



STATE OF DELAWARE
PUBLIC SERVICE COMMISSION

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MEMORANDUM

TO: The Chair and Commissioners

FROM: Lisa B. Driggins, Public Utilities Analyst *ABD*

DATE: May 8, 2014

SUBJECT: IN THE MATTER OF THE APPLICATION OF ARTESIAN WASTEWATER MANAGEMENT, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER SERVICES PURSUANT TO 26 DEL. C. §203D (FILED FEBRUARY 19, 2014; AMENDED MAY 8, 2014), ("FERNMOOR AT WELSH RUN")
PSC DOCKET NO. 14-WW-001

On February 19, 2014, Artesian Wastewater Management, Inc. ("AWMI" or the "Company") filed an application (the "Application") requesting a Certificate of Public Convenience and Necessity ("CPCN") to provide wastewater services to two parcels in Sussex County, Delaware (the "Proposed Service Area"). The basis for the Application is AWMI's possession of a petition requesting wastewater services signed by all of the landowners of record of each parcel or property to be encompassed within the Proposed Service Area as required by 26 Del. C. §203D(d)(2).

On May 8, 2014, AWMI amended its Application (the "Amended Application") by filing with the Commission additional required information to show that the individual who signed as the landowner of all of the parcels in the Proposed Service Area (i.e., Jeffrey Fernbach) was authorized to sign on behalf of the business entity that owns all of such parcels (i.e., Fernmoor Homes at Welsh Run DE, LLC).

Staff reviewed the Amended Application in accordance with 26 Del. C. §203D and the Commission's *Regulations Concerning the Jurisdiction of the Public Service Commission to Grant and Revoke Certificates of Public Convenience and Necessity to Provide Wastewater Services*, 26 Del. Admin. C. §6002 (the "Regulations"). AWMI included the following in its Application: a petition requesting wastewater services signed by all of the landowners of record of each parcel or property encompassed within the Proposed Service Area; evidence, in the form of signed United States Postal Service certified mail receipts, showing that all of the landowners of record were sent notice of the Application; and Sussex County tax maps showing the location of the Proposed Service Area. Staff found no errors or omissions during its review of the Application.

As required by the Regulations, Staff requested written comment from the Division of Water Resources of the Department of Natural Resources and Environmental Control (“DNREC”). DNREC replied it had no objection to the Commission granting a CPCN to AWMI to provide wastewater treatment and disposal services for the parcels of land. However, DNREC noted a concern about granting wastewater CPCNs for parcels or areas where the respective County officials have not approved a subdivision or development and urged Staff to contact Sussex County Engineering Department (“the County”). Staff copied the County and the Delaware Office of State Planning (the “OSP”) on its request for comment sent to DNREC.¹ The County received and reviewed the CPCN application and stated they will not object to a CPCN being approved for this project.

The OSP also responded (the “OSP Response”) and noted that all the parcels included in the Amended Application are located within a Level 4 area. Level 4 areas is defined as an area where the State intends to invest in preservation as well as those industries which support agricultural and forestry-based industries, and new development activities are not supported in such areas. Staff does not consider the OSP Response to be an objection to the Commission granting the Amended Application. Instead, Staff believes that such response was provided to the Commission for information purposes regarding the State of Delaware’s future investment plans for the parcels included in the Proposed Service Area.

In conclusion, the Amended Application filed by AWMI complies with all statutory and regulatory requirements, and Staff is not aware of any issue that would preclude the granting of the requested CPCN. Staff further notes that the Commission need take no action on the OSP response because it is not an objection, but rather merely provides the Commission with information regarding the State of Delaware’s future financial objectives with respect to the parcels included in the Proposed Service Territory. Therefore, consistent with statutory requirements, Staff recommends the Commission grant the Amended Application.

¹ Under Commission rules, the utility is required to file a copy of its application with DNREC, OSP, and: “a) any county within whose boundaries the proposed service territory would be located; and b) any municipality, town or local authority: i) whose boundaries are adjacent to the proposed service territory; or ii) within whose boundaries or existing wastewater service territory the proposed service territory would be located.” While written comment is only required from DNREC, by notifying the other agencies Staff can be alerted if an Application is not filed, or if there is a significant issue with an Applicant or Application that the Commission may wish to consider.

Artesian Wastewater Management, Inc.
PSC Docket No. 14-WW-001 "Fernmoor at Welsh Run"
May 13, 2014

