

**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 THREE PARCELS)	PSC DOCKET NO. 05-WW-031
OF LAND LOCATED ON THE WEST SIDE OF)	("BAY MANOR")
REYNOLDS ROAD, NORTHEAST OF MILTON,)	
SUSSEX COUNTY, DELAWARE)	
(FILED SEPTEMBER 26, 2005))	

ORDER NO. 6800

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

This 20th day of December, 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 September 26, 2005, TESI filed an application with the Commission requesting a CPCN to provide wastewater services to three parcels of land located on the west side of Reynolds Road, northeast of Milton, 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 three parcels of land comprising the Proposed Service Area; and (b) evidence in the form of a 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. Pursuant to Commission Regulations, Staff notified 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 granted to Tidewater Environmental Services, Inc., to provide wastewater public utility services to three parcels of land located on the west side of Reynolds Road, northeast of Milton, Sussex County, Delaware, and more specifically identified by the Sussex County tax parcels numbers 235-7.00-147.00, 235-7.00-147.01, and 235-7.00-147.04.

2. That Tidewater Environmental Services, 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 wastewater 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

/s/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary