

**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)	
WASTEWATER SERVICES TO A PARCEL OF)	PSC DOCKET NO. 05-WW-024
LAND LOCATED ON THE EAST SIDE OF)	("WELSH RUN")
HOLLYVILLE ROAD, EAST OF GEORGETOWN,)	
SUSSEX COUNTY, DELAWARE)	
(FILED AUGUST 26, 2005))	

ORDER NO. 6767

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

This 8th day of November, 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. 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. 74 Del. Laws ch.

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).

317 § 6, adding 26 Del. C. § 203D. Under the statute, 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. On February 22, 2005, by PSC Order No. 6573, the Commission adopted final *Regulations Concerning the Jurisdiction of the Public Service Commission to Grant and Revoke Certificates of Public Convenience and Necessity to Provide Wastewater Services* ("Regulations") which govern the process that non-governmental wastewater utilities serving, or planning to serve, fifty or more customers (in the aggregate) apply for and are granted a CPCN.

4. Tidewater Environmental Services, Inc. ("TESI") is a public utility offering wastewater services, and is subject to the regulatory oversight of this Commission. On August 26, 2005, TESI filed an application with the Commission requesting a CPCN to provide wastewater services to a parcel of land² located on the east side of

²Section 3.1.5 on Page 2 of the Application filed August 26, 2005, listed two parcel numbers; however, the petition signed by the landowners listed one. In a letter dated September 20, 2005, TESI submitted a corrected Page 2 to the Application, showing the correct parcel number in Section 3.1.5.

Hollyville Road, east of Georgetown, Sussex County, Delaware ("Proposed Service Area").

5. As required by 26 Del. C. § 203D(d)(2), and Commission Regulations, TESI included in its application: (a) a petition requesting wastewater services signed by the owner of the parcel of land comprising the Proposed Service Area; and (b) evidence, in the form of a signed United States Postal Service certified mail receipt, showing that the landowner was sent notice of the Application. Also included with the Application was a map showing the location of the Proposed Service Area.

6. TESI is a newly regulated wastewater utility and, to the best of the Commission's knowledge, it is not presently providing wastewater services to any customers. 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. Commission Staff did notify the Division of Water Resources of the Delaware Department of Natural Resources and Environmental Control ("DNREC") of the Application. In its reply, DNREC indicated it had no objection to the Commission granting the requested CPCN to provide wastewater treatment and disposal services.

7. 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

