

**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. 06-CPCN-04
EIGHTEEN PARCELS OF LAND IN THE) ("MAGNOLIA AREA 3")
VICINITY OF MAGNOLIA, KENT COUNTY,)
DELAWARE (FILED JANUARY 17, 2006 AND)
AMENDED JULY 25, 2006)

ORDER NO. 6997

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

This 8th day of August, 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 January 17, 2006, Artesian 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 twenty-two parcels of land in the vicinity of Magnolia, Kent County, Delaware ("Proposed Service Area"). The basis for the Application is Artesian's possession of petitions requesting water services signed by a majority of the landowners in the Proposed Service Area as set forth in 26 Del. C. § 203C(e)(1)b.¹

¹Of the twenty-two parcels of land, the owners of two parcels of land did not sign petitions requesting water services from Artesian. These two "included" parcels of land, identified by Kent County tax map parcels numbers

2. Staff has reviewed this application in accordance with the regulations adopted in PSC Regulation Docket No. 51, Order No. 5730, effective July 10, 2001 ("Regulations") and the statutory requirements of 26 Del. C., § 203C ("Statute"), and found that in the case of two property owners, the notices required by Statute and Regulations were returned to Artesian by the United States Postal Service marked "undeliverable as addressed." Rather than attempt to resend the notice, Artesian filed an amended parcel listing dated July 25, 2006 removing the four parcels of land owned by these individuals from the Proposed Service Area.²

3. In addition to the required notice to landowners, Staff also 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 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.

4. 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.

NM00-104.00-02-60.00 and SM00-122.00-02-31.00, border on Artesian's existing service territory.

²One of the four parcels of land withdrawn from the Application was also one of the "included" properties discussed in the previous footnote.

II. SUMMARY OF THE EVIDENCE

5. 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) petitions signed by a majority of the landowners within the Proposed Service Area, as amended;
- (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 Proposed Service Area, as amended;
- (iii) the County tax map parcel identification numbers of the properties in the Proposed Service Area, as amended;
- (iv) a listing of the landowners of record of each of the parcels included in the Proposed Service Area, as amended, 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);

6. The record also contains:

- (i) affidavits of publication of the public notices of the Application in the Delaware State News and in The News Journal newspapers on February 3, 2006;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated February 3, 2006), from the Office of the State Fire Marshal (dated February 24, 2006), and from the Department of Natural Resources and Environmental Control (printed e-mail dated February 17,

2006) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;

- (iii) Staff's August 4, 2006 memorandum of its investigation recommending the Commission approve the Application and grant the requested CPCN as amended. Staff reports that, based upon its review, Artesian has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

7. 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.

8. First, the Applicant obtained the consent of a majority of the landowners 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 of land within the Proposed Service Area, as amended. 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.

9. 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.

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)*.

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. 06-CPCN-04 on January 17, 2006 and amended on July 25, 2006, 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:

NM00-104.00-02-60.00	SM00-113.00-01-02.00
NM00-104.00-02-71.00	SM00-113.00-01-03.00
SM00-105.00-01-03.00	SM00-113.00-01-12.00
SM00-105.00-01-03.03	SM00-113.00-01-14.00
SM00-105.00-01-03.26	SM00-113.00-01-15.00
SM00-105.00-01-03.29	SM00-113.00-02-19.03
SM00-112.00-01-10.00	SM00-113.00-02-19.04
SM00-112.00-01-11.00	SM00-113.00-02-19.05
SM00-113.00-01-01.00	SM00-113.00-02-31.00

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/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary