

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

IN THE MATTER OF THE APPLICATION OF)
ARTESIAN WASTEWATER MANAGEMENT, INC.)
FOR APPROVAL OF TWO NEW CLASSES OF)
SERVICE, COMMERCIAL AND INDUSTRIAL,) PSC DOCKET NO. 07-350WW
AND FOR APPROVAL OF RATES TO GOVERN)
THE PROVISION OF WASTEWATER SERVICES)
TO THE INDEPENDENCE RUN DEVELOPMENT,)
SUSSEX COUNTY, DELAWARE)
(FILED DECEMBER 14, 2007))

ORDER NO. 7419

This 5th day of August, 2008, the Commission finds, determines, and Orders the following:

1. On December 14, 2007, Artesian Wastewater Management, Inc. ("AWMI") filed an application for approval of a wastewater Tariff for its "Independence Run" service territory in Sussex County, Delaware. The proposed Tariff includes the \$900 annual customer charge (billed on a monthly basis at \$75 per month) which is present in all of AWMI's wastewater tariffs, as well as a \$6,000 front-end connection fee to be collected from the developer. In its application, AWMI also requested approval to add two new classes of service; i.e., Commercial and Industrial, and to make certain other updates and clarifications to its Tariffs for all of its wastewater service territories.¹

¹As explained in PSC Order No. 7361 (Feb. 5, 2008), AWMI proposes to charge commercial and industrial customers a rate based on the number of equivalent dwelling units ("EDUs") discharged into the wastewater system. One EDU corresponds to an average discharge of 300 gallons per day. The only existing customer that will be affected is Artesian Water Company ("AWC"), an affiliated company, which discharges backwash into AWMI's Stonewater Creek wastewater system and which will be considered a commercial customer. Based on AWC's EDU count of three, AWMI will charge AWC three times the \$900 annual customer charge, or \$2,700 per year.

2. On February 5, 2008, by Order No. 7361, this Commission approved, on a temporary basis and subject to refund, the proposed Tariff for Independence Run as well as the two new customer classes and other requested tariff changes. The Commission also directed AWMI to publish notice of its proposals in The News Journal and Delaware State News newspapers and to mail a copy of the notice to any customer presently connected to the Independence Run system.

3. In response to the public notice, several residents of Independence Run contacted the Commission Staff objecting to the proposed wastewater rates and requesting additional time to review the application and to respond with comments. Consequently, by Order No. 7387 (May 6, 2008), the Commission extended the comment period until June 16, 2008, and directed Staff: (a) to meet with concerned residents of Independence Run to discuss the application; (b) to further review AWMI's financial and cost data to determine whether the proposed rates remain just and reasonable in light of its expansion of wastewater operations; and (c) to report back to the Commission, with its conclusions, no later than June 26, 2008.

4. In early June, several customers submitted written comments objecting to the flat monthly rate because many residents live elsewhere for part of the year and therefore use no wastewater service for certain months. They also questioned the reasonableness of the \$6,000 connection fee, asserting that they should not be asked to subsidize future expansion, and noting that many residents of Independence Run are on a fixed income. On the evening of June 11, 2008, Staff and AWMI met with ten Independence Run residents to answer

questions and to explain how the proposed rates were developed. At the meeting, Kevin Neilson, Regulatory Policy Administrator, and Heidi Wagner, Public Utilities Analyst, represented Staff and Jack Schreppler, Vice President and General Counsel, and Connie McDowell, Senior Rates Analyst, represented AWMI.

5. On June 25, 2008, Ms. Wagner submitted Staff's memorandum. In the memorandum, Staff reports that it reviewed AWMI's financial and cost data and determined that the proposed \$6,000 connection charge for Independence Run is just and reasonable and that the \$75 monthly charge, which AWMI uses for all of its wastewater systems, is also just and reasonable for the Independence Run development. Staff concluded that AWMI's use of a fixed or flat monthly fee, rather than a rate based on actual usage, is appropriate because: (1) there is no efficient way to measure wastewater service usage when Artesian Water Company (AWMI's affiliate) does not provide water to all of the developments AWMI serves; and (2) much of AWMI's cost of providing wastewater service is fixed and therefore reasonably recovered under a flat fee. In addition, Staff reviewed the proposed new Commercial and Industrial rates and the updated definitions that AWMI proposed for all of its wastewater tariffs, and concluded that the tariff changes and rates are just and reasonable. As such, Staff recommends approval of AWMI's December 14, 2008 application, including the proposed Independence Run rates, the new Commercial and Industrial classifications and rates, and other tariff changes.

6. Staff also recommends that with its next tariff application for a new development, AWMI submit for approval a proposed uniform

tariff, applicable to all of its current territories, which also will be applicable to all future expansions, without the need for incremental approval.² As with the regulated water utilities, AWMI's uniform tariff would remain in effect until AWMI obtains Commission approval of a rate change, or the Commission orders a rate change on its own initiative, after an investigation. Staff reports that it will continue to review AWMI's annual reports to ensure that the tariffed rates remain appropriate. AWMI accepts all of Staff's recommendations.

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

1. That, for the reasons stated above, the Commission approves the December 14, 2007 application of Artesian Wastewater Management, Inc., including its proposed rates for the Independence Run development, the proposed new Commercial and Industrial classifications and rates, and the other proposed tariff changes, effective with the date of this Order. As noted above, these changes are already in effect on a temporary basis and subject to refund, pursuant to PSC Order No. 7361 (Feb. 5, 2008). No refund is due.

2. That the Commission accepts Staff's recommendation that, with its next application for tariff approval for a new development, Artesian Wastewater Management, Inc. submit for approval a proposed uniform Tariff, applicable to all of its current territories, which

²Because AWMI's connection fee varies with each new development, based on its capital costs for that development, and collects such fee from the developer under a negotiated agreement, AWMI's uniform tariff likely will not set a fixed connection fee for new developments. It may, however, include a connection fee, or "hook-up charge," that would apply to any customer AWMI connects to an established system in an existing community, where such connection costs were not collected under a developer agreement.

