



STATE OF DELAWARE


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

TELEPHONE:
FAX:

(302) 736-7500
(302) 739-4849

MEMORANDUM

TO: The Chair and Commissioners

FROM: Lisa B. Driggins, Public Utilities Analyst 

DATE: January 17, 2018

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 ("SUSSEX COUNTY")
(FILED DECEMBER 6, 2017) - PSC DOCKET NO. 17-1199

On December 6, 2017, Artesian Wastewater Management, Inc. ("AWMI" or the "Company") filed an application (the "Application") with the Delaware Public Service Commission (the "Commission") seeking a Certificate of Public Convenience and Necessity ("CPCN") to provide wastewater services to eight parcels in Sussex County, Delaware, known as Tax Map Parcel No. 235-30.00-58.03, 235-30.00-58.06, 235-30.00-60.00, 235-30.00-61.00, 235-30.00-53.00, 135-11.00-61.00, 235-30.00-68.00, 235-30.00-57.00 (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).

As required by 26 *Del. C.* § 203D and the Commission's *Regulations Governing Certificates of Public Convenience and Necessity to Provide Wastewater Services*, 26 *Del. Admin. C.* § 6001 (the "Regulations"). AWMI included the following documentation in its Application: (1) copies of petitions 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 the letter from Sussex County stating no

objection to the Application¹. Staff found no errors or omissions during its review of the Application.

As required by the Regulations, Staff requested written comments from the Division of Water Resources of the Department of Natural Resources and Environmental Control (“DNREC”), the Delaware Office of State Planning Coordination (“OSP”), and the Sussex County Engineering Department (“County”) regarding the Proposed Service.²

DNREC replied it had no objection to the Commission granting a CPCN to AWMI to provide wastewater treatment and disposal services for the parcel of land.

The County received and reviewed the CPCN application and noted that the Proposed Service Area is located within the Secondary Service Territory per the updated Sussex County Service Territory Map. The County stated that it reviewed the CPCN application and stated it will not object to AWMI requesting a CPCN for the Proposed Service Area.

The OSP also responded (the “OSP Response”) noting that Sussex County Tax Map Parcel Numbers 235-30.00-58.03, 235-30.00-58.06, 235-30.00-60.00, 235-30.00-61.00, 235-30.00-53.00, 235-30.00-68.00, and 235-30.00-57.00, are located within a Level 3 area. 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 one of the parcels, 135-11.00-61.00, is located within an Investment Level 4 area according to the 2016 Strategies for State Policies and Spending document. Level 4 reflects areas where State investments will support agricultural preservation, natural resources protection, and the continuation of the rural nature of these areas. The OSP stated in their response that “**new development activities and suburban development are not supported in Investment Level 4 areas**, and that these areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.” OSP states that the State has no intention to invest in infrastructure upgrades or additional services for this area unless necessary for the health, safety, and welfare of the existing residents. OSP further stated that after reviewing the Land Use Planning Act (“LUPA”) and Preliminary Land Use Service (PLUS”) records we note that parcel number 235-30.00-53.00 was seen through the PLUS process (2016-09-05). The State noted that it was in Level 3 and asked the developer to consider the environmental impacts of the development.

¹ As required by the Regulations, an Application that 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.

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In conclusion, the Application filed by AWMI complies with all statutory and regulatory requirements of 26 *Del.* § 203D and 26 *Del. Admin. C.* § 6001. Therefore, consistent with statutory requirements, Staff recommends the Commission approve the Application.

