

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

IN THE MATTER OF THE APPLICATION OF)
SUSSEX SHORES WATER COMPANY FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO PROVIDE WATER)
SERVICES TO A PARCEL OF LAND) PSC DOCKET NO. 05-CPCN-09
LOCATED ON THE SOUTH SIDE OF YACHT) (RIVERVIEW ASSOCIATES)
BASIN ROAD, NORTH OF THE TOWN OF)
BETHANY BEACH, SUSSEX COUNTY,)
DELAWARE (FILED MARCH 4, 2005))
)

ORDER NO. 6630

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

This 24th day of May, 2005, the Commission finds, determines, and Orders the following:

1. Sussex Shores Water Company ("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 March 4, 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 one parcel of land located on the south side of Yacht Basin Road, north of the Town of Bethany Beach, Sussex County, Delaware, as specifically described by Sussex County tax map parcel number 134-8.00-164.00.¹

¹The initial Application included two parcels of land; however, during Staff's review it was found that one parcel of land (Sussex County tax map parcel number 134-8.00-163.00) is already within a Sussex Shore's certificated water service territory, and should not be included as part of the Proposed Service Area.

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.

I. 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) a petition for water signed by the landowner (¶ 1(d));
- (ii) a copy of the United States Postal Service's form verifying that the Applicant sent, via certified mail, a Commission approved notice to the landowner as prescribed by Water Utility CPCN Reg. 10.109 (¶ 5);
- (iii) the County tax parcel identification number of the property (¶ 6);
- (iv) a listing of the landowner of record of the parcel and the associated tax map (¶ 7); and
- (v) the Applicant's statement that its expansion of service to the parcel 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 April 1, 2005 and March 25, 2005, respectively;
- (ii) Correspondence from the Office of Drinking Water of the Division of Public Health (dated March 23, 2005), from the Office of the State Fire Marshal (dated April 29, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated March 21, 2005) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's May 13, 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 any evidence that any person objects to or requests a hearing on the application. No request to "opt-out" was filed by the property owner.

II. 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 the landowner in compliance of *26 Del. C. § 203C(e)(1)(b)*. Second, the Applicant sent by certified mail an approved notice of its Application to the owner of the parcel of land. Third, the record reflects: (a) no objection to this application; (b) no request for a hearing on this

application; (c) no request to "opt-out" of the 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)*, 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)*. 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), the application for a Certificate of Public Convenience and Necessity, as filed in PSC Docket No. 05-CPCN-09, is hereby approved to the extent it is consistent with this Order, and a CPCN is granted to Sussex Shores Water Company to serve the parcel of land identified by Sussex County tax map parcel number **134-8.00-164.00**.

2. That Sussex Shores Water Company 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:

Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

PSC Docket No. 05-CPCN-09, Order No. 6630 Cont'd.

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary