

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION)
OF THE ARTESIAN WATER COMPANY, INC.,) PSC Docket No. 14-132
FOR A REVISION OF RATES)
(FILED April 11, 2014))

Order No. 8604

Admitting Intervener HOA With Conditions

AND NOW, this 4th day of August, 2014

WHEREAS, pursuant to PSC Order No. 8558, dated May 13, 2014, the deadline for filing Petitions to Intervene in this docket pursuant to Rule 1001-2.9 of the Commission's *Rules of Practice and Procedure* was Monday, June 23, 2014;

WHEREAS, on July 18, 2014, Independence Homeowners Association ("HOA") filed an untimely Petition for Leave to Intervene ("the Petition") in this docket. According to the HOA, despite publication in the newspapers as required by law, it did not receive notice of this docket until receiving a June 24, 2014 bill insert;

WHEREAS, the HOA's Petition was filed by a HOA member, William C. Oliva, and states that "the HOA's Board of Directors has authorized me to file this {Petition} to represent it and the more than 300 residents in this matter;"

WHEREAS, the HOA alleges that, if Artesian Water Company, Inc.'s ("Artesian Water" or "Artesian") proposed rates are allowed to become effective on a permanent basis, its rates will increase when many

members are senior citizens living on fixed retirement incomes.¹
(Petition);

WHEREAS, the HOA further asserts that, its interests are not adequately represented without its intervention in this proceeding because: 1) the Public Advocate's office is faced with the difficult job of balancing different interests, for example balancing the interests of large users with residential users such as the members of the HOA; and 2) the Public Advocate's office does not have a monopoly on water case expertise. (Petition; HOA Response to Objection.)

WHEREAS, Artesian Water objects to the Petition as untimely, and also essentially states that the HOA's interests will be sufficiently protected by the Commission and Public Advocate, both of which are current parties. (AW Objection, §§1,2.) Artesian Water states oral and written public comment is also available to the HOA. (*Id.* at §2.)

WHEREAS, pursuant to the authority granted to me in PSC Order No. 8558, having considered the HOA's Petition, Artesian Water Company, Inc.'s Objection, and the HOA's Response to that objection, there being no indication that any other parties of record object to the Petition to Intervene;

NOW, THEREFORE,

1. The Petition is granted with the conditions described below.

¹ The Commission in PSC Order No. 8558, dated May 13, 2014, allowed Artesian to implement interim rates intended to produce an annual increase of approximately \$2.46 million in intrastate operating revenues, effective June 10, 2014. (PSC Order No. 8558 at ¶3.) This increase was conditioned on the proviso that interim rates would be implemented on a pro-rated basis and subject to the Commission's final order. (*Id.*)

2. I accept the HOA's representation that the HOA did not receive notice of this docket until June 24, 2014, a day after the intervention deadline. Thereafter, Mr. Oliva was notified during the July 4th weekend, the HOA then authorized Mr. Oliva to represent the HOA, culminating in the HOA's July 17th Petition to Intervene, filed with Commission the following day. While the HOA's actions were not swift, I find that good cause exists to permit the late intervention.

3. I also caution the Association that it should be regularly reviewing the newspapers for public notices like those timely published in this case, as well as public notices from governmental entities and Sussex County.

4. The HOA shall file a written authorization for Mr. Oliva to represent the HOA's interests before the Commission, signed by its Board of Directors, on or before August 12, 2014.

5. Based on Mr. Oliva's participation in Artesian's prior wastewater case, in which he filed extensive accounting and rate analysis by public comment, I find that, in this case, it is likely that this HOA will help illustrate to the other parties the residential rates it thinks is appropriate and all senior citizen issues. Obviously, Delaware has many other senior citizens faced with similar struggles. Mr. Oliva has a BS and an MBA. According to the Petition to Intervene, Mr. Oliva is also a Certified Public Accountant (CPA), and has also worked as a financier and an engineer.

6. The HOA is entered this day as a party of record in this docket.

7. The HOA is cautioned that it must abide by the Commission's *Rules of Practice and Procedure*, as well as any other rules, regulations and statutes of the State of Delaware applicable to these proceedings. *This includes E-filing.*

8. Due to its late intervention, the HOA may not send initial data requests, but provided that the HOA files the authorization described in Paragraph 4, *supra*, the HOA is permitted to send follow-up data requests to Artesian Water on or before August 15, 2014. Artesian Water's Responses to the 351 initial data discovery requests (excluding sub-parts) are due on or before August 8, 2014. The HOA shall review those responses before filing any follow-up data requests. If the HOA files any duplicitous discovery, a party may file a Motion for Protective Order.

9. The HOA shall be added to the Service List and shall otherwise be permitted to participate as a party in this docket, including participating in any settlement conferences.

10. Further, the HOA accepts this intervention based upon the posture of this docket as it currently stands with regard to any prior Commission orders and the approved, Agreed Procedural Schedule dated June 2, 2014.

RESPECTFULLY SUBMITTED:

Mark Lawrence
Senior Hearing Examiner

cc: Service List for PSC Docket No. 14-132