

**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. 06-CPCN-41  
THE COMMUNITY OF WHITE TAIL RUN, ) ("WHITE TAIL RUN")  
LOCATED ON THE WEST SIDE OF SEVEN )  
HICKORIES ROAD, SOUTH OF KENTON, KENT )  
COUNTY, DELAWARE (FILED JUNE 28, 2006)

**ORDER NO. 7047**

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

This 3<sup>rd</sup> day of October, 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 June 28, 2006, 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 the development of "White Tail Run," located on the west side of Seven Hickories Road, south of Kenton, Kent County, Delaware ("Proposed Service Area"). At the time of filing, the basis for the Application was Tidewater's possession of a signed water service agreement with the developer of a proposed subdivision which has been duly approved by the respective county government (26 Del. C., § 203C(e)(1)(a)).

2. Staff reviewed the Application in accordance with the rules adopted in PSC Regulation Docket No. 51, Order No. 5730, effective July 10, 2001, and found the parcel of land shown in Exhibit "C" of the Application (specifically described by Kent County tax map parcel number KH00-044.00-02-06.00) had been sub-divided by Kent County into 161 parcels of land. Staff also requested documentation showing that the subdivision had been approved by Kent County. On July 18, 2006, Staff received a revised parcel listing showing the new parcel numbers derived from the original parcel of land, and a copy of the final resolution where the Kent County Levy Court had approved the subdivision. In this case, the developer is also the landowner of record of all the parcels of land comprising the proposed service area and Staff further verified that as of June 27, 2006, there had been no change in ownership of any of the newly sub-divided parcels of land.

3. As required by Commission Regulations, 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.<sup>1</sup>

## **II. SUMMARY OF THE EVIDENCE**

4. The record in this matter consists of the Application, as amended, including Applicant's request that the Commission proceed in

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<sup>1</sup>Staff generally requests that the applicant for a CPCN provide public notice of its application in two newspapers of general circulation. In the case of this Application, Staff has waived that requirement because portions of this development have been included in an earlier CPCN application (PSC Docket No. 05-CPCN-26) and the Commission received no comments on that application. Staff has no reason to expect there would be comment on, or an objection to, this CPCN application.

this matter under the informal fact-finding procedures set forth in 29

Del. C. § 10123 (¶ 3). In addition, the Application includes:

- (i) a water service agreement signed by the developer of the 161 parcels of land comprising the Proposed Service Area;
- (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 of land comprising the Proposed Service Area, as prescribed by Water Utility CPCN Reg. 10.109;
- (iii) the County tax map parcel identification numbers of the properties in the Proposed Service Area;
- (iv) a listing of the landowner of record of the parcels included in the Proposed Service Area and the associated tax maps; 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);

5. The record also contains:

- (i) a copy of *Resolution #2468* entered by the Kent County Levy Court approving the record plan of the White Tail Run subdivision;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated September 29, 2006), from the Office of the State Fire Marshal (dated August 1, 2006), and from the Department of Natural Resources and Environmental Control (printed e-mail dated September 26, 2006) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iii) Staff's September 29, 2006 memorandum of its investigation recommending the Commission approve the Application, as

revised, 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

6. 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.

9. First, the Applicant has submitted a signed service agreement with the developer of a proposed subdivision or development, which subdivision or development has been duly approved by the respective county government in compliance of 26 Del. C. § 203C(e)(1)(a). Second, the Applicant sent by certified mail an approved notice of its Application to the owner of all of the parcels of land within the Proposed Service Area. 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.

10. 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 a 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.

11. In summary, the Applicant has submitted the necessary proof required by the provisions of *26 Del. C. §§ 203C(e)(1), 203C(e)(1) a., & 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)*.

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. 06-CPCN-41 on June 28, 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 subdivision of "White Tail Run," which is more specifically identified by the following Kent County Tax Map Parcels Numbers: KH00-44.02-01-01.00 through KH00-44.02-01-98.00, KH00-44.02-02-01.00 through KH00-44.02-02-6.00, and KH00-45.03-02-01.00 through KH00-45.03-02-57.00.

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/ Dallas Winslow

Commissioner

/s/ Jeffrey J. Clark

Commissioner

ATTEST:

/s/ Karen J. Nickerson

Secretary