

**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-46  
TWENTY PARCELS OF LAND DISTRIBUTED ) ("INDIAN RIVER PHASE 5")  
BETWEEN MILFORD AND MILLSBORO, SUSSEX )  
COUNTY, DELAWARE (FILED JULY 20, 2006 )  
AND AMENDED SEPTEMBER 25, 2006) )

**ORDER NO. 7046**

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

This 3<sup>rd</sup> day of October, 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 July 20, 2006 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 twenty-six parcels of land distributed between Milford and Millsboro, Sussex 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 this case all) in 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, and found that three parcels of land were already included in a pending Artesian CPCN application. During mapping, Staff discovered that a portion of one parcel of land was in the certificated service territory of another water utility, and that two other parcels of land appeared to have been subdivided prior to the filing of the Application. On September 25, 2006, Artesian filed an amended parcel listing, and the associated tax maps, which remove from the Proposed Service Area the six parcels of land identified by Staff.

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. In addition to the landowner notifications, 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 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. The Commission has not received any comments on the Application, requests for hearing, objections, or requests to "opt-out" of the Proposed Service Area.

## II. SUMMARY OF THE EVIDENCE

4. The record in this matter consists of the Application, as amended, and 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 the landowners in 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 in the Proposed Service Area, as amended, and as prescribed by Water Utility CPCN Reg. 10.109;
- (iii) the County tax 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);

5. 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 August 14, 2006;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated August 10, 2006), from the Office of the State Fire Marshal (dated August 1, 2006), and from the Department of Natural Resources and Environmental Control

(printed e-mail dated August 10, 2006) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;

- (iii) Staff's September 25, 2006 memorandum of its investigation recommending the Commission approve the amended Application and grant the requested CPCN. Staff reports that, based upon its review, Artesian has complied with all the statutory and regulatory requirements necessary for granting the amended 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 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.

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)*.

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-46 on July 20, 2006, and amended on September 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 areas identified by the Sussex County Tax Map Parcels Numbers shown in Exhibit "A" of 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

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

/s/ Jeffrey J. Clark  
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.  
PSC DOCKET NO. 06-CPCN-46

SUSSEX COUNTY TAX MAP PARCELS NUMBERS

133-11.00-39.00

133-19.00-26.00

133-19.00-27.01

135-11.00-2.02

135-16.00-50.00

230-7.00-8.00

230-7.00-89.00

230-7.00-101.02

230-14.00-110.00

230-16.00-2.01

230-16.00-2.02

230-16.00-2.03

230-22.00-15.00

234-21.00-145.02

235-9.00-21.01

235-9.00-21.03

235-24.00-53.00

330-4.00-9.00

330-5.00-1.00

334-6.00-134.00