

**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	)	PSC DOCKET NO. 10-WW-010
WASTEWATER SERVICES PURSUANT TO 26	)	("ROUTE 9 AREA PART 1")
DEL. C. §203D (FILED DECEMBER 3,	)	
2010, AND AMENDED ON MAY 6, 2011)	)	

**ORDER NO. 7996**

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

This 21<sup>st</sup> day of June, 2011, the Commission determines and Orders the following:

**WHEREAS**, this Commission exercises regulatory oversight over non-governmental wastewater public utilities that serve more than fifty customers. See 26 Del. C. §§102(2) and 203D (a) (1). That regulatory oversight includes the authority to grant Certificates of Public Convenience and Necessity ("CPCN") 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. 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 record of each parcel or property to be encompassed within such proposed territory to be served; and

**WHEREAS**, on April 1, 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, 26 Del. Admin. C. §6001*, (the "Regulations"). These Regulations implement the CPCN regime for public wastewater utilities; and

**WHEREAS**, Artesian Wastewater Management, Inc. ("Artesian") is a public utility offering wastewater services and is subject to the regulatory oversight of this Commission. On December 3, 2010, Artesian filed an application with the Commission requesting a CPCN to provide its wastewater services to forty-eight parcels of land located east and south of Milton, Sussex County, Delaware (the "Proposed Service Area"); and

**WHEREAS**, as required by 26 Del. C. §203D (d) (2) and the Regulations, Artesian included in its application: (a) petitions requesting wastewater service signed by the landowners of record of each parcel or property encompassed within the Proposed Service Area; and (b) evidence, in the form of signed United States Postal Service certified mail receipts, showing that the landowners were sent notice of Artesian's Application.<sup>1</sup> A Sussex County Tax Map showing the location of the Proposed Service Area was also included with the Application; and

**WHEREAS**, pursuant to the Regulations, Commission Staff requested written comment from the Delaware Department of Natural Resources and Environmental Control ("DNREC") as to whether there were any

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<sup>1</sup>Prior to June 28, 2007, 26 Del. C. §203D (d) (2) required a 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, the Regulations continue to require notice to affected landowners.

outstanding issues with that agency that would indicate Artesian 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; and

**WHEREAS**, on May 6, 2011, Artesian amended its Application by removing from the Proposed Service Area six parcels of land, more specifically identified by Sussex County Tax Map Parcel Numbers 235-30.00-58.04, 235-31.00-10.01, 235-31.00-10.02, 235-31.00-10.07, 235-31.00-10.08 and 334-10.00-60.17. Thus, there are now forty-two parcels of land in the Proposed Service Area and

**WHEREAS**, the Commission Staff has reviewed the Application and found no errors or omissions. Staff reports to the Commission in its June 10, 2011, memorandum that Artesian's Application meets all of the

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<sup>2</sup>Under the 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. OSP indicated that Sussex County Tax Map Parcel Numbers 235-30.00-37.02, 235-30.00-63.00, 334-40.00-44.00, 334-40.00-45.00, 334-40.00-67.00, 334-40.00-80.00, 334-10.00-30.12, 334-10.00-30.14, 334-10.00-31.00 are located within a Level 3 area, according to the "Strategies for State Policies and Spending," where growth is anticipated by local, county, and state plans in the long term future, or areas that may have environmental or other constraints to development. The remainder of the parcels in the Proposed Service Area are located in a Level 4 area where new development activities and suburban development are not supported. The County questioned Artesian's ability to serve the scattered parcels and further suggested that there should be a plan in place for service and a schedule of when service will be provided before the CPCN is issued.

requirements for the granting of a CPCN under 26 *Del. C.* §203D and the Regulations and thus recommends approval of the Application; and

**WHEREAS**, for these reasons, the Commission finds that Artesian has met the requirements for the granting of a CPCN and, therefore, the Commission shall approve the Application as filed in PSC Docket No. 10-WW-010 on December 3, 2010, and amended on May 6, 2011.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF  
NOT FEWER THAN THREE COMMISSIONERS:**

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 Sussex County Tax Map Parcel Numbers shown in the attached Exhibit "A" of this Order.

2. That Artesian Wastewater Services, 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:

/s/ Arnetta McRae  
Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

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Commissioner

ATTEST:

/s/ Alisa Carrow Bentley  
Secretary

**E X H I B I T "A"**

**APPROVED SERVICE AREA  
PARCELS WITHIN CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

**ARTESIAN WASTEWATER MANAGEMENT, INC.  
PSC DOCKET NO. 10-WW-010**

**SUSSEX COUNTY TAX MAP PARCEL NUMBERS**

135-16.00-40.02	235-26.00-60.03	235-31.00-17.00
135-16.00-58.00	235-27.00-15.07	235-31.00-18.00
135-16.00-59.00	235-27.00-19.05	334-4.00-44.00
135-17.00-11.00	235-27.00-19.07	334-4.00-45.00
135-17.00-11.01	235-27.00-23.00	334-4.00-67.00
235-21.00-155.01	235-30.00-37.02	334-4.00-80.00
235-26.00-35.00	235-30.00-63.00	334-10.00-8.00
235-26.00-40.00	235-30.00-63.01	334-10.00-22.00
235-26.00-48.00	235-30.00-69.00	334-10.00-30.12
235-26.00-54.00	235-30.00-119.00	334-10.00-30.14
235-26.00-52.00	235-31.00-9.00	334-10.00-31.00
235-26.00-53.00	235-31.00-11.00	334-10.00-60.18
235-26.00-60.00	235-31.00-11.09	334-10.00-93.00
235-26.00-60.01	235-31.00-14.00	334-10.00-94.00