

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

IN THE MATTER OF THE APPLICATION OF)
THE TOWN OF SELBYVILLE FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE WATER SERVICES TO)
372 PARCELS OF LAND SURROUNDING THE) PSC DOCKET 05-CPCN-37
TOWN OF SELBYVILLE, SUSSEX COUNTY,) ("TOWN OF SELBYVILLE")
DELAWARE (FILED DECEMBER 9, 2005 AND)
AMENDED FEBRUARY 17, 2006))

IN THE MATTER OF THE APPLICATION OF)
ARTESIAN WATER COMPANY, INC., FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE WATER SERVICES TO)
204 PARCELS OF LAND LOCATED EAST OF) PSC DOCKET NO. 04-CPCN-20
THE TOWN OF SELBYVILLE, SUSSEX COUNTY,) (ROUTE 54, PHASE 4)
DELAWARE (FILED AUGUST 20, 2004 AND)
AMENDED SEPTEMBER 23 AND OCTOBER 19,)
2004))

IN THE MATTER OF THE APPLICATION OF)
ARTESIAN WATER COMPANY, INC., FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE WATER SERVICES TO)
228 PARCELS OF LAND LOCATED BETWEEN) PSC DOCKET NO. 04-CPCN-23
THE TOWNS OF ROXANNA AND FENWICK) (ROUTE 54, PHASE 5)
ISLAND, SUSSEX COUNTY, DELAWARE (FILED)
SEPTEMBER 17, 2004 AND AMENDED)
OCTOBER 27 AND DECEMBER 27, 2004))

ORDER NO. 6932

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

This 6th day of June, 2006, the Commission finds, determines, and
Orders the following:

I. BACKGROUND

1. The operation of municipal water systems generally fall
outside the regulatory jurisdiction of this Commission; however, when
seeking to expand or extend water services beyond its corporate

boundaries, a municipal water utility must be granted by this Commission a Certificate of Public Convenience and Necessity ("CPCN") to provide water services to those properties. The Town of Selbyville ("Town" or "Selbyville") operates its own public water system, and on December 9, 2005, filed an application ("Application") with this Commission seeking a CPCN to provide water services to 416 parcels of land outside of and surrounding the corporate boundaries of the Town ("Proposed Service Area"). The basis for the Application is Selbyville's possession of petitions requesting water services signed by a majority of the landowners in the Proposed Service Area as allowed by 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 ("Rules"). During that review, Staff noted several discrepancies in the Application which have been successfully addressed by the Town, with the most recent corrections made February 17, 2006. Additionally, four parcels of land were found to be in the existing service territory of Artesian Water Company, Inc. ("Artesian"), and other parcels were found to be already within the Town's existing CPCN area.

3. Comments were solicited by Staff 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 in accordance with Commission Rules. Additionally, Staff directed Selbyville to publish notice of the Application in two newspapers of

general circulation, advising residents of the Company's application, that the application may be reviewed at the Commission's office during normal business hours, 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.

4. The Commission has received letters from the owners of fifty-one parcels of land either objecting to the CPCN Application, requesting a hearing, or requesting to "opt-out" of the Town's proposed service area. Staff sent copies of all correspondence received from landowners to the Town for their consideration and follow-up. The owners of eleven parcels of land later wrote to the Commission rescinding their earlier requests to "opt-out" and indicating a desire to be included in the Town's CPCN area. Finally, while neither a majority of the landowners objected to the issuance of the requested CPCN, nor was there a meritorious request for a hearing, Staff has recommended, and the Town has agreed, to the removal of those parcels of land where the owner either expressed an objection or requested a hearing on the matter.

5. Artesian submitted a letter dated April 7, 2006 requesting the Commission allow it to abandon the CPCNs granted for three of the properties discussed in paragraph 2 of this Order, subject to the Commission granting a CPCN to Selbyville. Artesian filed a second letter dated May 19, 2006, seeking to abandon its CPCN for the fourth property, again subject to the Commission granting a CPCN to Selbyville.

II. SUMMARY OF THE EVIDENCE

6. The record in this matter consists of the Application, including Selbyville's request that the Commission proceed in this matter under the informal fact-finding procedures set forth in 29 Del. C. § 10123 (¶ 3). The Application, and subsequent amendments to the Application, includes the following:

- (i) petitions signed by a majority of the landowners within the Proposed Service Area;
- (ii) copies of the United States Postal Service's forms verifying that the Town sent, via certified mail, a Commission approved notice to all landowners of the Proposed Service Area as prescribed by Water Utility CPCN Reg. 10.109;
- (iii) the County tax parcel identification numbers of the properties in the Proposed Service Area;
- (iv) a listing of the landowners of record of each of the parcels included in the Proposed Service Area, and the associated tax maps; and
- (v) the Town'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);

7. The record also contains:

- (i) affidavits of publication of the public notice of the Application in the Delaware State News and in The News Journal newspapers on January 12, 2006;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated January 12, 2006), from the Office of the State Fire Marshal (dated December 21, 2005), and from the Department

of Natural Resources and Environmental Control (printed e-mail dated January 11, 2006) reporting that there are no outstanding issues with the Town that might preclude granting the requested CPCN;

- (iii) correspondence from the owners of forty parcels of land requesting to have their property excluded from the Town's Proposed Service Area;¹
- (iv) correspondence dated April 7, 2006 from Artesian Water Company, Inc. requesting to abandon its CPCNs for the properties identified by Sussex County tax map parcels numbers 533-17.00-185.01, 533-17.00-186.01, and 533-17.00-187.00;
- (v) correspondence dated May 19, 2006 from Artesian Water Company, Inc. requesting to abandon its CPCN for the property identified by Sussex County tax map parcel number 533-17.00-183.01; and
- (vi) Staff's May 30, 2006 memorandum reporting that, based upon its review, the Applicant has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

7. The Town of Selbyville operates a water system for public use, and the Commission has jurisdiction to grant a CPCN to a municipal water utility to expand its operations and facilities outside of its corporate boundaries.

8. The Town has obtained the consent of a majority of the landowners of the properties within the Proposed Service Area in compliance with *26 Del. C. § 203C(e)(1)(b)*, and the Town has sent by certified mail an approved notice of its Application to all owners of

¹As noted in paragraph 4 of this Order, any objection or request for a hearing received from a landowner is also being considered as a request to "opt-out." If the Town is able to resolve the concerns of the landowners, it may file a later CPCN application for those properties.

parcels of land within the Proposed Service Area. The record also reflects the Town's statement that the Town will continue to meet the water pressure requirements for its existing customers, and the statement that the Town is not subject to any regulatory Order or finding pertaining to the quality of its services to existing customers which would preclude it from expanding its operations or facilities.

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

10. Selbyville 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 Selbyville is not entitled to a CPCN under the provisions of either 26 Del. C. §§ 203C(f) or 203C(i). Since Selbyville has satisfied the statute's requirements, the Commission shall grant a CPCN to the Town allowing it to expand its operations to provide water utility services to the parcels located outside of its corporate boundaries as identified in its Application as amended, and specifically excludes those parcels of land where the landowner has either objected to the Application,

requested a hearing on the Application, or indicated a desire to "opt-out."

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

1. That, pursuant to 26 Del. C. § 203A(c), the April 7, 2006 and May 19, 2006 letter applications filed by Artesian Water Company, Inc., requesting permission to abandon, or remove, from its service territory four specific parcels of land located near the Town of Selbyville are hereby granted. The parcels of land identified by Sussex County Tax Map Parcels Numbers 533-17.00-185.01 and 533-17.00-186.01 shall be deleted from the service territory granted to Artesian Water Company, Inc., by the Certificate of Public Convenience and Necessity awarded in PSC Order No. 6564 (Jan. 25, 2005); and the parcels of land identified by Sussex County Tax Map Parcels Numbers 533-17.00-183.01 and 533-17.00-187.00 shall be deleted from the service territory granted to Artesian Water Company, Inc., by the Certificate of Public Convenience and Necessity awarded in PSC Order No. 6565 (Jan. 25, 2005). Such deletion shall become conditioned on the grant of the Certificate of Public Convenience and Necessity awarded by paragraph 2 below.

2. 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-37 on December 9, 2005, and amended on February 17, 2006, is hereby approved to the extent it is consistent with this Order, and a CPCN is granted to the Town of Selbyville to serve the area identified by Sussex County Tax Map Parcels Numbers listed in Exhibit "A" to this Order.

3. That the Town of Selbyville 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

E X H I B I T "A"

APPROVED SERVICE AREA
PARCELS WITHIN CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

TOWN OF SELBYVILLE
PSC DOCKET NO. 05-CPCN-37

SUSSEX COUNTY TAX MAP PARCELS NUMBERS

533-004.00-00-0002.00	533-009.00-00-0008.00	533-009.00-00-0039.00
533-004.00-00-0005.00	533-009.00-00-0010.00	533-009.00-00-0040.01
533-004.00-00-0007.00	533-009.00-00-0012.00	533-009.00-00-0040.03
533-004.00-00-0007.01	533-009.00-00-0013.00	533-009.00-00-0041.00
533-004.00-00-0008.00	533-009.00-00-0014.00	533-009.00-00-0044.00
533-004.00-00-0009.00	533-009.00-00-0015.00	533-009.00-00-0045.00
533-004.00-00-0010.00	533-009.00-00-0016.00	533-009.00-00-0045.01
533-004.00-00-0011.00	533-009.00-00-0017.00	533-009.00-00-0045.04
533-004.00-00-0012.01	533-009.00-00-0018.00	533-009.00-00-0048.00
533-004.00-00-0013.00	533-009.00-00-0018.01	533-009.00-00-0048.01
533-004.00-00-0015.00	533-009.00-00-0019.00	533-009.00-00-0048.02
533-004.00-00-0016.00	533-009.00-00-0033.00	533-009.00-00-0048.03
533-004.00-00-0022.00	533-009.00-00-0033.01	533-009.00-00-0050.01
533-004.00-00-0023.00	533-009.00-00-0033.03	533-009.00-00-0050.02
533-004.00-00-0023.01	533-009.00-00-0034.00	533-009.00-00-0051.00
533-004.00-00-0023.03	533-009.00-00-0035.00	533-009.00-00-0052.00
533-004.00-00-0059.00	533-009.00-00-0036.00	533-009.00-00-0052.01
533-004.00-00-0060.00	533-009.00-00-0038.00	533-009.00-00-0052.02
533-009.00-00-0006.00	533-009.00-00-0038.01	533-009.00-00-0052.03
533-009.00-00-0007.00	533-009.00-00-0038.02	533-009.00-00-0052.04

533-009.00-00-0052.05	533-010.00-00-0068.01	533-010.00-00-0082.00
533-009.00-00-0052.06	533-010.00-00-0068.02	533-010.00-00-0082.01
533-009.00-00-0053.00	533-010.00-00-0068.03	533-010.00-00-0082.02
533-009.00-00-0054.00	533-010.00-00-0068.04	533-010.00-00-0082.04
533-009.00-00-0057.00	533-010.00-00-0068.05	533-010.00-00-0082.05
533-009.00-00-0058.00	533-010.00-00-0068.06	533-010.00-00-0083.00
533-009.00-00-0059.00	533-010.00-00-0068.07	533-010.00-00-0084.00
533-009.00-00-0060.00	533-010.00-00-0068.08	533-010.00-00-0085.01
533-009.00-00-0061.00	533-010.00-00-0068.09	533-010.00-00-0085.02
533-010.00-00-0009.00	533-010.00-00-0068.10	533-010.00-00-0085.03
533-010.00-00-0010.00	533-010.00-00-0068.11	533-010.00-00-0086.00
533-010.00-00-0013.00	533-010.00-00-0068.14	533-010.00-00-0087.00
533-010.00-00-0014.00	533-010.00-00-0068.15	533-010.00-00-0087.01
533-010.00-00-0015.00	533-010.00-00-0068.17	533-010.00-00-0088.00
533-010.00-00-0015.01	533-010.00-00-0068.18	533-010.00-00-0089.00
533-010.00-00-0015.02	533-010.00-00-0068.22	533-010.00-00-0090.00
533-010.00-00-0015.03	533-010.00-00-0068.23	533-010.00-00-0091.00
533-010.00-00-0016.00	533-010.00-00-0068.24	533-010.00-00-0092.00
533-010.00-00-0016.01	533-010.00-00-0081.00	533-010.00-00-0095.00
533-010.00-00-0017.00	533-010.00-00-0081.02	533-010.00-00-0100.00
533-010.00-00-0018.00	533-010.00-00-0081.03	533-010.00-00-0116.00
533-010.00-00-0018.01	533-010.00-00-0081.04	533-010.00-00-0117.00
533-010.00-00-0019.00	533-010.00-00-0081.05	533-010.00-00-0118.00
533-010.00-00-0020.00	533-010.00-00-0081.06	533-010.00-00-0119.00
533-010.00-00-0020.01	533-010.00-00-0081.07	533-010.00-00-0120.00
533-010.00-00-0068.00	533-010.00-00-0081.08	533-010.00-00-0120.03

533-010.00-00-0121.00	533-011.00-00-0032.01	533-016.00-00-0025.00
533-010.00-00-0121.01	533-011.00-00-0373.00	533-016.00-00-0025.01
533-010.00-00-0121.02	533-011.00-00-0374.00	533-016.00-00-0026.00
533-010.00-00-0122.00	533-016.00-00-0001.00	533-016.00-00-0027.00
533-010.00-00-0123.00	533-016.00-00-0002.00	533-016.00-00-0040.00
533-010.00-00-0125.00	533-016.00-00-0002.01	533-016.00-00-0057.00
533-010.00-00-0184.00	533-016.00-00-0003.00	533-016.00-00-0057.01
533-010.00-00-0185.00	533-016.00-00-0003.01	533-016.00-00-0057.02
533-010.00-00-0186.00	533-016.00-00-0005.00	533-016.00-00-0064.00
533-010.00-00-0187.00	533-016.00-00-0005.01	533-016.00-00-0068.00
533-010.00-00-0189.00	533-016.00-00-0005.02	533-016.00-00-0069.00
533-010.00-00-0190.00	533-016.00-00-0006.00	533-016.00-00-0071.00
533-010.00-00-0191.00	533-016.00-00-0007.00	533-016.00-00-0071.01
533-010.00-00-0192.00	533-016.00-00-0007.01	533-016.00-00-0072.00
533-010.00-00-0193.00	533-016.00-00-0008.00	533-016.00-00-0073.00
533-010.00-00-0194.00	533-016.00-00-0009.00	533-016.00-00-0074.00
533-010.00-00-0195.00	533-016.00-00-0010.00	533-016.00-00-0081.00
533-010.00-00-0196.00	533-016.00-00-0010.01	533-016.00-00-0082.00
533-010.00-00-0197.00	533-016.00-00-0011.00	533-016.00-00-0083.00
533-010.00-00-0198.00	533-016.00-00-0012.00	533-016.00-00-0086.00
533-010.00-00-0199.00	533-016.00-00-0015.00	533-016.00-00-0106.00
533-010.00-00-0200.00	533-016.00-00-0016.00	533-016.00-00-0108.00
533-010.00-00-0201.00	533-016.00-00-0017.01	533-016.00-00-0109.00
533-010.00-00-0202.00	533-016.00-00-0022.00	533-016.00-00-0110.00
533-011.00-00-0030.01	533-016.00-00-0023.00	533-016.00-00-0110.02
533-011.00-00-0032.00	533-016.00-00-0024.00	533-016.00-00-0110.03

533-016.00-00-0115.01	533-017.00-00-0083.01	533-017.00-00-0156.02
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533-017.00-00-0073.00	533-017.00-00-0128.00	533-017.00-00-0158.00
533-017.00-00-0073.01	533-017.00-00-0129.00	533-017.00-00-0159.01
533-017.00-00-0074.00	533-017.00-00-0130.00	533-017.00-00-0160.00
533-017.00-00-0074.01	533-017.00-00-0135.00	533-017.00-00-0161.00
533-017.00-00-0074.02	533-017.00-00-0136.00	533-017.00-00-0161.01
533-017.00-00-0074.03	533-017.00-00-0137.00	533-017.00-00-0161.02
533-017.00-00-0074.04	533-017.00-00-0138.00	533-017.00-00-0162.00
533-017.00-00-0074.05	533-017.00-00-0139.00	533-017.00-00-0163.00
533-017.00-00-0074.06	533-017.00-00-0140.00	533-017.00-00-0163.01
533-017.00-00-0074.07	533-017.00-00-0143.00	533-017.00-00-0164.00
533-017.00-00-0074.08	533-017.00-00-0144.00	533-017.00-00-0164.01
533-017.00-00-0075.00	533-017.00-00-0145.00	533-017.00-00-0164.02
533-017.00-00-0076.00	533-017.00-00-0146.00	533-017.00-00-0164.03
533-017.00-00-0077.00	533-017.00-00-0147.00	533-017.00-00-0164.04
533-017.00-00-0078.00	533-017.00-00-0148.00	533-017.00-00-0164.05
533-017.00-00-0079.00	533-017.00-00-0148.01	533-017.00-00-0164.06
533-017.00-00-0080.00	533-017.00-00-0155.00	533-017.00-00-0165.00
533-017.00-00-0082.00	533-017.00-00-0156.00	533-017.00-00-0167.00
533-017.00-00-0083.00	533-017.00-00-0156.01	533-017.00-00-0168.00

533-017.00-00-0169.00	533-017.00-00-0207.00	533-017.00-00-0406.00
533-017.00-00-0170.00	533-017.00-00-0219.00	533-017.00-00-0407.00
533-017.00-00-0171.00	533-017.00-00-0225.00	533-017.00-00-0156.09
533-017.00-00-0172.00	533-017.00-00-0226.00	533-018.00-00-0001.00
533-017.00-00-0173.00	533-017.00-00-0227.00	533-018.00-00-0002.00
533-017.00-00-0176.00	533-017.00-00-0228.00	533-018.00-00-0003.00
533-017.00-00-0177.00	533-017.00-00-0229.00	533-018.00-00-0004.00
533-017.00-00-0177.01	533-017.00-00-0230.00	533-018.00-00-0005.01
533-017.00-00-0177.02	533-017.00-00-0231.00	533-018.00-00-0006.00
533-017.00-00-0177.03	533-017.00-00-0232.00	533-018.00-00-0034.00
533-017.00-00-0177.04	533-017.00-00-0233.00	533-018.00-00-0035.00
533-017.00-00-0178.00	533-017.00-00-0234.00	533-018.00-00-0035.02
533-017.00-00-0180.00	533-017.00-00-0235.00	533-018.00-00-0035.03
533-017.00-00-0180.01	533-017.00-00-0236.00	533-018.00-00-0035.04
533-017.00-00-0181.00	533-017.00-00-0237.00	533-018.00-00-0036.00
533-017.00-00-0182.00	533-017.00-00-0238.00	533-018.00-00-0037.00
533-017.00-00-0183.00	533-017.00-00-0240.00	533-018.00-00-0038.00
533-017.00-00-0183.01	533-017.00-00-0241.00	533-018.00-00-0039.00
533-017.00-00-0184.00	533-017.00-00-0242.00	533-018.00-00-0040.01
533-017.00-00-0185.00	533-017.00-00-0244.00	533-018.00-00-0041.00
533-017.00-00-0185.01	533-017.00-00-0245.00	533-018.00-00-0041.01
533-017.00-00-0186.00	533-017.00-00-0246.00	533-018.00-00-0042.00
533-017.00-00-0186.01	533-017.00-00-0246.01	533-018.00-00-0043.00
533-017.00-00-0187.00	533-017.00-00-0247.00	533-018.00-00-0043.01
533-017.00-00-0187.00	533-017.00-00-0248.00	533-018.00-00-0046.00
533-017.00-00-0206.00	533-017.00-00-0405.00	533-018.00-00-0047.01

