

**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. 07-CPCN-04
FOUR PARCELS OF LAND LOCATED ON THE) ("NORTH MILTON 2")
NORTH SIDE OF BEACH ROAD, NORTHWEST OF)
MILTON, SUSSEX COUNTY, DELAWARE)
(FILED FEBRUARY 6, 2007)

ORDER NO. 7156

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

This 3rd day of April, 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 February 6, 2007 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 four parcels of land located on Beach Road, northwest of Milton, Sussex County, Delaware ("Proposed Service Area"). The basis for the Application is Artesian's possession of a petition requesting water services signed by the owners of the four 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, and found no errors or omissions. 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.

3. In addition to the required landowner notification, 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.¹

¹Staff notes that a CPCN application to provide wastewater services to the same four parcels was filed by Artesian Wastewater Management, Inc. on February 6, 2007. The Town of Milton was notified by Staff of both the water and the wastewater applications in an e-mail dated February 6, 2007. While the Town of Milton did file a formal objection to the wastewater CPCN application, it did not file any comments regarding the water CPCN application.

II. SUMMARY OF THE EVIDENCE

4. The record in this matter consists of the Application 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) a petition signed by the owners of the four parcels of land comprising the Proposed Service Area;
- (ii) a copy 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 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 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 February 17, 2007;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated February 20, 2007), from the Office of the State Fire Marshal (dated February 15, 2007), and from the Department of Natural Resources and Environmental

Control (printed e-mail dated February 15, 2007) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;

- (iii) Staff's March 29, 2007 memorandum of its investigation recommending the Commission approve the 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

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 the landowners of the properties 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 discovered that the Applicant is not currently subject to any Commission finding that the utility 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 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. 07-CPCN-04 on February 6, 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 areas identified by Sussex County Tax Map Parcels Numbers 235-14.00-1.00, 235-14.00-2.00, 235-14.00-3.00, and 235-14.00-60.00.

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

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary