

**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. 05-WW-002
OF LAND AND PORTIONS OF A FIFTH)
PARCEL OF LAND, LOCATED IN SUSSEX)
COUNTY, DELAWARE, PURSUANT TO THE)
PROVISIONS OF 26 DEL. C., § 203D)
(a)(2) (FILED JANUARY 14, 2005))

ORDER NO. 6673

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

This 5TH day of July, 2005, the Commission determines and Orders the following:

1. By the provisions of 74 Del. Laws ch. 317 (July 6, 2004), the General Assembly and Governor included wastewater systems within the public utilities subject to the regulatory oversight of this Commission. 74 Del. Laws ch. 317 (2004) (amending "public utility" definition in 26 Del. C. § 102(2)).¹

2. The law includes a specific regime for the granting of Certificates of Public Convenience and Necessity ("CPCN") to begin the business of a wastewater public utility or to extend the system and operations of an existing wastewater public utility. 74 Del. Laws ch.

¹The enactment continued, in the context of wastewater systems, exemptions from Commission oversight systems owned or operated by municipalities and specific water and sewer districts. 74 Del. Laws ch. 317 §§ 3, 5 (2004) (amending 26 Del. C. § 202(b)). The new law also exempted from Commission oversight wastewater public utilities serving fewer than fifty customers in the aggregate. 74 Del. Laws ch. 317 § 4 (2004), adding 26 Del. C. § 202(h).

317 § 6, adding 26 Del. C. § 203D. Under the statute, specifically 26 Del. C., §203D(d)(2), the Commission shall grant a CPCN to an applicant if it has submitted a petition requesting wastewater services signed by a majority of the landowners in the proposed service area, as well as the proof that all of the landowners in the proposed service area were notified of the application. Under 26 Del. C., §203D(e), the Commission may deny a request for a CPCN if the applicant is currently subject to a Commission finding, or if the Commission finds, that the applicant is unable or unwilling to provide safe, adequate and reliable service to existing customers.

3. Artesian Wastewater Management, Inc. ("AWMI")² is a public utility offering wastewater services, and is subject to the regulatory oversight of this Commission. AWMI was granted an initial CPCN to provide wastewater services by PSC Order No. 6589, signed March 8, 2005, and was deemed to possess the financial, operational and managerial capability to operate as a wastewater utility.

4. On January 14, 2005, AWMI filed an application with the Commission requesting a CPCN be granted to AWMI to provide wastewater services to four parcels of land, and a portion of a fifth parcel of land ("Proposed Service Area"), located in Sussex County and identified more specifically by the following Sussex County Tax Map parcel identification numbers: 1) 234-05.00-45.00; 2) 234-11.00-78.00;

² Artesian Wastewater Management, Inc. ("AWMI") is a wholly owned subsidiary of Artesian Resources Inc., the parent company of Artesian Water Company, Inc.

3) 234-11.00-99.00; 4) 234-16.00-8.00; and, 5) the portion of parcel no. 234-5.00-58.00 that is adjacent to parcel number 234-05.00-45.00.³

5. As required by 26 Del. C., § 203D(d)(2), AWMI included the following in its application: (a) petitions requesting wastewater services signed by three of the four total landowners (a majority of the landowners); and, (b) evidence, in the form of a United States Postal Service certified mail receipt, showing that all four of the landowners were sent notice of the application. Also included in the application were Sussex County tax maps showing the locations of the parcels in the requested service territory.

6. As previously noted, AWMI was granted its first CPCN on March 8, 2005 to provide wastewater services to the development of Stonewater Creek. To the best of the Commission's knowledge, there are no homes in that community presently accepting wastewater services from AWMI, and thus there is no determination to be made as to whether or not the utility is unwilling or unable to provide safe, adequate and reliable service to existing customers.

7. Consequently, consistent with the statutory requirement, the Commission shall grant a CPCN to provide wastewater public utility services within the service territory described in Exhibit "A" to this Order.

³ According to AWMI, the parcels are proposed for development into the following sub-divisions: Spring Breeze (234-11.00-078.00), Indigo Run 234-16.00-8.00), Heron Bay (235-5.00-45.00 and a portion of -58.00), and the Ritter farm (234-11.00-99.00)

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 four parcels of land, and portion of a fifth parcel of land, described by the Sussex County tax map parcel numbers shown in Exhibit "A" to this Order.

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 water 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

Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

PSC Docket No. 05-WW-002, Order No. 6673 Cont'd.

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

E X H I B I T "A"

APPROVED SERVICE AREA
PARCELS WITHIN CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

SUSSEX COUNTY TAX MAP PARCEL NOS.

234-05.00-45.00

234-11.00-78.00

234-11.00-99.00

234-16.00-08.00

The portion of 234-05.00-58.00
that is adjacent to parcel
no. 234-05.00-45.00