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March 28, 2025

The Honorable Brian Feldman and
Members of the Senate Education, Energy and the
Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

Re: House Bill 1195 – Washington Suburban Sanitary Commission-Membership, Reporting, Billing, and Planning (WSSC Planning and Reporting Act of 2025)

Dear Chair Feldman, Vice Chair Kagan, and esteemed members of the Education, Energy and the Environment Committee,

The Washington Suburban Sanitary Commission greatly appreciates the opportunity to comment on House Bill 1195, the Washington Suburban Sanitary Commission - Membership, Reporting, Billing, and Planning Act. We value our relationship with members of the Maryland General Assembly, our Montgomery and Prince George's County elected officials and customers as well as the trust that has been placed in us. Since joining the Commission in January 2023, and with our Commissioners' support, we have been focused on improving service delivery, operational efficiency, reliability and resilience, customer affordability, and strong financial performance, while benchmarking against leading water utilities nationally.

It is within this context that the Commissioners directed staff to move forward with requesting amendments which reflect the sense of the Commission. We would like to thank you, Chair Feldman, for convening today's public hearing.

On behalf of the Commission, we would like to recognize Delegate Korman, Chair of the Environment and Transportation Committee, as lead sponsor of the legislation, for working collaboratively with WSSC Water on the legislative amendments which appear in the bill before you today. We would also like to recognize the co-sponsors, Delegate Wilkins and Delegate Barnes for their engagement as well.

I will briefly summarize key areas of the legislation and highlight our perspectives.

Financial Planning

WSSC Water is committed to and practices long-range financial planning. Prior to the legislation being introduced, WSSC Water had as part of our annual workplan an effort to engage an independent third-party financial advisor to assess and provide recommendations for an updated comprehensive financial plan and long-term management strategy. This engagement is underway.

WSSC Water currently executes long-range planning scenarios for its operating and capital budgets and debt service, as a matter of practice. In addition, WSSC Water's financial statement is audited annually by an external auditing firm, certified by the state of Maryland, and contracted by the Commissioners' Office.

Independent Review of WSSC Water

WSSC Water welcomes the review of its operations and practices, as prescribed by the legislation in consultation with the Department of Legislative Services, and will support the review and its effectuation. The independent review of some of the areas, such as asset management and capital improvement planning, has been underway. The Commission has also taken steps to prepare for the solicitation of the required independent consultant to address the requirements of the bill. In addition, the independent Office of the Inspector General will have a role in this review, to perform an independent review as specified in the proposed bill. This information will be shared with the Maryland General Assembly's Department of Legislative Services for review purposes and shared with the designated entities in the legislation as well as published online. WSSC Water and the Office of the Inspector General have moved forward with advancing separate solicitations to secure independent third parties to support this section of the legislation.

Customer Support

WSSC Water is supportive of ensuring that customers who experience high bills are engaged appropriately. WSSC Water has conducted a preliminary review of our customer engagement process regarding high bills and found that we need to make adjustments to the process as well as establish key performance indicators to continuously assess high bills. Additionally, we have determined that addressing high bills will be aided by updating our metering infrastructure to allow customers to identify elevated consumption more immediately. We currently have a detailed process review underway to help identify short and long-term recommendations for improvements in the process and to eliminate the perception of unexplained high bills. In accordance with the legislation, we look forward to providing a report on our findings and modifications to existing processes in support of our valued customers.

WSSC Water has advanced separate legislation to address residential customers who receive fixed cost charges based on meter sizes that are consistent with commercial meters. This will bring important relief to this customer segment.

We also remain committed to timely billing for our customers, which allows appropriate budgeting and planning. WSSC Water has been reviewing our metering infrastructure and will be working with important stakeholders to review opportunities for enhancement.

WSSC Water has, historically, utilized its website to ensure that our customers, community members and other interested stakeholders have access to a wide range of information. This legislation furthers the content, and we have commenced the process of adding additional information to our website.

During our review, WSSC Water identified two areas of concern, specifically, the Avenel Coordinating Committee provision and the proposal to include ad valorem tax scenarios in WSSC Water's long-term financial planning.

Avenel Coordinating Committee

As originally drafted, this section of the legislation, if approved would have procedurally positioned WSSC Water for litigation through the Coordinating Committee. This body was to be convened primarily for the purpose of resolving disputes related to the Advanced Wastewater Treatment Plant Project under consideration for the site, at that time, initiating arbitration and then litigation. The proposed legislative amendment would accelerate arbitration and litigation, inadvertently and prematurely, contravening the legal review that is currently in process by WSSC Water. WSSC Water remains committed to collaborating with the parties and the community in reaching a balanced solution that aligns with the interests of community members as well as ratepayers in both counties, relative to re-activating an equestrian facility in Potomac, Maryland. We will continue our meetings and engagements with the parties to the agreement, the community and others (see Attachment C). WSSC Water has provided information specific to the Delegate's request in lieu of this section being included in the legislation and the version before you removes this section.

Ad Valorem Tax

Section 4 of the legislation advances a one-time report on the ad valorem tax assessment as a mechanism for addressing Commission debt service. WSSC Water expressed the importance of ensuring that the amendment adequately reflects that the Commission has never utilized the ad valorem tax and has no intention of doing so. This is paramount to the Commission, as it can be interpreted, inaccurately, by our valued customers, rating agencies and the public, in general, when an assessment report is developed and submitted. WSSC Water has shared that developing a plan or scenario(s) utilizing the ad valorem tax is not appropriate or in accordance with best practices. However, this tax authority can be qualified as a contingency that is only available if the Commission is unable to fund the debt service for bonds, which is not the circumstance.

Closing

WSSC Water believes that this legislation, directionally, aligns with our commitment to ongoing enhancements to our operations and support of our valued customers and the communities we serve. To achieve this, we must remain focused on providing safe, reliable, sustainable and affordable water and sewer services, with a consistent focus on efficiencies and innovation, while maintaining affordability. Working collaboratively on the outlined areas is a win-win for all, and we look forward to working with you and other stakeholders on its implementation, and most importantly, the outcomes sought.

Chair Feldman, Vice Chair Kagan, Members of the Education, Energy and the Environment Committee
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Thank you again Chair Feldman for convening this public hearing. We also want to thank Delegate Korman, Chair of the Committee on Environment and Transportation, for his leadership and engagement on this comprehensive legislation and we are available for any questions that you may have.

Sincerely,

Kishia L. Powell
General Manager and CEO

ATTACHMENT C

WSSC Water Avenel Community and Stakeholder Engagement (2023-2025)

WSSC Water has led and participated in a series of meetings, with community members as well as elected officials, regarding the Avenel property. We remain committed to continuing our dialogue with parties to the agreement and the community, having commenced these engagements and other coordination and responsive actions, since 2023. The below summary of activities captures the extensive engagement that has been in progress, and we remain focused on reaching a balanced resolution.

2023:

- January 1, 2023 –General Manager Powell’s tenure commenced.
- May 1, 2023 – **Internal Briefing** – WSSC representatives briefed the General Manager on WSSC Surplus Property Disposition, including a discussion on the current condition of the Avenel Barn, which was considered by WSSC’s Facilities Division, Production Department, and outside structural engineering firm Rathgeber/Goss, to be unsafe. Further, the lease with the Avenel Equestrian Center Manager had expired (responsible for operating and maintaining the barn).
- May 23, 2023 – **WSSC Water Notice** – Due to significant safety issues identified, WSSC Water engaged the manager of the Avenel Equestrian Center, notifying her that the Management Agreement needed to be terminated, based on the safety circumstances identified. The Manager was afforded six months to vacate by WSSC Water.
- June 23, 2023 – **Emergency, Short-Term Repair** – WSSC Water advanced immediate actions to ensure that the Avenel barn was safe for this duration and implemented emergency and short-term repairs.
- July 18, 2023 – **Natelli Communities Letter** – WSSC Water received correspondence from Natelli Communities (Tom Natelli), describing the history of Avenel and WSSC’s commitment to allowing the property to be used for equestrian purposes until WSSC’s Advanced Wastewater Treatment (“AWT”) facility is constructed on the property and requesting a meeting.
- August 2, 2023 – **WSSC GM/CEO Briefing** – A WSSC internal briefing was held regarding the status and background of the Advanced Wastewater Treatment facility site located in Avenel.
- September 11, 2023 – **Avenel Meeting** – WSSC Water met with Natelli Communities (Tom Natelli), Lucy Wilson (Executive Director of Avenel Community Association (ACA)) and their outside attorney.
- September 14, 2023 – **Natelli Communities Letter** – Natelli Communities sent correspondence to WSSC Water outlining its interpretation of WSSC’s legal obligations; inquiring regarding WSSC’s plans, relative to the Advanced Wastewater Treatment Facility, and requesting the Avenel Barn/Equestrian Center Managers’ inhabitation at the property be extended.
- September 15, 2023 – **Avenel Community Association Letter** – WSSC Water received correspondence from the Avenel Community Association requesting that the termination of the Avenel Barn/Equestrian Center Management Agreement be reconsidered.
- November 20, 2023 – **WSSC Water Letter** – WSSC Water, through the General Manager/CEO, responded to the Natelli Communities September 14th correspondence..

- November 21, 2023 – **Avenel Meeting with WSSC Water GM/CEO** – The WSSC GM/CEO met with Tom Natelli, the Executive Director of the Avenel Community Association and Counsel of Natelli Communities..
- November 21, 2023 – **Montgomery County Council President Briefing** – WSSC Water met with Montgomery County Council President Friedson’s staff and Council staff regarding Avenel barn/property status.
- December 4, 2023 – **Community Meeting/Outreach** - WSSC Water convened a Community Meeting with the Avenel Community. The community requested that the barn be reopened.
- December 6, 2023 – **Montgomery County Council President Briefing** – WSSC Water met with Council President Friedson and members of Maryland District 16. WSSC conveyed that the current rent for the Equestrian Center is not adequate to maintain as well as repair the barn; WSSC Water noted its commitment and willingness to work with the community; WSSC Water shared that it would undertake a conditions assessment of the barn; Pursuing a long-range facilities planning effort; and retaining additional counsel.
- December 11, 2023 – **License Agreement Effective Date** – WSSC Water extended the time, by which, the Avenel Barn Manager would have to vacate the property until June 1, 2024. WSSC Water did not require rent for this period.
- December 14, 2023 – **Letter** – The President of the Avenel Community Association (ACA) sent correspondence to the WSSC GM/CEO with questions related to the use of the property.

2024:

- January 19, 2024 – **Avenel Barn Condition Assessment Commenced** – WSSC Water contracted with Gannett Fleming to execute a condition assessment of the Avenel Barn to be responsive to the community’s questions and interests and to further determine the safety of the facility.
- January 24, 2024 – **WSSC Water Letter** - WSSC Water sent correspondence to the Avenel Community Association in response to their letter of December 14, 2023.
- February 7, 2024 – **WSSC Water GM/CEO Tour** – The WSSC Water GM/CEO toured the Avenel Barn.
- February 8, 2024 – **Community Meeting/Outreach** – WSSC Water convened another meeting with the Avenel Community.
- February 27, 2024 – **Avenel Community Association Letter** – WSSC Water received a letter from the Avenel Community Association expressing concerns with WSSC Water not budgeting funds to repair the barn and advising of their interest in the condition assessment that was in progress.
- March 27, 2024 – **Gannett Fleming Letter** – WSSC Water received correspondence from Gannett Fleming, WSSC Water’s structural engineer, notifying WSSC Water that, based on its inspection, the barn should not be occupied by humans or animals and that all activities inside the barn should cease. “
- April 25, 2024 – **Avenel Community Association Letter** – WSSC Water received a follow-up letter from the Avenel Community Association to WSSC Water, through the General Manager/CEO.

- May 8, 2024 – **WSSC Water Letter** – WSSC Water sent correspondence to the Avenel Community Association regarding the guidance received to close the barn for safety reasons and its planned extension of the Avenel Barn/Equestrian Center Manager’s license agreement until December 1, 2024.
- May 16, 2024 – **Temporary Actions by WSSC to Address Barn Safety Issues** – WSSC Water secured a temporary barn and hay storage container to accommodate the horses on the premises as a result of the complete closure of the Avenel barn for safety reasons.
- May 23, 2024 – **Avenel Community Association Letter** – WSSC received correspondence from the Avenel Community Association placing WSSC Water on notice under the Local Government Tort Claims Act of potential legal claims related to WSSC Water’s closure of the equestrian barn.
- May 28, 2024 – **License Agreement Extension** – WSSC Water executed an extension for the Avenel Barn/Equestrian Center Manager, permitting her to remain on the property until December 1, 2024, with new conditions, at no cost.
- June 5, 2024 – **WSSC Water Letter** – WSSC Water sent correspondence to the Avenel Community Association (“ACA”) answering questions included in the ACA’s April 25, 2024 correspondence related to the condition assessment and a variety of other matters.
- June 11, 2024 – **WSSC Internal Meeting** – A briefing was held for the WSSC General Manager/CEO and other internal stakeholders on the results of the condition assessment performed by Gannet Fleming.
- June 12, 2024 – **County Executive Staff Briefing** – WSSC Water provided a briefing for the Montgomery County Executive’s staff on the results of the condition assessment.
- June 14, 2024 – **State Elected Officials Briefing** – WSSC Water provided a briefing for state elected officials on the results of the condition assessment. Participants included Senator Love, Delegates Korman, Love, Woorman, Wolek and staff.
- June 17, 2024 – **Montgomery County Council President Briefing** – WSSC Water provided a briefing for Councilmember Friedson’s staff on the condition assessment.
- June 25, 2024 – **Community Meeting/Outreach** – WSSC Water convened another Community Meeting with the Avenel Community that included elected representatives and staff..
- June 28, 2024 – **WSSC Water Request for Information** – WSSC Water issued Requests for Information for two areas: 1) Equestrian Services, and 2) Barn building/rehabilitation.
- July 5, 2024 – **ACA Letter** – WSSC Water received a request regarding the characterization of the barn as “private.” The ACA also raised maintenance responsibility questions and engaged regarding the Gannett Fleming report and the status of the RFIs.
- July 7, 2024 – **Professional Golf Association (“PGA”) Meeting** – WSSC Water met with a representative of the PGA regarding their requested use of the Avenel property for access to the golf course stream restoration project.
- July 22, 2024 – **Montgomery County Revenue Authority Meeting** – WSSC Water met with the Montgomery County Revenue Authority on potential partnerships related to the Avenel property.
- August 15, 2024 -**PGA Meeting** – WSSC Water met with PGA Corporate, to discuss the Avenel property. This meeting was facilitated by the Montgomery County Revenue Authority.

- August 28, 2024 – **PGA Meeting** – WSSC participated in an on-site meeting with representatives of TPC Avenel and PGA to discuss existing easements, planned work on the golf course and other property related matters including PGA’s desire for additional easements to facilitate course improvements.
- September 4, 2024 – **State and Local Elected Officials Meeting** - WSSC Water representatives met with Senator Love, Delegates Korman, Woorman, and Wolek, and Councilmember Friedson regarding the Avenel Equestrian Center and Bradley Hills Standpipes.
- September 4, 2024 – **ACA Barn Inspection** – Executed by A&A Structures, ACA’s consultant.
- September 6, 2024 – **Request for Information** - Initial deadline for submission of RFI responses.
- September 6, 2024 – **ACA Letter** – The ACA sent correspondence to WSSC, through the GM/CEO, outlining difficulties in submitting responses to the RFI and providing the “structural inspection report” from A&A Structures pursuant to the community association’s request for an independent review of the structure. This report estimated repairs to the barn would cost \$1million.
- September 20, 2024 – **RFI** – WSSC Water extended the deadline for the submission of RFI responses. There were only two responses received for each RFI.
- October 18, 2024 (on or about) – **PIA Request** – WSSC’s General Counsel Office provided a response to the PIA request for RFI responses to ACA and Montgomery County.
- November 5, 2024 – **Natelli Communities Letter** – WSSC Water received correspondence from Natelli Communities asserting its interpreted right to convene the Avenel Coordinating Committee and requesting that WSSC Water appoint a representative to the Committee.
- November 11, 2024 – **Elected Official Letter** – WSSC received correspondence from State Senator Love, Delegates Korman, Wolek, and Woorman, and Councilmember Friedson requesting that WSSC Water appoint a representative to the Avenel Coordination Committee outlined in the Avenel Master Agreement.
- November 14, 2024 – **WSSC Letter** – WSSC Water, through its General Counsel, sent correspondence to Natelli Communities seeking documentation confirming Natelli Communities as the successor in interest to Rock Run LLP and requesting information on the alleged dispute mentioned in the November 5th letter.
- November 14, 2024 – **Montgomery County Revenue Authority Meeting** - WSSC Water participated in a follow-up meeting with the Montgomery County Revenue Authority to discuss the Authority becoming a potential partner related to Avenel.
- December 2, 2024 – **Executed Second Amendment** – A second amendment to the License Agreement with the Manager of the Avenel Barn/Equestrian Center, allowing her to remain on the property through June 1, 2025, at no cost, was executed.
- December 3, 2024 – **Meeting** – WSSC Water met with Montgonery County (Peter Fosselman), PGA Tour (Ned Graff) and Natelli Communities (Tom Natelli).

2025:

- January 13, 2025 – **Meeting with Delegate Korman** – WSSC Water met with Delegate Korman, as a follow-up, to discuss the legislation.
- February 12, 2025 – **Meeting** – WSSC Water met with Montgomery County (Peter Fosselman), PGA Tour (Ned Graff), Natelli Communities (Tom Natelli) and Avenel Community Member (Neal Gillen).