

**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 )  
FORTY-THREE PARCELS OF LAND ) PSC DOCKET NO. 06-CPCN-62  
DISTRIBUTED EAST OF THE DUPONT ) ("CENTRAL KENT")  
HIGHWAY, SOUTH OF CAMDEN AND NORTH OF )  
GREENWOOD, KENT COUNTY, DELAWARE )  
(FILED OCTOBER 27, 2006 AND AMENDED )  
JANUARY 9, 2007)

**ORDER NO. 7138**

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

This 27<sup>th</sup> day of February, 2007, 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 October 27, 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 sixty-five parcels of land distributed east of the DuPont Highway, south of Camden and north of Greenwood, 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. In this case,

eight parcels of land in the Proposed Service Area had been included without the landowner signing a petition requesting water services from the Applicant. A November 21, 2006, revised parcel listing (Exhibits A and C of the Application) subsequently removed these eight parcels of land, leaving in the Proposed Service Area only properties where all the landowners had signed petitions requesting service.

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 three parcels of land to be in the certificated service territory of another water utility. Staff also noted that one parcel of land was located in an area identified by the Town of Milford for possible future annexation. A second amended parcel listing filed by Artesian on January 9, 2007 removed these four parcels of land from the Proposed Service Area.

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. All three agencies responded indicating that they have no issues relating to Artesian's ability to provide safe, adequate, and reliable water services to its existing customers

4. 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.

5. The Commission has received written requests to "opt-out" of the Proposed Service Area from the owners of ten parcels of land. The January 9, 2007 amended parcel listing has removed these ten parcel as well as twelve other parcels discussed previously. No other comments, requests for a hearing, or objections have been received by the Commission as a result of either the landowner notifications or the newspaper notices.

## II. SUMMARY OF THE EVIDENCE

6. The record in this matter consists of the Application, as amended, 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 the owners of the parcels of land comprising the Proposed Service Area, as amended;
- (ii) copies of the United States Postal Service's form verifying that the Applicant sent, via certified mail, a Commission approved notice to all landowners in the Proposed Service Area, as amended;
- (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, as amended, 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 notices of the Application in the Delaware State News on January 19, 2007, and in The News Journal newspaper on November 13, 2006;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated November 15, 2006), from the Office of the State Fire Marshal (dated November 14, 2006), and from the Department of Natural Resources and Environmental Control (printed e-mail dated November 14, 2006) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's February 21, 2007 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 CPCN.

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

8. 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.

9. First, the Applicant obtained the consent of the landowners of the properties 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.

10. 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.

11. 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-62 on October 27, 2006 and amended on January 9, 2007, 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 the Kent County Tax Map 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

/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-62  
("CENTRAL KENT")

KENT COUNTY TAX MAP PARCELS NOS.

NM00-104.00-02-74.00	SM00-130.00-01-43.14
NM00-111.02-03-57.01	SM00-130.00-01-56.03
NM00-111.04-03-08.01	SM00-130.01-03-59.00
NM00-111.04-03-09.07	SM00-130.01-03-60.00
NM00-111.04-03-10.00	SM00-130.01-03-64.02
NM00-111.04-03-11.00	SM00-140.00-01-09.00
NM00-111.04-03-43.00	SM00-140.00-01-23.00
NM00-112.00-01-04.00	SM00-140.00-01-24.24
NM00-112.00-01-15.00	MD00-150.00-02-29.00
NM00-112.00-01-16.01	MD00-152.00-01-42.00
SM00-122.00-01-32.00	MD00-161.00-01-01.01
SM00-122.00-02-11.01	MD00-161.00-01-05.00
SM00-122.00-02-16.03	MD00-161.00-01-24.00
SM00-122.02-01-02.00	MD00-161.00-01-35.00
SM00-122.02-01-04.00	MD00-161.00-01-35.01
SM00-122.02-01-08.00	MD00-162.00-01-01.12
SM00-122.02-01-09.00	MD00-162.00-01-27.01
SM00-122.02-01-11.00	MD00-162.00-01-28.03
SM00-122.02-01-14.00	MD00-163.00-01-29.00
SM00-122.02-01-17.01	MD00-172.00-02-11.00

MN00-194.00-01-15.01

MN00-194.00-01-38.06

MN00-194.00-01-16.01