

**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 )  
A TOTAL OF TWENTY FOUR PARCELS OF LAND ) PSC DOCKET NO. 05-CPCN-02  
LOCATED IN THE BALTIMORE, ) (GULFSTREAM)  
LEWES/REHOBOTH, AND BROADKILL )  
HUNDREDS, SUSSEX COUNTY, DELAWARE )  
(FILED JANUARY 10, 2005 AND AMENDED )  
FEBRUARY 16, 2005) )

**ORDER NO. 6633**

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

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

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 January 10, 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 a total of twenty-three parcels of land located in the Baltimore, Lewes/Rehoboth, and Broadkill Hundreds, Sussex County, Delaware ("Proposed Service Area"), as specifically described by the tax map parcel number identifications in paragraph 6 of the Application. Two of the parcels of land (identified by Sussex County Tax Map Parcels Nos. 235-23.00-51.00 and 235-23.00-52.00) currently lie within a Tidewater

certificated service area granted by the Department of Natural Resources and Environmental Control in Secretarial Order No. 87-WR-04.

2. During its initial review, Staff discovered several discrepancies in the Application, and on January 21, 2005, notified the Applicant of these discrepancies. On February 16, 2005, an amended CPCN Application was submitted which corrected the discrepancies noted by Staff, and revised the Proposed Service Territory to include all but one of the parcels of land requested in the initial Application and added two additional parcels of land that had been omitted from paragraph 6 of the initial Application.

3. At Staff's direction, the Applicant had published notice of the Application in two newspapers of general circulation, informing 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**

4. The record in this matter consists of the February 16, 2005 amended 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 5, 2005 and March 9, 2005, respectively;
- (ii) Correspondence from the Office of Drinking Water of the Division of Public Health (dated March 2, 2005), from the Office of the State Fire Marshal (dated January 12, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated March 2, 2005) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) a letter from Evans Norwood, dated March 1, 2005, expressing his desire that his property not be included in the Proposed Service Area, and terminating the signed petition for inclusion. Supporting Mr. Norwood's request is a letter dated March 7, 2005 from Ed Middleton of Urquhart-Norwood LLC, the contract owner of the property. The amended Application removed Mr. Norwood's parcel from the Proposed Service Area.
- (iv) Staff's May 9, 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. Staff also notes by including the two parcels of land described in paragraph 1 of this Order in the Commission's approval of this CPCN Application, the service area will be defined more definitively than in Secretarial Order No. 87-WR-04 which used then existing landmarks (such as roads) rather than county parcel numbers.

6. Finally, the record does not contain any evidence that any person objects to the application or requests a hearing.

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

7. 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.

8. 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) the Applicant's statement that the Applicant will continue to meet the water pressure requirements for its existing customers; and (d) 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 that 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 Exhibit "A" hereto.

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-02, 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 the tax parcel numbers set forth in Exhibit "A" to this Order. For the reason described in paragraph 5(iv) of this Order, portions of this CPCN service territory will overlap portions of an existing CPCN service

territory currently held by Tidewater Utilities, Inc., which was granted by the Department of Natural Resources and Environmental Control in Secretarial Order No. 87-WR-04.

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:

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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

**E X H I B I T "A"**

**APPROVED SERVICE AREA  
PARCELS WITHIN CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

**GULFSTREAM  
PSC DOCKET NO. 05-CPCN-02**

**SUSSEX COUNTY TAX MAP PARCELS NOS.**

134-12.00-384.00	334-1.00-6.00
134-12.00-384.01	334-1.00-6.01
134-12.00-385.00	334-1.00-6.07
134-12.00-385.01	334-1.00-10.00
134-13.00-24.00	334-1.00-15.00
134-13.00-25.00	334-5.00-73.00
134-17.00-8.10	334-5.00-83.00
235-22.00-53.01	334-5.00-85.00
235-22.00-56.01	334-5.00-86.00
235-23.00-4.03	334-5.00-88.00
235-23.00-51.00*	334-5.00-89.00
235-23.00-52.00*	334-5.00-90.00

\*Parcel of land also lies within a Tidewater certificated service area granted by the Department of Natural Resources and Environmental Control in Secretarial Order No. 87-WR-04.