

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF ARTESIAN WATER COMPANY, INC.) PSC DOCKET NO. 11-207
FOR A REVISION OF RATES)
(FILED APRIL 11, 2011))

ORDER NO. 8092

AND NOW, this 20th day of December, 2011:

1. On April 11, 2011, Artesian Water Company, Inc. ("Artesian" or the "Company") filed an application (Ex. 2)¹ with the Commission requesting approval of a rate increase of \$10,926,304 (a 19.45% increase over existing rates) and for other changes to its tariffs. With its application, Artesian also submitted the direct testimony and exhibits of David B. Spacht, Chief Financial Officer and Treasurer of Artesian Resources Corporation and its subsidiaries, including Artesian (Ex. 3); Bruce P. Kraeuter, a Senior Vice President of Artesian principally responsible for planning and engineering (Ex. 6); Pauline M. Ahern, a Principal of AUS Consultants (Ex. 5); and John F. Guastella of Guastella Associates, LLC. (Ex. 4).

2. On April 21, 2011 Artesian requested the Commission for authorization pursuant to 26 *Del. C.* §306(c) to place into effect interim rates designed to collect \$2.5 million on an annual basis, which would enable it to collect \$1,055,000 in additional revenues through the end of the statutory suspension period. It also requested the Commission to waive the statutory requirement of posting a bond

¹ References to the exhibits introduced at the December 20, 2011 evidentiary hearing will be cited as "Ex. ___."

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with surety, representing that it would agree to abide by any Commission refund order.

3. By Order No. 7964 dated May 10, 2011, we opened this docket to consider Artesian's request for a rate increase and changes to its tariffs. We suspended the rates and revised tariff sheets pursuant to 26 *Del. C.* §306(a)(1) pending further order of the Commission or requirement of law, but granted Artesian's request to place interim rates into effect pursuant to 26 *Del. C.* §306(c), with proration and subject to refund. We also designated Senior Hearing Examiner Ruth Ann Price to schedule and conduct the public comment sessions and evidentiary hearings necessary to have a full and complete record concerning the justness and reasonableness of the proposed increased rates and tariff modifications, and directed her to file with us her proposed findings and recommendations.

4. On May 27, 2011, Christiana Care Health Services, Inc. ("CCHS") petitioned to intervene in this docket. Senior Hearing Examiner Price granted that petition by Order No. 7983 dated June 2, 2011. Additionally, the Public Advocate exercised his statutory right of intervention pursuant to 29 *Del. C.* §8716(g) on September 1, 2011.

5. On June 30, 2011, Artesian submitted supplemental testimony and exhibits from Messrs. Spacht (Ex. 7) and Kraeuter (Ex. 8). In its supplemental testimony, Artesian stated that additional adjustments could have caused an increase in its requested revenue requirement,

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but it was not seeking to amend the rate increase requested in its original application. (Ex. 7 at 1).

6. Senior Hearing Examiner Price scheduled three public comment sessions, one in each county. The public comment sessions were held on July 25, 2011 at the Carvel State Office Building in Wilmington (New Castle County); on July 26, 2011 at the Bethany Beach Town Hall in Bethany Beach (Sussex County); and on July 27, 2011 at the Commission's offices in Dover (Kent County). No members of the public attended any of the three public comment sessions. The Commission received seven written letters from Artesian customers, each of which opposed any rate increase.

7. On September 22, 2011, the Public Advocate submitted prefiled direct testimony from Andrea C. Crane, President of The Columbia Group, Inc. (Ex. 9); Michael J. Majoros, Jr., Vice President of Snavelly King Majoros & O'Connor, Inc. (Ex. 10); and Glenn A. Watkins, Executive Vice President and Senior Economist of Technical Associates, Inc. (Ex. 11). The Public Advocate recommended a \$1,527,210 increase in Artesian's annual revenue requirement. (Ex. 9 at 6). He also recommended changes to Artesian's proposed depreciation rates and eliminating negative net salvage from Artesian's depreciation rates (Ex. 10), and modifications to Artesian's class cost of service study and tariff language. (Ex. 11).

8. On September 22, CCHS submitted direct prefiled testimony from Michael Gorman, a Managing Principal with Brubaker & Associates,

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Inc. (Ex. 12). CCHS recommended adjustment to Artesian's class cost of service study and cost allocations among customer classes.

9. On September 22 and 29, 2011, Staff submitted prefiled testimony from Brian Kalcic, principal of Excel Consulting (Ex. 13); David C. Parcell, President of Technical Associates, Inc. (Ex. 14); and Ralph C. Smith, a certified public accountant and senior utility regulatory consultant with Larkin & Associates, PLLC. (Exs. 15 and 15A). Staff recommended a \$4,472,857 increase in Artesian's annual revenue requirement. (Ex. 15 at 4). Staff also recommended changes to Artesian's proposed depreciation rates and eliminating negative net salvage from Artesian's depreciation rates (Ex. 15), as well as modifications to Artesian's class cost of service study and tariff language. (Ex. 13).

10. Prior to the deadline for Artesian to submit rebuttal testimony, the parties met to discuss whether settlement would be possible. The parties came to an agreement, which is reflected in the Proposed Settlement filed on November 22, 2011. (Ex. 16).

11. The Proposed Settlement includes an annual revenue requirement increase of \$6.25 million, as well as a 10% return on equity, agreement on a particular method of calculating and accounting for the cost of removal portion of depreciation rates, and agreement regarding certain tariff language defining a customer and setting forth conditions regarding seasonal customers' payment of customer charges.

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12. Pursuant to the procedural schedule, evidentiary hearings were scheduled to take place on December 13 and 14, 2011. In light of the Proposed Settlement, however, the parties sought to bypass the reference to the Hearing Examiner and ask us to consider the matter directly. By Order No. 8078 dated December 1, 2011, we withdrew the reference of this docket to the Hearing Examiner and agreed to hold an evidentiary hearing on the Proposed Settlement at our regularly-scheduled meeting on December 20, 2011. Anticipating that we would withdraw the reference to the Hearing Examiner, Staff caused notice of a December 20, 2011 evidentiary hearing on the Proposed Settlement to be published in the *News Journal* and the *Delaware State News* on November 21, 2011, and in the *Cape Gazette* on November 22, 2011, thereby satisfying the notice requirements of 29 *Del. C.* §§10122 and 10124. (Ex. 1).

13. On December 20, 2011, we conducted the duly-noticed evidentiary hearing on the Proposed Settlement. Each of the parties proffered a witness to adopt the prefiled direct testimonies of their respective witnesses and to testify regarding the Proposed Settlement. Each witness testified that the Proposed Settlement would result in just and reasonable rates and was in the public interest. Each witness was subject to cross-examination by opposing counsel and to questioning from the Commission. At the conclusion of the hearing, the record was closed.

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14. After the close of the record, we deliberated in open session and determined to approve the Proposed Settlement.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF
NO FEWER THAN THREE COMMISSIONERS:**

1. That the Proposed Settlement, which results in an annual revenue requirement increase of \$6.25 million, will result in just and reasonable rates, and is in the public interest, is approved.

2. That the approved rates will become effective with usage on and after January 1, 2012.

3. That the Commission will enter a formal Findings and Opinion in support of this Order at a later date.

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:

Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

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/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary