

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
OHIO WASTEWATER SYSTEMS, INC. FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY AS A SEWAGE DISPOSAL
SYSTEM COMPANY AND FOR APPROVAL
OF ITS TARIFF P.U.C.O. TARIFF NO. 1.

CASE No. 17-616-ST-ACE

FINDING AND ORDER

Entered in the Journal November 8, 2017

I. SUMMARY

{¶ 1} The Commission approves the application of Ohio Wastewater Systems, Inc. for certification as a sewage disposal system company and for approval of its corresponding tariff.

II. APPLICABLE LAW

{¶ 2} R.C. 4933.25 requires waterworks companies and sewage disposal system companies to obtain a certificate from this Commission before constructing, installing, or operating a waterworks or sewage disposal system company.

{¶ 3} Ohio Adm.Code 4901:1-15-05 specifies the proper format and information required in an application to receive a sewage disposal system certificate.

{¶ 4} The proposed operations of Ohio Wastewater Systems, Inc. (OWSI or Applicant) would make it a public utility as defined in R.C. 4905.02 and a sewage disposal system company as defined in R.C. 4905.03(M). Therefore, OWSI is subject to the jurisdiction of the Commission under authority of R.C. 4905.04 and 4905.05.

III. DISCUSSION

A. *Application summary*

{¶ 5} On March 1, 2017, as supplemented on April 5, 2017, April 11, 2017, April 20, 2017, and September 26, 2017, OWSI filed an application, pursuant to R.C. 4933.25 and

Ohio Adm.Code 4901:1-15-05, seeking a certificate of public convenience and necessity to provide sewage disposal system service to a new residential development in an unincorporated portion of Union Township, Warren County, Ohio called Aberlin Springs, which is a project of Pendragon Development Company, LLC (Developer). It is a planned agricultural community premised on the "farm-to-table" concept, which features an onsite farm that will provide the community with fresh produce, as well as meat from pasture-raised livestock. The proposed sewage disposal system will play an integral role in the sustainability of the "farm-to-table" model by providing multiple drip area disposal zones to permit the farm to irrigate the soil in those zones to grow produce for the residents of the community, as well as feed for livestock. (March 1, 2017 Application at 3.)

{¶ 6} OWSI asserts that the Aberlin Springs subdivision is located in a predominantly rural area and that the approval of its application will both promote the public convenience and provide necessary sewage disposal service in an area where no such service currently exists. Specifically, OWSI represents that no public or private entity currently provides sewage disposal service in the proposed service area and no existing or private entity could economically and efficiently provide sewer service to the area in question. OWSI states that as homes are constructed in the Aberlin Springs development, there will be an existing and continuous public need for the sewage disposal service that OWSI proposes to provide. (March 1, 2017 Application at 5, Exs. 18 and 19.)

{¶ 7} Specifically, OWSI represents that while it is a newly formed Ohio corporation, its parent, Adenus Group, LLC (Adenus), a Tennessee limited liability company, is a leader in decentralized wastewater systems and technology in the Southeastern United States and, through its subsidiaries, currently provides regulated wastewater service to over 6,000 customers in Tennessee, Alabama, and Kentucky. Additionally, Adenus has been a leader in the wastewater technology field through the development of its plant monitoring system. (March 1, 2017 Application at 2.)

{¶ 8} Adenus has four members, each of whom have a 25 percent interest in Adenus. There is no commonality of ownership between OWSI or Adenus and the Developer. Further, neither Adenus, any of its members, nor any officer of OWSI has any ownership interest in the Developer. Additionally, neither Adenus, any of its members, nor any officers of OWSI has any financial interest in any other Ohio sewage disposal system company, or in any other partnership or corporation that holds an interest in any other Ohio sewage disposal system. (March 1, 2017 Application at Ex. 1.)

{¶ 9} OWSI submits that based on the information contained in its application and the attached exhibits, it has the requisite management experience, financial capability, and technical expertise to provide the requested sanitary sewer service at proposed rates and charges that are in all respects, just and reasonable, and pursuant to rules and regulations that conform to the Commission's standards for sewage disposal system companies set forth in Ohio Adm.Code Chapter 4905:1-15 (March 1, 2017 Application at 1).

{¶ 10} The proposed sewage disposal system consists of three components including (a) a cluster septic collection system, which will collect and transport wastewater from customer-owned tanks on the customer's property to a septic lagoon, (b) a septic lagoon treatment system, and (c) the multiple-zone drip distribution disposal system (March 1, 2017 Application at 3).

{¶ 11} OWSI explains that while it is anticipated that the project will consist of four phases encompassing 142 homes (comprised of 139 new lots and three existing homes) as well as 41 community accessory structures, the Ohio Environmental Protection Agency (OEPA) has only issued approval for the first phase of the development, which consists of 22 homes (March 1, 2017 Application at Exs. 12 and 16). Currently, 11 of the 22 lots planned for Phase 1 have been sold (OWSI April 11, 2017 Letter).

{¶ 12} The Developer will construct and install the collection system in accordance with OWSI's specifications and will ultimately convey title of the collection system to

OWSI. The Applicant will be responsible for the construction and installation of the treatment and disposal systems, but these systems will be funded by the Developer through contributions in aid of construction in the form of per-lot capacity fees paid by the Developer to OWSI. (March 1, 2017 Application at 3.)

{¶ 13} Consistent with the Developer's plan to construct the subdivision in four phases, the Developer will synchronize the construction and installation of the sewage collection facilities with the customer requirements associated with each phase of the project. According to OWSI, 22 lots are planned for Phase 1, 31 lots for Phase 2, 39 lots for Phase 3, and 50 lots for Phase 4. OWSI will construct and install the control building and treatment facilities required to serve the entire subdivision prior to commencing service to Phase 1 homes. While the initial disposal system will have more than adequate capacity to meet the requirements of Phases 1 and 2, OWSI will defer constructing the drip irrigation (collection) facilities for additional drip zones until subsequent phases of the project are commenced in order that equipment does not remain idle for an extended period of time. (March 1, 2017 Application at 4, Ex. 12.)

{¶ 14} The engineering firm retained by OWSI estimates that the total cost of the construction of the system to serve the Aberlin Springs subdivision will be \$1,281,148, which is comprised of an estimated cost of the collection system of \$345,090 and an estimated cost of the treatment and disposal system of \$936,058. The estimated cost of construction of the system that will be in place when service commences to Phase 1 of the Aberlin Springs project is \$661,108, which is comprised of an estimated cost of the collection system of \$97,050 and an estimated cost of the treatment and disposal system of \$564,058. The \$936,058 will be funded entirely by the Developer through contributions in aid of construction in the form of a per-lot capacity reservation fee. The \$345,090 will be received as contributed property. As a result of these arrangements, OWSI will not be required to secure external capital to fund the construction of the system through the issuance of either debt or equity. (March 1, 2017 Application at Exs. 3, 3A, 13.)

{¶ 15} OWSI will commence construction of the treatment and disposal facilities upon the issuance of the certificate of public convenience and necessity. OWSI explains that the facilities required to provide service to Phase 1 of the Aberlin Springs subdivision will be completed no more than 60 days from the date construction commences and potentially sooner than 60 days from that date. While the septic lagoon storage basin, the filtration system, and the control building will be completed in their entirety before service commences, the drip irrigation system that will be constructed and installed by the time service commences will have the capacity to provide disposal service for 70 lots which, according to OWSI, will be more than adequate to serve Phase 1 and 2 of the Aberlin Springs subdivision. (March 1, 2017 Application at Ex. 17.)

{¶ 16} OWSI will not have any actual employees. While the system will be monitored at Adenus' headquarters, system inspection, maintenance, and repair work will be contracted to a local company. Billing, collection, and other administrative functions, including responding to customer inquiries will be performed by the customer service staff of the Adenus subsidiaries, whose time devoted to OWSI will be tracked to permit the associated expense to be allocated appropriately to OWSI. (March 1, 2017 Application at 4, 5.)

{¶ 17} As a startup company, OWSI will have no current revenue stream. While construction of the proposed sewage disposal system will be financed entirely by the Developer, to the extent that cash working capital is required to support its operations until a sufficient number of customers are added to make OWSI self-sustaining, OWSI will rely on Adenus to meet any such need. In its April 11, 2017 filing, Adenus committed to cover all financial deficiencies related to Phase I. According to Adenus, future phases will be evaluated at the appropriate time and that its commitment to cover such deficiencies should not foreclose OWSI's ability to petition the Commission for a rate increase should the deficiencies be such that they are not in line with the utility's projections and, therefore, considered unreasonable. According to Adenus, based on

projections set forth in the pro forma income statement, OWSI should begin to see positive cash flow in Year 3 of the project. (March 1, 2017 Application at Exs. 4 and 4A.)

{¶ 18} OWSI requests that the Commission approve the rates, charges, and other terms and conditions of service set forth in its P.U.C.O. Tariff No. 1 filed on March 1, 2017, as amended on September 26, 2017. Specifically, OWSI proposes to provide sewage disposal service to customers at a flat-rate of \$58.00 per month. OWSI represents that based on this rate, it will have sufficient revenues to sustain its operations within Year 3 of its operations. (March 1, 2017 Application at 5, 6, Exs. 4, 4A.)

{¶ 19} There will be no tap-in, connection, or main extension fees charged to customers in the subdivision as currently planned inasmuch as the collection system will be constructed by the Developer (March 1, 2017 Application at 6).

{¶ 20} Pursuant to the tariff, OWSI will maintain and repair the customer's tank and the equipment within the tank at no cost to the customer, except in instances where the maintenance or repair is required due to the customer's violation of the terms of the tariff or the guidelines contained in the user manual provided to the customer prior to the commencement of service (March 1, 2017 Application at 6).

{¶ 21} The application includes an affidavit from an officer of OWSI attesting to the information contained in the application (March 1, 2017 Application at Ex. 22).

{¶ 22} Pursuant to the Entry of June 8, 2017, OWSI was directed to publish legal notice of its application one time on or before July 5, 2017. Consistent with its filing of July 5, 2017, legal notice publication occurred in the *Journal-News Pulse of Lebanon and Mason* on June 25, 2017.

{¶ 23} On April 11, 2017, as supplemented on September 27, 2017, the Commission Staff (Staff) filed comments regarding OWSI's application. Based on its review, Staff concludes that the application is consistent with the rules governing the issuance of a certificate of public convenience and necessity and R.C. 4933.25. Further, Staff states that

the application is not for an increase in rates as contemplated by R.C. 4909.18. (Staff September 27, 2017 Comments at 3.)

{¶ 24} Specific to OWSI's proposed tariff, Staff identifies the references in the proposed tariff to a user manual and notes that any conditions stated within the user manual are not part of the Commission's rules and regulations (Staff September 27, 2017 Comments at 1).

{¶ 25} In regard to plant investment, Staff recommends that OWSI file an updated plant investment schedule on January 31st of each year which details total annual plant investments by account and total accumulated plant investment by account (Staff September 27, 2017 Comments at 2).

{¶ 26} With respect to depreciation, Staff recommends that OWSI establish depreciation accrual rates with the following parameters:

- (a) Account 352.1 (previously identified by OWSI as Account 360) [Collection Sewers-Force]- a 60-year average service life along with a 10 percent net salvage factor to accrue a depreciation expense at 1.83 percent on an annual basis.
- (b) Account 373 (previously identified by OWSI as Account 380) [Treatment and Disposal]- a 32-year average service life along with a five percent net salvage factor to accrue a depreciation expense at 3.28 percent on an annual basis.

(Staff September 27, 2017 Comments at 2).

{¶ 27} Relative to OWSI's submitted pro forma income statement, Staff notes that the requisite annual assessment fees for the Commission and the office of the Ohio Consumers' Counsel were omitted. Staff represents that OWSI is aware of this obligation

and agrees that it should be reflected in the expenses. (Staff September 27, 2017 Comments at 2.)

{¶ 28} In response to the proposed \$58 customer rate, Staff believes that the proposed rate is not unjust or unreasonable given the projected number of customers, related expenses, and short-term projected losses. While recognizing that OWSI included a projected return on revenue in its pro forma calculation, Staff submits that it does not support a revenue requirement that diverts from R.C. 4909.05(C)(7) and includes a return on revenue. Notwithstanding this position, Staff states that a full rate case review could not be conducted at this time using expense, customer, and revenue data that is entirely projected. Therefore, Staff opines that the review in this case is limited to the reasonableness of the rate and if the application conforms to the filing requirements for a certificate of public convenience. (Staff September 27, 2017 Comments at 3.)

B. Waivers

1. WAIVER OF OHIO ADM.CODE 4901:1-15-05(D)(12)(A)

{¶ 29} To the extent applicable, OWSI requests a waiver of Ohio Adm.Code 4901:1-15-05(D)(12)(a) relative to the requirement that the same person prepare the estimate of the cost of construction of the sewage disposal system presented in Ex. 12 of the application that prepared the description and map of the proposed service area presented in Ex. 6 and the engineer's report presented in Ex. 7. In support of its motion, OWSI states that there is nothing in the rules that requires that the same person prepare Ex. 6 and Ex. 7.

{¶ 30} Further, OWSI notes that the engineer that prepared and signed the estimate of the construction costs is the same person that prepared the engineering report contained in Ex. 7. The description and map of the proposed service area contained in Ex. 6 was prepared by a surveying firm retained by the Developer and contains no information that bears on the estimated cost of construction. Therefore, OWSI contends

that there is no reason for the cost of construction to contain the signature of the person who prepared the description and map of the proposed service area Ex. 6. (March 1, 2017 Application at Ex. 12.)

{¶ 31} Staff agrees that the requested waiver of Ohio Adm.Code 4901:1-15-05(D)(12)(a) is reasonable and should be granted (Staff April 11, 2017 Comments at 2).

{¶ 32} Specific to the requested waiver of Ohio Adm.Code 4901:15-05(D)(12)(a), the Commission finds that the requested waiver is reasonable and should be granted. In reaching this determination, the Commission agrees with OWSI that the engineer who prepared and signed the estimate of the construction costs identified in Ex. 12 is the same person that prepared the engineering report contained in Ex. 7. While the description and map of the proposed service area contained in Ex. 6 was prepared by a surveying firm retained by the Developer, and not by the engineer who prepared Ex. 7 and 12, it contains no information related to the estimated cost of construction.

2. WAIVER OF OHIO ADM.CODE 4901:1-15-05(D)(16)

{¶ 33} To the extent applicable, OWSI requests a waiver of the Ohio Adm.Code 4901:1-15-05(D)(16) requirement that the application must include a written statement from an OEPA official indicating that the OEPA has approved general plans for the proposed sewage disposal system and that the agency would approve final plans upon notification that the Commission has granted OWSI a certificate of public convenience and necessity for the construction and operation of the system.

{¶ 34} In support of its motion, OWSI submits that its consultant submitted an engineering report to the OEPA describing the proposed system to provide sewage disposal service to the Aberlin Springs development on September 12, 2016, which were supplemented by additional information submitted by OWSI on October 24, 2016, December 7, 2016, and January 20, 2017. According to OWSI, on February 7, 2017, the OEPA issued a permit to install the proposed facilities. OWSI asserts that although OEPA

issued the permit prior to the Commission's granting of a certificate of public convenience and necessity, a general condition of OEPA's permit is the requirement that the issuance of the permit does not relieve OWSI from the duty of complying with all applicable federal, state, and local laws, ordinances, and regulations. OWSI recognizes that this condition includes the Commission's grant of a certificate of a public convenience and necessity. (March 1, 2017 Application at Ex. 16.)

{¶ 35} With respect to the waiver request of Ohio Adm.Code 4901:1-15-05(D)(16), Staff focuses on the fact that the OEPA Permit to Install pertains to Phase 1 only. Therefore, Staff opines that the Commission should only consider a certificate for Phase 1 at this time. According to Staff, further expansion will require the mandatory OEPA permits to be filed with any application to expand the certificate. (Staff April 11, 2017 Comments at 2.)

{¶ 36} In response to Staff's comments relative to the requested waiver of Ohio Adm.Code 4901:1-15-05(D)(16), OWSI responds that the requested waiver is directed solely at the issue of whether the final OEPA permit can precede the Commission's granting of a certificate. Specifically, OWSI points out that the Staff's argument regarding the fact the OEPA permit is limited to Phase 1 pertains to the waiver request of Ohio Adm.Code 4901:1-15-05(D)(17), and not Ohio Adm.Code 4901:1-15-15(D)(16). (OWSI April 20, 2017 Response at 4, 5.)

{¶ 37} Ohio Adm.Code 4901:1-15-05(D)(16), requires that if an OEPA permit is necessary for construction of facilities described in an application for certification, a written statement from the OEPA must be provided as part of the application reflecting that the agency has approved general plans for the proposed system. Pursuant to the rule, approval by the OEPA of acceptable final plans for the approved water system is to occur following notification that the Commission has granted the applicant a certificate of public convenience and necessity for the construction and operation of the system. In this case, the record reflects that by letter dated February 7, 2017, prior to the Commission

granting a certificate of public convenience and necessity, the OEPA released its final approval of OWSI's plans through its issuance of a Permit to Install the proposed sewage, collection, and treatment facilities for Phase 1 of the proposed development. Therefore, the filing of the requested waiver request is appropriate.

{¶ 38} The Commission finds that the requested waiver is reasonable and should be granted inasmuch as a general condition of the OEPA's Permit to Install is the requirement that the issuance of the permit does not relieve the permit holder from the duty of complying with all applicable federal, state, and local laws, ordinances and regulations. This would include the obligation to obtain a certificate of public convenience and necessity from the Commission and comply with any conditions set forth in the corresponding Finding and Order.

3. WAIVER OF OHIO ADM.CODE 4901:1-15-05(D)(17)

{¶ 39} To the extent applicable, OWSI requests a waiver of the Ohio Adm.Code 4901:1-15-05(D)(17) requirement that the application include a statement that the applicant will complete all sewage disposal system facilities required to adequately serve the entire area for which the certificate of public convenience and necessity is sought and that the completion date be stated unless work is interrupted by weather or by other conditions beyond the applicant's control.

{¶ 40} In support of its motion for a waiver of Ohio Adm.Code 4901:1-15-05(D)(17), OWSI asserts that while the septic lagoon storage basin, the filtration system, and the control building will be completed in their entirety before service commences, the drip irrigation system that will be constructed and installed by the time service commences will have the capacity only to provide disposal service for 70 lots which, according to OWSI, will be adequate to serve Phase 1 and Phase 2 of the Aberlin Spring project, but not all 4 phases. According to OWSI, the additional drip distribution disposal facilities required to serve the subsequent phases of the development will be synchronized with the customer requirements of each subsequent phase to avoid having

facilities that are underutilized or that would stand idle for an extended period of time. Additionally, OWSI states that because the Developer will install the collection facilities in conjunction with the phased buildout of the subdivision, the collection system necessary to serve the entire area for which the certificate is requested will not be in place when service commences to the 22 homes that comprise Phase 1 of the subdivision.

{¶ 41} According to OWSI, it would be unreasonable to expect it to construct and install all the facilities necessary to serve the entire subdivision as currently planned (or subsequently expanded) as a condition of commencing service to Phase 1 customers. Instead, OWSI states that all drip distribution disposal facilities necessary to serve customers in subsequent phases will be in place when required to meet the needs of such customers and that the company is willing to provide reports to the Commission Staff when additional construction is undertaken for that purpose. (March 1, 2017 Application at Ex. 17.)

{¶ 42} With respect to the waiver request of Ohio Adm.Code 4901:1-15-05(D)(17), Staff again focuses on the fact that the OEPA Permit to Install pertains to Phase 1 only. Therefore, Staff opines that the Commission should only consider a certificate for Phase 1 at this time. According to Staff, further expansion will require the mandatory OEPA permits to be filed with any application to expand the certificate. (Staff April 11, 2017 Comments at 2.)

{¶ 43} In response to Staff's comments relative to the requested waiver of Ohio Adm.Code 4901:1-5-05(D)(17), OWSI responds that while it agrees that it should not be authorized to serve customers in subsequent phases of the Aberlin Springs development until it has secured OEPA approval of the final plans for the additional facilities that will be installed to serve the affected customers, it disagrees with the process envisioned by Staff for expanding OWSI's certificate. OWSI contends that, although the OEPA Permit to Install is limited to the collection facilities required to serve Phase 1, the permit represents OEPA's approval of the final plans for the treatment and distribution disposal

facilities necessary to serve the entire subdivision. Therefore, relative to the request for a waiver of Ohio Adm.Code 4901:1-15-05(D)(17), OWSI recommends that the Commission grant the certificate to serve the entire Aberlin Springs subdivision as proposed in the application, but provide that the authority to serve subsequent phases in the development be contingent upon OWSI submitting the OEPA Permit to Install the collection facilities associated with each subsequent phase. According to OWSI, such an approach will address Staff's concerns while not requiring OWSI to incur the burden of filing a separate application each time OEPA issues a permit to install the collocation facilities required to serve the next phase of the development. (OWSI April 20, 2017 Response at 5, 10.)

{¶ 44} OWSI submits that its proposal is consistent with Ohio Adm.Code 4901:1-15-05(D)(16), which provides that "[i]n the event that approval of final detail plans is not readily available or cannot be obtained from the OEPA, the Commission may grant a certificate of public convenience and necessity contingent upon approval by the OEPA of final detail plans" (OWSI April 20, 2017 Response at 5-6).

{¶ 45} Additionally, OWSI avers that by granting the requested certificate but making the authority to serve subsequent phases of the subdivision contingent upon filing the OEPA Permit to Install for the phase in question, the Commission would address Staff's concerns and avoid the unnecessary burden on OWSI, Staff, and the Commission that would result if OWSI was required to submit a separate application to amend its certificate each time the OEPA issues a Permit to Install for the collection facilities necessary to serve subsequent phases of the project (OWSI April 20, 2017 Response at 6).

{¶ 46} In support, OWSI notes that the procedural requirements of Ohio Adm.Code 4901:1-15-07 relative to expanding a service area mirror many of the requirements for the initial certificate application pursuant to Ohio Adm.Code 4901:1-15-05. OWSI believes that there is no legitimate public purpose to be served by requiring

multiple applications containing the same information that has already been provided in the initial application. (OWSI April 20, 2017 Response at 6-7.) Further, OWSI points out that under its agreement with the Developer, it is committed to serve the entire Aberlin Springs subdivision.

{¶ 47} Also, OWSI submits that the Commission has no review authority over the OEPA's approval of the final plans for the collection facilities that will serve the subsequent phases of the subdivision. Therefore, OWSI posits that there is no basis for initiating a proceeding to consider an application to expand the certificate following the OEPA approval of final plans for the collection facilities because no additional substantive analysis is required. Instead, OWSI recommends that the Commission grant the certificate to serve the entire Aberlin Springs subdivision but that it should make the authority to serve Phases 2, 3, and 4 of the subdivision contingent upon the submission of OEPA Permits to Install approving the final plans for the collection facilities associated with each of the these subsequent phases. (OWSI April 20, 2017 Response at 9.)

{¶ 48} With respect to the requested waiver of Ohio Adm.Code 4901:1-15-05(D)(17), the Commission finds that the requested waiver is reasonable and should be granted subject to the conditions set forth in this Finding and Order.

{¶ 49} Specifically, the Commission recognizes that the Applicant has committed that the facilities for the collection and drip distribution functions will be synchronized with the phased buildout of the subdivision. While the Commission agrees with OWSI that it is administratively more efficient for it to receive certification for the entire service area encompassing the four phases of the project, OEPA has only opined on and granted OWSI a permit for Phase 1. Therefore, the authority to serve subsequent phases in the development is contingent upon OWSI filing in this docket its OEPA Permit to Install the requisite facilities associated with the additional phases. Further, no construction is to occur in Phases 2, 3, and 4 until such time that the OEPA issues the respective permit(s) and the applicable filing is made this docket.

{¶ 50} Additionally, OWSI is directed to file an update beginning thirty days from the date of this Finding and Order and every six months thereafter, reporting on the status of sales and construction for each of the four phases and the status of the requisite OEPA permits.

{¶ 51} To the extent that OWSI seeks to serve outside of its service area approved in this Finding and Order, it must first file an application and obtain Commission approval for the expansion of its service area.

C. Conclusion

{¶ 52} After reviewing the application, the Commission concludes that, pursuant to R.C. 4933.25 and Ohio Adm.Code 4901:1-15-05, the application for OWSI to be certified as a sewage disposal system company to provide sanitary sewer service to the Aberlin Springs subdivision is reasonable and should be approved consistent with the conditions and waivers set forth in this Finding and Order. Specifically, the Commission finds that in conjunction with the granted waivers, the application in this case is complete and comports with Ohio Adm.Code 4901:1-15-05. Additionally, OWSI appears to possess the necessary technical and managerial expertise and to have the financial ability to provide service to the proposed service area. In reaching this determination, the Commission relies on the commitment of Adenus to cover all financial deficiencies related to Phase 1. Beginning with Phase 2 and for all subsequent phases, OWSI must file a similar statement committing Adenus to cover future financial deficiencies prior to commencing construction of the respective phase.

{¶ 53} Moreover, the Commission finds that the revised tariff as filed on September 26, 2017, is reasonable and should be approved. The effective date of the approved tariff shall be no earlier than the filing of four copies of the tariff. The Commission further determines that the terms and conditions set forth in the referenced user manual are not part of the approved tariff. Therefore, a customer's failure to adhere to conditions within the user manual should not be interpreted as prima facie evidence

that the customer failed to exercise reasonable care in connection with the use of the system.

{¶ 54} In approving the application, the Commission recognizes that the implementation of the proposed plant is still a work in progress due to the fact that the project will consist of four phases and that, at the current time, only the first phase has begun and is not yet completed. Therefore, OWSI should file an updated plant investment schedule on January 31st of each year detailing the total annual plant investments by account and total accumulated plant investments by account. The first filing should include investments from August 1, 2017 through December 31, 2017. The filings should continue until completion of the project.

{¶ 55} Similarly, in considering OWSI's proposed \$58.00 flat-rate customer sewage disposal fee, the Commission recognizes that the proposed plant is not completed and that, at this time, there is no date certain for the completion of the facilities. Further, the Commission recognizes that OWSI has no specific equity in plant inasmuch as all plant assets will be either contributed by the developer or will be funded by the developer through contribution in aid of construction. Therefore, based on the information available to the Commission at this time, the Commission concludes that the proposed customer rate of \$58 is not unjust or unreasonable given the projected number of customers, related expenses, and short-term projected losses.

{¶ 56} In regard to the issue of depreciation rates, the Commission finds that the accrual rates proposed by Staff are reasonable and should be approved. These rates should be utilized until such time as the Applicant has adequate vintage retirement history in order to conduct a company-specific depreciation study. In reaching this determination regarding accrual rates, the Commission notes that these accrual rates are consistent with the rates prescribed for other sewer utilities.

IV. ORDER

{¶ 57} It is, therefore,

{¶ 58} ORDERED, That the application of OWSI for a certificate of public convenience and necessity be granted in accordance with the provisions set forth in this Finding and Order. It is, further,

{¶ 59} ORDERED, That the proposed monthly service rate be approved inasmuch as it is not unjust or unreasonable. It is, further,

{¶ 60} ORDERED, That the depreciation accrual rates set forth in this Finding and Order be approved. It is, further,

{¶ 61} ORDERED, That the revised tariff be approved. It is, further,

{¶ 62} ORDERED, That OWSI file four printed copies of its approved tariff. It is, further,

{¶ 63} ORDERED, That Certificate No. 1 be issued to OWSI for the purpose of providing sanitary sewer services to the Aberlin Springs subdivision. It is, further,

{¶ 64} ORDERED, That the requested waivers of Ohio Adm.Code 4901:1-15-05(D)(12), 4901:1-15-05(D)(16), and 4901:1-15-05(D)(17) be granted in accordance with this provisions set forth in this Finding and Order. It is, further,

{¶ 65} ORDERED, That OWSI file an updated plant investment schedule on January 31st of each year consistent with the provisions of this Finding and Order. It is, further,

{¶ 66} ORDERED, That OWSI file a construction and sales update for all four phases of the project as set forth in this Finding and Order. It is, further,

{¶ 67} ORDERED, That OWSI file an update regarding the OEPA permits as set forth in this Finding and Order. It is, further,

{¶ 68} ORDERED, That beginning with Phase 2, OWSI file an update regarding Adenus' commitment to continue to cover financial deficiencies as set forth in this Finding and Order. It is, further,


{¶ 69} ORDERED, That nothing contained in this Finding and Order shall be deemed binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

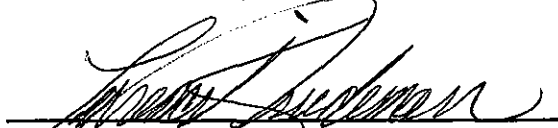
{¶ 70} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

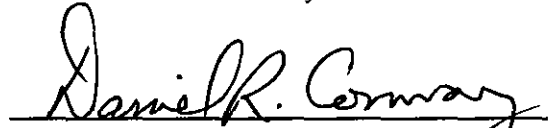
THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman


M. Beth Trombold


Thomas W. Johnson



Lawrence K. Friedeman


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Barcy F. McNeal
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