

## MEMORANDUM

**TO:** The Chair and Members of the Commission

**FROM:** Vincent O. Ikwuagwu, Public Utilities Analyst

**DATE:** June 30, 2014

**SUBJECT:** IN THE MATTER OF THE APPLICATION OF ARTESIAN WATER COMPANY, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICES PURSUANT TO 26 DEL. C. §203C (“NEW COVENANT CHURCH”) (FILED APRIL 8, 2013; AMENDED MAY 19, 2014; AMENDED JUNE 3, 2014)  
**PSC DOCKET NO. 14-CPCN-03**

On April 8, 2014, Artesian Water Company, Inc. (“Artesian” or the “Company”) filed an application (“Application”) with the Delaware Public Service Commission (the “Commission”) seeking a Certificate of Public Convenience and Necessity (“CPCN”) to provide water services to a parcel of land in New Castle County, Delaware, known as the New Covenant Church (“Proposed Service Area”) pursuant to 26 *Del. C.* §203C(e)(1)b.

As required by 26 *Del. C.* §203C(e)(1)b. and the Commission’s Regulations Governing Certificates of Public Convenience and Necessity for Water Utilities, 26 *Del. Admin. C.* §2002 (the “Regulations”), the Application contains the following documentation: (1) a copy of a petition signed by all of the landowners of record included in the Proposed Service Area requesting to be included in the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area;<sup>1</sup> and (4) a copy of the associated tax map clearly marking the Proposed Service Area. Additionally, the Application contains Artesian’s statement that its expansion of service to the Proposed Service Area will comply with the

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<sup>1</sup>At Staff’s request, Artesian submitted a written certification that the Company (i) reviewed the appropriate tax or land record documents relating to the Proposed Service Area; (ii) confirmed that the landowner identified in the parcel listing are the landowners of record; and (iii) confirmed that the petitions included in the Application have been signed by the Authorized signor of record.

water pressure requirements of 26 *Del. C.* §§403(a) and (b) and that Artesian is not barred by any of the restrictions set forth in 26 *Del. C.* §403(c).

Because the Application failed to include evidence to demonstrate that the agent who signed the petition on behalf of the landowner of record was authorized to execute such petition as required by Section 8.4 of the Regulations, Staff requested this documentation on May 07, 2014. On May 19, 2014, Artesian filed with the Commission an amendment to the Application (the "Amended Application"). This filing included Bylaws of the landowner corporation dated December 3, 2013, and Meeting Minutes dated December 1, 2012, to show that the President who signed the Petition was legally authorized and appointed by the landowner corporation to execute agreements on behalf of the landowner.

Staff reviewed the Amended Application to ensure compliance with the statutory provisions of 26 *Del. C.* §203C and the Regulations. Section 10.7 of the Regulations requires that within ten days of filing a water CPCN application, the applicant must also publish a Commission-approved form of public notice of the application in two newspapers of general circulation and promptly file proof of such publication with the Commission. Because no affidavit of publication had been filed, Staff contacted Artesian and asked why this requirement had not been completed. On response, Artesian published a Commission-approved notice of the application in The News Journal on May 23, 2014, and in the Delaware State News on May 25, 2014. In addition, on June 3, 2014, Artesian filed a request that the Commission waive the publication requirement of Section 10.7 of the Regulations. As "good cause," the Company stated that "AWC notes the failure to publish the public notices was in inadvertent omission and requests that the PSC waive the publishing requirement as allowed by Rule 1.5 of the CPCN regulations and permit the application for a CPCN for New Covenant Presbyterian Church to proceed expeditiously. AWC submits that the grant of a waiver is in the public interest as the Company has satisfied the publishing requirement, involves service to a single parcel, and should not be unduly disruptive for customers. AWC also submits granting a waiver provides for an administratively effective use of resources. The extension of water service, as requested by New Covenant, will not harm or degrade AWC's ability to provide safe, reliable water service for present customers. AWC requests that the PSC accept the publications and grant a CPCN so the Company may begin to initiate water service to New Covenant Presbyterian Church." Because Staff believes that the reasons given as "good cause" justify a waiver, Staff recommends that the Commission grant the requirement set forth in Section 10.7 of the Regulations.

Aside from the untimely publication regarding the Company's Application, Staff did not find any other errors or omissions in the Amended Application. In addition, Staff solicited comments from the Delaware Department of Natural Resources and Environmental Control, the Office of the State Fire Marshal, and the Office of Drinking Water of the Division of Public Health to determine whether the Commission should deny the requested CPCN as set forth in 26 *Del. C.* §203C(f). All three agencies

responded and confirmed they have no issues relating to Artesian's ability to provide safe, adequate, and reliable water services to its existing customers.

In summary, Artesian's Amended Application contains the necessary proof required by the provisions of 26 *Del. C.* §§203C(e)(1), 203C(e)(1)b., 203C(e)(3) and the Regulations for issuance of a CPCN, and Staff recommends that the Commission grant the Company's requested waiver of the requirements of Section 10.7 of the Regulations. Staff also finds no reason to deny the Company a CPCN under the provisions of 26 *Del. C.* §203C(f). Therefore, Staff recommends that the Commission grant the Amended Application and the Company's waiver request.