

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. 05-418
IMPROVEMENT CHARGE UNDER THE PROVISIONS OF)
26 DEL. C. § 314 TO BE EFFECTIVE JANUARY 1,)
2006 (FILED NOVEMBER 30, 2005))

ORDER NO. 6792

This 6th day of December, 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" or the "Company"), 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 a DSIC Rate with the new rate to be effective on July 1, 2005. According to Artesian, the proposed DSIC rate was to recover the utility's DSIC costs for "eligible distribution system improvements" that became used and useful between

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.

July 1, 2004 and April 30, 2005. In PSC Order No. 6333 (June 21, 2005), the Commission permitted Artesian to put the proposed DSIC rate in effect on July 1, 2005 subject to refund if the Commission later found the rate to be inconsistent with the provisions of 26 Del. C. § 314. The Commission also directed the Company to submit a memorandum within 30 days of the Order setting forth its views on whether the Company could make a DSIC filing while a rate case was pending and under what authority could the Company include "eligible" projects that became "used and useful" prior to the six-month period prescribed by 26 Del. § 314(b)(5). The Company submitted its memorandum on July 21, 2005. The PSC Staff will consider this response in its annual audit of the 2005 DSIC filing in February or March, 2006 and submit recommendations to the Commission based on our findings.

3. On November 30, 2005, Artesian filed an application seeking approval to adjust its DSIC rate to 1.17 percent to recover the utility's "eligible distribution system improvements" that became used and useful between July 1, 2004 and October 31, 2005.

4. 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,

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

in part, by the short time allowed under the statutory DSIC provisions between filing and effective dates.⁵

5. The Commission will follow this general practice with regard to Artesian's present proposed DSIC adjustment. 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.

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

1. That, under the provisions of 26 Del. C. § 314, the DSIC Rate of 1.17 percent as proposed by Artesian Water Company, Inc., in its application filed on November 30, 2005, is allowed to go into effect on January 1, 2006. 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 later found, in all or in part, to be inconsistent with the provisions of 26 Del. C. § 314.

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 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).

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

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/ Joann T. Conaway
Commissioner

/s/ Jeffrey J. Clark
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary