



PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

July 15, 2020

Rosemary Chiavetta Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
2nd Floor
Harrisburg, PA 17120

Submitted via Efile

Comments of Pennsylvania State Association of Township Supervisors on Advanced Notice of Proposed Rulemaking Order, Application of Pa. Code 52 § 3.501 to *Certificated Water and Wastewater Utility Acquisitions, Mergers, and Transfers*; Docket No. L-2020-3017232

Dear Secretary Chiavetta:

The Pennsylvania State Association of Township Supervisors (PSATS) is a non-partisan, non-profit member service organization. Member townships represent 5.6 million Pennsylvanians — more residents than any other type of Pennsylvania municipal government — and cover 95 percent of the commonwealth's land mass. PSATS appreciates this opportunity to provide advance comments on an issue that will impact a broad range of its members, particularly the many that have implemented comprehensive plans and zoning ordinances in their communities to manage and direct new development in an effort to protect the quality of life their residents have come to expect.

PSATS believes that the Commonwealth and its agencies must recognize and abide by all township land use requirements and local zoning and land use ordinances. In addition, PSATS believes that state agencies should not issue permits or licenses to water and wastewater companies and utilities whose applications that are not in compliance with those local requirements and ordinances.

Townships must adhere to strict rules for developing, reviewing, and adopting local land use ordinances, including comprehensive plans, subdivision and land development, zoning ordinances, and official maps, with substantial community input. These documents are the blueprint for how communities plan to grow and direct development into those areas best suited for it. At the same time, townships must work to protect and preserve agricultural areas and open space. When water and wastewater infrastructure must be placed in those areas planned for growth, local community planning efforts are respected and upheld. However, when water and wastewater infrastructure is permitted to be installed in areas not planned for growth, and where the community's properly adopted plan is to preserve agriculture and open space, conflicts arise, development pressure builds, and the community's best efforts to properly plan and manage growth are overridden.

PSATS believes that the current regulation at Pa. Code 52 § 3.501 upholds these concepts in its current form and asks that the connection between water, wastewater, and official land use plans and zoning be further strengthened as the Commission develops a new proposed regulation to replace this section.

PSATS strongly supports the Commission's 2006 expansion of the existing regulation at Section 3.501(a)(7) to require that an applicant provide a Map of Service Area, including the county comprehensive plan, municipal comprehensive plan, and zoning designations, if requested by the Commission. In addition, an applicant letter is required to address compliance with the applicable requirements of these plans regardless of whether the Commission requests copies of these plans, with certification from the appropriate local government entities that the application does or does not comply with its officially adopted plans.

Further, PSATS strongly supports language in Section 3.501(b) that the Commission "will consider and may reply upon the comprehensive plans, multi-municipal plans, zoning ordinances and joint ordinances" when reviewing applications for a certificate of public convenience as a public water supplier or wastewater collection, treatment or disposal provider.

Below are PSATS' comments in response to certain of the questions asked by the Commission on this advanced rulemaking:

6. The Department of Environmental Protection's Act 537 Plan Content and Environmental Assessment Checklist (DEP Form 3850-FM-BCW0003) may be useful to the Commission in determining if an applicant has considered all the items necessary for submitting a complete Act 537 application. Wastewater projects with proposed funding through a number of sources can use this form to prepare the required "Environmental Report" as described in the Uniform Environmental Review (UER) process and include it with the plan submission designated as "Plan-Appendix A."
8. Section 3.501(a)(7)(iv), as currently written, appropriately requires a letter confirming that the applicant does or does not meet all of the applicable requirements or mandates of any officially adopted county comprehensive plans, municipal comprehensive plans, and applicable zoning designations, including any necessary amendments. PSATS supports this language, which places the burden on the applicant to obtain this letter from the applicable municipality or municipalities.
9. Section 3.501(d) should be revised to use a protest period of less than 60 days. All parties, including affected municipalities, need an appropriate amount of time to file protests to these applications.
10. If the Commission considers using two weekly publications in a newspaper of general circulation instead of daily publications, PSATS recommends that it also use other means to reach out to impacted residents, including various electronic platforms such as websites and social media. With the decreased publication schedule of many newspapers, the daily publication requirement may not be possible to achieve.

11. PSATS believes that applicants should be required to provide evidence that anticipated subdivisions and land developments to be served by the utility in the requested territory have been granted preliminary and final plan approval as part of the application. Simply because a property owner or developer intends to develop a certain property does not mean that the proposal satisfies existing zoning requirements. At a minimum, proof that preliminary plan approval has been granted would be an improvement to the existing regulation.

B. While PSATS acknowledges that economies of scale can be achieved in larger systems, it disagrees with the Commission's goal of regionalization and consolidation of systems with fewer than 3,300 connections. Townships that create new water and wastewater systems generally do so when under DEP mandate because of public health and environmental concerns. Generally, the cost of these projects is such that townships must seek out the least expensive option that complies with that mandate. These systems are put in place after much thought and debate but are often in remote and rural areas where tying into an existing system is simply not an option. They are often the only option for compliance and ensure that the existing property owners, many of whom are low-income, have continued use of their property.

Thank you for the Commission's consideration of PSATS' comments on this Advanced Notice of Proposed Rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "David M. Sanko". The signature is fluid and cursive, with the first name "David" being the most prominent.

David M. Sanko
Executive Director