

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

IN THE MATTER OF THE APPLICATION OF	)	
TIDEWATER UTILITIES, INC., FOR A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO PROVIDE WATER SERVICES TO	)	PSC DOCKET NO. 05-CPCN-06
TWO PARCELS OF LAND LOCATED EAST OF	)	(HAYFIELD PROJECT)
ELLENDALE, BETWEEN WARREN FARM ROAD	)	
AND JEFFERSON ROAD, SUSSEX COUNTY,	)	
DELAWARE (FILED FEBRUARY 22, 2005)	)	

**ORDER NO. 6609**

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

This 26<sup>th</sup> day of April, 2005, the Commission finds, determines, and Orders the following:

**I. BACKGROUND**

1. Tidewater Utilities, Inc. ("Applicant"), is a water utility providing water services for public use that is subject to the regulatory jurisdiction of this Commission over any expansion of its service territory. On February 22, 2005, 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 two parcels of land located east of Ellendale, between Warren Farm Road and Jefferson Road, Sussex County, Delaware ("Proposed Service Area"), as specifically described by Sussex County Tax Map Parcels Numbers 230-21.00-21.00 and 230-28.00-10.00.

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 also directed the Applicant to publish notice of the Application in two newspapers of general circulation. The notice informed the public that any meritorious request for a hearing or objection must be filed with the Commission no later than thirty days from the publication.

## II. SUMMARY OF THE EVIDENCE

3. 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 amended Application includes:

- (i) petitions signed by all of the landowners within the Proposed Service Area (¶ 1(d));
- (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 Territory as prescribed by Water Utility CPCN Reg. 10.109 (¶ 5);
- (iii) the County tax parcel identification numbers of the properties in the Proposed Service Area (¶ 6);
- (iv) a listing of the landowners of record of each of the parcels included in the Proposed Service Area and the associated tax maps (¶ 7); 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)* (¶ 8 (a)-(d));

5. The record also contains:

- (i) affidavits of publication of the public notice of the Application in the Delaware

State News and The News Journal newspapers on March 9 and March 10, 2005, respectively;

- (ii) Correspondence from the Office of Drinking Water of the Division of Public Health (dated March 8, 2005), from the Office of the State Fire Marshal (dated April 5, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated March 3, 2005) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's April 12, 2005 memorandum of its investigation recommending the Commission approve the Application and grant the requested CPCN. Staff reports that, based upon its review, the Applicant has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

4. Finally, the record does not contain evidence that any person objects to or requests a hearing on the application. No requests to "opt-out" were filed by any of the property owners in the Proposed Service Area.

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

5. The Commission has jurisdiction to grant a CPCN permitting a water utility to expand its operations and facilities, and Applicant operates a water system for public use and, consequently, is a water utility.

6. First, the Applicant obtained the consent of all of the landowners of the property 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: (a) no objection to this application; (b) no request for a hearing on this application; (c) no requests to "opt-out" of the Proposed Service Area; (d) the Applicant's statement that the Applicant will continue to meet the water pressure requirements for its existing customers; and (e) 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. Finally, 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 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) (2002 Supp.)*, 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) (2002 Supp.)*. Since the Applicant has satisfied the statute's requirements, the Commission shall issue a CPCN permitting the Applicant to expand its operations to provide water utility services to the parcels identified in paragraph 1 of this order.

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

1. That, pursuant to *26 Del. C. § 203C(e) (2002 Supp.)*, the application for a Certificate of Public Convenience and Necessity, as filed in PSC Docket No. 05-CPCN-06, is hereby approved to the extent it is consistent with this Order, and a CPCN is granted to Tidewater Utilities, Inc., to serve the area identified by Sussex County Tax Map Parcels Numbers 230-21.00-21.00 and 230-28.00-10.00.

2. That Tidewater Utilities, 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/ Joshua M. Twilley  
Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

PSC Docket No. 05-CPCN-06, Order No. 6609 Cont'd.

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Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary