

**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. 04-CPCN-27
165 PARCELS OF LAND LOCATED IN THE)	(BAY VIEW)
COMMUNITY OF BAY VIEW, SUSSEX COUNTY,)	
DELAWARE (FILED DECEMBER 15, 2004))	

ORDER NO. 6631

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

This 24th day of May, 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 December 15, 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 a total of 165 parcels of land located in the community of Bay View, Sussex County, Delaware ("Proposed Service Area"), as specifically described by the tax parcel number identifications in paragraph 6 of the Application.

2. Staff reviewed the Application in accordance with the rules adopted in PSC Regulation Docket No. 51, Order No. 5730, effective July 10, 2001. Prior to the filing of the Application, the Commission

received two requests from property owners to "opt-out" of the Proposed Service Area. One of these property owners also indicated an objection to a CPCN being issued to the Applicant; however, no other objections to the Application were received.

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.

II. SUMMARY OF THE EVIDENCE

4. The record in this matter consists of the Application, including 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). 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 related tax maps (¶ 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 March 4, 2005, 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 March 7, 2005), from the Office of the State Fire Marshal (dated April 20, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated March 4, 2005) reporting that they have no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's May 9, 2005 memorandum of its investigation and its recommendation that the Commission approve the Application as revised 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.
- (iv) A letter dated October 20, 2004, from C. M. Vosburg, owner of the parcel of land identified by Sussex County tax map no. 134-20.11-37.00, objecting to a CPCN being granted to the Applicant to supply public water to Bayview Park, DE (the Proposed Service Area). Mr. Voburg further states that should a CPCN be granted, that he elects to "opt-out" of the Proposed Service Area.
- (v) A letter from the owner of the parcel of land identified by Sussex County tax map no. 134-20.11-74.01, Joseph Jacobs, requesting to "opt-out" of the Proposed Service Area.

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) there is not a majority of property owners in the Proposed Service Area that object to the granting of a CPCN to the Applicant; (b) there have been no requests 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), 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). 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), the application for a Certificate of Public Convenience and Necessity, as filed in PSC Docket No. 04-CPCN-27, 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 the CPCN granted to Artesian Water Company, Inc., specifically excludes the two parcels of land identified by Sussex County Tax Map Nos. 134-20.11-37.00 and 134-20.11-74.01 based upon the landowners' written requests to the Commission to "opt-out" of the CPCN service area.

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:

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

E X H I B I T "A"

APPROVED SERVICE AREA
PARCELS WITHIN CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

ARTESIAN WATER COMPANY, INC.
(BAY VIEW)

SUSSEX COUNTY TAX MAP PARCELS NOS.

134-20.07-134.00	134-20.07-149.00	134-20.11-16.00
134-20.07-135.00	134-20.07-149.01	134-20.11-17.00
134-20.07-135.01	134-20.07-150.00	134-20.11-18.00
134-20.07-136.00	134-20.11-1.00	134-20.11-19.00
134-20.07-137.01	134-20.11-2.00	134-20.11-20.00
134-20.07-138.00	134-20.11-3.00	134-20.11-20.01
134-20.07-139.00	134-20.11-4.00	134-20.11-21.00
134-20.07-140.00	134-20.11-5.00	134-20.11-21.01
134-20.07-141.00	134-20.11-6.00	134-20.11-21.02
134-20.07-142.00	134-20.11-7.00	134-20.11-22.00
134-20.07-143.00	134-20.11-7.01	134-20.11-22.01
134-20.07-143.01	134-20.11-8.00	134-20.11-23.00
134-20.07-143.02	134-20.11-9.00	134-20.11-23.01
134-20.07-143.03	134-20.11-10.00	134-20.11-24.00
134-20.07-144.00	134-20.11-11.00	134-20.11-25.00
134-20.07-144.01	134-20.11-11.01	134-20.11-26.00
134-20.07-145.00	134-20.11-12.00	134-20.11-27.00
134-20.07-146.00	134-20.11-13.00	134-20.11-28.00
134-20.07-147.00	134-20.11-14.00	134-20.11-29.00
134-20.07-148.00	134-20.11-15.00	134-20.11-30.00

134-20.11-31.00	134-20.11-55.00	134-20.11-76.00
134-20.11-32.00	134-20.11-56.00	134-20.11-77.00
134-20.11-33.00	134-20.11-57.00	134-20.11-78.00
134-20.11-34.00	134-20.11-57.01	134-20.11-79.00
134-20.11-35.00	134-20.11-58.00	134-20.11-80.00
134-20.11-36.00	134-20.11-58.01	134-20.11-81.00
134-20.11-38.00	134-20.11-59.00	134-20.11-82.00
134-20.11-39.00	134-20.11-59.01	134-20.11-83.00
134-20.11-40.00	134-20.11-62.00	134-20.11-84.00
134-20.11-41.00	134-20.11-62.01	134-20.11-85.00
134-20.11-41.01	134-20.11-63.00	134-20.11-85.01
134-20.11-41.02	134-20.11-64.00	134-20.12-1.00
134-20.11-42.00	134-20.11-65.00	134-20.12-2.00
134-20.11-43.00	134-20.11-66.00	134-20.12-3.00
134-20.11-44.00	134-20.11-66.01	134-20.12-4.00
134-20.11-45.00	134-20.11-67.00	134-20.12-5.00
134-20.11-46.00	134-20.11-67.01	134-20.12-5.01
134-20.11-47.00	134-20.11-68.00	134-20.12-5.02
134-20.11-48.00	134-20.11-68.01	134-20.12-6.00
134-20.11-49.00	134-20.11-69.00	134-20.12-7.00
134-20.11-50.00	134-20.11-70.00	134-20.12-7.01
134-20.11-52.00	134-20.11-71.00	134-20.12-8.00
134-20.11-52.01	134-20.11-72.00	134-20.12-9.00
134-20.11-53.00	134-20.11-73.00	134-20.12-10.00
134-20.11-53.01	134-20.11-74.00	134-20.12-11.00
134-20.11-54.00	134-20.11-75.00	134-20.12-12.00

134-20.12-13.00
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134-20.12-30.00
134-20.12-32.00
134-20.12-32.01
134-20.12-33.00
134-20.12-34.00
134-20.12-34.01