

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
ARTESIAN WATER COMPANY, INC., CONCERNING)
THE ESTABLISHMENT OF A DISTRIBUTION SYSTEM) PSC DOCKET NO. 05-188
IMPROVEMENT CHARGE UNDER THE PROVISIONS OF)
26 DEL. C. § 314 TO BE EFFECTIVE JULY 1,)
2005 (FILED MAY 31, 2005))

ORDER NO. 6663

This 21st day of June, 2005, the Commission determines and Orders the following:

1. One purpose of the Distribution System Improvement Charge ("DSIC") regime¹ is to reduce the frequency and, therefore, the cost of general rate proceedings.² In this matter, the Commission faces possible questions about how such DSIC regime is to apply when the utility seeks to recover DSIC costs for plant projects put into use while its general rate case is pending.

2. Artesian Water Company, Inc. ("Artesian "), filed for a general rate increase in February 2004. See PSC Dckt. No. 04-42.³ On May 31, 2005 (before the entry of any final Order in Docket No. 04-42), Artesian filed for an adjustment to its DSIC Rate with the new rate to be effective on July 1, 2005. According to Artesian, the proposed DSIC rate is to recover the utility's DSIC costs for

¹See 26 Del. C. § 314 (2004 Supp.).

²See 73 Del. Laws ch. 138 § 1 (2001).

³Artesian ended its prior DSIC rate surcharge when it filed its general rate case.

"eligible distribution system improvements" that became used and useful between July 1, 2004 and April 30, 2005.

3. The Commission's practice has generally been to allow DSIC rate adjustments to go into effect on the statutorily prescribed effective date and defer scrutiny of the "eligible" projects and their underlying costs until the time of the subsequent reconciliation process.⁴ This decision to use such a "look back" process was driven, in part, by the short time allowed under the statutory DSIC provisions between filing and effective dates.⁵

4. The Commission will follow this general practice with regard to Artesian's present proposed DSIC adjustment, with one exception. Given the somewhat unique posture of this application - a DSIC filing made during the pendency of a general rate case - the Commission will allow the adjustment to go into effect but now also directs Artesian to submit a memorandum setting forth its views on the following questions:

- (1) Do the provisions of § 314 allow the DSIC rate to be instituted or adjusted to recover the costs of "eligible" system improvement plant becoming used and useful during the period the utility's general rate case is pending before the Commission?
- (2) Under what authority can the Commission adjust a DSIC rate for "eligible" projects that became "used and useful" prior to the six-month period prescribed by 26 Del. C. § 314(b)(5)? And
- (3) Under what statutory authority can the Commission now adjust Artesian's DSIC rate, effective

⁴See, for example, PSC Order No. 6320 (Dec. 9, 2003) (prior Artesian DSIC adjustment).

⁵See 26 Del. C. § 314(b)(4) (2004 Supp.).

July 1, 2005, for "eligible" plant becoming used and useful prior to October 1, 2004?⁶

In addition, with its memorandum, Artesian shall also indicate which, if any, of the "relocation" projects included in this application are, or might be "eligible," for reimbursement from the Department of Transportation under the provisions of 17 Del. C. § 143 (2004 Supp.). Artesian shall file such memorandum within thirty (30) days of the date of this Order. The Executive Director may extend that time.

5. The Commission specifically reserves the right to later suspend continued application of the DSIC rate (even before the time of the annual reconciliation process) if, after receiving the memorandum, it appears to the Commission that the DSIC rate now allowed to go into effect is impermissible, in whole or in part, due to the concurrent rate case at the time of filing or because of the time limitation provisions set forth in (§ 314(b)(5)).

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

1. That, under the provisions of 26 Del. C. § 314, the DSIC Rate of .35 percent as proposed by Artesian Water Company, Inc., in its application filed on May 31, 2005, is allowed to go into effect on July 1, 2005. Such DSIC Rate shall be subject to later review, audit, or revision as described in the body of this Order. Further, Artesian Water Company, Inc., is put on notice that it may be obligated to make refunds or reimbursements to its subscribers if this DSIC Rate is

⁶Artesian says in its application that the DSIC rates result from projects placed in service between July 1, 2004 and April 30, 2005, a ten-month period. Its filing does not indicate when each listed project became used and useful.

later found, in all or in part, to be inconsistent with the provisions of 26 Del. C. § 314. As described in paragraph 5 of the body of this Order, the Commission specifically reserves the right to hereafter suspend the rate now allowed to go into effect prior to the time of the annual audit and reconciliation if the Commission determines that the rate application here contravenes the provisions of 26 Del. C. § 314(b)(5) or 314(b)(8).

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

3. That, within thirty (30) days of the date of this Order, Artesian Water Company, Inc., shall file with the Commission, and serve on the Division of the Public Advocate, a factual and legal memorandum responding to the questions and inquiries set forth in paragraph 4 of the body of this Order. The Executive Director may extend the time for filing such memorandum. The memorandum shall provide full and complete responses to the questions and request for information.

4. That the Commission explicitly reserves jurisdiction and authority over the DSIC Rate to conduct the review and audit as described in this Order, and to conduct the annual reconciliation described in 26 Del. C. § 314(b)(8).

5. 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

Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jaymes B. Lester
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary