

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

IN THE MATTER OF THE APPLICATION OF)
TIDEWATER ENVIRONMENTAL SERVICES,)
INC., FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO PROVIDE) PSC DOCKET NO. 05-WW-009
WASTEWATER SERVICES TO NINE PARCELS) (DUKES/TRUITT)
OF LAND LOCATED SOUTHEAST OF THE TOWN)
OF LAUREL, SUSSEX COUNTY, DELAWARE)
(FILED JUNE 6, 2005))

ORDER NO. 6714

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO PROVIDE WASTEWATER SERVICES**

This 6TH day of September, 2005, the Commission determines and Orders the following:

1. By the provisions of 74 Del. Laws ch. 317 (July 6, 2004), the General Assembly and Governor included wastewater systems within the public utilities subject to the regulatory oversight of this Commission. See 74 Del. Laws ch. 317 (2004) (amending "public utility" definition in 26 Del. C. § 102(2)).¹

2. The law includes a specific regime for the granting of Certificates of Public Convenience and Necessity ("CPCN") to begin the business of a wastewater public utility or to extend the system and operations of an existing wastewater public utility. See 74 Del. Laws ch. 317 § 6, adding 26 Del. C. § 203D. Under the statute,

¹The enactment continued, in the context of wastewater systems, exemptions from Commission oversight systems owned or operated by municipalities and specific water and sewer districts. 74 Del. Laws ch. 317 §§ 3, 5 (2004) (amending 26 Del. C. § 202(b)). The new law also exempted from Commission oversight wastewater public utilities serving fewer than fifty customers in the aggregate. 74 Del. Laws ch. 317 § 4 (2004), adding 26 Del. C. § 202(h).

specifically 26 Del. C., §203D(d)(2), the Commission shall grant a CPCN to an applicant if it has submitted a petition requesting wastewater services signed by a majority of the landowners in the proposed service area, as well as the proof that all of the landowners in the proposed service area were notified of the application. Under 26 Del. C., § 203D(e), the Commission may deny a request for a CPCN if the applicant is currently subject to a Commission finding, or if the Commission finds that the applicant is unable or unwilling to provide safe, adequate, and reliable service to existing customers.

3. Tidewater Environmental Services, Inc. ("TESI") is a public utility offering wastewater services, and is subject to the regulatory oversight of this Commission. On June 6, 2005, TESI filed an application with the Commission requesting a CPCN to provide wastewater services to nine parcels of land located southeast of the Town of Laurel, between Trap Pond State Park and the James Branch Nature Preserve, Sussex County, Delaware ("Proposed Service Area"), and more specifically identified by Sussex County tax parcels numbers: 332-4.00-20.02, 332-4.00-21.00, 332-4.00-21.03, 332-4.00-26.00, 332-4.00-28.00, 332-4.00-28.02, 332-4.00-28.03, 332-4.00-28.05, and 332-4.00-28.06.

4. As required by 26 Del. C., § 203D(d)(2), and Commission Regulations, TESI included in its application: (a) petitions requesting wastewater services signed by a majority of the landowners (in this case, all of the landowners) in the Proposed Service Area; and (b) evidence in the form of a United States Postal Service certified mail receipt showing that all of the landowners in the

Proposed Service Area were sent notice of the Application. Also included were Sussex County tax maps showing the location of the parcels in the Proposed Service Area.

5. TESI is a new utility, with its first CPCN granted August 23, 2005 (PSC Order No. 6703). To the best of the Commission's knowledge, TESI is not presently providing wastewater services to customers in any of its certificated service areas. Thus, there is no determination to be made as to whether or not the utility is unwilling or unable to provide safe, adequate, and reliable service to existing customers. The Commission Staff did notify the Division of Water Resources of the Delaware Department of Natural Resources and Environmental Control ("DNREC"), the Delaware Office of State Planning ("OSP"), and Sussex County of the CPCN application. There were no comments from any of these agencies indicating an objection to the Commission issuing a CPCN to TESI for these parcels of land.

6. Consequently, consistent with the statutory requirement, the Commission shall grant a CPCN to TESI to provide wastewater public utility services within the Proposed Service Area.

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

1. That, pursuant to the provisions of 26 Del. C. § 203D(d)(2), a Certificate of Public Convenience and Necessity is granted to Tidewater Environmental Services, Inc., to provide wastewater public utility services to nine parcels of land located southeast of the Town of Laurel, between Trap Pond State Park and the James Branch Nature Preserve, Sussex County, Delaware, and more specifically identified by the Sussex County tax parcels numbers:

