

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

IN THE MATTER OF THE APPLICATION OF)	
LONG NECK WATER COMPANY FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO PROVIDE WATER SERVICES TO)	PSC DOCKET 05-CPCN-05
THIRTEEN PARCELS OF LAND LOCATED IN)	(BAYWOOD, ET AL)
THE VICINITY OF LONG NECK, SUSSEX)	
COUNTY, DELAWARE)	
(FILED FEBRUARY 9, 2005))	

ORDER NO. 6635

**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:

I. BACKGROUND

1. Long Neck Water Company ("Applicant"), is a water utility providing water services for public use that are subject to the regulatory jurisdiction of this Commission over any expansion of its service territory. On February 9, 2005, the Applicant filed a request ("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 thirteen parcels of land located in the vicinity of Long Neck, Sussex County, Delaware ("Proposed Service Area"), as specifically described by the tax parcel number identifications listed in the letter requesting the CPCN.

2. Staff reviewed the Application in accordance with the rules adopted in PSC Regulation Docket No. 51, Order No. 5730, effective July 10, 2001. During the initial review, Staff found several

discrepancies, including the omission of evidence that all property owners in the Proposed Service Area had been notified of the Application. On February 28, 2005, Long Neck filed a letter correcting the discrepancies noted by Staff, and included signed waivers from the property owners acknowledging that they are aware of their rights to "opt-out" of the proposed service territory, file an objection to the Application, or request a hearing on the Application.¹

II. SUMMARY OF THE EVIDENCE

4. The record in this matter consists of the Application, and the February 28, 2005 letter correcting deficiencies identified by Staff in the Application, including the Applicant's request for the Commission to proceed in this matter under the informal fact-finding procedures set forth in 29 Del. C. § 10123 (¶ 3). In addition, the Application includes:

- (i) petitions signed by all landowners within the Proposed Service Area;
- (ii) in lieu of the certified mail receipts required by 26 Del. C. § 203C (e)(1), signed waivers from each property owner, acknowledging that they are aware of their right to "opt-out" of the proposed service territory, object to the Application, or request a hearing on the Application;
- (iii) the County tax parcel identification numbers of the properties in the Proposed Service Area;
- (iv) 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)&

¹In that Robert W. Tunnell, Jr., President of Long Neck Water Company, also represents each of the property owners, Staff thought it a waste of resources for the Applicant to send certified letters, and recommended each property owner sign a waiver of the notification requirements, as allowed by 26 Del. C. §203C (g) (2).

(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 24, 2005 and March 25, 2005, respectively,;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated March 11, 2005), from the Office of the State Fire Marshal (dated April 20, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated March 3, 2005) reporting that they have no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's May 6, 2005, memorandum of its investigation and its recommendation that 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.

6. Finally, the record does not contain any evidence that any person objects to or requests a hearing on the Application, nor did any property owner request to "opt-out" of the Proposed Service Area.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

7. The Commission concludes it has jurisdiction to grant a CPCN permitting a water utility to expand its operations and facilities if the water utility satisfies the legal and factual requirements. The Commission finds that Applicant operates a water system for public use and, consequently, is a water utility.

8. First, the Applicant obtained the consent of the property owners within the Proposed Service Area in compliance of 26 Del. C. § 203C(e)(1)(b). Second, the Applicant obtained signed waivers of the

notification requirements from each property owner in 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 services to its existing customers. The present record does not provide any basis for the Commission to believe that any further investigation into the Applicant's service quality is necessary in order to render a decision in this proceeding.

10. 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-05, is hereby approved to the extent it is consistent with this Order, and a CPCN is granted to Long Neck Water Company to serve the area identified by the tax parcel numbers set forth in Exhibit "A" to this Order.

2. That Long Neck 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

/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

LONG NECK WATER COMPANY
(BAYWOOD, ET AL)
PSC DOCKET NO. 05-CPCN-05

SUSSEX COUNTY TAX MAP PARCELS NOS.

234-17.00-23.00

234-17.00-25.00

234-17.00-26.01

234-17.00-170.00

234-17.00-172.00

234-17.00-173.00

234-17.00-174.00

234-18.00-68.00

234-23.00-5.00

234-23.00-7.00

234-23.00-275.00

234-24.00-1.00

234-24.00-2.00