

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application Of Towamencin Township, :
Pursuant To 66 Pa.C.S. § 1102(A), :
For A Certificate Of Public Convenience To Offer, :
Furnish, Render, And Supply Wastewater Service : A-2023-3040661
To The Public In Certain Portions Of Worcester :
Township, Lower Salford Township, Franconia :
Township And Lansdale Borough, :
All In Montgomery County, Pennsylvania :

RECOMMENDED DECISION

Before
Darlene Heep
Administrative Law Judge

INTRODUCTION

This Decision recommends approval of the settlement agreement in its entirety and that the Commission issue a Certificate of Public Convenience to Towamencin Township.

HISTORY OF THE PROCEEDINGS

On May 12, 2023, Towamencin Township (“Applicant” or “Township”) filed an Application for a Certificate of Public Convenience *Nunc Pro Tunc*, to offer, furnish, render, and supply wastewater service to the public in certain portions of Worcester Township, Lower Salford Township, Franconia Township and Lansdale Borough, and all of Montgomery County, Pennsylvania, pursuant to Pennsylvania Public Utility Code, 66 Pa.C.S. § 1102(a) and exhibits.¹

¹ The initial Application also sought a two-step rate increase and that the Commission conditionally approve abandonment of service upon consummation of a proposed sale between Towamencin and Pennsylvania-American Water. That action, *Application of PAWC*, Docket Number A-2023-3039900, is not before the Office of

On May 27, 2023, a notice was published in the Pennsylvania Bulletin, which stated, in pertinent part:

A-2023-3040661. Towamencin Township. In the matter of the application of Towamencin Township, under 66 Pa.C.S. § 1102(a) (relating to enumeration of acts requiring certificate) for a certificate of public convenience to offer, furnish, render and supply wastewater service to the public in certain portions of Franconia Township, Lansdale Borough, Lower Salford Township and Worcester Township, Montgomery County.

The notice also advised that formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code on or before June 12, 2023.

On May 31, 2023, the Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention.

On June 6, 2023, the Commission issued Data Request Set 1 to the Applicant. On June 9, 2023, Upper Gwynedd Township filed a Petition to Intervene. On June 12, 2023, the Applicant filed Proof of Publication of the Pa. Bulletin notice.

By a Commission Notice dated June 13, 2023, a Telephonic Prehearing Conference was scheduled for June 22, 2023, at 2:00 p.m. A Prehearing Conference Order was issued on June 13, 2023, advising the parties of topics to be discussed at the conference.

On June 15, 2023, the Office of Consumer Advocate (“OCA”) filed a Notice of Intervention.

On June 21, 2023, the Applicant filled its response to Data Request Set 1 and a Revised Exhibit 1.

Administrative Law Judge. Both the two-step increase and abandonment requests are withdrawn in the settlement proposed here. See paragraphs 16 and 17 of the settlement terms at 7, *infra*.

The prehearing conference was held as scheduled on June 22, 2023. Present were attorneys for Towamencin Township, the OSBA, Upper Gwynedd, and the OCA. Among other matters, a hearing date and litigation schedule were established, including a Public Input Hearing to be held on July 20, 2023.

On June 26, 2023, a Telephonic Public Input Hearing Notice was issued, the hearing to be held July 20, 2023 at 6 p.m. On June 29, 2023, an In-Person Evidentiary Hearing Notice was issued, setting the in-person hearing for August 23, 2023. A Prehearing order was issued on June 30, 2023 and contained the following deadlines.

Evidentiary Hearing	August 23, 2023
Close of Record	August 24, 2023
Main Briefs	September 13, 2023
Reply Briefs	September 25, 2023

On July 5, 2023, the Applicant filed proof of notice of the scheduled Public Input Hearing on the Applicant's website as well as in *The Reporter*, a publication of general circulation in the area served by the Applicant.

On July 20, 2023, the Telephonic Public Input Hearing was held as scheduled. Six members of the public testified under oath.

On July 17, 2023, the Applicant submitted an Amended Exhibit 1 to Reply to Data Request Set 1 (Item A-4).

On August 22, 2023, the parties advised by email that they had reached a settlement in principal and asked that the hearing be cancelled. The hearing was cancelled, and the parties were directed to file settlement documents by September 25, 2023, the Reply Brief deadline.

On September 22, 2023, the OCA and Towamencin Township filed a Joint Petition for Non-Unanimous Settlement; Joint Stipulation of Proposed Findings of Fact, Conclusion of Law and Ordering Paragraphs; and a Joint Stipulation for Admission of Evidence. Following review of the filing, the parties were given until November 1, 2023 to file amended settlement documents.

On November 1, 2023, the parties filed amended settlement documents that included an Amended Joint Petition for Non-Unanimous Settlement (“Settlement”); Joint Stipulation of Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs; and a Joint Stipulation for Admission of Evidence. The parties also submitted Second Revised Proposed Initial Tariff on November 1, 2023. Upper Gwynedd and the OSBA did not join in but do not oppose the Settlement.

FINDINGS OF FACT

1. The Applicant, Towamencin Township is a second-class township in Montgomery County, Pennsylvania. Through its wastewater system (“System”), the Township furnishes wastewater service to customers inside and outside of its geographic boundaries. Direct Testimony of William Dingman, Towamencin Statement No. 1 at 3.

2. The OCA is a Commonwealth agency created by Act 161 of 1976 to represent the interests of consumers before the Commission. 71 P.S. § 309-2.

3. The OSBA is a Commonwealth agency created by Act 181 of 1988 to represent the interests of small businesses before the Commission. 73 P.S. § 399.41.

4. Upper Gwynedd Township (“Upper Gwynedd”) is a first-class township in Montgomery County, Pennsylvania.

5. An Authority was originally formed by both Towamencin and Upper Gwynedd Townships and known as the Upper Gwynedd - Towamencin Township Municipal

Authority but in 2015, Upper Gwynedd withdrew from the Authority and the Authority changed its name to the Towamencin Municipal Authority. Towamencin St. 1 at 3-4.

6. The Authority leases the System to the Applicant pursuant to a Lease and Service Agreement. *Id.*; Application Exhibit A.

7. The Applicant Township began providing wastewater services to customers in Worcester Township, Montgomery County as required under a court-approved stipulation entered into on March 30, 1987. The stipulation settled litigation in the Court of Common Pleas of Montgomery County, in a matter captioned *Bronia Sultanik v. Board of Supervisors of Towamencin Township and Towamencin Township*, Civil Action No. 1986-03576. Exhibit 2.

8. As of May 15, 2023, the System provided direct service to approximately 8,066 customers, including 310 customers in Worcester Township, 21 customers in Lower Salford Township and one customer in Franconia Township. Data Request Response A-5.

9. The Township also provides wastewater service under bulk contracts with: (i) Lower Salford Township, pursuant to an agreement among the Township, Lower Salford Township, and Lower Salford Township Authority; (ii) Lansdale Borough, pursuant to an agreement among the Township, Lansdale Borough, Upper Gwynedd Township, and Lansdale Sewer Authority; and (iii) one commercial customer in Franconia Township, pursuant to an agreement among the Township, Franconia Township Authority, and JDJ Associates. Towamencin St. 1 at 4.

10. The Township has approximately \$5.7 million in available funds in the sewer account dedicated to its wastewater service.

11. The Township has a Standard & Poor credit rating of AA/Stable.

12. The Township is a financially-sound municipality that can financially support the ongoing operation and investment commitments required to operate, maintain, and improve the System.

13. The Township has provided wastewater service for over 50 years without financial issue.

14. The Township employs professionals with expertise in all areas of wastewater utility operations.

15. The Towamencin Township Wastewater Treatment Plant currently operates at approximately 52.3% of its capacity.

16. The Township has provided wastewater service for over 50 years without technical issue and demonstrated adequate fitness in doing so.²

SETTLEMENT TERMS

The Joint Petitioners agree as follows:³

A. Approval of Application

14. The Commission should approve the Township's Application for Certificate of Public Convenience, *nunc pro tunc*, seeking approval to offer, furnish, render, and supply wastewater service to the public in certain portions of Worcester and Lower Salford Townships, as well as to bulk customers that interconnect with the Township's sewer system outside of the Township's geographic boundaries.

15. This settlement in no way implies that the pending application by Pennsylvania American Water at Docket No. A-2023-3039900 to acquire the Township's wastewater system should be approved or disapproved. The parties to this proceeding do not waive any rights to contest or support

² Findings of Fact 1 and 10-16 were adopted from Stipulated Findings of Fact of the settling parties.

³ For ease of reference, Settlement Terms are verbatim and numbered as the original.

that application. The resolution of this matter only resolves the issue of Towamencin's compliance with the Public Utility Code.

B. Withdrawal of Abandonment of Service

16. Towamencin will withdraw its request for the Commission to conditionally approve its abandonment of service upon consummation of the proposed sale between Towamencin and Pennsylvania-American Water.

C. Abandonment of Stepped Rate

17. Towamencin will withdraw its request for the Commission to approve a stepped-rate which included the current rate and the rate to be effective January 1, 2024. Towamencin will seek the approval of only the current rate in its initial tariff.

D. Standard Settlement Conditions

18. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in the Settlement without modification. If the Commission modifies the Settlement, any Petitioner may elect to withdraw from the Settlement and may proceed with litigation and in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an Order modifying the Settlement. The Joint Petitioners acknowledge and agree that the Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding.

19. This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding. If the Commission does not approve the Settlement and the proceedings continue, the Joint Petitioners reserve their respective procedural rights, including the right to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Petitioner may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding.

20. The Joint Petitioners have prepared Statements in Support, a Joint Stipulation of Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Ordering Paragraphs. The Joint Petitioners further agree that the facts agreed to in that Joint Stipulation are sufficient to find that the Settlement is in the public interest.

21. If the ALJ recommends approval of the Settlement without modification, the Joint Petitioners will waive their rights to file Exceptions.

Settlement at 3-5.

DISCUSSION

As the proponent of a rule or order by the Commission, the Applicant bears the burden of proof in this proceeding, pursuant to Section 332(a) of the Code. 66 Pa.C.S. § 332(a). To meet its burden of proof, the Applicant must establish its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is evidence more convincing, by even the smallest amount, than that presented by any opposing party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

Pursuant to 52 Pa. Code § 5.231, it is the Commission's policy to promote settlements. A full settlement of all the issues in a proceeding eliminates the time, effort and expense that otherwise would have been used in litigating the proceeding, while a partial settlement may significantly reduce the time, effort and expense of litigating a case. A settlement, whether whole or partial, benefits not only the named parties directly, but, indirectly, all customers of the public utility involved in the case. *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2015-2468056 (Opinion and Order entered Dec. 3, 2015). The Commission must, however, review proposed settlements to determine whether the terms are in the public interest. *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. M-00031768 (Opinion and Order entered Jan. 7, 2004).

Applicant Towamencin Township is seeking a Certificate of Public Convenience to provide, and continue to provide, wastewater service to customers outside of its boundaries. The Township and the OCA have settled and submitted a joint settlement agreement. The remaining parties, the OSBA and Gwynedd Township, do not oppose the Settlement.

Upon application of a proposed public utility and the approval of such application by the Commission, evidenced by a certificate of public convenience, a proposed public utility may begin to provide public utility service. 66 Pa.C.S. § 1101.⁴ The Commission should issue a Certificate of Public Convenience only where it is “necessary or proper for the service, accommodation, convenience or safety of the public.” 66 Pa.C.S. § 1103(a).

When considering whether to award a certificate, the Commission stated in *Application of James Black Water Service Co.*, Docket No. A-2013-2395443 (Opinion and Order entered Apr. 5, 2018),

Historically, we have required an applicant seeking a certificate to render fixed utility service to demonstrate that there is a public need or demand for the proposed service; that current service, if any, is inadequate to meet that need; and, that the applicant is financially and technically fit to provide the proposed service.

Application of James Black at 61-62 (citations omitted).

Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the Commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility. 66 Pa.C.S. § 1501. The Code also provides as follows:

§ 1102. Enumeration of acts requiring certificate.

(a) General rule. – Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public

⁴ Wastewater collection, treatment, or disposal for the public for compensation is a public utility service. 66 Pa.C.S. § 102(1)(vii).

convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:

- (1) For any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by:
 - (i) A certificate of public convenience granted under this part or under the former provisions of the act of July 26, 1913 (P.L.1374, No.854), known as “The Public Service Company Law,” or the act of May 28, 1937 (P.L.1053, No.286), known as the “Public Utility Law.”
 - (ii) An unregistered right, power or privilege preserved by section 103 (relating to prior rights preserved).

...

- (5) For any municipal corporation to acquire, construct, or begin to operate, any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits.

66 Pa.C.S. § 1102(a)(1), (5). The Commission may impose conditions on certificates of public convenience as it deems just and reasonable. 66 Pa.C.S. § 1103(a).

As the Commission noted in *Application of Jefferson Estates Sewage Treatment Plant, Inc.*, Docket No. A-2021-3026700 (Order entered Apr. 20, 2023)(*Jefferson Estates*), the Commonwealth Court has found that where a municipality holds itself out to render extraterritorial service without a certificate of public convenience where one is required, the Commission may subsequently determine what approvals should be provided, subject to reasonableness. *Jefferson Estates* (citing, *Borough of Phoenixville v. Pa. Pub. Util. Comm’n*, 280 A.2d 471 (Pa. Cmwlt. Ct. 1971)).

PUBLIC INPUT HEARING

A telephonic public input hearing was held on July 20, 2023 at 6:00 p.m. Six members of the public made statements or testified on the record.

Martin Cohen was concerned about an agreement to sell the system to Pennsylvania American and associated rate increases. He also looked at sales of systems to larger water and wastewater companies and averred that rates significantly increased when townships and municipalities sold their wastewater and water systems to larger companies. Tr. 17-20.

Vanessa Gaynor noted that the system has operated for over 60 years and that the Pennsylvania Municipal Authority Act provided enough oversight. She was concerned with unreasonable rate increases and contended that a Certificate of Public Convenience is not required for the Township to continue to provide service in a fair and reasonable manner. Tr. 24-28.

James Collins also expressed concern that once the Certificate was issued, the Township would sell the wastewater system to a larger company and rates would increase. He also asserted that the ratepayers were not kept apprised of what was going on regarding a sale of the system. He did not want the Commission involved until there was more clarity regarding any sale to another company. Tr. 31-34.

Kofi Osei noted that in the original Application for Certificate of Public Convenience, the Township stated that it was applying for the certificate to facilitate the sale of the system to Pennsylvania American Water Company. He contended that the Township is not required to have a certificate in order to provide or continue to provide wastewater services outside of the township boundaries. Tr. 35-38.

Tina Gallagher testified that she was concerned that all affected parties were not receiving full information. She identified herself as a senior citizen and noted that senior citizens

in the township and other areas served are generally on a fixed income and will be negatively affected by any rate increase. Tr. 41-44.

Jennifer Foster echoed the concerns of those who also testified and did not understand why the Township was applying for a Certificate of Public Convenience when it has serviced the areas at issue for decades. She was also concerned about any potential sale or abandonment of the system to Pennsylvania American Water Company. Tr. 46-27.

Jurisdiction To Grant Certificate Of Public Convenience

An initial question, and an issue raised in the Public Input Hearing, is whether the Commission may issue a Certificate of Public Convenience to the Applicant. The Commission does not have jurisdiction over municipal authorities. Section 5607(d)(9) of the Municipality Authorities Act of 1945, 53 Pa.C.S. § 5601–5623 (Municipality Authorities Act), provides that the Court of Common Pleas has exclusive jurisdiction to determine questions involving rates or service of a municipal authority. 53 Pa.C.S. § 5607(d)(9). *Conyngham Twp. v. Shickshinny Sanitary Sewer Auth.*, Docket Number C-2021-3023624 (Order entered Nov. 1, 2023). The Commission also recently held that it does not have jurisdiction over a settlement where the settlement involved a municipal water authority over which it does not have jurisdiction under the Municipal Authorities Act. *See Pa. Pub. Util. Comm'n. v. E. Dunkard Water Auth.*, Docket Number C-2021-3027615 (Opinion and Order entered Nov. 1, 2023).

However, the Commission has jurisdiction over municipal utilities providing service outside of their political boundaries. A municipal corporation may lawfully provide service outside of its boundaries if it obtains a Certificate of Public Convenience from the Commission. *See* 66 Pa.C.S. §§ 1102(a)(5), 1301. The term “municipal corporation” includes townships and authorities. 66 Pa.C.S. § 102. Once the certificate is obtained, the Commission has jurisdiction over the rates charged by the municipal corporation and over the quality, reliability and adequacy of the service provided. *See* 66 Pa.C.S. §§ 1301, 1501.

In the instant matter, the facts support a finding that the Commission has jurisdiction. In *East Hempfield Township v. Lancaster*, 273 A.2d 333 (Pa. 1971) (*Lancaster*), the Supreme Court held that Commission jurisdiction was proper where the authority had a leaseback to the city, but the city operated the water system on its own behalf notwithstanding that the city had conveyed to the authority all assets of its water system, and the authority exercised no control over the city's operation of water system. The Court determined that the authority was merely a “financing device” and that it was the city that fixed and charged the rates. *Id.* at 2.

The same leaseback situation exists here. William Dingman, Towamencin Township Sanitary Sewer Engineer, testified that the Authority leases the System to the Applicant pursuant to a Lease and Service Agreement. Towamencin St. 1 at 3. The Applicant here is the Township, seeking a Certificate of Public Convenience to continue providing wastewater service to its customers outside of its boundaries. The Township establishes wastewater rates and charges of and provides wastewater services through the System to customers outside of its boundaries. See Application, Exhibit J.

Craig Forwood, Operations Manager for the Lower Salford Township Authority, testified that Towamencin Township, rather than the Authority, currently provides wastewater treatment services to customers in Lower Salford. Towamencin St. 4 at 3. Additionally, here, as in *Lancaster*, the Township has dedicated wastewater system funds, and the lease between the municipality and the authority does not set maximum rates but only the minimum amounts that the Township needs to charge to satisfy the Authority’s costs. See *Lancaster* at 5; Application Exhibit A. Pursuant to *Lancaster*, the Commission has jurisdiction here.⁵

Issuance Of Certificate

A Certificate of Public Convenience should be issued to Towamencin Township. The record establishes that there is a public need for the service, that the current service is

⁵ It is also noteworthy that the Township, not the Authority, filed the Application seeking a certificate and initially seeking a rate increase.

adequate to continue to meet that need, and that the Applicant is financially and technically fit to provide the proposed service.

Mr. Dingman described the system as a wastewater collection and conveyance system and also noted that there is a Towamencin Township Wastewater Treatment Plant. Towamencin St. 1 at 3. He also stated that the Authority leases the System to the Applicant pursuant to a Lease and Service Agreement. *Id.*

The System serves approximately 332 customers extraterritorially. Response to Data Request, A-5. The Township also provides wastewater service under bulk contracts with: (i) Lower Salford Township, pursuant to an agreement among the Township, Lower Salford Township, and Lower Salford Township Authority; (ii) Lansdale Borough, pursuant to an agreement among the Township, Lansdale Borough, Upper Gwynedd Township, and Lansdale Sewer Authority; and (iii) one commercial customer in Franconia Township, pursuant to an agreement among the Township, Franconia Township Authority, and JDJ Associates. Towamencin St. 1 at 4.

The Applicant began providing wastewater services to customers in Worcester Township, Montgomery County as required under a court-approved stipulation entered into on March 30, 1987. Towamencin St. 1 at 4. The stipulation settled litigation in the Court of Common Pleas of Montgomery County, in a matter captioned *Bronia Sultanik vs. Board of Supervisors of Towamencin Township and Towamencin Township*, Civil Action No. 1986-03576. Exhibit 2. The Commonwealth Court has held that an Applicant that has rendered water and sewer service to customers outside its boundaries, all without a certificate of public convenience, is not barred from receiving a certificate *nunc pro tunc*. See *Jefferson Estates* at 7, n. 11, (citing *New Garden Twp. v. Artesian Res. Corp.*, 2019 WL 2400114 (Pa. Cmwlth. 2019) (opinion not reported).

Additionally, nothing in the record indicates that the Applicant is unfit financially or technically to continue to operate the System successfully and provide reasonable and safe service. For over 50 years, the Township has provided wastewater services. The record does not

reveal that the Applicant township has any financial issues. The Applicant has approximately \$5.7 million in available funds in the sewer account dedicated to its wastewater service and has a Standard & Poor credit rating of AA/Stable. All indicators are that the Applicant is a financially-sound municipality that can support the ongoing operations and investments required to operate, maintain, and improve the System. FOF 12-14. This signals that the Township employs the appropriate wastewater utility professionals to properly operate the System. Additionally, the settling parties have stipulated that the Towamencin Township Wastewater Treatment Plant currently operates at approximately 52.3% of its capacity and there is nothing in the record suggesting a taxing of, or future problems in, the System. FOF 17.

The need for the service is evident in the fact that the Applicant has provided the service for many years, including to those outside of its geographic area in Worcester and Lower Salford Township. Craig Forwood testified that if the certificate is not granted, Lower Salford customers would have to obtain alternative sources of wastewater treatment or rely on newly installed septic tanks. He further stated that the customers would have to pay for permits and other approvals, engineering and construction, which would only be possible if the conditions on the property permit such systems. According to Mr. Forwood, extension of sewer lines and on-lot systems could cost those customers up to tens of thousands of dollars. Towamencin St. 4 at 4.

The record establishes that there is a need for the wastewater service provided by Towamencin Township and that the Township has the technical and financial fitness to continue its operations now and into the future.

SETTLEMENT IN THE PUBLIC INTEREST

The Commission encourages parties to settle cases. *See* 52 Pa. Code § 5.231. Settlements eliminate the time, effort and expense of litigating a matter to its ultimate conclusion. As the Applicant states, the Joint Petitioners have arrived at a Settlement that resolves all of the issues in this proceeding in a fair and equitable manner and the remaining parties are unopposed to the Settlement. Towamencin Statement in Support at 4.

As the OCA emphasizes, the Applicant withdrew its request to abandon service and also its request for a two-step rate increase. OCA Statement in Support at 3. If a certificate is granted, the Applicant will avail itself of Commission procedures in seeking any necessary rate increases. In the Settlement Proposed Tariff, Towamencin will continue its current rates, as follows:

- a. Flat Rate Basis:
 - i. Residential: For all residential customers, the current annual wastewater fixed charge of \$450.00 per EDU.
 - ii. Commercial: For all commercial customers, the current wastewater fixed charge of \$225.00 per EDU per billing cycle.
- b. Metered Rate Basis:
 - i. Commercial: Commercial customers are assessed a metered rate equal to 0.04611 per cubic foot of water consumption with a minimum fee of \$225 per EDU per billing cycle

Statement WD-1 Revised Exhibit T-6. The OCA further opines that this Settlement is the appropriate resolution of the rate issue in this proceeding as customers outside the municipal boundaries, who are unable to influence the political process associated with municipal rate increases, are protected by an appropriate process consistent with the provisions of the Public Utility Code. OCA Statement in Support at 4.

Some who testified at the Public Input Hearing expressed concern about notice of proceedings involving the wastewater system and the availability of information. After initial review of the record, I set the Public Input Hearing in which they participated, and the Applicant was required to publish various notices of the hearing and include sources where the public could obtain additional information. If the Certificate of Public Convenience is granted, Commission jurisdiction will continue to provide customers and the public with required statutory and regulatory notices of rate and other proceedings as well as the opportunity to participate in such proceedings.⁶

⁶ Many of the comments at the Public Input Hearing were in opposition to the sale of the System, which is not at issue here. *See* n. 1, *infra*.

Full litigation is costly in and of itself and may lead to the further expense of review of the Commission's decision by the appellate courts. Not settling this matter leads to additional expenditures, the costs of which would ultimately be borne by the ratepayers. Consequently, such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily requires. Here, the parties have reached a reasonable compromise that benefits the public and ratepayers. The Settlement here is in the public interest.

It will be recommended that the Settlement be approved in its entirety and that the Commission issue a Certificate of Public Convenience to Towamencin Township.

CONCLUSION OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa.C.S. §§ 1101, 1102(5), 1103.

2. The Commission may issue a certificate of convenience only upon a finding or determination that the granting of such certificate is "necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa.C.S. § 1103(a).

3. Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the Commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility. 66 Pa.C.S. § 1501.

4. The term "municipal corporation" includes townships and authorities. 66 Pa. C.S. § 102.

5. A Certificate of Public Convenience issued by the Commission is required for a municipal corporation to acquire, construct or begin to operate any facility for the furnishing to the public any public utility service for compensation beyond its corporate limits.

66 Pa.C.S. § 1102(a)(5); *See Ridgway v. Pa. Pub. Util. Comm'n*, 480 A.2d 1253 (Pa. Cmwlth. 1984).

6. Jurisdiction relates solely to the competency of the particular court or administrative body to determine controversies of the general class to which the case then presented for its consideration belongs. *Pa. Pub. Util. Comm'n v. E. Dunkard Water Auth.*, Docket No. C-2021-3027615 (Opinion and Order entered Nov. 1, 2023) (citing *Riedel v. The Human Relations Comm'n of the City of Reading*, 739 A.2d 121 (Pa. 1999)).

7. The Commission does not have jurisdiction over municipal authorities. 53 Pa.C.S. § 5607(d)(9); *Pa. Pub. Util. Comm'n v. E. Dunkard Water Auth.*, Docket No. C-2021-3027615 (Opinion and Order entered Nov. 1, 2023).

8. Where there is a leaseback of the wastewater system from an authority to the township and the township operates the system, the Commission has jurisdiction over the rates and services of the system. *E. Hempfield Twp. v. Lancaster*, 273 A.2d 333 (Pa. 1971).

9. There is a public need for, and the Applicant is financially and technically fit to provide, the wastewater service to customers outside of its boundaries and therefore a Certificate of Public Convenience should be issued to Towamencin Township. *Application of James Black Water Service Co.*, Docket No. A-2013-2395443 (Opinion and Order entered Apr. 5, 2018).

10. The Settlement here promotes the public interest. *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, 60 Pa.P.U.C. 1 (1985).

ORDER

THEREFORE,

IT IS RECOMMENDED

1. That the Amended Joint Petition for Non-Unanimous Settlement filed November 1, 2023, be approved in its entirety.

2. That the Commission issue a Certificate of Public Convenience to Towamencin Township pursuant to Section 1101 of the Public Utility Code, 66 Pa.C.S. § 1101, authorizing Towamencin Township, Inc., *nunc pro tunc*, to begin to offer, render, furnish, and supply wastewater service to the public in a portion of Worcester Township, Lower Salford Township as well as bulk customers that interconnect to the Township's sewer system outside of the Township's geographic boundaries consistent with the revised map and written description of the requested service territory provided in the Amended Joint Petition for Non-Unanimous Settlement and admitted Stipulated Exhibits.

3. That Towamencin Township be directed to file a Tariff supplement in its name with the Secretary's Bureau in this docket, effective on one day's notice, which adopts the terms, conditions and rates as indicated in Revised Exhibit T-6 of the Amended Joint Petition for Non-Unanimous Settlement.

4. That nothing in the Commission's Order shall be construed as an approval or determination of costs or expenses for the purposes of just or reasonable rates or to exempt Towamencin Township from obtaining all necessary permits, licenses, and approvals from other federal, state, and local government agencies having jurisdiction.

