

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF )  
ARTESIAN WASTEWATER MANAGEMENT, INC., )  
FOR A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY TO PROVIDE )  
WASTEWATER SERVICES TO A TOTAL OF )  
ELEVEN PARCELS OF LAND, LOCATED WEST ) PSC DOCKET NO. 05-WW-016  
OF REHOBOTH BEACH, SUSSEX COUNTY, ) (INDIAN RIVER PHASE 3)  
DELAWARE (FILED JUNE 24, 2005 AND )  
AMENDED JULY 12, 2005 AND )  
AUGUST 31, 2005 AND SEPTEMBER 2, )  
2005) )

**ORDER NO. 6717**

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE WASTEWATER SERVICES**

This 6<sup>TH</sup> day of September, 2005, the Commission determines and Orders the following:

1. By the provisions of 74 Del. Laws ch. 317 (July 6, 2004), the General Assembly and Governor included wastewater systems within the public utilities subject to the regulatory oversight of this Commission. See 74 Del. Laws ch. 317 (2004) (amending "public utility" definition in 26 Del. C. § 102(2)).<sup>1</sup>

2. The law includes a specific regime for the granting of Certificates of Public Convenience and Necessity ("CPCN") to begin the business of a wastewater public utility or to extend the system and

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<sup>1</sup>The enactment continued, in the context of wastewater systems, exemptions from Commission oversight systems owned or operated by municipalities and specific water and sewer districts. See 74 Del. Laws ch. 317 §§ 3, 5 (2004) (amending 26 Del. C. § 202(b)). The new law also exempted from Commission oversight wastewater public utilities serving fewer than fifty customers in the aggregate. See 74 Del. Laws ch. 317 § 4 (2004), adding 26 Del. C. § 202(h).

operations of an existing wastewater public utility. See 74 Del. Laws ch. 317 § 6, adding 26 Del. C. § 203D. Under the statute, specifically 26 Del. C., § 203D(d)(2), the Commission shall grant a CPCN to an applicant if it has submitted a petition requesting wastewater services signed by a majority of the landowners in the proposed service area, as well as the proof that all of the landowners in the proposed service area were notified of the application. Under 26 Del. C., §203D(e), the Commission may deny a request for a CPCN if the applicant is currently subject to a Commission finding or, if the Commission finds, that the applicant is unable or unwilling to provide safe, adequate, and reliable service to existing customers.

3. On February 22, 2005, by PSC Order No. 6573, the Commission adopted final *Regulations Concerning the Jurisdiction of the Public Service Commission to Grant and Revoke Certificates of Public Convenience and Necessity to Provide Wastewater Services* ("Regulations") which govern the process that non-governmental wastewater utilities serving, or planning to serve, fifty or more customers (in the aggregate) apply for and are granted a CPCN.

4. Artesian Wastewater Management, Inc. ("AWMI") is a public utility offering wastewater services, and is subject to the regulatory oversight of this Commission. On June 24, 2005, AWMI filed an application with the Commission requesting a CPCN to provide wastewater services to a total of twenty-three parcels of land located west of the Town of Rehoboth Beach, Sussex County, Delaware ("Proposed

Service Area")<sup>2</sup>. AWWMI had earlier been granted a CPCN for one of the parcels of land included in this application. On July 12, 2005, AWWMI submitted revised Exhibits A and C to the application, correcting a typographical error in a parcel number. On August 31, 2005, another revised Exhibits A and C were filed, removing two parcels of land from the Proposed Service Area. On September 2, 2005, the Company submitted another revised Exhibits A and C (dated August 31, 2005), indicating the owner of nine parcels of land who had previously signed a petition requesting water service was now asking that their properties be removed from the proposed service area.

5. As required by 26 Del. C., § 203D(d)(2), and Commission Regulations, AWWMI included in its application: (a) petitions requesting wastewater services signed by a majority of the landowners in the Proposed Service Area; and (b) evidence in the form of a United States Postal Service certified mail receipt showing that all of the landowners in the Proposed Service Area were sent notice of the Application. Also included in the Application were Sussex County tax maps showing the locations of the parcels of land.

6. AWWMI is a new utility, with its first CPCN granted March 8, 2005 (PSC Order No. 6573). To the best of the Commission's knowledge, AWWMI is not presently providing wastewater services to customers in any of its certificated service areas. Thus, there is no determination to be made as to whether or not the utility is unwilling

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<sup>2</sup>Some of these parcels of land, but not all, are the subject of proposed developments: Stonewater Creek additions (Sussex County parcels nos. 234-16.00-21.00 and 234-16.00-22.00); Reserves at Lewes (Sussex County parcel no. 334-5.00-174.00); and Beaver Creek (Sussex County parcels nos. 235-30.00-31.00, 235-30.00-131.02, 235-30.00-24.00, 235-30.00-32.00, 235-30.00-138.00, and 235-30.00-140.00).

or unable to provide safe, adequate, and reliable service to existing customers. The Commission Staff did notify the Division of Water Resources of the Delaware Department of Natural Resources and Environmental Control ("DNREC") and the Delaware Office of State Planning ("OSP") of the filing of the CPCN application, as well as Sussex County. There were no comments from any of these agencies indicating an objection to the Commission issuing a CPCN to AWMI for these parcels of land.

7. Consequently, consistent with the statutory requirement, the Commission shall grant a CPCN to AWMI to provide wastewater public utility services within the Proposed Service Area.

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

1. That, pursuant to the provisions of 26 Del. C. § 203D(d)(2), a Certificate of Public Convenience and Necessity is granted to Artesian Wastewater Management, Inc., to provide wastewater public utility services to a total of eleven parcels of land, located west of the Town of Rehoboth Beach, Sussex County, Delaware, and as described by the Sussex County tax map parcels numbers shown in Exhibit "A" to this Order.

2. That Artesian Wastewater Management, Inc., shall comply with any and all federal, state, county, and local statutes, ordinances, orders, regulations, rules, and permit conditions that are applicable, or may become applicable, to any matter involving water utility services provided to the service territory granted by this Certificate of Public Convenience and Necessity.

3. 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

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Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

E X H I B I T "A"

APPROVED SERVICE AREA  
PARCELS WITHIN CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

SUSSEX COUNTY TAX MAP PARCELS NOS.

234-16.00-21.00

234-16.00-22.00

235-30.00-21.00

235-30.00-24.00

235-30.00-30.00

235-30.00-32.00

235-30.00-62.00

235-30.00-131.00

235-30.00-138.00

235-30.00-140.00

334-5.00-174.00