

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

IN THE MATTER OF THE APPLICATION OF        )  
ARTESIAN WASTEWATER MANAGEMENT, INC.    )  
FOR AUTHORITY TO IMPLEMENT A RATE        )        PSC DOCKET NO. 13-27WW  
INCREASE PURSUANT TO 26 *DEL. C.* §306    )  
(FILED JANUARY 18, 2013)                    )

**PROPOSED SETTLEMENT AGREEMENT**

This proposed Settlement Agreement (the "Settlement") is entered into by and among ARTESIAN WASTEWATER MANAGEMENT INC. ("AWMI" or the "Company"), the Staff of the Delaware Public Service Commission ("Staff"), and the Division of the Public Advocate ("DPA") (collectively, the "Settling Parties").

**I. BACKGROUND**

1. On January 18, 2013, AWMI, a Delaware corporation and Delaware regulated public utility, filed with the Delaware Public Service Commission ("the Commission") an Application seeking approval of a general increase in wastewater service rates designed to produce an additional \$342,608 in revenues (the "Rate Increase Application").

2. Pursuant to 26 *Del. C.* § 306(a)(1), by Commission Order No. 8301 dated February 21, 2013, the Commission suspended AWMI's proposed rate increase pending the conduct of public evidentiary hearings to determine whether the proposed rate increase results in just and reasonable rates, and assigned this matter to Hearing Examiner Mark Lawrence (the "Hearing Examiner") to conduct such evidentiary hearings.

3. The Delaware Division of the Public Advocate ("DPA") filed a statement of intervention in this proceeding. Subsequently, the Public Advocate resigned from office and the Attorney General ("AG") was granted leave to intervene in this proceeding. A new Public Advocate was later appointed and confirmed, and the DPA was substituted for the AG in this proceeding.

4. On April 4, 2013, as supplemented on April 17, 2013, Howard Klein filed a petition for leave to intervene on behalf of the Stonewater Creek Homeowners Association, which the Hearing Examiner granted on April 18, 2013.

5. Public Comment sessions were held on May 6, 2013 in Sussex County, Delaware and on May 7, 2013 in Kent County, Delaware.

6. During the course of this proceeding, the parties have conducted substantial written discovery in the form of both informal and formal data requests, and have submitted pre-filed testimony setting forth their respective positions. The Staff, DPA and Mr. Klein took issue with the proposed rate increase and with certain tariff changes that AWMI sought.

7. The Settling Parties have conferred in an effort to resolve all of the issues raised in this proceeding and to avoid the substantial cost of evidentiary hearings. The Settling Parties acknowledge that they differ as to the proper resolution of many of

the underlying issues in this rate proceeding and that, except as specifically addressed in this Settlement, they preserve their rights to raise those issues in future proceedings; however, for purposes of this proceeding, they believe that settlement on the terms and conditions contained herein both serve the interests of the public and AWMI, and satisfy the statutory requirement that rates be just and reasonable.

NOW, THEREFORE, the Settling Parties agree to the following terms and conditions for resolution of the pending proceeding.

## **II. SETTLEMENT PROVISIONS**

8. This Settlement includes a two-step increase in rates, with the first step effective upon approval of this settlement by the Commission and the second step effective one year thereafter. The Settling Parties agree that the additional annual revenue to be awarded to AWMI in the first step will be \$103,943, resulting from an increase in the tariff rate and adjustments to the number of billing units reflective of known and measureable customer additions. The additional revenue to be awarded in the second step will be \$70,080, resulting solely from an increase in the tariff rate. These revenues will be generated by monthly rates of \$80.00 per Equivalent Dwelling Unit ("EDU") in the first step and \$85.00 per EDU in the second step.

9. The Settling Parties stipulate that the appropriate return on equity in this proceeding is 10%.

10. The Settling Parties have agreed to this revenue requirement award as a compromise of their positions and believe that this proposed revenue requirement award is within the bounds of the statutory requirement of a fair rate of return based on circumstances unique to AWMI.

11. The Settling Parties further stipulate that the several tariff amendments that AWMI sought in this Rate Increase Application are severed from this proceeding without prejudice to any party proposing or opposing such proposals in any separate proceeding. The parties agree, however, that AWMI shall file a compliance tariff with the Commission before the date on which the Commission considers whether to approve this Settlement as its final decision, and AWMI will limit such compliance tariff to only two changes: The change in the flat rate of \$80.00 per EDU for year one and the change in the flat rate of \$85.00 per EDU for the second year. The parties agree that any other proposed tariff changes that were part of this proceeding will be handled in PSC Docket No. 13-232T.

12. This Settlement is the product of extensive negotiation and reflects a mutual balancing of various issues and positions of the Settling Parties. This Settlement is expressly conditioned upon the Commission's approval of each of the specific terms and conditions contained herein without modification. If the Commission fails to grant such approval, or modifies any of the terms and conditions herein, this Settlement will terminate and be of no force and effect

unless the Settling Parties agree in writing to waive the application of this provision.

13. This Settlement represents a compromise for the purposes of settlement and shall not be regarded as a precedent with respect to any ratemaking or any other principle in any future proceeding before the Commission, except as otherwise provided herein. None of the Settling Parties necessarily agrees or disagrees with the treatment of any particular item, any procedure followed, any calculation made, or the resolution of any particular issue, except that the Settling Parties agree the resolution set forth in this Settlement results in a just and reasonable rate and is in the public interest.

14. This Settlement pertains to PSC Docket No. 13-27WW. To the extent opinions or views were expressed or issues were raised in this proceeding that are not specifically addressed in this Settlement, no findings, recommendations, or positions with respect to such opinions, views or issues should be implied or inferred.

15. The Settling Parties agree that they will submit this Settlement for a determination that it is in the public interest and results in just and reasonable rates and that no Settling Party will oppose such a determination. Except as provided herein, this Settlement shall not have issue or claim preclusion in any pending or future proceeding, and none of the Settling Parties waives any rights it may have to take any position in future proceedings regarding the

issues in this proceeding, including positions contrary to positions taken herein or in previous cases.

16. If this Settlement does not become final, either because it is not approved by the Commission or because it is the subject of a successful appeal and remand, each Settling Party reserves its respective rights to submit additional testimony, file briefs, or otherwise take positions as it deems appropriate in its sole discretion to litigate the issues in this proceeding.

17. This Settlement will become effective upon the Commission's issuance of a final order approving it and all of its terms and conditions without modification. After the issuance of such final order, the terms of this Settlement shall be implemented and enforceable notwithstanding the pendency of a legal challenge to the Commission's approval of this Settlement or of actions taken by another regulatory agency or Court, unless such implementation and enforcement is stayed or enjoined by the Commission, another regulatory agency, or a Court having jurisdiction over the matter.

18. The Settling Parties may enforce this Settlement through any appropriate action before the Commission or through any other available remedy. Any final Commission order related to the enforcement or interpretation of this Settlement shall be appealable to the Superior Court of the State of Delaware. If a Court grants a legal challenge to the Commission's approval of this Settlement and

issues a final non-appealable order that prevents or precludes implementation of any material term of this Settlement, or if some other legal bar has the same effect, then this Settlement is voidable upon written notice by any Settling Party to all other Settling Parties.

19. This Settlement resolves all of the issues specifically addressed herein and precludes the Parties from asserting contrary positions during subsequent litigation with non-Settling Parties in this proceeding or related appeals. However, if the Commission does not issue a final order approving this Settlement without modifications, this Settlement shall not be used to prevent the Settling Parties from asserting contrary positions in subsequent litigation in this proceeding. Furthermore, the Settling Parties shall not be precluded from taking contrary positions in any different proceeding before the Commission or other governmental body. Upon approval by the Commission, this Settlement shall constitute a final adjudication as to the Parties of all of the issues in this proceeding.

20. The signatories hereto represent they have the authority to execute this Settlement on behalf of the Settling Party for whom they are signing.

21. This Settlement may be executed in counterparts, and each such counterpart shall be as valid as if all signatures appeared on the same page.

NOW, THEREFORE, intending to legally bind themselves and their successors and assigns, the undersigned Settling Parties have caused this Settlement to be signed by their duly-authorized representatives.

**[SIGNATURE PAGE TO FOLLOW]**

**ARTESIAN WASTEWATER  
MANAGEMENT INC.**

Date:

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By:

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(Print Name) Dian C. Taylor  
(Title) Chair, President & CEO

**DELAWARE PUBLIC SERVICE  
COMMISSION STAFF**

Date:

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By:

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(Print Name)  
(Title)

**DIVISION OF THE PUBLIC ADVOCATE FOR  
THE STATE OF DELAWARE**

Date:

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By:

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David L. Bonar  
Public Advocate