

**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)	
THREE PARCELS OF LAND LOCATED ON)	PSC DOCKET NO. 05-CPCN-33
WOODYARD ROAD, SOUTHEAST OF)	("GRAY DAWN ACRES")
FARMINGTON, KENT COUNTY, DELAWARE)	
(FILED NOVEMBER 18, 2005 AND AMENDED)	
APRIL 28, 2006))	

ORDER NO. 6907

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

This 9th day of May, 2006, the Commission finds, determines, and Orders the following:

I. BACKGROUND

1. Artesian Water Company, Inc. ("Artesian" or "Applicant"), is a water utility providing water services for public use that is subject to the regulatory jurisdiction of this Commission. On November 18, 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 three parcels of land located on Woodyard Road, southeast of Farmington, Kent County, Delaware ("Proposed Service Area"). The basis for the Application is Artesian's possession of a petition requesting water services signed by the owner of the three parcels of land comprising the Proposed Service Area as set forth in 26 Del. C. § 203C(e)(1)b.

2. Staff reviewed the Application in accordance with the rules adopted in PSC Regulation Docket No. 51, Order No. 5730, effective July 10, 2001. The Commission had on file two requests to "opt-out" of Artesian's CPCN area prior to the actual filing of the CPCN Application: one dated October 3, 2005 signed by members of Gray Dawn Acres LLC, and one dated December 19, 2005 signed by William and Louise Messick. When informed of these "opt-out" requests, Artesian stated there was a change in ownership of the parcels and that a new petition would be forthcoming. On March 6, 2006, the Company faxed to the Commission a letter signed by the same two members of Gray Dawn Acres LLC rescinding the earlier "opt-out" request, as well as a signed petition requesting water services. Because of this change, Staff directed the Company to send notice of the Application to the new owner as required by Commission Rules. On April 28, 2005, Artesian amended the Application by faxing: (a) evidence that the required notice was sent by certified mail to the new owners; (b) revised Exhibits A and C which show parcel numbers and ownership information; and (c) a copy of the signed petition sent previously.

3. Staff has solicited comments from the Office of Drinking Water of the Department of Public Health, the Office of the State Fire Marshal, and the Division of Water Resources of the Department of Natural Resources and Environmental Control. Additionally, Staff directed Artesian to publish notice of the Application in two newspapers of general circulation, advising residents of the Application, that the Application may be reviewed at the Commission's office during normal business hours or on the Commission's website,

that a hearing in this matter would not be held unless a meritorious request for a hearing was received, and that property owners may object to, or "opt-out," of the proposed CPCN area.

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) a petition signed by the owners, as listed in the April 28, 2006 amendment to the Application, of the three parcels of land comprising the Proposed Service Area;
- (ii) copies of the United States Postal Service's forms verifying that the Applicant sent, via certified mail, a Commission approved notice prescribed by Water Utility CPCN Reg. 10.109 to the owners of the three parcels as listed in the April 28, 2006 amendment to the Application;
- (iii) the Kent County tax parcel identification numbers of the properties in the Proposed Service Area;
- (iv) a revised listing, dated April 28, 2006, of the landowners of record of the three parcels included in the Proposed Service Area, and the associated tax maps; 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);

5. The record also contains:

- (i) affidavits of publication of the public notices of the Application in the Delaware

State News and The News Journal newspapers on December 9, 2005;

- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated December 9, 2005), from the Office of the State Fire Marshal (dated December 19, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated December 7, 2005) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's May 1, 2006 memorandum of its investigation recommending the Commission approve the Application and grant the requested CPCN. Staff reports that, based upon its review, that Artesian has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

6. 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.

7. First, the Applicant obtained the consent of a majority (in this case all) of the landowners 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 of land within the Proposed Service Area. Third, the record reflects the Applicant's statement that the Applicant will continue to meet the water pressure requirements for its existing customers, and 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.

8. 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 service to its existing customers. The present record does not provide a basis for the Commission to believe 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)*, 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 Kent County tax parcels identified in its Application filed November 18, 2005 and amended April 28, 2006.

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-33, 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 Kent County Tax Map

Parcels Numbers MN00-193.00-02-24.00, MN00-194.00-01-34.00, and MN00-194.00-01-36.00.

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/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary