEM RELIABILITY AND THE SAFETY OF THE PUBLIC.

1 (B) INSPECTION.--PROJECTS FOR WHICH WORK TO REPAIR, IMPROVE  
2 OR REPLACE ELIGIBLE PROPERTY IS PERFORMED BY INDEPENDENT  
3 CONTRACTORS SHALL BE SUBJECT TO RELIABILITY AND SAFETY STANDARDS  
4 AND TO INSPECTION BY UTILITY EMPLOYEES.

5 (C) COST.--WORK ON PROJECTS TO REPAIR, IMPROVE OR REPLACE  
6 ELIGIBLE PROPERTY THAT IS NOT PERFORMED BY QUALIFIED EMPLOYEES ←  
7 OR CONTRACTORS OR INSPECTED BY THE UTILITY'S QUALIFIED PERSONNEL  
8 SHALL NOT BE ELIGIBLE FOR RECOVERY OF A DISTRIBUTION SYSTEM  
9 IMPROVEMENT CHARGE.

10 § 1360. APPLICABILITY.

11 (A) ACCEPTANCE.--THE COMMISSION MAY ACCEPT A LONG-TERM  
12 INFRASTRUCTURE PLAN FILED BY A WATER UTILITY PRIOR TO THE  
13 EFFECTIVE DATE OF THIS SUBSECTION IN ORDER TO COMPLY WITH  
14 SECTION 1352 (RELATING TO LONG-TERM INFRASTRUCTURE IMPROVEMENT  
15 PLAN).

16 (B) SUBMISSION.--THE COMMISSION MAY REQUIRE THE SUBMISSION  
17 OF A NEW LONG-TERM INFRASTRUCTURE PLAN BY A WATER UTILITY.

18 SECTION 7. SECTION 3301(C) OF TITLE 66 IS AMENDED TO READ:  
19 § 3301. CIVIL PENALTIES FOR VIOLATIONS.

20 \* \* \*

21 (C) GAS PIPELINE SAFETY VIOLATIONS.--ANY PERSON OR  
22 CORPORATION, DEFINED AS A PUBLIC UTILITY IN THIS PART, WHO  
23 VIOLATES ANY PROVISIONS OF THIS PART GOVERNING THE SAFETY OF  
24 PIPELINE OR CONDUIT FACILITIES IN THE TRANSPORTATION OF NATURAL  
25 GAS, FLAMMABLE GAS, OR GAS WHICH IS TOXIC OR CORROSIVE, OR OF  
26 ANY REGULATION OR ORDER ISSUED THEREUNDER, SHALL BE SUBJECT TO A  
27 CIVIL PENALTY OF NOT TO EXCEED [\$10,000] \$200,000 FOR EACH  
28 VIOLATION FOR EACH DAY THAT THE VIOLATION PERSISTS, EXCEPT THAT  
29 THE MAXIMUM CIVIL PENALTY SHALL NOT EXCEED [\$500,000] \$2,000,000  
30 FOR ANY RELATED SERIES OF VIOLATIONS, OR SUBJECT TO A PENALTY

1 PROVIDED UNDER FEDERAL PIPELINE SAFETY LAWS, WHICHEVER IS  
2 GREATER.

3 \* \* \*

4 SECTION 8. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.