STATE OF DELAWARE

PUBLIC SERVICE COMMISSION
861 SILVER LAKE BLVD.
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500
FAX: (302) 739-4849

MEMORANDUM

TO: The Chair and Commissioners

FROM: Lisa B. Driggins, Public Utilities Analyst

DATE: October 16, 2015

SUBJECT: IN THE MATTER OF THE APPLICATION OF ARTESIAN WASTEWATER MANAGEMENT, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER SERVICES PURSUANT TO 26 DEL. C. §203D ("NORTH SUSSEX")
(FILED SEPTEMBER 24, 2015) - PSC DOCKET NO. 15-1422

On September 24, 2015, Artesian Wastewater Management, Inc. ("AWMI" or the "Company") filed an application (the "Application") requesting a Certificate of Public Convenience and Necessity ("CPCN") to provide wastewater services to ten parcels in Sussex County, Delaware (the "Proposed Service Area"). The basis for the Application is AWMI's possession of a petition requesting wastewater services signed by all of the landowners of record of each parcel or property to be encompassed within the Proposed Service Area as required by 26 *Del. C.* §203D(d)(2).

Staff reviewed the Application in accordance with 26 *Del. C.* §203D and the Commission's *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.* §6002 (the "Regulations"). AWMI included the following in its Application: (1) a petition requesting wastewater services signed by all of the landowners of record of each parcel or property encompassed within the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; (4) a copy of the associated tax map clearly marking the Proposed Service Area; and (5) a copy of a letter from Sussex County approving the CPCN[1]. Staff found no errors or omissions during its review of the Application.

[1] As required by 26 *Del. C.* §203D(b) and the Commission's *Regulations Governing Certificates of Public Convenience and Necessity for Water Utilities*, 26 *Del. Admin. C.* §6001 (the "Regulations"), an Application that

As required by the Regulations, Staff requested written comment from the Division of Water Resources of the Department of Natural Resources and Environmental Control ("DNREC"). DNREC replied it had no objection to the Commission granting a CPCN to AWMI to provide wastewater treatment and disposal services for the parcels of land. However, DNREC noted a concern about granting wastewater CPCNs for parcels or areas where the respective County officials have not approved a subdivision or development and urged Staff to contact Sussex County Engineering Department ("the County"). Staff copied the County and the Delaware Office of State Planning (the "OSP") on its request for comment sent to DNREC.[2] The County received and reviewed the CPCN application and stated they will not object to a CPCN being approved for this project.

The OSP also responded (the "OSP Response") noting that Sussex County Tax Map Parcel Number 135-16.00-26.00, one of the parcels included in the Application, is located within a Level 2 & 3. Level 2 is an area which is defined as an area where growth is anticipated by local, county, and State plans in the near term future and that State investments will support growth in these areas. The OSP Response also noted that Sussex County Tax Map Parcel Numbers 235-14.00-121-.00, 235-31.00-10.00, 334-4.00-37.04, 334-4.00-37.00 and 235-23.00-1.00, also included in the Application, are located in an area marked Level 3. Level 3 is defined as an area where growth is anticipated by local, county, and State plans in the long-term future, or may have environmental or other constraints to development. Finally, the OSP Response pointed out that the remaining parcels, 135-11.00-68.00, 334-10.00-23.00, 235-8.00-85.00 and 235-8-84.00, included in the Application are located within Level 4 areas which are defined as areas where the State intends to invest in preservation as well as those industries which support agricultural and forestry-based industries, and new development activities are not supported. Staff does not consider the OSP Response an objection to Commission granting the Application, but was instead provided to the Commission for information purposes of the County's future investment plans for the parcels included in the Proposed Service Territory.

In conclusion, the Application filed by AWMI complies with all statutory and regulatory requirements, and Staff is not aware of any issue that would preclude the granting of the requested CPCN. Staff further notes that the Commission need take no action on the OSP Response because it is not an objection, but rather merely provides the Commission with information regarding the State of Delaware's future financial objectives with respect to the parcels included in the Proposed Service Territory. Therefore, consistent with statutory requirements, Staff recommends the Commission grant the Application.

---

extends services into the service territory of a municipality, government agency or wastewater authority ***must*** submit written documentation that such entity has been informed of and has approved such an expansion by the applicant.

[2] Under Commission rules, the utility is required to file a copy of its application with DNREC, 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." While written comment is only required from DNREC, by notifying the other agencies Staff can be alerted if an Application is not filed, or if there is a significant issue with an Applicant or Application that the Commission may wish to consider.

Artesian Wastewater Management, Inc.
Docket No. 15-1422 - North Sussex
November 3, 2015