

**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	)	
FOUR PARCELS OF LAND ADJACENT TO	)	PSC DOCKET NO. 05-CPCN-15
BETHANY BEACH ON THE WEST SIDE, AND TO	)	SAVILLE/RTE. 26 RESTAURANT
ONE PARCEL OF LAND LOCATED ON THE	)	
NORTH SIDE OF CAVE NECK ROAD, BETWEEN	)	
LEWES AND MILTON, SUSSEX COUNTY,	)	
DELAWARE (FILED MAY 9, 2005)	)	

**ORDER NO. 6686**

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

This 9<sup>th</sup> day of August, 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 May 9, 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 four parcels of land adjacent to Bethany Beach on the west side, and to one parcel of land located on the north side of Cave Neck Road, between Lewes and Milton, Sussex County, Delaware ("Proposed Service Area")<sup>1</sup>, as specifically

---

<sup>1</sup> The initial Application included two additional parcels of land; however, during Staff's review it was found that these two parcels of land

described by Sussex County Tax Map Parcel Numbers 134-16.00-386.00, 134-16.00-386.01, 134-16.00-386.02, 134-16.00-386.03, and 235-22.00-24.00.

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 date of 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 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 Area 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);

---

are already within the Applicant's certificated water service territory, and should not be included as part of the Proposed Service Area.

- (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 newspaper on June 15 and 19, 2005, and in The News Journal newspaper on June 14, 2005;
- (ii) Correspondence from the Office of Drinking Water of the Division of Public Health (dated June 13, 2005), from the Office of the State Fire Marshal (dated June 1, 2005), and from the Department of Natural Resources and Environmental Control (printed e-mail dated June 7, 2005) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's August 1, 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), 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-15, 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 134-16.00-386.00, 134-16.00-386.01, 134-16.00-386.02, 134-16.00-386.03, and 235-22.00-24.00.

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

\_\_\_\_\_  
Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary