

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
SUSSEX SHORES WATER COMPANY FOR APPROVAL)
TO ESTABLISH A DISTRIBUTION SYSTEM) PSC DOCKET NO. 04-223
IMPROVEMENT CHARGE (DSIC) UNDER THE)
PROVISIONS OF 26 DEL. C. § 314 TO BE)
EFFECTIVE JULY 1, 2004 (FILED May 27, 2004))

ORDER NO. 6435

This 22nd day of June, 2004, the Commission determines and Orders the following:

1. On July 9, 2001, Section 314 was enacted into law as an amendment to the Public Utilities Act of 1974 in order to authorize a "Distribution System Improvement Charge" ("DSIC") for jurisdictional water utilities. *26 Del. C. § 314 (2002 Supp.)*, as added by, *73 Del. Laws ch. 138 § 2* (July 9, 2001). Under the law, a water utility may initiate, and later adjust (on a semi-annual basis), a DSIC as a surcharge to its approved rates. The surcharge is calculated to recover the costs of the utility's investments in "eligible distribution system improvements."

2. On May 27, 2004, Sussex Shores Water Company ("Applicant") filed an application for approval to adjust its DSIC Rate to .533% effective July 1, 2004.

3. Because section 314 only allows a limited time for review of a DSIC rate filing before the effective date of such rate,¹ the Commission generally allows a facially supported DSIC rate to go into

¹*26 Del. C. § 314(b)(4) (2002 Supp.)*.

effect on a temporary basis and subject to refund. The Commission thereafter undertakes a more thorough review of the filing in conjunction with the subsequent year-end annual reconciliation process specifically called for in section 314.² The Commission adopted this process in PSC Order No. 5850 (Dec. 11, 2001), and it has been reaffirmed in each order issued under section 314 since then.

4. Utilizing the procedure adopted in PSC Order No. 5850, the Commission allows Applicant's proposed DSIC Rate of .533% to go into effect on July 1, 2004. However, as described in PSC Order No. 5850, this rate remains subject to a later review and possible revision at the time of the later annual reconciliation proceeding. Applicant remains subject to refund or reimbursement obligations as described in PSC Order No. 5850 if this DSIC Rate is later determined to be, in whole or in part, inconsistent with the requirements of *26 Del. C. § 314*.

Now, therefore, **IT IS ORDERED:**

1. That, under the provisions of *26 Del. C. § 314*, the DSIC Rate of .533 % percent as proposed by Sussex Shores Water Company in its application filed May 27, 2004, is allowed to go into effect on July 1, 2004. Such DSIC Rate shall be subject to later review, audit, or revision as described in the body of PSC Order No, 5850 (Dec. 11, 2001). Further, Sussex Shores Water Company is put on notice that it may be obligated to make refunds or reimbursements to its subscribers

²*26 Del. C. § 314(b)(8) (2002 Supp.)*.

if this DSIC Rate is later found, in all or in part, to be inconsistent with the provisions of 26 Del. C. § 314.

2. That Sussex Shores Water Company shall provide information to its subscribers concerning this DSIC Rate as required by 26 Del. C. § 314(b)(1).

3. That the Commission explicitly reserves jurisdiction and authority over the DSIC Rate to conduct the review and audit as described in PSC Order No. 5850 (Dec. 11, 2001) and to conduct the annual reconciliation described in 26 Del. C. § 314(b)(8).

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary