

**PSC DOCKET NO. 14-132: ARTESIAN WATER COMPANY, INC.  
WATER BASE RATE CASE ISSUES**

<b>ISSUE: <sup>1</sup> COST OF CAPITAL - CAPITAL STRUCTURE WAS AGREED TO BY ALL PARTIES – AS OF SEPTEMBER 30, 2014 -- 49.46% common equity and 50.54% long-term debt with debt cost of 5.84%.</b>				
<b>Hearing Examiner</b>	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
<p>HE recommended 9.25% ROE: weighted average result of Ms. Ahern’s DCF analysis of 8.98% by two thirds and the average result of her CAPM analysis of 9.80% by one third, resulting in a 9.25% recommended return.</p> <p>No adjustment for flotation costs or for small size, unless the Commission believes his suggested ROE is too low.</p>	<p>10.90% ROE 8.40% ROR</p> <p>Witness Ahern used 4 ROE models – DCF, Risk Premium, CAPM, and ECAPM, a variation of the CAPM model. Applied methodologies to both a proxy group of utilities and a proxy group of non-utilities of similar risk.</p> <p>Company’s recommendation includes adjustment for flotation costs and for the Company’s small size relative to the proxy group of utilities and consideration of Artesian’s current ROE and the ROEs of comparable utilities.</p>	<p>9.10% ROE 7.49% ROR</p> <p>Witness Parcell used 3 ROE models – DCF, CAPM and Comparable Earnings</p>	<p>8.75% ROE 7.31% ROR</p> <p>Witness Woolridge used 2 ROE models – DCF and CAPM.</p> <p>No adjustment for flotation costs or small size.</p>	<p>No position</p>
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
	<p>The HE’s recommended ROE is unjust and unreasonable, fails to comport with controlling case law precedents, and violates 26 Del. C. § 311. The</p>	<p>HE erroneously relied on Ms. Ahern’s DCF and CAPM to the exclusion of the other ROE witnesses’ analyzes. Also erroneously rejected witness</p>	<p>HE erroneously relied on Ahern’s average DCF result rather than median because Ahern testified that median was most appropriate to use. HE</p>	<p>No exceptions.</p>

<sup>1</sup> Each party provided the summary of its own positions in this issues list. No party has agreed or accepted that the other parties' summaries are either accurate or complete. This list is provided solely for the Commission's convenience and the Commission is respectfully referred to the record, the parties' post-hearing briefs, the Findings and Recommendations of the Hearing Examiner, and the parties' exceptions for a complete understanding of the arguments and issues.

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	<p>recommended ROE would be a radical, unprecedented and unjustified reduction in the Company's current ROE. It is far below the lowest ROEs that have been set for Delaware utilities in the modern era. It is significantly lower than ROEs recently awarded to similar utilities in the same marketplace facing similar risks - in Delaware, in the region, and nationally. There has been no meaningful change at the Company or in the economy to justify such an unprecedented drop in the Company's ROE. The HE failed to give any consideration to some ROE methodologies which, under this Commission's precedents, should have influenced at least the range of reasonable ROE awards. Similarly, the HE reduced the setting of ROE to a rigid mathematical formula, when the Commission's precedents explain that judgment and discretion must be applied to the numbers with current utility ROEs and market conditions in mind. Accepting the HE's ROE would send an erroneous, negative message to capital markets about the Company and render it unable to attract capital. .</p>	<p>Parcell's Comparable Earnings calculation because of Ms. Ahern's criticism of it.</p>	<p>should not have used Ms. Ahern's CAPM results because it used the same flawed methodology to calculate the market risk premium input that the HE correctly rejected (based on Staff's and DPA's criticisms) with respect to her risk premium equity cost models. Commission should reject the HE's suggestion to include the adjustments if Commission believed ROE was too low. Last, there are other errors in the HE's ROE discussion that require correction.</p>	
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*Commission Decision:*

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<b>ISSUE: AVERAGE RATE BASE VS TEST YEAR END RATE BASE</b>				
<u>Hearing Examiner</u>	<u>Artesian</u>	<u>Staff</u>	<u>DPA</u>	<u>CCHS</u>
YEAR END RATE BASE  Utility Plant in Service as of Sept 30, 2014.	YEAR END RATE BASE  Utility Plant in Service as of Sept 30, 2014.	AVERAGE RATE BASE  Utility Plant in Service – 13 month average of \$396,799,659.	TEST YEAR END  Utility Plant in Service – \$215,948,234  Accepted Artesian’s test year end plant in service balances.	No position
<b>Exceptions</b>				
	<u>Artesian</u>	<u>Staff</u>	<u>DPA</u>	<u>CCHS</u>
	No exceptions.	No exceptions.	No exceptions	No position
<b><i>Commission Decision:</i></b>				

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<b>ISSUE: RESTORATION COSTS –LLANGOLLEN WATER TREATMENT PLANT</b>				
<u>Hearing Examiner</u>	<u>Artesian</u>	<u>Staff</u>	<u>DPA</u>	<u>CCHS</u>
<p>Considers Artesian’s situation regarding the Llangollen restoration costs akin to a new governmental regulation since the work was required by New Castle County. Like the uncertainty of dealing with the financial effects of a new regulation, in dealing with any county regarding construction and restoration costs, until the construction project is used and useful, a utility does not know many of the restoration costs which will be required by the county. It is a continuing, fluid process between the utility and county inspectors. Recommends that the Commission award Artesian \$761,342 of restoration costs to be included in the rate base.</p>	<p>Staff’s use of historic data through the end of the Test Year, to the exclusion of data from the Test Period, violates controlling precedents and statutes (such as 26 Del. C. § 302) which provide that all utility plant in service must be recovered through rates. In that regard, Staff’s recommendation would preclude recovery of utility plant expense that was already being recovered through Water Utility Distribution System Improvement Charges pursuant to 26 Del. C. § 314. Staff’s use of an historic presentation both for plant and income results in rates being developed with stale data. The Llangollen water treatment plant is operational. As such, controlling Delaware statutes require that the capital costs must be reflected in Rate Base and the Company should be afforded the opportunity to recover reasonable costs associated with operating the facility.</p>	<p>As discussed in the Direct Testimony of David E. Peterson, Staff is relying on a thirteen-point test year average method for determining Artesian’s rate base and revenue requirement. Under this approach, investment added after December 31, 2013, is not included in rate base. Based on that methodology, it would be inappropriate to include a forecasted increase in operating expenses for plant that is not included in the calculation of rate base. Staff recommends the disallowance of Artesian’s proposed \$120,657 adjustment to reflect increased costs at the Llangollen Well based on the information already provided—that the additional upgrades to this plant, with which these forecasted expenses are based upon, is not expected to go into service until September 30, 2014.</p>	<p>Costs should be excluded from rate base in this case; they were incurred outside the test period; can be recovered through the DSIC; and the fact that Artesian was required to incur the costs is irrelevant to whether they are appropriately included in rate base.</p>	

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<b>Exceptions</b>				
	<u>Artesian</u>	<u>Staff</u>	<u>DPA</u>	<u>CCHS</u>
	No exceptions.	No exceptions	No exceptions.	
<i>Commission Decision:</i>				

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<b>ISSUE: CASH WORKING CAPITAL</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Not Addressed.	Uses meter read date for lead/lag. Included \$2,535,123 for CWC. The parties appear to agree on the number expressed in Artesian's rebuttal testimony, which accounts for Staff's concerns.	Removal of deferred taxes from lead/lag study because it is a non-cash expense and therefore does not create a requirement for working cash. Also includes expense adjustments that Staff has recommended for a total reduction of \$420,000 to CWC.	Accepted Artesian's calculation of revenue lag days and Staff's removal of deferred taxes from the cash working capital calculation.	No position
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
<b><i>Commission Decision:</i></b>				

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<b>ISSUE: REVENUES – NORMALIZATION AND REVENUE PROJECTION PROGRAM</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
<p>Agreed with Artesian’s methodology. Created table to show that in previous rate cases Artesian’s methodology of determining revenues were close to 1<sup>st</sup> year results after case concluded.</p> <p>Also, recommended that the Company, DPA and Staff report back to the Commission in 9-months after the final order the status of Artesian’s new Revenue Projection Program.</p>	<p>The Company used the same normalization program that it has used in rate proceedings since at least 2004. The accuracy of the Company’s program is enhanced by taking into account every customer record over the relevant period, rather than relying upon aggregate data for customer classes, as DPA’s normalization methodology does. In connection with the Company’s 2004 rate proceeding, the Commission specifically approved the Company’s normalization methodology. The DPA, Staff and Artesian jointly agreed upon a consultant to study Artesian’s method. That consultant found Artesian’s method “accurate and effective.” The Company’s normalization model has for a decade been demonstrably accurate, as reflected by historical data. Over that period, the program has in most years and in the aggregate slightly overestimated water sales, which is beneficial to customers. The Company offered to make its data available to all parties for statistical sampling, which is adequate for financial reporting under federal law, but DPA declined that offer. Because of a change in IT hardware, the Company’s normalization calculations in this proceeding</p>	<p>Initially took no position; during briefing agreed and supported DPA’s position as articulated by DPA witness Watkins.</p>	<p>Artesian did not meet its burden of proof. Methodology used here was not the same methodology that Artesian used in prior cases. In prior cases, Artesian used 5 years of data to calculate its adjustment; in this case, it only used three years of data, and two of those years were two of the wettest years in Delaware history. DPA was unable to replicate Artesian’s calculations because Artesian did not provide its witness with the data necessary to be able to do so. DPA witness has never been unable to verify other utilities’ revenue normalization calculations. Without being able to replicate Artesian’s adjustments, the Commission cannot conclude that Artesian’s proprietary methodology is fairer, more conservative or accurate. DPA’s methodology is capable of replication for purposes of analyzing it.</p>	<p>No position</p>

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	<p>generally rely upon 3 years' worth of data rather than 5 years' worth of data as in previous rate proceedings. This change is of no moment, however, because: (1) data for the now-ended Test Period shows that the Company's normalization calculation remains accurate; and (2) DPA's expert never objected to the use of 3 years of data and actually relied upon 3 years' worth of data for his normalization calculation. His calculation is demonstrably less accurate.</p>			
<b>Exceptions</b>				
	<u><b>Artesian</b></u>	<u><b>Staff</b></u>	<u><b>DPA</b></u>	<u><b>CCHS</b></u>
	No exceptions.	No exceptions.	<p>The HE incorrectly placed the burden of proof on the DPA to establish that its methodology was more accurate rather than on Artesian. The Company did not use the previously approved methodology from prior cases; in prior cases it used five years' worth of data but in this case it used only three years of data, and two of those years were two of the wettest in Delaware history. DPA was unable to replicate the Company's adjustments. The table that the HE used to prove the revenues produced from previous rate cases presented data from the 5-year average methodology, not the 3-year methodology used in this case. HE's recommendation that the parties report back on Artesian's new revenue projection program</p>	No position

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			in 9 months provides no basis for accepting the Company's revenue normalization in this case.	
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<b>ISSUE: SALARY AND WAGE/PAYROLL TAXES-BONUS &amp; INCENTIVES – COMPENSATION STUDY</b>				
<b>Hearing Examiner</b>	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
<p>Not approve Company’s Incentive Comp, bonuses and stock options except the \$800 holiday bonus. No merit wage increase of \$583,975. Did not admit Comp Study into the record, therefore no costs allowed for study.</p>	<p>Raises in pay that were approved during the Test Period and took effect shortly afterwards are, under controlling Delaware precedents, recoverable in rates to remove any incentive for Artesian to quickly file another rate proceeding. Here, the increased salary expense was disclosed in pre-filed testimony and has actually taken effect. The expense is therefore known and measureable and should be included in rates. There are several analogous precedents where Delaware courts and this Commission have allowed recovery of increased salary and wages, even though the increases went into effect long after the end of the Test Period. Contrary to assertions by DPA, stock option awards are not triggered by reaching financial goals.</p> <p>The form that compensation takes, whether as salary or incentive compensation, should not control whether the expense is recovered in rates. Delaware law provides that the business judgment rule determines the validity of compensation decisions made by the Company’s directors, and the Commission cannot substitute its judgment absent a demonstration of waste or bad faith. No such</p>	<p>Used Dec. 2013 YE and adjusted to remove wage increase awards in 2013 and holiday bonuses. Removed incentive compensation. 2013 compensation study should not be entered into the record—as agreed to by the HE in Order No. 8704.</p>	<p>Projected post-test period wage increase should be rejected. Commission rejected post-test period wage increases in most recent Delmarva rate case. Cases Artesian cites are distinguishable because they addressed contractually-required wage increases; the projected wage increase sought here was not contractually required. Company’s claim that it had committed to the October 2014 wage increase was belied by its rebuttal testimony filed on October 27, 2014, which never mentioned such a commitment.</p> <p>Excluded incentive compensation, bonus and incentives from the revenue requirement (with the exception of the \$800 holiday bonus). Company did not provide substantiation of the programs. Commission excluded incentive compensation payments from the revenue requirement in Delmarva’s most recent rate case despite Delmarva’s making the same argument as Artesian: that the incentive compensation plan should be viewed as part of an employee’s overall compensation. Artesian’s stock option plan is triggered by achievement of financial goals, which benefit shareholders rather</p>	<p>No position</p>

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	<p>showing has been made here. Moreover, the interests between stock option and bonus compensation employees and rate payers are aligned. If the Company is able to cut costs, it may be able to seek lower rates in its next proceeding. Conversely, the Company cannot make additional profit by cutting costs: because the Company's allowable return on equity is set by the Commission.</p> <p>The Company incurred expense during this rate proceeding to obtain a compensation study. Artesian produced the study and more than 600 pages relating to it to Staff and the DPA. As importantly, Artesian pre-filed testimony that accurately states the amount of expense it incurred for the study. DPA has admitted that it did not review the compensation study materials prior the evidentiary hearing, and incorrectly argues that Artesian cannot recover because the study itself has not been admitted into evidence. That is inaccurate. Delaware statutes provide that all known and measurable expenses such as the Compensation Study must be recovered in rates. Staff on the other hand has denied that the compensation study exists, even though it has been marked as an exhibit. Staff's and DPA's gamesmanship of seeking to exclude indisputably valid</p>		<p>than ratepayers.</p> <p>Deny the admission of 2013 Compensation Study into the record.</p>	
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	expenses does not further this Commission's statutory obligation to set rates that are just and reasonable.			
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
	<p>The Commission should allow recovery of increased payroll expenses approved during the test period because they are known and measurable and numerous Delaware precedents – both of courts and the Commission – allow recovery of salary and wage expenses that go into effect after the Test Period. The amount was known prior to the end of the Test Period and allowing recovery now reduces the likelihood that the Company will need to commence another rate proceeding soon.</p> <p>The Commission should allow recovery of Incentive Compensation and Stock Option Expense because the form that compensation takes is not what is relevant. What is relevant is whether the award of the compensation is the product of waste or bad faith under Delaware's business judgment rule. The Commission cannot apply its judgment in lieu of the directors' judgment absent a showing of waste or bad faith, and here there is no evidence of such improper motive.</p>	No exceptions.	No exceptions.	No position

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	<p>Disallowing recovery of costs of the 2013 Compensation Study would reward gamesmanship, undermine Delaware's rate proceeding process by compelling utilities to admit every discovery item and exchange between the parties into evidence, and deny recovery of a known and measurable expense that is mandatorily recoverable in rates, especially as the correct cost of the study is in the record through sworn testimony and extensive documentation of that expense was provided to Staff and DPA in discovery.</p>			
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*Commission Decision:*

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<b>ISSUE: RATE CASE EXPENSE</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Agreed with Company to use 2 year normalization on the \$564,816 rate case costs.	\$1.1 M projected to be incurred for this case. AWC proposes to amortize \$75K for compensation study over 5 years and has settled on rate case costs of \$564,816 to be normalized over a 2 years period.	Staff recommended an average of rate case costs for the last 3 cases (or \$548,087) should be amortized over 3 years. Compensation study treatment should be denied in this proceeding.	Company accepted DPA's proposed rate case expense of \$564,816. Amount should be normalized over 3 years. Normalization includes a normalized amount of expense in the revenue requirement, while amortization allows a dollar-for-dollar recovery of the amount plus a return on that amount. The Commission has long held that the appropriate ratemaking treatment for rate case expense is normalization, not amortization.	No position
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
	No exception.	Size of rate case has no bearing on the recovery period when expenses were inherently inflated. HE didn't rely on record evidence in his argument. Staff still recommends a 3-year amortization period.	To extent that HE recommended amortizing the rate case expense over two years, the recommendation should be rejected. Normalization includes a normalized amount of expense in the revenue requirement, while amortization allows a dollar-for-dollar recovery of the amount plus a return on that amount. The Commission has long held that the appropriate ratemaking treatment for rate case expense is normalization, not amortization.	No position

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<b>ISSUE: PURCHASE WATER – SUSQUEHANNA RIVER BASIN COMMISSION SURCHARGE</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Approved recovery of \$20,723 in increased purchased water expense arising from the Susquehanna River Basin Commission increasing a surcharge that is included in Chester Water Authority invoices. AWC disclosed this increased purchased water expense in its rebuttal testimony and provided testimony regarding it during the evidentiary hearing.	In its application for a change in rates, Artesian forecast a 10% increase in purchased water expense arising from Artesian’s contract with Chester Water Authority (“CWA”). Artesian later testified that Chester Water Authority had not increased its rates as anticipated, so Artesian was no longer sought recovery for a 10% increase in purchased water expense. In its rebuttal testimony, however, Artesian disclosed that during the Test Period, the Susquehanna River Basin Commission (“SRBC”) had increased its surcharge, which CWA passes through to Artesian. The result is an increase in purchased water expense of \$20,723. In response to questions from Staff during the evidentiary hearing, Artesian testified about the facts of this increased expense.	Artesian’s request for an increase in purchase water expenses should be adjusted downward by \$20,723 to reflect the fact that the Company represented to Staff prior to the evidentiary hearing that there would be no increase in purchase water costs as part of its Application. Furthermore, the issue was raised for the first time at the rebuttal stage of the proceeding thereby denying Staff an opportunity to address the issue in its testimony.	No position.	No position.
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>

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		<p>New issues cannot be raised for the first time in the rebuttal stage of the proceedings. The 10% CWA increase had not occurred as forecasted. Moreover, Artesian did not adequately disclose that it would seek to recover the proposed CWA increase. Hence, this increase should not be allowed.</p>		
<p><i>Commission Decision:</i></p>				

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<b>ISSUE: CHARITABLE DONATIONS</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
None of the \$45,825 should be allowed because it is not necessary for safe, reliable service.	Charitable Donations should be recovered because they develop and foster a strong community that helps customers.	Staff argued that all of Artesian's charitable donations (\$45,825) should be disallowed because the Commission has ruled that charitable donations are not necessary for the provision of safe and reliable water services.	Disallowed charitable expenses. Commission has rejected including charitable expense in the revenue requirement.	No position.
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
	No exceptions.	No exceptions.	No exceptions.	No position.
<b><i>Commission Decision:</i></b>				

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<b>ISSUE: LLANGOLLEN WELL OPERATING EXPENSES</b>				
<b>Hearing Examiner</b>	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
Not addressed.	The Company's Llangollen Well has elevated levels of 1,4 dioxane, so the Company installed oxidation equipment to remove it. The treatment process involves the addition of hydrogen peroxide and exposure to ultra-violet ("UV") sterilization/irradiation. The Company incurs variable expenses associated with the hydrogen peroxide, ongoing repair and maintenance of UV bulbs, and additional purchased power expense for the energy required to power the UV equipment. The Company estimates the additional annual variable cost of the Llangollen Well treatment to be \$120,657. In its rebuttal testimony, Artesian agreed to calculate the expense based upon an 85% load factor, reducing its request by \$12,066. All parties appear to agree to that calculation	No position	Artesian's proposal to include \$120,657 of operating expenses associated with the Llangollen wells should be reduced to \$71,212. Artesian's evidence of how much wells operated during 2011-12 is inconsistent, and Artesian's witness admitted he did not know when the wells went offline because he did not become employed by Artesian until September 2013. Artesian's proposal assumes that the wells will be operating at a 100% capacity factor, which is unreasonable. Well design based on maximum daily demands rather than average daily demands is irrelevant. Artesian reduced proposal to include amount representing 85% load factor; DPA accepted this and did not except to HE's recommendation.	No position
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>

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<b>Issue: SOCIAL AND PROFESSIONAL DUES</b>				
<b>Hearing Examiner</b>	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
Of the \$25,215 the HE recommended that \$12,553 should be allowed and \$12,662 should not because they are directly related to lobbying expenses, public relations and/or marketing efforts.	AWC believes all expenses (\$122,816) should be recovered. The Company's sworn testimony is that none of the claimed expense relates to lobbying costs.	A certain portion of Artesian's social and service club dues directly relate to lobbying expenses, public relations, and marketing efforts to attract additional customers or sales. This portion fails to directly relate to providing safe, reliable, and adequate utility services and should be denied based on prior Commission decisions. Although Staff cannot determine the exact level of lobbying efforts, public relations, or marketing efforts related to Artesian's social and service club dues, some level of these activities exists. Artesian failed to show what level or percentage of these fees were service-related. Therefore, the Commission should disallow 20.61% of these fees (\$25,314) from operating expenses.	Allocated the costs of memberships that provide an overall corporate benefit among the ARC companies; reduced claimed expense by \$7,733.	No position.
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
	No exceptions	No exceptions	HE is unclear on the amount that is included in and excluded from the Revenue Requirement. For example, HE excluded some chamber of commerce fees but included other chamber of commerce fees. Must determine appropriate level of expense.	No position.

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<b>Issue: CHESTER WATER AUTHORITY LEGAL EXPENSES</b>				
<b>Hearing Examiner</b>	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
<p>Denied recovery of approximately \$800,000 of pre-test year expenses, but permitted recovery of approximately \$800,000 of expenses incurred in test year and test period. Rejected DPA's contention that the costs were non-recurring because the Company was still incurring some costs associated with the litigation. Did not say how the expense should be treated for ratemaking purposes.</p>	<p>All expenses associated with Artesian's suit against Chester Water Authority (CWA) should be recovered through rates. The Company instigated the suit to protect its customers, because CWA had raised its rates for 6 consecutive years, including by 27% during the three years before Artesian commenced its suit. CWA has not raised its rates since the suit began in 2010, so Artesian's customers are enjoying the benefits of the expense. Accordingly, the matching principle justifies recognizing all of the expense in rates.</p> <p>Artesian disclosed its CWA suit expense in its 2011 rate proceeding, informing the parties that the Company would seek recovery of that expense. Staff, the DPA and Artesian settled that proceeding without expressly stating how the CWA expense would be recovered. Artesian understood that to mean it would be allowed to seek recovery in future rate proceedings. Staff and the DPA now point to a subsequent Delmarva Power &amp; Light ("DPL") precedent, where the Commission stated that DPL should have obtained a deferral order in order to recover expense in future rate proceedings. The</p>	<p>The Chester Water litigation costs incurred prior to the test period should be denied. Artesian failed to seek a deferral order from the Commission, so these costs are not entitled to reimbursement now. To allow recovery of these costs would constitute retroactive ratemaking treatment, which is prohibited by Delaware law. Hence, Artesian may recover only those costs actually incurred during the test year (\$813,304) and only to the extent those costs will be amortized over 7 years.</p>	<p>Excluded the entire \$1.6 million from the revenue requirement for ratemaking purposes. All costs should be excluded because they are non-recurring. First, Artesian's witness testified that Artesian had never sued a water provider before, and the Company does not expect to incur significant costs related to the litigation going forward. Second, Artesian's financial health will not be jeopardized absent recovery of the CWA litigation costs; Artesian had already written off the pre-test period amounts, and, Artesian's parent company has continued to pay (and increase) dividends to its shareholders. Third, the Company neither requested nor received Commission approval to defer these costs for consideration in a future rate case, which the Commission has held is required. Fourth, including the \$800,000 of pre-test year expense would constitute retroactive ratemaking because it would allow the Company to recoup past losses in future rates in the absence of express legislative authority. Finally, even if the Company could recover such costs in rates, the amount of costs was excessive.</p>	<p>No position.</p>

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	<p>DPL facts, however, are decisively different from Artesian’s circumstances, as the Commission had previously ordered DPL to seek recovery of a particular expense in each rate proceeding, but DPL failed to do so. When DPL later sought to recoup amounts from previous rate cycles, the Commission denied recovery. That is not analogous the Artesian’s circumstances, and Artesian should be allowed to recover its pre-Test Year CWA suit expense.</p>			
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
	<p>Artesian does not except to the HE’s recommendation to allow recovery of CWA litigation expense incurred during the Test Year, Test Period and during the rate effective period, but does except to his recommendation that no recovery be allowed for expense incurred before the Test Year. All expenses associated with Artesian’s suit against Chester Water Authority (CWA) should be recovered through rates, because the Company instigated the suit to protect its customers. CWA had raised its rates for 6 consecutive years, including by 27% during the three years before Artesian commenced its suit. CWA has not raised its rates since the suit began in 2010, so Artesian’s</p>	<p>No exceptions.</p>	<p>Does not except to the HE’s exclusion of pre-test year costs, but does except to the inclusion of test year and test period costs. First, the expense is non-recurring so it is immaterial that any costs were incurred during the test year or test period. Non-recurring costs are not appropriately recovered in a utility’s revenue requirement because rates are forward-looking and reflect only those costs that are expected to recur (such as rate case expense and other regulatory legal expenses). Artesian’s witness testified that Artesian had never sued a water provider before and it did not expect to incur significant litigation costs going forward. Second, even if the expense item</p>	<p>No position.</p>

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	<p>customers are presently enjoying the benefits of the expense. Accordingly, the matching principle justifies recognizing all of the expense in rates.</p> <p>Artesian disclosed its CWA suit expense in its 2011 rate proceeding, informing the parties that the Company would seek recovery of that expense. Staff, the DPA and Artesian settled that proceeding without expressly stating how the CWA expense would be recovered. Artesian understood that to mean it would be allowed to seek recovery in future rate proceedings. Staff and the DPA now point to a subsequent Delmarva Power &amp; Light (“DPL”) precedent, where the Commission stated that DPL should have obtained a deferral order in order to recover expense in future rate proceedings. The DPL facts, however, are decisively different from Artesian’s circumstances, as the Commission had previously ordered DPL to seek recovery of a particular expense in each rate proceeding, but DPL failed to do so. When DPL later sought to recoup amounts from previous rate cycles, the Commission denied recovery. That is not analogous the Artesian’s circumstances, and Artesian should be allowed to recover its pre-Test Year CWA suit expense.</p>		<p>was recurring, the amount that the Company could expect to spend during the rate effective year was speculative and incapable of determination with reasonable specificity. Third, even if the amount of costs could be determined with reasonable specificity, the appropriate ratemaking treatment was normalization, not amortization.</p>	
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*Commission Decision:*

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<b>ISSUE: DISCONTINUANCE OF SERVICES FOR AFTER HOURS AND TERMINATIONS</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Recommends the Commission approve Artesian's proposed tariff change because of employee safety concerns. Also recommended that the Commission approve the emergency services fee of \$140.	Company intends to ensure safety of employees by limiting service calls to normal business hours, while still offering emergency services 24 hours per day.	Artesian failed to provide adequate evidence as to why it proposed to discontinue after-hour disconnection and reconnection services and failed to provide any justification for the increased after-hour service charges. No record evidence exists to support the amount of extra fees to be charged for after-hour services.	No position.	No position.
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
	No exceptions	No exceptions	No position.	No position.
<b><i>Commission Decision:</i></b>				

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<b>ISSUE: SEASONAL RECONNECTION CHARGE- READY TO SERVE CHARGES</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Did not rule – Recommends Commission decide based on parties positions as outlined in exhibits 3-5 attached to Report	<p>Prior to Artesian’s 2011 rate proceeding, the Commission held, consistently with Delaware court precedents, that owners who temporarily disconnect from Artesian’s water system are nevertheless obligated to pay Ready to Serve Charges. The Billings and Changes In Ownership and Ready to Serve Charges provisions in the Company’s tariff must be read in conjunction with the definition of “customer” to properly determine when a landlord who temporarily disconnects water service must pay Ready to Serve Charges. Under the definition of “customer,” once a tenant vacates a property, the owner automatically becomes Artesian’s “customer.” That owner can request to have water service discontinued. Ready to Serve Charges will accrue, but not be billed. Whether the owner must pay the accrued Ready to Serve Charges depends upon whether water service is reconnected in less than 12 months. If it is not, the owner will never pay the accrued water service charges. If it is, the owner must pay the accrued charges.</p> <p>The parties disagree about the</p>	Artesian agreed to delete some of the proposed language. Staff supported the deletion of this certain language.	<p>The parties’ settlement in Docket No. 11-207 is the Commission’s most recent pronouncement on the definition of a customer for purposes of disconnection/reconnection within 12 months. Staff and the DPA specifically negotiated for language to preclude Artesian from assessing customer and fire protection charges to a resident whose home/unit was vacant but was still connected to Artesian’s system. The same logic applies even in the landlord situation. Artesian’s proposed tariff revision is an end run around the language the parties specifically negotiated. If Commission believes it needs additional information to decide the issue, it should remand it to the HE to allow additional evidence to be taken.</p>	No position.

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	<p>effect of tariff language to which the parties agreed in Artesian’s last rate proceeding. Regardless, the settlement for that proceeding expressly provides that any party can argue any position in subsequent proceedings.</p> <p>Consistent with prior court and Commission precedents, the Commission should allow Artesian’s tariff to provide for payment of Ready to Serve Charges by landlords who disconnect their properties from Artesian’s system for less than 12 months. To do otherwise would require all customers to pay the landlord’s share of Ready to Serve Charges.</p>			
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
	<p>Prior to Artesian’s 2011 rate proceeding, the Commission held, consistently with Delaware court precedents, that owners who temporarily disconnect from Artesian’s water system are nevertheless obligated to pay Ready to Serve Charges. The Billings and Changes In Ownership and Ready to Serve Charges provisions in the Company’s tariff must be read in conjunction with the definition of “customer” to properly determine when a landlord who temporarily disconnects water service must pay Ready to Serve Charges. Under the definition of</p>	<p>Staff supports the DPA’s contention that PSC Docket No. 11-207 is the Commission’s most recent pronouncement on the definition of a customer for the purposes of reconnection. The settlement agreement of PSC Docket No. 11-207 precludes a user from being defined as a customer for the purposes of incurring monthly customer and fire protection charges when such user disconnects and does not reconnect at the same address for over a year.</p>	<p>The parties’ settlement in Docket No. 11-207 is the Commission’s most recent pronouncement on the definition of a customer for purposes of disconnection/reconnection within 12 months. Staff and the DPA specifically negotiated for language to preclude Artesian from assessing customer and fire protection charges to a resident whose home/unit was vacant but was still connected to Artesian’s system. The same logic applies even in the landlord situation. Artesian’s proposed tariff revision is an end run around the language the parties specifically</p>	<p>No position.</p>

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	<p>“customer,” once a tenant vacates a property, the owner automatically becomes Artesian’s “customer.” That owner can request to have water service discontinued. Ready to Serve Charges will accrue, but not be billed. Whether the owner must pay the accrued Ready to Serve Charges depends upon whether water service is reconnected in less than 12 months. If it is not, the owner will never pay the accrued water service charges. If it is, the owner must pay the accrued charges.</p> <p>The parties disagree about the effect of tariff language to which the parties agreed in Artesian’s last rate proceeding. Regardless, the settlement for that proceeding expressly provides that any party can argue any position in subsequent proceedings.</p> <p>Consistent with prior court and Commission precedents, the Commission should allow Artesian’s tariff to provide for payment of Ready to Serve Charges by landlords who disconnect their properties from Artesian’s system for less than 12 months. To do otherwise would require all customers to pay the landlord’s share of Ready to Serve Charges.</p>		<p>negotiated. If Commission believes it needs additional information to decide the issue, it should remand it to the HE to allow additional evidence to be taken.</p>	
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*Commission Decision:*

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<b>ISSUE: SECURITY DEPOSITS</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
HE recommends the Commission not approve this tariff change. Company's evidence does not justify the proposed increase. Based on the evidence, the tenants with the largest deposits have the largest losses. The increase would unfairly burden residential tenants with good credit history-students, young workers, and the elderly.	<p>The Company incurred more than \$53,000 in losses due to unpaid tenant bills in just 22 months. The Company seeks to limit such losses in the future by increasing the deposit for all tenant accounts to \$200.</p> <p>Staff's position that it is unfair to require \$200 deposits from tenants and not from homeowners ignores the fact that Artesian has remedies other than security deposits available when a homeowner does not pay, including a lien against the property. As importantly, increasing homeowner deposits would not resolve the losses from tenant accounts, because it is not homeowners who are causing the losses.</p>	Staff opposed Artesian's proposed tariff change for increasing the amount of the required security deposit for residential tenant customers because the Company failed to provide any record evidence as to why residential tenant customers should be charged a different amount for security deposits than other types of residential customers. This change would discriminate unjustly against certain customers compared to other customers.	No position.	No position.
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
	Tenants who pay their water bills will receive their deposits back. Only those who fail to pay will have their deposits applied against the amount owed. Everyone is affected when losses arise from non-payments because rates increase for all. Using credit scores to determine what level of deposit is necessary is impractical and would increase costs. Also, nothing in the record shows that deposits based on	No exceptions.	No position.	No position.

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	individual credit ratings would result in lower losses from non-payment.			
<p><i>Commission Decision:</i></p>				

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<b>ISSUE: RATE DESIGN – PURCHASED WATER</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Recommended that the Commission approve Artesian’s current Cost of Service and Rate Design	Allocates purchase water by allocating to the base or average use function. Under Artesian’s contract with CWA, there is no change in purchased water cost regardless of whether the water is purchased on an average or at a maximum day or peak hour time. As all customers’ consumption is supplied by Artesian’s own production and purchased water, there is no principled basis to allocate purchased water expense differently.	Use the currently-approved Cost of Service and Rate Design.	Did not oppose Artesian’s cost of service study allocation of purchased water.	Purchased water should be allocated the same way as Supply Wells – allocated to both Base and Maximum day functions.
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
	No exceptions.	No exceptions.	No exceptions.	Record evidence shows that Artesian buys Purchased Water to meet its demand, including to meet maximum day or peak hour demand.
<b><i>Commission Decision:</i></b>				

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<b>ISSUE: RATE DESIGN – PUMPING POWER COSTS</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Recommended that the Commission approve Artesian’s current Cost of Service and Rate Design	Allocates pumping power expense by allocating to the base or average use function because there is no information from which the Company could equitably allocate purchased power differently. CCHS’s proposed purchased power allocation among functions does not comport with the AWWA Manual upon which CCHS relies. CCHS has attempted to lower its own potential rate increase by shifting purchased power cost to the fire service class, and therefore the Residential class. That result is inequitable.	Use the currently-approved Cost of Service and Rate Design.	Did not oppose Artesian’s cost of service study allocation of pumping power expense.	Pumping Power Costs should be allocated the same way as pumping facilities – allocated based on maximum demands.
<b>Exceptions</b>				
	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
	No exceptions.	No exceptions.	No exceptions.	Allocating power costs beyond the base component is proper, and the record evidence shows that Artesian's pumping power costs are higher to meet maximum day and peak hour demand.

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*Commission Decision:*

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<b>ISSUE: RATE DESIGN –MONTHLY CUSTOMER CHARGE</b>				
<b><u>Hearing Examiner</u></b>	<b><u>Artesian</u></b>	<b><u>Staff</u></b>	<b><u>DPA</u></b>	<b><u>CCHS</u></b>
Recommended adopting Artesian proposal to increase monthly customer charge from \$13.22 to \$14.51.	<p>The Commission has historically allowed utilities to recover all expenses that do not vary based upon consumption to be recovered through a fixed monthly customer charge. Changing that long-standing policy would add significant financial risk that utilities would not recover the expenses they incur or that they cannot earn the rate of return authorized by the Commission. DPA’s stated justification for allowing recovery of less than all such expenses through fixed changes is to promote water conservation. The public policy of water conservation, however, is already served by Artesian’s rate design, which uses inclining blocks to increase rates for consumers who use more water. Indeed, water consumption on a per household basis has fallen. Setting artificially low fixed monthly charges would require customers who use more water to subsidize customers who consumed less water. The DPA’s ROE argument ignores the reality that for decades the ROEs awarded by the Commission reflect the lower risk resulting from recovery of fixed costs through monthly customer charges. Therefore, continuing to allow</p>	Accepted Company’s proposed increase in monthly customer charge	<p>Monthly customer charge should remain at \$13.22. Inappropriate to include the large amount of corporate overhead costs, including general plant and Administrative &amp; General expenses, in the customer charge as has been done here; such costs should be recovered in the volumetric charge. Recovering more revenue in the customer charge as opposed to the volumetric charge results in customers who use less water (because they have smaller households or practice conservation) subsidize customers who use more water (because they have larger households or do not practice conservation). Commission has not previously addressed what costs should be recovered through the monthly customer charge. Monthly customer charge is unavoidable unless customer has discontinued service. Recovering more costs in the monthly customer charge provides greater revenue stability and reduces risk; thus, if Commission approves Artesian’s proposal, it should reflect the reduced risk in Artesian’s ROE.</p>	No position

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	recovery of fixed costs through monthly charges does not justify lowering ROEs. Conversely, if the Commission limits recovery of fixed costs through customer charges, the Commission's ROE awards must go up to compensate utilities for the increased risk they will face.			
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
	No exceptions.	No exceptions.	Monthly customer charge should remain at \$13.22. Inappropriate to include the large amount of corporate overhead costs, including general plant and Administrative & General expenses, in the customer charge as has been done here; such costs should be recovered in the volumetric charge. Recovering more revenue in the customer charge as opposed to the volumetric charge results in customers who use less water (because they have smaller households or practice conservation) subsidize customers who use more water (because they have larger households or do not practice conservation). Commission has not previously addressed what costs should be recovered through the monthly customer charge. Monthly customer charge is unavoidable unless customer has discontinued service. Recovering more costs in the monthly customer charge	No position.

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			provides greater revenue stability and reduces risk; thus, if Commission approves Artesian's proposal, it should reflect the reduced risk in Artesian's ROE.	
<i>Commission Decision:</i>				

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<b>ISSUE: STAFF AND DPA EXCEPTIONS TO HE’S ORDER NO. 8686 – MR. SPACHT TESTIFYING FOR MR. VALCARENGHI</b>				
<b>Hearing Examiner</b>	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
See Order No. 8686 (PREVIOUSLY SENT).	Mr. Spacht should be allowed to testify during the Evidentiary Hearing provided he adopted Mr. Valcarenghi’s testimony. Mr. Spacht had overseen the drafting of Mr. Valcarenghi’s testimony and was in fact the person most knowledgeable about such matters as the Company’s normalization program.	Mr. Valcarenghi submitted the prefiled testimony, and it was Mr. Valcarenghi’s knowledge that Staff sought to probe--not Mr. Spacht’s. Mr. Valcarenghi’s testimony was akin to a pretrial deposition, but no court rule would allow Artesian to use his deposition in a hearing. Artesian should not be permitted to substitute another person it believes might be a better or more knowledgeable witness than Mr. Valcarenghi. To allow this would encourage parties to submit testimony under one witness’ name, but then substitute another person as a witness prior to hearing as long as they notified other parties beforehand.	Although Artesian submitted prefiled direct, supplemental and rebuttal testimony from Mr. Valcarenghi, the Company stated that it would proffer Mr. Spacht to testify at the evidentiary hearings instead. Staff and the DPA objected.	No position.
<b>Exceptions</b>				
	<b>Artesian</b>	<b>Staff</b>	<b>DPA</b>	<b>CCHS</b>
	No exceptions	The HE’s ruling disregarded Delaware law regarding hearing procedures. If a witness provides testimony, such witness is subject to cross examination and if a person did not provide prefiled testimony, such person cannot supplant the testifying witness for purposes of cross examination on that testimony. All parties to any proceeding have the right to be confronted by the witnesses who give testimony against them; the right	The HE erred in allowing the Company to substitute Mr. Spacht for Mr. Valcarenghi to testify at the evidentiary hearings. First, no Commission rule permits witness substitution; only context in which it has occurred is uncontested settlement hearings. Second, a witness’ lack of experience and/or knowledge is not a valid reason for substituting another witness, and in any event Artesian proffered another	No position.

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		<p>to cross-examine such witnesses, and to adduce evidence to refute what they say. This includes the right to cross-examine a party on any information that may be considered by a state agency in reaching an administrative decision. Cross-examination means the right of the adversary to examine the witness after the witness has been examined through direct examination.</p>	<p>witness with even less regulatory experience and knowledge than Mr. Valcarengi, but did not propose a substitute for that witness. Staff also submitted prefiled testimony from relatively inexperienced witnesses. Third, refiled testimony is similar to a pretrial deposition in the trial context; its purpose is to inform the opposing party of what the witness will say. Artesian's comparison of prefiled testimony to a Rule 30(b)(6) deposition in the trial context is inapposite because it is a discovery rule, not a trial rule, and says nothing about the use of that deposition at trial. AT trial, only the person that gave that deposition will be permitted to testify about it. Finally, it is irrelevant whether the substitution prejudiced Staff and the DPA; Artesian had the burden of justifying why the witness who submitted 3 different prefiled testimonies was unable to appear and testify at the evidentiary hearings.</p>	
<p><i>Commission Decision:</i></p>				