

**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) PSC DOCKET NO. 05-CPCN-07
ONE PARCEL OF LAND LOCATED IN THE) (SCHERTLE PROPERTY, KEENWICK)
KEENWICK SOUND DEVELOPMENT, BALTIMORE)
HUNDRED, SUSSEX COUNTY, DELAWARE)
(FILED FEBRUARY 24, 2005))

ORDER NO. 6617

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

This 10th day of May, 2005, the Commission finds, determines, and Orders the following:

I. BACKGROUND AND SUMMARY OF THE EVIDENCE

1. Artesian Water Company, Inc. ("Applicant"), is a water utility providing water services for public use that is subject to the regulatory jurisdiction of this Commission over any expansion of its service territory. On February 24, 2005, 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 one parcel of land located in the development of Keenwick Sound, Baltimore Hundred, Sussex County, Delaware, as specifically described by Sussex County tax parcel number identification in paragraph 6 of the Application.

2. The record in this matter consists of:

(i) the Application, which includes:

- (a) the Applicant's request that the Commission proceed in this matter under the informal fact-finding procedures set forth in 29 Del. C. § 10123 (¶ 3);
 - (b) a petition signed by the parcel owners requesting water service from the Applicant (¶ 1);
 - (c) a waiver signed by the parcel owners, of the notification requirements of 26 Del. C. § 203C (d)(1) (¶ 5);;
 - (d) the Sussex County tax parcel identification number of the parcel of land (¶ 6);
 - (e) a listing of the landowner of record of the parcel and the tax map locating the parcel (¶ 7); and
 - (f) the Applicant's statement that its expansion of service to the single parcel 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));
- (ii) Correspondence from the Office of Drinking Water of the Division of Public Health (dated March 1, 2005) and the Office of the State Fire Marshal (dated April 20, 2005), and the Department of Natural Resources and Environmental Control (a printed e-mail message dated March 1, 2005) reporting that they have no outstanding issues with the Applicant that might preclude granting the requested CPCN; and,
 - (iii) Staff's May 3, 2005 memorandum of its investigation and its recommendation that the Commission approve the application and grant the requested CPCN. In its memorandum, Staff indicates that it has accepted both the signed petition for water services and the signed waiver to meet the statutory requirements of 26 Del. C. §203C (d)(1)¹, and that it has waived the Commission's practice of requesting water

¹26 Del. C. §203C (d)(1) requires that the Commission issue a CPCN to an applicant provided evidence is submitted that "all landowners of the proposed territory have been notified by certified mail, or its equivalent, of the filing of the application." In that the property owner has signed a petition and a waiver of the notification requirement, no such evidence is needed.

companies publish notice of their CPCN applications.² Staff further reports that, based upon its review, the Applicant has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

II. FINDINGS OF FACT & CONCLUSIONS OF LAW

3. The Commission has jurisdiction to grant a CPCN permitting a water utility to expand its operations and facilities, and the Applicant operates a water system for public use and, consequently, is a water utility.

4. First, the Applicant has submitted a signed petition from the property owner requesting the Applicant provided water services to the parcel of land described in paragraph 1 of this Order in compliance with *26 Del. C. § 203C(e)(1)(b)*. Second, Commission Staff has accepted a waiver of the notification requirement signed by the property owner, and the signed petition requesting water services, in lieu of the certified mail receipt required by *26 Del. C. § 203C(d)(1)*. Third, the record reflects: (a) the Applicant's statement that the Applicant will continue to meet the water pressure requirements for its existing customers; and (b) 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. Fourth, the Commission's Staff has investigated the Applicant and has

²Although neither the provisions of *26 Del. C. § 203C* nor the Commission's implementing regulations require such published notice, Staff has adopted a policy of requiring water utilities to generally publish notice of their CPCN applications. In regard to this specific application, Staff has determined that such notice should not be required because the community surrounding this property and utilizing the water system would likely feel no impact as a result of connecting this single residential unit, and it is doubtful that there would be an objection from any landowner in the surrounding community to this connection.

discovered that the Applicant is currently not subject to any Commission finding that the utility is unwilling or unable to provide adequate and reliable water service 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

4. In summary, the Commission 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) (2004 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 single parcel identified in paragraph 1 of this Order.

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

1. That, pursuant to 26 Del. C. § 203C(e) (2004 Supp.), the application for a Certificate of Public Convenience and Necessity, as filed in PSC Docket No. 05-CPCN-07, 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 parcel of land identified in the Application by Sussex County Tax Map Parcel No. **533-19.00-380.00**.

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

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary