

**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 ) PSC DOCKET NO. 05-CPCN-38  
178 PARCELS OF LAND LOCATED ON THE ) ("COUNTRY GROVE")  
SOUTH SIDE OF BACONS ROAD, BETWEEN )  
LAUREL AND DELMAR, SUSSEX COUNTY, )  
DELAWARE (FILED DECEMBER 14, 2005 AND )  
AMENDED MAY 22, 2006)

**ORDER NO. 6934**

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

This 6<sup>th</sup> day of June, 2006, the Commission finds, determines, and Orders the following:

**I. BACKGROUND**

1. Tidewater Utilities, Inc. ("Tidewater" or "Applicant"), is a water utility providing water services for public use that is subject to the regulatory jurisdiction of this Commission. On December 14, 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 one parcel of land located on the south side of Bacons Road, between Laurel and Delmar, Sussex County, Delaware ("Proposed Service Area"). The basis for the Application is Tidewater's possession of a petition requesting water services signed by the owner of the parcel of land. This property had been the subject of an earlier CPCN application, PSC Docket No. 04-CPCN-28, filed by Country Grove Public Water, Inc., in which the developer was

applying for a CPCN to provide water services to the property being developed as the community of Country Grove. On December 7, 2005, Country Grove Public Water, Inc. filed a letter with the Commission withdrawing its CPCN Application, noting that Tidewater would be filing for a CPCN to serve the community.

2. Staff reviewed the Application in accordance with the rules adopted in PSC Regulation Docket No. 51, Order No. 5730, effective July 10, 2001. During this review it was determined that the original parcel of land had been subdivided. Because the petition filed with the Application included only the original parcel of land, Staff directed Tidewater to work with the landowner to determine the parcels of land that should be included in the approved CPCN area, and whether or not there had been a change of ownership of any of the new parcels. A new petition filed February 24, 2006 showed the original parcel was subdivided into 182 parcels of land, all of which were still owned by the original owner. Staff's examination of this revised parcel number listing found that four of these new parcels were not considered part of the community of Country Grove. Tidewater filed a revised petition dated May 16, 2006, showing 178 parcels of land, still under the same ownership as before. An amended parcel listing and site plan drawing was filed by on May 22, 2006. Finally, since there was no change in ownership of the one parcel as opposed to the 178 parcels of land, Staff determined that no additional landowner notification would be required.

3. Staff has solicited comments from the Office of Drinking Water of the Department of Public Health, the Office of the State Fire

Marshal, and the Division of Water Resources of the Department of Natural Resources and Environmental Control. Additionally, Staff directed Tidewater to publish notice of the Application in two newspapers of general circulation, advising residents of the Application, that the Application may be reviewed at the Commission's office during normal business hours or the Commission's website, that a hearing in this matter would not be held unless a meritorious request for a hearing was received, and that property owners may object to, or "opt-out," of the proposed CPCN area.

## 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) a petition signed by the owner of the parcels of land comprising the Proposed Service Area, as amended;
- (ii) copies of the United States Postal Service's forms verifying that the Applicant sent, via certified mail, a Commission approved notice to the landowner of the parcels comprising the Proposed Service Area, as amended, as prescribed by Water Utility CPCN Reg. 10.109;
- (iii) the County tax parcel identification numbers of the properties in the Proposed Service Area, as amended;
- (iv) a listing of the landowner of record of the parcels included in the Proposed Service Area, as amended, and the associated tax maps showing the parcel of land prior to being subdivided, along with an engineering site plan showing the configuration of the new parcels of land; 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);

4. The record also contains:

(i) affidavits of publication of the public notices of the Application in the Delaware State News newspaper on December 19, 2005, and in The News Journal newspaper on December 20, 2005;

(ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated January 12, 2006), from the Office of the State Fire Marshal (dated January 4, 2006), and from the Department of Natural Resources and Environmental Control (printed e-mail dated January 11, 2006) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;

(iii) Staff's May 26, 2006 memorandum of its investigation recommending the Commission approve the Application, as amended, and grant the requested CPCN. Staff reports that, based upon its review, Tidewater has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

### 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 the Applicant operates a water system for public use and, consequently, is a water utility.

6. First, the Applicant obtained the consent of the property owner in compliance of 26 Del. C. § 203C(e)(1)(b). Second, the Applicant sent by certified mail an approved notice of its Application

to the owner of parcels of land within the Proposed Service Area, as amended. Third, the record reflects the Applicant's statement that the Applicant will continue to meet the water pressure requirements for its existing customers and 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.

8. 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.

9. 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 Sussex County tax parcels identified in its Application filed December 14, 2005 and amended May 22, 2006.

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-38 on December 14, 2005 and amended on May 22, 2006, 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 shown in Exhibit "A" of this Order.

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

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

PSC Docket No. 05-CPCN-38, Order No. 6934 Cont'd.

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Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

E X H I B I T "A"

APPROVED SERVICE AREA  
PARCELS WITHIN CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

TIDEWATER UTILITIES, INC.  
PSC DOCKET NO. 05-CPCN-38

SUSSEX COUNTY TAX MAP PARCELS NUMBERS

532-6.00-32.19	532-6.00-138	532-6.00-158
532-6.00-119	532-6.00-139	532-6.00-159
532-6.00-120	532-6.00-140	532-6.00-160
532-6.00-121	532-6.00-141	532-6.00-161
532-6.00-122	532-6.00-142	532-6.00-162
532-6.00-123	532-6.00-143	532-6.00-163
532-6.00-124	532-6.00-144	532-6.00-164
532-6.00-125	532-6.00-145	532-6.00-165
532-6.00-126	532-6.00-146	532-6.00-166
532-6.00-127	532-6.00-147	532-6.00-167
532-6.00-128	532-6.00-148	532-6.00-168
532-6.00-129	532-6.00-149	532-6.00-169
532-6.00-130	532-6.00-150	532-6.00-170
532-6.00-131	532-6.00-151	532-6.00-171
532-6.00-132	532-6.00-152	532-6.00-172
532-6.00-133	532-6.00-153	532-6.00-173
532-6.00-134	532-6.00-154	532-6.00-174
532-6.00-135	532-6.00-155	532-6.00-175
532-6.00-136	532-6.00-156	532-6.00-176
532-6.00-137	532-6.00-157	532-6.00-177

532-6.00-178	532-6.00-204	532-6.00-230
532-6.00-179	532-6.00-205	532-6.00-231
532-6.00-180	532-6.00-206	532-6.00-232
532-6.00-181	532-6.00-207	532-6.00-233
532-6.00-182	532-6.00-208	532-6.00-234
532-6.00-183	532-6.00-209	532-6.00-235
532-6.00-184	532-6.00-210	532-6.00-236
532-6.00-185	532-6.00-211	532-6.00-237
532-6.00-186	532-6.00-212	532-6.00-238
532-6.00-187	532-6.00-213	532-6.00-239
532-6.00-188	532-6.00-214	532-6.00-240
532-6.00-189	532-6.00-215	532-6.00-241
532-6.00-190	532-6.00-216	532-6.00-246
532-6.00-191	532-6.00-217	532-6.00-247
532-6.00-192	532-6.00-218	532-6.00-248
532-6.00-193	532-6.00-219	532-6.00-249
532-6.00-194	532-6.00-220	532-6.00-250
532-6.00-195	532-6.00-221	532-6.00-251
532-6.00-196	532-6.00-222	532-6.00-252
532-6.00-197	532-6.00-223	532-6.00-253
532-6.00-198	532-6.00-224	532-6.00-254
532-6.00-199	532-6.00-225	532-6.00-255
532-6.00-200	532-6.00-226	532-6.00-256
532-6.00-201	532-6.00-227	532-6.00-257
532-6.00-202	532-6.00-228	532-6.00-258
532-6.00-203	532-6.00-229	532-6.00-259

532-6.00-260	532-6.00-286
532-6.00-261	532-6.00-287
532-6.00-262	532-6.00-288
532-6.00-263	532-6.00-289
532-6.00-264	532-6.00-290
532-6.00-265	532-6.00-291
532-6.00-266	532-6.00-292
532-6.00-267	532-6.00-293
532-6.00-268	532-6.00-294
532-6.00-269	532-6.00-295
532-6.00-270	532-6.00-296
532-6.00-271	532-6.00-297
532-6.00-272	532-6.00-298
532-6.00-273	532-6.00-299
532-6.00-274	
532-6.00-275	
532-6.00-276	
532-6.00-277	
532-6.00-278	
532-6.00-279	
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