

**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-007
WASTEWATER SERVICES PURSUANT TO 26)	("ROUTE 9 AREA PART 3")
DEL. C. §203D (FILED DECEMBER 3, 2010)	
AND AMENDED MAY 6, 2011 AND)	
AUGUST 19, 2011))	

ORDER NO. 8030

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

This 6th day of September, 2011, the Commission determines and Orders the following:

WHEREAS, the Delaware Public Service Commission (the "Commission") exercises regulatory oversight over non-governmental wastewater public utilities that serve fifty or more customers. See 26 Del. C. §§102(2) and 203D(a). 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(a). 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 new proposed service area; 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. §6002 (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 (the "Application") requesting a CPCN to provide wastewater services to thirty-eight parcels of land in 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 all of the landowners of record were sent notice of Artesian's Application.¹ A Sussex County Tax Map showing the location of the Proposed Service Area was also included with the Application; and

¹Prior to June 28, 2007, 26 Del. C. §203D(d)(2) required the 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.

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 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.² 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 one parcel of land, more specifically identified by Sussex County Tax Map Parcel Number 135-10.00-54.01. On August 19, 2011, Artesian amended its Application again by removing from the Proposed Service Area one parcel of land,

²Under the Regulations, Artesian 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 Number 135-10.00-54.01 is located within an Investment Level 2 area, according to the Strategies for State Policies and Spending, where future growth is anticipated by local, county, and State plans in the near term. State investments will support growth in these areas. Parcel 135-11.00-42.00 is located within an Investment Level 3 area, where growth is anticipated by local, county, and State plans in the longer term, or areas that may have environmental or other constraints on development. State investments will support growth in these areas, but the State may have other priorities in the near term. 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 expressed its concern with Artesian's ability to serve scattered parcels. Further, the County questioned why a CPCN should be granted at this time when there are no immediate plans or schedules to provide service to the Proposed Service Area.

more specifically identified by Sussex County Tax Map Parcel Number 135-11.00-42.00. Thus, there are now thirty-six parcels of land in the Proposed Service Area;

WHEREAS, the Commission Staff has reviewed the Application and found no errors or omissions. Staff reports to the Commission in its August 22, 2011 memorandum that Artesian's Application meets all of the 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 it was filed in PSC Docket No. 10-WW-007 on December 3, 2010 and as amended May 6, 2011 and August 19, 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 the 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/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ William O'Brien
Executive Director

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-007**

SUSSEX COUNTY TAX MAP PARCEL NUMBERS

135-10.00-57.00	135-11.00-14.00	135-16.00-72.01
135-7.00-6.00	135-11.00-42.00	235-6.00-16.14
135-7.00-12.00	135-11.00-59.06	235-6.00-16.18
135-9.00-71.00	135-11.00-85.00	235-18.00-5.07
135-9.00-75.02	135-11.00-86.00	235-19.00-12.01
135-9.00-113.00	135-11.00-87.00	235-19.00-27.00
135-10.00-10.01	135-16.00-5.00	235-25.00-7.00
135-10.00-38.01	135-16.00-8.00	235-25.00-9.00
135-10.00-38.02	135-16.00-9.00	235-29.00-25.03
135-10.00-38.04	135-16.00-9.01	235-30.00-6.19
135-10.00-42.00	135-16.00-22.00	235-30.00-14.00
135-10.00-54.01	135-16.00-72.00	235-30.00-45.00