

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

IN THE MATTER OF THE JOINT APPLICATION)
OF TIDEWATER UTILITIES, INC., AND THE)
CAMDEN-WYOMING SEWER & WATER AUTHORITY,)
FOR THE ABANDONMENT OF A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
GRANTED TO TIDEWATER UTILITIES, INC., TO)
PROVIDE WATER SERVICES TO ONE PARCEL OF)
LAND LOCATED SOUTH OF THE TOWN OF)
CAMDEN, AND THE GRANTING OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO THE CAMDEN-WYOMING SEWER &)
WATER AUTHORITY TO PROVIDE WATER)
SERVICES TO THAT SAME PARCEL OF LAND IN)
KENT COUNTY, DELAWARE)
(FILED MARCH 15, 2005))

PSC DOCKET NO. 05-CPCN-12
(SUNSET VILLAGE LLC)

IN THE MATTER OF THE APPLICATION OF)
TIDEWATER UTILITIES, INC., A CORPORATION)
OF THE STATE OF DELAWARE, FOR APPROVAL)
TO EXTEND ITS FRANCHISE TO PERMIT THE)
OPERATION OF WATER SUPPLY UTILITIES)
NORTH AND SOUTH OF THE CITY OF DOVER,)
STATE OF DELAWARE)
(OPENED OCTOBER 17, 1972))

PSC DOCKET NO. 686

ORDER NO. 6615

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

This 10th day of May, 2005, the Commission finds, determines, and
Orders the following:

I. BACKGROUND

1. The Camden-Wyoming Sewer & Water Authority ("CWS&WA" or the
"Authority") is a public corporate entity created under 16 Del. C. ch.
14 by the Towns of Camden and Wyoming and, as such, is authorized to
construct and operate water and sewer projects located fully, or
partially, within the boundaries of the two municipalities. See 16

Del. C. § 1406(a). The CWS&WA is not generally subject to the regulatory jurisdiction of this Commission. See 26 Del. C. § 202(b). However, under the provisions of 26 Del. C. § 203C, this Commission has the authority to grant a Certificate of Public Convenience and Necessity ("CPCN") to a non-jurisdictional entity, such as the CWS&WA, in order to allow the water utility to expand or extend its operations. 26 Del. C. §§ 202(b), 203C(a). Conversely, Tidewater Utilities, Inc. ("Tidewater"), is a public water utility subject to the supervision of this Commission.

2. On March 15, 2005, the CWS&WA filed an application with the Commission asking for a CPCN for future operation of a public water supply system serving one parcel of land located south of the Town of Camden, Kent County, Delaware, identified by Kent County Tax Map Parcel No. NM-00-103.00-01-31.00. In its application, CWS&WA included a March 8, 2005 resolution by its governing board reflecting the Authority's desire to add the parcel to the Authority's service territory, and a February 8, 2005 request by the property owner for water services from the Authority.

3. At the time of CWS&WA's application, the parcel fell within the water utility service area granted to Tidewater under a CPCN awarded by PSC Order No. 1190 (Mar. 7, 1973) in PSC Docket No. 686. In a letter dated February 16, 2005, Tidewater notified the Commission of its intent to abandon its CPCN for the parcel described in Paragraph 2 of this Order, contingent upon the Commission granting a CPCN to the Authority for the referenced parcel.

4. Staff directed the Authority to publish notice in two newspapers of general circulation. The notices, published in the Delaware State News and The News Journal newspapers on April 1, 2005, advised residents of the Authority's Application and of Tidewater's intent to abandon its CPCN for the property, that the Application may be reviewed at the Commission's offices, that a hearing in this matter would not be held unless a meritorious request for a hearing was received, and that the property owners may object to, or "opt-out," of the proposed CPCN. Neither comments, requests for a hearing, objections, nor "opt-outs" were received.

II. SUMMARY OF THE EVIDENCE

5. The record in this matter consists of CWS&WA's Application, including a request that the Commission proceed in this matter under the informal fact-finding procedures set forth in 29 Del. C. § 10123(3). The Application itself includes the following:

- (i) a copy of the Resolution of the CWS&WA authorizing the filing of an application for a CPCN to provide water services to the parcel of land identified by;
- (ii) a copy of the February 8, 2005 letter from the owner of the property to be served requesting water services from the CWS&WA;
- (iii) a copy of a Kent County Tax Map with the parcel to be served highlighted; and
- (iv) the Authority's statement that its expansion of service to the parcel 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);
- (v) the certified mail receipt and a copy of the letter sent to the property owner,

demonstrating that the CWS&WA provided notification as required by 26 Del. C. § 203C(d)(1);

6. The record in this matter also contains the following:
 - (i) a written request, dated February 16, 2005, from Tidewater to remove from its certificated water service territory the property described in Paragraph 2 of this Order;
 - (ii) correspondence from the Office of the State Fire Marshal (dated April 21, 2005), the Office of Drinking Water of the Division of Public Health (dated April 5, 2005), and the Department of Natural Resources and Environmental Control (e-mail dated March 31, 2005) reporting that none of their respective offices has "any outstanding issues" indicating that the CWS&WA is unable to provide safe, adequate, and reliable water utility services to their existing customers;
 - (iii) affidavits of publication of the public notice of the Application in the Delaware State News and The News Journal newspapers on April 1, 2005; and
 - (iv) Staff's May 3, 2005 memorandum recommending that the Commission approve Tidewater's abandonment petition and then grant the requested CPCN to the CWS&WA.

7. Finally, the record does not contain any evidence that any person objects to the application or requests a hearing, nor has any landowner requested to "opt-out."

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

A. Tidewater's Application to Abandon a Portion of its Certificated Service Area

8. As noted above, Tidewater has filed a letter application to remove, or abandon, the parcel of land described by Kent County Tax Map Parcel No. NM-00-103.00-01-31.00, which is now included in the

service area encompassed under a CPCN previously granted to Tidewater in PSC Order No. 1190 (Mar. 7, 1973). This request is contingent upon the CWS&WA applying for, and being granted by the Commission, a CPCN to provide water services to that property.

9. Pursuant to 26 Del. C. § 203A(c)(3), the Commission finds that the abandonment sought by Tidewater here is reasonable, necessary, and, in light of the CPCN being granted to the CWS&WA, will not be disruptive to the present or future public convenience and necessity. Thus, the Commission grants Tidewater's application to remove the one tax parcel described above in paragraph 2 from Tidewater's certificated service territory.

B. CWS&WA's Application for a CPCN to Serve the One Tax Map Parcel Located Near the Town of Camden

10. The Commission has jurisdiction to grant a CPCN to a water and/or sewer authority, such as the CWS&WA, in order to allow such authority to expand or extend its water utility operations. 26 Del. C. § 203C(a). Based on this record, the Commission finds that the CWS&WA has fulfilled the requirements of 26 Del. C. §§ 203C(e)(1) & 203C(e)(1)c., and is, hence, entitled to a CPCN to extend its operations to serve the Kent County Tax Map Parcel identified in Paragraph 2 of this Order.

11. The CWS&WA has provided in its CPCN Application both a request for water services from the owner of the parcel of land, and a signed resolution from the Authority's governing body authorizing the filing of an application for a CPCN to provide water services to the parcel of land.

14. The Commission finds on this record that the CWS&WA sent notice of its application, by certified mail, to the landowner of the parcel providing the information required by Reg. 10.109 of this Commission's Water Utility CPCN Regulations. Moreover, the record is devoid of: (a) any request by a landowner to "opt-out" of the requested service territory; (b) any objection to the application submitted by a landowner or any other person; and (c) any request for a hearing on the application. The CWS&WA has also submitted a statement indicating: (a) that in expanding its operations to the parcel of land, the Authority will continue to meet water pressure requirements for its existing customers, as well as those within the new service territory; and (b) that the Authority is not now subject to any regulatory order or finding pertaining to the quality of its services to its existing customers which would preclude it from expanding its operations. 26 Del. C. §§ 203C(e)(3), 403.

15. Finally, the Authority - as a non-jurisdictional utility - could not be subject to any existing finding by this Commission that it is unwilling or unable to provide adequate and reliable services to its existing customers. Nor does the present record provide any basis for the Commission to believe that any investigation into the quality of the service being provided by the CWS&WA is necessary in order to render a decision on its CPCN application.

16. In summary, the Commission finds that the CWS&WA has submitted documents which meet the provisions of 26 Del. C. §§ 203C(e)(1), 203C(e)(1)c., and 203C(e)(3). Under the statutory scheme, the Commission therefore shall issue a CPCN permitting the

CWS&WA to expand its operations and facilities to provide water utility services to the parcel of land described in the application originally filed March 15, 2005. Moreover, the present record does not contain any information that would trigger the provisions of either 26 Del. C. §§ 203C(f) or 203C(i) and, hence, preclude the requested CPCN. Consequently, the CWS&WA's application is granted.

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

1. That, pursuant to 26 Del. C. § 203A(c), the February 16, 2005 letter application filed by Tidewater Utilities, Inc., requesting permission to abandon, or remove, from its service territory a specific parcel of land located south of the Town of Camden is hereby granted. The parcel of land identified by Kent County Tax Map Parcel No. NM-00-103.00-01-31.00 shall be deleted from the service territory granted to Tidewater Utilities, Inc., by the Certificate of Public Convenience and Necessity awarded in PSC Order No. 1190 (Mar. 7, 1973).¹ Such deletion shall become conditioned on the grant of the Certificate of Public Convenience and Necessity awarded by paragraph 2 below.

2. That, pursuant to 26 Del. C. § 203C(e), a Certificate of Public Convenience and Necessity is hereby granted to the Camden-Wyoming Sewer & Water Authority to expand its water utility facilities and operations to provide water utility services to the parcel of land identified by Kent County Tax Map Parcel No. NM-00-103.00-01-31.00.

¹See footnote 1, supra.

3. That the Camden-Wyoming Sewer & Water Authority 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.

4. 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

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary