

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

IN THE MATTER OF THE APPLICATION)
OF ARTESIAN WASTEWATER)
MANAGEMENT, INC. FOR APPROVAL)
OF A TARIFF, RATES AND RULES) PSC DOCKET NO. 04-430WW
AND REGULATIONS TO GOVERN THE)
PROVISION OF WASTEWATER SERVICES)
IN DELAWARE)
(FILED NOVEMBER 12, 2004))

ORDER NO. 6825

This 24th day of January, 2006, the Commission determines and Orders the following:

1. By PSC Order 6675 (July 5, 2005), this Commission allowed Artesian Wastewater Management, Inc. ("AWMI") to put into effect, on a temporary basis, a proposed Tariff with a schedule of rates to govern its wastewater utility services in its certificated service territory encompassing the Stonewater Creek development in Sussex County. See PSC Order No. 6589 (March 8, 2005) (grant of Certificate of Public Convenience and Necessity). In that Order the Commission also directed Artesian to publish notice of its proposed Tariff and proposed rates and charges for that service territory. Under the notice, an interested person or entity had the opportunity to submit objections and comments concerning the Tariff provisions, AWMI's proposed rates, as well as Staff's preliminary analysis of those rates and charges. Given Staff's tentative analysis that the proposed rates fell within a just and reasonable range, the Commission indicated that

if comments or objections were not forthcoming, the Commission might finally approve the Tariff and proposed rates and charges included therein without further protracted proceedings.

2. AWMI published the notice. The Division of Public Advocate ("DPA") was the only person or entity to file comments. In its comments, DPA asked that several "clarifications" be included in any final approval of AWMI's rates and charges. First, the DPA suggested that the Commission clarify that the \$1,500 per lot "connection fees" called for in the Tariff are to be treated, and booked, as "operating revenue" for rate-making purposes. The DPA also suggested clarification that the additional \$2,300 per lot amounts to be contributed by the developer would be booked and treated as "Contributions-in-aid-of-Construction" for rate-making purposes and hence would result in deductions from any rate-base in any ratemaking proceeding. More specifically, the DPA asks the Commission to condition approval of the rates on the following understandings:

(a) AWMI will receive the \$1,500 connection fee from each wastewater customer. To the extent that lots within the Stonewater Creek development remain unsold, the developer shall pay the \$1,500 connection fee for any such lot that remains unsold.¹

¹ In its initial filing to justify its proposed rates, AWMI advanced projections about the number of lots that would be sold during each year of the total projected period. One could calculate the number of "unsold" lots to trigger the developer's obligation to pay the connection fee on the basis of the shortfall of sold lots at the end of each year. Or "unsold" lots could be calculated based on the eventual shortfall at the end of the entire projected period. It would appear

(b) AWMI will treat for both accounting and ratemaking purposes the \$1,500 per lot connection fees received as "operating revenues." The additional \$2,300 per lot contribution made by the developer shall be booked and treated as "Contribution-in-aid-of-construction" and shall be deducted from any rate base utilized for ratemaking purposes.

(c) AWMI will use the developer's contributions to repay the utility's capital investment in this service territory. AWMI shall use the connection fees to recover the carrying costs associated with the utility's initial investment in this service territory.²

3. Staff continues to recommend that the Commission find the proposed charges and rates - as they govern service in the Stonewater Creek service territory - to be just and reasonable. In addition, Staff now recommends that the Commission finally approve the proposed Tariff so that it may govern AWMI's services, rates, and operations. Finally, Staff agrees that the clarifications sought by the DPA are appropriate.

4. Based on Staff's recommendations, the Commission will finally approve AWMI's proposed Tariff to govern AWMI's public wastewater services. Such Tariff includes an annual "Residential Service" charge of \$900 (to be billed monthly in advance of

to be in the utility's interest to use the former approach. However, if the utility and developer choose the latter calculation method, the Commission would not be inclined to allow the utility to recover from its other customers any charges incurred because the utility agreed to defer its collections from the developer until the end of the entire projected period.

² See Letter of Public Advocate (Aug. 19, 2005).

service in \$75 amounts) and a \$1,500 "connection fee" for each lot or subdivided lot connected in the Stonewater Creek service territory. The Commission approves those rates and fees as set forth in the Tariff. However, the Tariff (and the rates and charges set forth therein) shall, until further Order of the Commission, only govern AWMI's utility services in its Stonewater Creek service territory (see PSC Order No. 6589 (March 8, 2005)).

5. AWMI currently holds Certificates of Public Convenience and Necessity authorizing it to provide its wastewater services in other areas and it has said that it intends to extend its business operations into these and other areas. AWMI represents that as it expands its actual operations beyond the Stonewater Creek service territory, it will propose to charge a uniform yearly charge applicable across all its service territories but that the front-end "connection fees" may vary from service territory to service territory. Staff recommends that the Commission require AWMI, as it anticipates providing actual wastewater services to each service territory beyond the Stonewater Creek service territory, to submit further financial and cost data to the Commission for review. According to Staff, such submissions would allow the Commission to determine whether the particular connection charge proposed for the additional service territory is just and reasonable. But, in addition, the required submissions would allow the Commission to determine if the "uniform" yearly charge remains just and reasonable in light of AWMI's expansion of its actual utility operations. The

Commission accepts Staff's recommendations concerning the need for the submission of additional data as AWMI expands its actual utility operations beyond the Stonewater Creek service territory. For similar reasons, the Commission will accept Staff's recommendation that Staff, on an annual basis, review AWMI's financial information to determine if the utility's actual capital costs, expenses, revenues, and customer growth are consistent with the prior projections used by the utility in determining its rates and charges.

Now Therefore, IT IS ORDERED:

1. That, for the reasons set forth in the body of this Order, the proposed final Tariff submitted by Artesian Wastewater Management, Inc., (as set forth in the attachment to Staff's correspondence to the utility dated January 17, 2006) is hereby approved. Such Tariff shall govern the provision of public utility wastewater services by Artesian Wastewater Management, Inc., in the service territory granted under PSC Order No. 6589 (March 8, 2005). The yearly annual "Residential Service" charge of \$900 (to be collected by monthly advance billings of \$75.00 per month) is approved as just and reasonable. In addition, the \$1,500 connection fee applicable to connections in the Stonewater Creek development service territory is also approved as just and reasonable. Until further Order of the Commission, the Tariff, and its included rates and charges, shall only apply to utility services within the service territory granted under Order No. 6589.

2. That Artesian Wastewater Management, Inc. shall keep at its office, and make available to the public, a copy of the Tariff herein approved.

3. That the rates contained in the Tariff, as well as any additional contributions paid by a developer, are approved subject to the following clarifications:

(a) Artesian Wastewater Management, Inc. shall charge each customer the connection fee of \$1,500. To the extent that any lot in the service territory remains unsold, the developer shall be responsible for paying the connection fee for any such unsold lot.

(b) Artesian Wastewater Management, Inc. shall receive from the developer a contribution for each lot in the service territory in the amount of \$2,300. Such amount of contribution shall not be decreased except with prior approval of the Commission. To the extent that any lot in the service territory remains unsold, the developer shall be responsible for making the above stated contribution amount for each such unsold lot.

(c) Artesian Wastewater Management, Inc. shall treat, and book, all connection fees received as operating revenues for rate-making purposes. Artesian Wastewater Management, Inc. shall treat, and book, all developer contributions as "contributions in aid of construction" for rate-making purposes and such amounts shall be deducted from any rate base in any ratemaking proceeding.

(d) Artesian Wastewater Management, Inc. shall apply the contributions in aid of construction to repay the utility for its initial capital investment in the service territory. Artesian Wastewater Management, Inc. shall apply the connection fees collected from customers to recover the carrying costs associated with the utility's investment in the service territory.

4. That Artesian Wastewater Management, Inc. shall at least sixty days prior to commencing actual wastewater utility services in any other certificated service territory file with the Commission the following:

(a) documentation, containing financial information, to justify any front-end connection fee proposed to be charged customers in the additional service territory;

(b) a cash-flow analysis for the new service territory utilizing the \$75 per month service charge, accompanied by data reflecting (for the new service territory) projected revenues, operating and capital costs, and beginning and ending cash balances, reported for each year within a 5 to 10 year projected period;

(c) estimated original cost and rate base amounts for the new service territory;

(d) anticipated customer growth for the new service territory;

(e) a description of all funding sources for the services and plant to serve the new service territory; and

(f) proposed revised Tariff sheets incorporating any connection fee for the new service territory and other charges related to service in such new additional territory.

5. That, until further Order of the Commission, the Commission Staff shall, on an annual basis, monitor the financial information of Artesian Wastewater Management, Inc. to determine whether the capital costs, expenses, revenues, and growth projections utilized by the utility to justify its rates and charges are consistent with later actual experience.

6 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

/s/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary