

**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) )

**ORDER No. 8347**

**FOR ADMISSION AS AN INTERVENOR**

**AND NOW**, this 18th day of April, 2013, pursuant to the authority granted to me in PSC Order No. 8301 dated February 21, 2013, this Hearing Examiner having considered the Petition of the Class "A" Members of the Stonewater Creek Property Owners Association, Inc. ("the Petition"), determines as follows:

**NOW, THEREFORE,**

1. The Class "A" members of the Stonewater Creek Property Owners Association, Inc. ("the Association") filed a Petition to Intervene, by and through an Association Director, Howard M. Klein, in the above-captioned Docket on April 4, 2013. It was supplemented on April 17, 2013.

2. The Class "A" members are homeowners who purchased homes from the Developer. (Supp.,p.1.) These owners commonly refer to themselves as "the Homeowners Association" since the Class "B" members are builders which constructed or are constructing homes in this expanding residential community. (Id.) However, for clarity purposes,

this Order will refer to the homeowners who filed this Petition to Intervene as the Association's Class "A" members.

3. In PSC Order No. 8301, the Commission ordered that the deadline for filing Petitions for Intervention in this docket was April 5, 2013. (See Order, ¶4.)

4. Thus, the Petition to Intervene was timely filed.

5. In its Petition to Intervene, the Association's Class "A" members allege that the Stonewater community currently has 300 homeowners but the community is expected to eventually build-out to 600 homeowners. The Association's Class "A" members consist of the current homeowners who would be subject to the rate increase proposed by the Applicant in this docket. (Petition to Intervene.)

6. Despite notice of the proposed intervention by the Association, no party has disputed *the merits* of its Petition to Intervene.

7. On April 10, 2013, in emails, Staff and then the Applicant questioned the Association's Director's *authority* to represent the Association in this docket. In response, on April 17, 2013, the Association filed a Supplement to its original Petition, signed by the Association's Class A members' President Barbara Findley and Director Klein, certifying that Director Klein represents the Association's Class "A" members in this docket. The Association's Petition to Intervene and Supplement, *the latter of which contain approximately 300 signatures of purported homeowners and substantive rate questions*, satisfy me that Director Klein, in fact, represents the Association's Class "A" members in this docket. (Supp.)

8. Thus, I am allowing the Association's Class "A" members to intervene today, as opposed to interjecting obstacles to their participating in this rate case. By allowing intervention, I am permitting the Association's members, whose wastewater bills are directly affected by the result in this docket, to immediately participate in discovery, and the Procedural Schedule in this fairly expedited docket will not be unduly disrupted.

9. In an April 11, 2013 email, the Applicant alternatively argued that the Association must provide the Commission with a Pro Hac Vice according to *Del. Sup. Ct. Rule 72*. I disagree because: 1) the Commission's rules do not prohibit *pro se* representation under these circumstances; and 2) the Commission has consistently permitted non-profit entities or groups to represent themselves through their *non-attorney* authorized representatives, usually a Director or Officer, without a Pro Hac Vice. The Commission's policy saves money for these non-profit organizations which can avoid paying an attorney to represent them, while encouraging the public's participation in the rate process, thereby making the rate process more transparent.

10. For example, homeowners associations with non-attorney representatives intervened in two recent wastewater rate cases involving the Applicant's competitor, Tidewater Environmental Services, Inc., to wit Docket Nos. 11-329WW and 12-497/12498WW. Moreover, the Commission has recently permitted a public policy organization, Caesar Rodney Institute, through a Director, to intervene in approximately eight (8) different electric, energy, fuel cell and natural gas dockets. Finally, the Commission has permitted

the environmental group Green Delaware to intervene through its non-attorney Executive Director a number of times in energy and electric cases.

11. Thus, for purposes of considering the merits of the Association's Class "A" Members' Petition, I assume as true the representations made in their Petition and Supplement by their Director, Howard M. Klein and their President Barbara Findley. Specifically, in good faith, the Petition and Supplement adequately allege particularized facts and rate questions relating to the community which may be valuable to the Commission in deciding the issues in this Docket. Thus, I find that the Association's Class "A" members satisfy the intervention requirements of Rule 21 of the Commission's *Rules of Practice and Procedure*.<sup>1</sup>

12. To facilitate communication, the Commission's policy is to have only one (1) contact person for groups like the Association's Class "A" members. According to the Petition, Director Klein has agreed to be the sole contact person. In the Authorization, Director Klein represents that he will provide copies of the filings in this docket to the Association's Class "A" members. I trust that he will do so.

Now, therefore, **IT IS ORDERED:**

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<sup>1</sup> This Order is also consistent with the intent of Governor Jack Markell's Executive Order No. 36 which requires a statewide review by all agencies to identify and remove regulatory hurdles. The Public Service Commission is part of the Department of State which affirmed that "Executive Order 36 provides an opportunity for state agencies to review regulations on their books and streamline or eliminate those that are outdated, inconsistent or no longer serve their intended purpose." (DOS Statement 12/18/12.)

13. The Petition for Intervention filed by the Class "A" members of the Stonewater Creek Property Owners Association, Inc. is **GRANTED**. This intervention shall not affect the Procedural Schedule already agreed upon by the parties.

14. The Association's Class "A" members shall be added to the Service List for this Docket. The sole contact will be Director, Howard M. Klein at the address and contact information designated in the Petition to Intervene.

15. The Association's Class "A" members are hereby placed on notice that they are hereinafter required to comply in all respects with the Commission's *Rules of Practice and Procedure* and Delaware law pertinent to this case. No email filings will be permitted. All filings shall comply with the Commission's *Rules of Practice and Procedure*, including the original filing must be signed, an original and ten (10) copies filed with the Commission Secretary, and copies must be mailed to all parties on the Service List. If a filing does not comply with any of the Commission's Rules, it will not be deemed "filed," and shall be returned.

16. The parties have the right to take an interlocutory appeal of this ruling, within three (3) days, in accordance with Rule 28 of the Commission's *Rules of Practice and Procedure*.

**BY ORDER OF THE HEARING EXAMINER:**

/s/ Mark Lawrence  
Mark Lawrence, Hearing Examiner