

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
ARTESIAN WATER COMPANY, INC., FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE WATER SERVICES TO)
TWO PARCELS OF LAND LOCATED ON SAMOSET)
DRIVE, NEWARK; TO ONE PARCEL OF LAND) PSC DOCKET NO. 04-CPCN-26
LOCATED ON CHERRY LANE, NEW CASTLE;) (MBNA/AVECIA/THOMAS LANDING)
AND TO SEVENTY-EIGHT PARCELS OF LAND)
LOCATED IN THE VICINITY OF THOMAS)
LANDING ROAD AND CANTWELL DRIVE,)
MIDDLETOWN, NEW CASTLE COUNTY,)
DELAWARE (FILED NOVEMBER 29, 2004))

ORDER NO. 6557

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO PROVIDE PUBLIC WATER UTILITY SERVICES**

This 25th day of January, 2005, the Commission finds, determines, and Orders the following:

I. BACKGROUND

1. Artesian Water Company, Inc. ("Applicant"), is a water utility providing water services for public use that are subject to the regulatory jurisdiction of this Commission over any expansion of its service territory. On November 29, 2004, the Applicant filed an Application ("Application") with the Commission seeking a Certificate of Public Convenience and Necessity ("CPCN") to expand its facilities and operations in order to provide water services to two parcels of land located on Samoset Drive, Newark; to one parcel of land located on Cherry Lane, New Castle; and to seventy-eight parcels of land located in the vicinity of Thomas Landing Road and Cantwell Drive, Middletown, New Castle County, Delaware ("Proposed Service Area"), as

specifically described by the tax parcel number identifications in paragraph 6 of the Application.

2. The Application includes petitions signed by a majority of the parcel owners within the Proposed Service Area, and evidence that the required Commission notice of the Application was sent via certified mail to each owner within the Proposed Service Area. The notice explained each owner's opportunity to object, request a hearing, and "opt-out," that is, to exclude the owner's property from Applicant's Proposed Service Area.

3. Staff directed the Applicant to publish notice of the Application in two newspapers of general circulation. The notice informed the public that any meritorious request for a hearing or objection must be filed with the Commission no later than thirty days from the publication. The notice was published on December 13, 2004, in the Delaware State News and The News Journal newspapers.

II. SUMMARY OF THE EVIDENCE

4. The record in this matter consists of the Application, including Applicant's request that the Commission proceed in this matter under the informal fact-finding procedures set forth in *29 Del. C. § 10123* (¶ 3). In addition, the Application includes:

- (i) petitions signed by a majority of landowners within the Proposed Service Area (¶ 1(d));
- (ii) copies of the United States Postal Service's forms verifying that the Applicant sent, via certified mail, a Commission approved notice to all landowners of the affected parcels of the Applicant's filing for a CPCN as prescribed by Water Utility CPCN Reg. 10.109 (¶ 5);

- (iii) the County tax parcel identification numbers of the properties in the Proposed Service Area (§ 6);
- (iv) a listing of the landowners of record of each of the parcels included in the Proposed Service Area, and the tax maps locating the parcels (§ 7);
- (v) the Applicant's statement that its expansion of service to the parcels in the Proposed Service Area will comply with the water pressure requirements of 26 Del. C. § 403(a) & (b), and is not barred by any of the restrictions set forth in 26 Del. C. § 403(c) (§ 8 (a)-(d));

5. The record also contains:

- (i) affidavits of publication of the public notice of the Application on December 13, 2004, in the Delaware State News and The News Journal newspapers;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated December 8, 2004), from the Office of the State Fire Marshal (dated January 12, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated December 6, 2004) reporting that they have no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's January 18, 2005 memorandum of its investigation and its recommendation that the Commission approve the Application and grant the requested CPCN. Staff reports that, based upon its review, the Applicant has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

6. Finally, the record does not contain any evidence that any person objects to or requests a hearing on the Application.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

7. The Commission concludes it has jurisdiction to grant a CPCN permitting a water utility to expand its operations and

facilities if the water utility satisfies the legal and factual requirements. The Commission finds that Applicant operates a water system for public use and, consequently, is a water utility.

8. First, the Applicant obtained the consent of the majority of owners of the property within the Proposed Service Area in compliance of 26 Del. C. § 203C(e)(1)(b). Second, the Applicant sent by certified mail an approved notice of its Application to all owners of parcels within the Proposed Service Area. Third, the record reflects: (a) no objection to this Application; (b) no request for a hearing on this Application; (c) the Applicant's statement that the Applicant will continue to meet the water pressure requirements for its existing customers; and (d) the Applicant's statement that it is not subject to any regulatory Order or finding pertaining to the quality of its service to existing customers which would preclude it from expanding its operations or facilities.

9. Finally, the Commission's Staff has investigated the Applicant and has not discovered that the Applicant is currently subject to any Commission finding that the utility is unwilling or unable to provide adequate and reliable water services to its existing customers. The present record does not provide any basis for the Commission to believe that any further investigation into the Applicant's service quality is necessary in order to render a decision in this proceeding.

10. In summary, the Applicant has submitted the necessary proof required by the provisions of 26 Del. C. §§ 203C(e)(1), 203C(e)(1) b., & 203C(e)(3) (2002 Supp.), which the Commission's Staff has reviewed

and found to be accurate. The Commission also finds no reason that the Applicant is not entitled to a CPCN under the provisions of either 26 Del. C. §§ 203C(f) or 203C(i) (2001 Supp.). Since the Applicant has satisfied the statute's requirements, the Commission shall issue a CPCN permitting the Applicant to expand its operations to provide water utility services to the parcels identified in Exhibit "A" hereto.

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 26 Del. C. § 203C(e) (2002 Supp.), the application for a Certificate of Public Convenience and Necessity, as filed in PSC Docket No. 04-CPCN-26, is hereby approved to the extent it is consistent with this Order, and a CPCN is granted to Artesian Water Company, Inc., to serve the area identified by the tax parcel numbers set forth in Exhibit "A" to this Order.

2. That Artesian Water Company, Inc., shall comply with any and all federal, state, county, and local statutes, ordinances, orders, regulations, rules, and permit conditions that are applicable, or may become applicable, to any matter involving water utility services provided to the service territory granted by this Certificate of Public Convenience and Necessity.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

PSC Docket No. 04-CPCN-26, Order No. 6557 Cont'd.

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

Commissioner

Commissioner

ATTEST:

/s/ Norma J. Sherwood
Acting Secretary

E X H I B I T "A"

APPROVED SERVICE AREA
PARCELS WITHIN CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

ARTESIAN WATER COMPANY, INC.
(MBNA/AVECIA/THOMAS LANDING)

NEW CASTLE COUNTY TAX MAP PARCELS NOS.

0902300051	1400800043	1400810244
0902300055	1400810191	1400810245
1001500003	1400810197	1400810246
1400300015	1400810198	1400810247
1400300013	1400810199	1400810248
1400300017	1400810200	1400810249
1400330063	1400810201	1400810250
1400330064	1400810202	1400810251
1400330065	1400810203	1400810252
1400330066	1400810204	1400810253
1400330067	1400810205	1400810254
1400330068	1400810206	1400810255
1400330069	1400810207	1400810256
1400330070	1400810237	1400810257
1400330071	1400810238	1400810258
1400330106	1400810239	1400810259
1400800005	1400810240	1400810260
1400800015	1400810241	1400810261
1400800016	1400810242	1400810303
1400800017	1400810243	1400810304

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