

**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 FOUR PARCELS	)	PSC DOCKET NO. 07-WW-028
OF LAND LOCATED SOUTH OF HARBESON	)	( "MILTON-ELLENDALE WW" )
ROAD, SOUTH OF MILTON, SUSSEX COUNTY,	)	
DELAWARE (FILED OCTOBER 9, 2007 AND	)	
AMENDED NOVEMBER 27, 2007)	)	

**ORDER NO. 7348**

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

This 8th day of January, 2008, the Commission determines and Orders the following:

1. This Commission exercises regulatory oversight over non-governmental wastewater public utilities that serve more than fifty customers. See 26 Del. C. § 102(6) (2006 Supp.). That regulatory oversight includes the authority to grant Certificates of Public Convenience and Necessity ("CPCNs") to enable an entity to begin the business of a wastewater public utility or to permit an existing wastewater public utility to extend its system and operations. See 26 Del. C. § 203D (2006 Supp.), as now further amended by 76 Del. Laws ch. 57 (June 28, 2007) and 76 Del. Laws ch. 162 (July 18, 2007). Under such statutory regime, and specifically 26 Del. C. § 203D(d)(2), a wastewater utility may obtain a CPCN for a new service territory if it submits petitions requesting the utility's wastewater services executed by the landowners of each parcel or parcels to be encompassed within such new service area.

2. In 2005, by PSC Order No. 6573 (Feb. 22, 2005), 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"). Those Regulations implement the CPCN regime for public wastewater utilities.

3. Artesian Wastewater Management, Inc. ("AWMI") is a public utility offering wastewater services, and is subject to the regulatory oversight of this Commission. On October 9, 2007, AWMI filed an application with the Commission requesting a CPCN to provide its wastewater services to four parcels of land located south of Harbeson Road, south of Milton, and to one parcel of land located on Old State Road, south of Ellendale, Sussex County, Delaware ("Proposed Service Area").

4. As required by 26 Del. C. § 203D(d)(2) and the Commission Regulations, AWMI included in its application: (a) petitions requesting wastewater services signed by the owners of the parcels of land comprising the Proposed Service Area; and (b) evidence, in the form of a signed United States Postal Service certified mail receipt, showing that the landowner was sent notice of AWMI's Application.<sup>1</sup> A Sussex County Tax Map showing the location of the Proposed Service Area was also included with the application.

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<sup>1</sup>Prior to June 28, 2007, § 203D(d)(2) required the utility to provide notice to affected landowners of its application for a wastewater CPCN. That statutory requirement of notice was not carried forward in the June and July, 2007 amendments to § 203D(d)(2); however, Commission Regulations continue to require notice to affected landowners.

5. Pursuant to Commission Regulations, Commission Staff requested written comment from the Delaware Department of Natural Resources and Environmental Control ("DNREC") as to whether there are any outstanding issues with that agency that would indicate that AWMI has been unwilling or unable to provide safe, adequate, and reliable wastewater services to its existing customers.<sup>2</sup> In its reply, DNREC reported that it had no objection to the Commission granting the requested CPCN to provide wastewater treatment and disposal services to the Proposed Service Area.

6. On November 27, 2007, AWMI amended its Application by removing from the Proposed Service Area the parcel of land located near Ellendale; therefore, if approved, the final service area will consist of the four parcels located near Milton.

7. The Commission Staff has reviewed the Application and found no errors or omissions. Staff reports to the Commission in its December 31, 2007 Memorandum that AWMI's Application meets all

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<sup>2</sup>Under the Commission's Regulations, the utility was required to submit a copy of its application to DNREC; the Office of State Planning ("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." Here, Staff solicited comments from DNREC and, by copy, also gave both the OSP and the Sussex County Engineering Department ("the County") the opportunity to offer their views. In this case, the County stated that the four parcels located south of Milton are not in an area where Sussex County plans to provide wastewater services in the immediate future and therefore had no objection to a CPCN being granted for those parcels. In the case of the one parcel located near Ellendale, the County objected to a CPCN being granted because a portion of the parcel is already in its Ellendale Sanitary Sewer District and the County plans to provide the parcel with wastewater services. Comments from the OSP indicate that all of the parcels are located in Investment Level 4 Areas according to the "Strategies for State Policies and Spending" where new development activities are not supported by the State. OSP further states that no Preliminary Land Use Service ("PLUS") reviews have been conducted for any of the parcels.

requirements for the granting of a CPCN under 26 Del. C. § 203D and the Commission's Regulations and recommends approval of the Application as amended.

7. For these reasons, the Commission finds that AWMI has met the requirements for the granting of a CPCN and, therefore, the Commission shall approve the Application as filed in PSC Docket No. 07-WW-028 on October 9, 2007 and amended on November 27, 2007.

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 the area more specifically identified by the Sussex County Tax Map Parcels Nos. 235-25.00-35.00, 235-25.00-39.00, 235-25.00-46.00, and 235-25.00-56.00.

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 wastewater 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:

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Chair

PSC Docket No. 07-WW-028, Order No. 7348 Cont'd.

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Commissioner

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ATTEST:

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Secretary