

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

IN THE MATTER OF THE APPLICATION OF)
INLAND BAYS PRESERVATION COMPANY,)
L.L.C., FOR APPROVAL OF RATES TO) PSC DOCKET NO. 05-59WW
GOVERN THE PROVISION OF WASTEWATER)
SERVICES IN DELAWARE)
(FILED FEBRUARY 18, 2005))

ORDER NO. 6806

**ORDER TO PRODUCE RECORDS, DOCUMENTS, AND INFORMATION
OR TO SHOW CAUSE WHY SANCTIONS SHOULD NOT BE IMPOSED**

This 10^h day of January, 2006, the Commission determines and Orders the following:

1. Inland Bays Preservation Company, L.L.C. ("Inland Bays") was in the business of operating a wastewater utility on June 7, 2004. When the Commission assumed supervision over public wastewater utilities in July 2004, Inland Bays sought, and obtained, a Certificate of Public Convenience and Necessity ("CPCN") for its operations and existing service territory. See PSC Order No. 6522 (Nov. 23, 2004).¹ Inland Bays also filed a schedule of existing rates.²

2. But beyond simply filing its existing rates, Inland Bays had to also file a rate application to justify either its existing rates, or some other rates it might wish to propose. The Commission

¹See 26 Del. C. § 203D(a)(2) (2004 Supp.).

²See 26 Del. C. § 203D(a)(2) (2004 Supp.).

is then charged to determine the justness and reasonableness of such rates, under an expedited time frame.³

3. The Commission has previously deemed Inland Bays earlier submission of a schedule of its existing rates as the required rate review application to be filed under § 301(c). See PSC Order No. 6672 (July 5, 2005) (providing notices of existing rates and soliciting customer objections and comments). Numerous persons have filed comments about Inland Bays' rates and operations. As Staff conducted its scrutiny of those existing rates, Inland Bays provided various documents and information that Staff has requested.

4. However, Staff now reports that Inland Bays has not responded to Staff's more recent requests for relevant documents and information needed to allow Staff to make its recommendation whether the utility's existing rates are just and reasonable.⁴ Thus, the Commission's review of such rates has now been forced into a standstill.

5. Clearly, the Commission, and its duly authorized Staff, have the statutory right to access, inspect, and examine the books, accounts, and records of Inland Bays. Similarly, the Commission also holds the power to direct Inland Bays to provide information

³See 26 Del. C. § 301(c) (2004 Supp.). Although the text of § 301(c) speaks in terms of the obligation of a pre-existing wastewater utility to file an "initial rate change request" by January 2005, the Commission has reviewed the reasonableness of the existing rates of "grandfathered" wastewater utilities under the process set forth in § 301(c).

⁴See Staff Memorandum (Dec. 22, 2005).

concerning its utility books, accounts, and operations.⁵ It appears that if the Commission is going to push this rate matter to a conclusion in a timely fashion, the Commission must now intervene to direct Inland Bays to provide further documents and information.

6. Moreover, to date, Inland Bays has failed to submit for Commission approval a proposed tariff that will govern its utility operations.⁶ Again, apparently, requests by Staff for Inland Bays to submit such a proposed tariff submission have gone unheeded.

7. Consequently, in order to move this matter along promptly, the Commission directs Inland Bays to submit the relevant and material documents (as set forth in Ordering paragraph 1), as well as a proposed tariff, by a date certain: January 24, 2006.⁷ If Inland Bays fails to make such submissions by that date, it shall appear before this Commission on February 7, 2006 to show cause why it is not obligated to provide the designated documents, information, and a proposed tariff, and why it should not be sanctioned for its failure to submit the documents by the above deadline. See 26 Del. C. § 217. At such time (and at any later scheduled hearing), Inland Bays is

⁵See 26 Del. C. § 207. See in addition "Regulations Governing the Minimum Standards for Service Provided by Public Wastewater Utilities Subject to the Jurisdiction of the Delaware Public Service Commission," Reg. 2.1 ("Availability of Records") (eff. July 10, 2005 (adopted by PSC Order No. 6661 (June 21, 2005)) ("Wastewater Regulations").

⁶Although Inland Bays was not required to file a tariff when it originally filed for its Certificate (26 Del. C. § 203D(a)(2) (2004 Supp.)), it must have an approved tariff in effect to govern its services and operations. See Wastewater Regulations, Regs. 2.4, 2.4.1, & 2.4.2.

⁷The materials listed in Ordering paragraph 1 might go beyond those previously requested in earlier Staff correspondence with Inland Bays. To the extent the listing includes other documents or information, the Commission now directs, under the authority of § 207, that the utility provide such information or records.

entitled to be represented by counsel (or other authorized representative) and to present evidence. The Commission will make its decision concerning compliance and appropriate sanctions or penalties based upon the evidence received into the record.⁸

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

1. That, for the reasons set forth in the body of this Order and under the authority set forth in the provisions of 26 Del. C. § 207, Inland Bays Preservation Company, L.L.C., is hereby directed and ordered to submit to, and file with the Commission, on or before January 24, 2006, the following documents, materials, and information:

- (a) A schedule of customer connections by year and the hook-up fee charged in the year of each hook-up;
- (b) An explanation of the purpose of the hook-up fee and justification for the fee; and
- (c) A report on actions taken to comply with Commission Order No. 6661 governing minimum standards for public wastewater utilities.

In addition, for the reasons set forth in the body of this Order, Inland Bays Preservation Company, L.L.C., is hereby directed and ordered to submit a proposed tariff to govern the terms and conditions of its public wastewater utility services and operations on or before January 24, 2006. The proposed tariff shall be in completed form.

⁸See 29 Del. C. §10122.

2. That, if Inland Bays Preservation Company, L.L.C., does not submit the documents, information, and proposed tariff required by Ordering paragraph 1 by the deadline set forth above, Inland Bays Preservation Company, L.L.C., shall appear before this Commission at 1:00 P.M. on Tuesday, February 7, 2006 and then explain why it failed to comply with the directives in Ordering paragraph 1 and also show cause why it should not be sanctioned or penalized (26 Del. C. § 217) for such failure to comply with this Order.

3. That the Executive Director of the Commission is delegated the authority to extend, for good cause, the deadline set forth in Ordering Paragraph 1 to a new date prior to February 7, 2006.

4. That, in light of the timing requirements set forth in 26 Del. C. § 301(c) (2004 Supp.), Inland Bays Preservation Company, L.L.C., is also directed and ordered, under the provisions of 26 Del. C. § 207, to provide to Staff all information and documents that Staff might hereafter request related to the Commission's review of the rates of Inland Bays Preservation Company, L.L.C. Inland Bays Preservation Company, L.L.C., shall comply with any such request by Staff without delay. A failure to provide such future requests or documents in a timely fashion shall make Inland Bays Preservation Company, L.L.C., potentially subject to the imposition of sanctions and penalties.

5. That the Secretary shall serve this Order on Inland Bays Preservation Company, L.L.C., forthwith.

6. The Commission reserves the jurisdiction and authority to enter such other or 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