

**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	)	PSC DOCKET NO. 05-CPCN-24
TO ELEVEN PARCELS OF LAND LOCATED ON	)	(ROUTE 9)
THE NORTH AND SOUTH SIDES OF THE	)	
LEWES-GEORGETOWN HIGHWAY, EAST OF	)	
GEORGETOWN, SUSSEX COUNTY, DELAWARE	)	
(FILED AUGUST 29, 2005 AND AMENDED	)	
OCTOBER 19, 2005)	)	

**ORDER NO. 6759**

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

This 25<sup>th</sup> day of October, 2005, the Commission finds, determines, and Orders the following:

**I. BACKGROUND**

1. Artesian Water Company, Inc. ("Artesian" or "the Company"), is a public water utility subject to the regulatory jurisdiction of this Commission. On August 29, 2005, the Company 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 twelve parcels of land located on the north and south sides of the Lewes-Georgetown Highway, east of Georgetown, Sussex County, Delaware ("Proposed Service Area"). As prescribed by 26 Del. C. § 203C(e)(1)b., the application includes petitions signed by a majority of the landowners in the proposed area to be served. Specifically, signed petitions were submitted for all but one parcel of land, identified as Sussex

County tax map parcel number 135-16.00-23.00. When the Application was filed, however, the required evidence that all landowners in the proposed territory to be served were notified of the Application was omitted. At Staff's request, that information was provided via facsimile on September 16, 2005, and for all but the "included"<sup>1</sup> parcel discussed previously. On October 19, 2005, the Company submitted revised Exhibits A and C, removing the "included" parcel from the Proposed Service Area.

2. Staff undertook a review of the Application in accordance with the water utility CPCN rules adopted in PSC Order No. 5730 (June 30, 2001; eff. July 10, 2001). Staff also solicited comments from the Office of Drinking Water of the Department of Public Health ("ODW"), the Office of the State Fire Marshal ("SFM"), and the Division of Water Resources of the Department of Natural Resources and Environmental Control ("DNREC"). None of the three agencies offered any issue regarding Artesian's unwillingness or inability to provide safe, adequate, and reliable water services to its existing customers.

3. At Staff's direction, Artesian published notice of this application in The News Journal and Delaware State News newspapers. The notice outlined the ability of a landowner in the proposed service territory to object, request a hearing, or to remove his or her property from the service territory ("opt-out").

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<sup>1</sup>When shown with quotation marks, the term "included" reflects that the landowner(s) of the property did not sign a petition requesting the utility's water services, nor did the landowner(s) file a petition with either the utility or the Commission requesting to "opt-out" of the Proposed Service Area prior to the Commission's consideration of this matter.

## II. SUMMARY OF THE EVIDENCE

4. The record in this matter consists of the Application and various other documents filed during the course of the proceedings.

The Application, as amended, includes:

- (i) petitions for service signed by a majority of the landowners (in this case all) within the Proposed Service Area, as amended (Appl. ¶ 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 of the landowners of the affected parcels informing the landowners of the Applicant's filing for a CPCN as prescribed by Water Utility CPCN Reg. 10.109 (Appl. ¶ 5);
- (iii) the County tax parcel identification numbers of the properties in the Proposed Service Area (Appl. ¶ 6);
- (iv) a listing of the landowners of record of each of the parcels included in the Proposed Service Area, as amended, with the related tax maps (Appl. ¶ 7); and
- (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) (Appl. ¶ 8 (a)-(d));<sup>2</sup>

5. The record also contains:

- (i) affidavits reflecting publication of the notice of the Application on September 23, 2005 in The News Journal and the Delaware State News newspapers;

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<sup>2</sup>The Application also contains Artesian's agreement to proceed under informal fact-finding procedures. (Appl. ¶ 3.)

- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated September 20, 2005), from the Office of the State Fire Marshal (dated October 5, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated September 16, 2005) reporting that none of these agencies have any outstanding issues with the Applicant that might preclude granting the requested CPCN; and
- (iv) Staff's October 19, 2005 memorandum of its investigation with its recommendation that the Commission approve the Application, as amended, and grant the requested CPCN.

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

6. 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 Applicant operates a water system for public use and, consequently, is a water utility.

7. First, the Applicant has obtained the consent of the majority (in this case all) of the owners of the property within the Proposed Service Area, as amended, 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 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 that would preclude it from expanding its operations or facilities.

8. 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.

9. 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)*. 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 Sussex County tax parcels numbers identified in its application filed August 29, 2005, and amended October 19, 2005.

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. 05-CPCN-24 on August 29, 2005, and amended on October 19, 2005, is hereby approved to the extent it is consistent with this Order. A Certificate of Public Convenience and Necessity is hereby granted to Artesian Water Company, Inc., to serve the area identified by the Sussex County tax parcels numbers identified 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

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Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

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APPROVED SERVICE AREA  
PARCELS WITHIN CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

ARTESIAN WATER COMPANY, INC.  
(ROUTE 9)

SUSSEX COUNTY TAX MAP PARCELS NOS.

135-11.00-23.00

135-11.00-24.00

135-11.00-56.00

135-11.00-66.00

135-11.00-67.00

135-11.00-68.00

135-11.00-69.00

135-11.00-72.00

135-15.00-75.00

135-16.00-22.00

135-16.00-26.00