

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

IN THE MATTER OF THE APPLICATION OF THE)
CAMDEN-WYOMING SEWER & WATER AUTHORITY)
FOR A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO PROVIDE WATER SERVICES) PSC DOCKET NO. 06-CPCN-50
TO TWELVE PARCELS OF LAND LOCATED IN AND) (CWS&WA)
AROUND THE TOWNS OF CAMDEN AND WYOMING,)
KENT COUNTY, DELAWARE)
(FILED JULY 31, 2006))

IN THE MATTER OF THE APPLICATION OF)
TIDEWATER UTILITIES, INC., A CORPORATION)
OF THE STATE OF DELAWARE, FOR APPROVAL)
TO EXTEND ITS FRANCHISE TO PERMIT THE) PSC DOCKET NO. 686
OPERATION OF WATER SUPPLY UTILITIES)
NORTH AND SOUTH OF THE CITY OF DOVER,)
STATE OF DELAWARE)
(OPENED OCTOBER 17, 1972))

ORDER NO. 7079

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

This 19th day of December, 2006, the Commission finds, determines,
and Orders the following:

I. BACKGROUND

1. By this Order, the Commission grants a Certificate of Public Convenience and Necessity ("CPCN") to the Camden-Wyoming Sewer & Water Authority ("CWS&WA" or "the Authority") to expand its business and facilities to provide water services to twelve parcels of land. The Commission does so after reviewing the documents submitted by the Authority and the other participants, and after considering particular facts applicable to several of the parcels.

2. The CWS&WA is a public corporate entity created under 16 Del. C. ch. 14 by the Towns of Camden and Wyoming for the purpose of

constructing, maintaining, and operating water and sewer projects. The CWS&WA is generally not subject to the regulatory jurisdiction of this Commission.¹ However, under the provisions of 26 Del. C. § 203C, this Commission has the authority to grant a CPCN to a normally non-jurisdictional water authority, such as the CWS&WA, in order to allow such water authority to expand or extend its operations.² The other applicant in this matter, Tidewater Utilities, Inc. ("Tidewater"), is a public water utility subject to the regulatory supervision of this Commission. It joins in the application in order to abandon a portion of its certificated service territory in favor of CWS&WA.

3. On July 31, 2006, the CWS&WA filed an application seeking a CPCN to expand its operations to provide public water services to twelve parcels of land located within and outside the Towns of Camden and Wyoming. In its application, the CWS&WA included a copy of a Resolution of its own Board authorizing the filing of the CPCN application and reciting the purpose for the filing. Seven of the parcels identified in the application lie within the current municipal boundaries of the Town of Camden; one lies within the current boundaries of the Town of Wyoming.³ However, at the time of the

¹See 26 Del. C. § 202(b) (2004 Supp.).

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

³See Application, Exhibit 2 (map of areas). The seven parcels now within the Town of Camden do not lie in a single area but in three areas. Id. Moreover it appears that at the time the application was filed in July, 2006, the annexations of the Townsend property (two parcels) and maybe the Sunset Village/Remus property (one parcel) had not been finally completed. These three parcels were formally annexed within the Town of Camden by resolutions adopted in September, 2006. See CWS&WA Transmittal at Exhs. A through F (Nov. 27, 2006) ("Nov. Trans.").

Authority's application, three of the seven parcels now within the Town of Camden also fell within the water utility service area previously granted to Tidewater under a CPCN awarded by PSC Order No. 1190 (Mar. 7, 1973) (PSC Docket No. 686). By letters dated January 12, January 26, and September 6, 2006, Tidewater notified the Commission of its intent to abandon its CPCN for these three parcels (identified by Kent County Tax Map Parcels Nos. NM00-103.00-01-26.00, NM00-103.00-01-30.00, and NM00-103.06-01-77.00), contingent upon the Authority receiving a CPCN to provide water services to the properties.

4. The other four parcels identified in the application lie beyond the current municipal boundaries of either Town. The CWS&WA represents that three of the parcels in this category (Kent County Tax Map Parcels Nos. NM02-094.12-01-01.00, NM02-094.12-01-03.00, and NM02-094.12-01-04.00) are integral parts of the projected Camden Square land development project. According to the Authority, the Town of Camden annexed adjacent parcels that compromise the major portion of the Camden Square project, but the above three smaller parcels were not listed in the formal annexation resolution. However, CWS&WA also reports that, prior to the Camden Square development project, these three parcels - along with the adjoining "Camden Square" parcels that have been annexed - were used as a mobile home park. The Authority served that park with its water services for more than twenty years.⁴ No similar ambiguity surrounds the fourth "out-of-Towns" parcel -

⁴See Nov. Trans. at pg. 1 and Exh. H (describing location and status of the three parcels). In its application, the Authority represents that all the Camden Square parcels, as well as the neighboring Townsend property, are currently served with CWS&WA's water services. Application at pg. 2.

labeled the "Chase Alexa" parcel (NM00-102.00-01.04.00). It lies several miles beyond the current boundaries of the two Towns. The Authority represents that it will serve this parcel (and a new "project area") from a new 12" water main project that will loop-out from an interconnection point with the Authority's present water system in the Town of Wyoming and then return to a similar interconnection point with the present system in the Town of Camden.⁵

5. Staff reviewed the application in accordance with the rules adopted in PSC Regulation Docket No. 51, Order No. 5730, effective July 10, 2001. Staff determined that the application contains the necessary proof that the landowners of each of the twelve parcels have been notified of the application, and the attendant opportunities to object, request a hearing, or "opt-out" and have their particular parcels excluded from the service territory.⁶ No landowner objected, requested a hearing, or petitioned to have a parcel excluded.

6. Staff also solicited comments from the Office of Drinking Water of the Department of Public Health ("ODW"), the Office of the State Fire Marshal ("SFM"), and the Division of Water Resources of the Department of Natural Resources and Environmental Control ("DNREC"). Both DNREC and the SFM indicate that they do not have any issues relating to the Authority's ability to provide safe, adequate, and reliable water services to its existing customers. Staff reports that the ODW initially expressed concerns about non-compliant "chlorine readings" for the Authority's water services but offered that the

⁵ See Nov. Trans. at pg. 2 & Exh. H (describing new water main loop and accompanying "project area").

⁶ See 26 Del. C. § 203C(e)(1), (i) (2004 Supp.).

Authority was working with that Office to cure the deficiencies. In subsequent exchanges, ODW told Staff that later chlorine readings appeared to meet compliance levels and that the ODW was not asking the Commission to defer approval of the requested CPCN.

7. Staff also directed the Authority to publish notice of the application for the twelve parcels in two newspapers of general circulation. The public notices referenced the application and outlined the opportunities to object, request a hearing, or "opt-out." No objections or requests for a hearing were received during the period the notices identified for submitting such responses. In addition, no landowner of any of the parcels filed a request to "opt-out" in response to these public notices.

8. However, when the Commission sat to consider the application at its December 5, 2006 public meeting, two members of the public appeared to voice their objections to including the Chase Alexa parcel in the CPCN.⁷ They questioned whether the CWS&WA held the authority to provide its water (and sewer) services outside the municipal limits of the Towns of Camden and Wyoming and particularly to this parcel which was located several miles from the Towns' current boundaries. They argued that to allow the Authority to serve such Chase Alexa parcel would allow the Authority to create a "de facto growth zone" beyond the short and long range annexation planning areas outlined in the current comprehensive plans of the Towns of Camden and

⁷Mr. Robert Shuba offered that he lives on property close to the Chase Alexa parcel. Ms. Holly Case indicated that she similarly owns property near the contested parcel but also owns property within the Town of Camden that is currently served by CWS&WA.

Wyoming.⁸ The Authority and the counsel for the landowner of the Chase Alexa parcel responded. Each asserted that the Authority held the requisite ability to provide services outside of the two Towns' municipal boundaries consistent with the statutory provision empowering the Authority to construct and operate water and sewer projects that are "within or partly within and partly without" the Towns.⁹ The new looped water main - joined with the Authority's current water infrastructure in both Towns - would be just such a "partly within and partly without" project. Counsel for the Chase Alexa owner also emphasized that issues of land development and growth were not part of any § 203C criteria for awarding a CPCN for water services and that such land-use issues had already been vetted in other fora.¹⁰ After hearing the arguments, the Commission remained uncertain about its authority in exercising its § 203D duties to become immersed in disputes about the scope of authority granted a governmental utility under its enabling provisions. Consequently, the Commission gave the two objecting persons, the Authority, and the

⁸Mr Shuba also submitted a document summarizing his objections. Attached to such document was a copy of a petition opposing water and sewer service to the Chase Alexa property signed by approximately sixty other members of the public. It appears that such petition had been presented to the CWS&WA earlier.

⁹See 16 Del. C. § 1406(a). The Authority's counsel had asserted that position in an earlier letter to the Commission dated December 4, 2006.

¹⁰Counsel for the Chase Alexa owner submitted written comments during the December 5th public meeting. In addition, at that meeting, five other members of the public offered views and comments favoring the Authority's extension of its water & sewer services in the new "project" area to be served by the new looped water main.

Chase Alexa landowner the opportunity to file additional memoranda.¹¹ After receiving such filings, and after further deliberations at its public meeting on December 19, 2006, this is the Commission's Order.

II. SUMMARY OF THE EVIDENCE

9. Initially, in its application, the CWS&WA requested that the Commission proceed in this matter under the informal fact-finding procedures set forth in 29 Del. C. § 10123(3). The application itself includes the following materials and information:

- (a) a copy of the Resolution of the CWS&WA authorizing the filing of an application for a CPCN to provide water services to the twelve parcels of land;
- (b) requests for water services (in various formats) from owners, or representatives of owners, of five parcels;
- (c) a representation by the CWS&WA that the Camden Square parcels (both annexed and non-annexed) and the Townsend parcels are currently provided water utility services by the CWS&WA;
- (d) copies of the Kent County Tax Maps with the parcels to be served highlighted;
- (e) the Authority'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 that such expansion is

¹¹On December 13, 2006, the solicitor for the Town of Camden submitted a letter announcing that the Town of Camden opposed the pending application for the Authority to deliver sewer and water services well beyond the western boundary of the Town of Wyoming. As one ground for such objection, counsel asserted that the Authority's water and sewer proposal was beyond the general powers of the Authority as granted by 16 Del. C. § 1406(a). The Commission notes that under 16 Del. C. § 1407 the municipalities forming a water authority can specify, either in the ordinances creating the authority or by subsequent resolutions or ordinances, the projects to be undertaken by the authority and, by doing so, limit the authority to such projects. However, if the municipalities fail to specify projects, the authority holds all the powers granted under the enabling statute.

not barred by any of the restrictions set forth in 26 Del. C. § 403(c); and

- (f) the certified mail receipts and copies of the letters sent to the property owners, demonstrating that the CWS&WA provided notification as required by 26 Del. C. § 203C(e)(1) to the owners of the twelve parcels.

10. The record in this matter also contains the following:

- (a) written requests, dated January 12, January 26, and September 6, 2006, from Tidewater to remove from its currently certificated water service territory the properties described in paragraph 3 of this Order;
- (b) correspondence from the Office of Drinking Water of the Division of Public Health (letter dated September 11, 2006 and e-mails sent November 27, 28, & 29, 2006), from the Office of the State Fire Marshal (letter dated September 19, 2006), and from the Department of Natural Resources and Environmental Control (e-mail sent August 22, 2006) reporting whether those State agencies had any outstanding issues with the Authority that might preclude granting the requested CPCN;
- (c) affidavits reflecting publication of the public notices related to this application in the Delaware State News (September 3, 2006) and The News Journal (October 3, 2006) newspapers;
- (d) correspondence from CWS&WA (November 27, 2006) transmitting copies of the annexation resolutions and describing the Authority's new project area;
- (e) letter from counsel for Authority (December 4, 2006);
- (f) written comments with attachments submitted by R. Shuba (December 4, 2006);
- (g) written comments by counsel for the Chase Alexa property (December 5, 2006);

- (h) letter from solicitor of Town of Camden (December 12, 2006);
- (i) various memoranda submitted by R. Shuba and H. Case, the Authority, and the Chase Alexa landowner related to the CWS&WA's authority under its enabling provisions; and
- (j) transcripts of the presentations made at the December 5 and 19, 2006 public meetings.

III. FINDINGS & CONCLUSIONS OF LAW

A. Tidewater's request to abandon portions of its Certificated Service Area

11. As noted earlier, Tidewater filed several letters requesting to remove, or abandon, the parcels of land described by Kent County Tax Map Parcels Nos. NM00-103.00-01-26.00, NM00-103.00-01-30.00, and NM00-103.06-01-77.00 from the service area encompassed under a CPCN previously granted to Tidewater in PSC Order No. 1190 (Mar. 7, 1973). Tidewater's request to abandon these areas was contingent upon the CWS&WA applying for, and being granted, a CPCN to provide water services to those three properties.

12. Pursuant to 26 Del. C. § 203A(c)(3), the Commission finds that the abandonment sought by Tidewater here is reasonable, necessary, and - in light of the CPCN now being granted to the CWS&WA - will not be disruptive to the present or future public convenience and necessity. Thus, the Commission grants Tidewater's request to remove the above three parcels from service territory granted Tidewater by Order No. 1190.

B. The Eight "In-Towns" Parcels

13. The Commission has jurisdiction to grant a CPCN to a water authority, such as the CWS&WA, in order to allow such authority to expand or extend its water utility operations. Based on this record, the Commission finds that, as to the eight "in-Towns" parcels, the CWS&WA has materially fulfilled the requirements of 26 Del. C. § 203C(e)(1), and, hence, is entitled to a CPCN to extend its operations to serve those parcels.

14. In its original application, the Authority submitted various forms of petitions, or requests, for water services from the Authority signed by landowners, or representatives of landowners, of four of the eight parcels now situated within the municipal boundaries of the two Towns.¹² The Authority did not present similar petitions or requests from landowners of the annexed Camden Square parcels¹³ or the annexed Townsend parcels.¹⁴ However, the Authority represents that the Camden Square parcels (both annexed and not annexed) and the Townsend parcels are currently already served with water services by the Authority.¹⁵

15. The Commission will accept the four filed requests for service as "valid" petitions under § 203C(e)(1)b., and grant a CPCN

¹²See Application, Exh. 4. The requests related to the New Life Family Worship Center parcel (NM00-103.00-01-26.00), the Tallman/Remus/Sunset Village parcel (NM00-103.00-01-30.00), the Biddle parcel (NM00-103.06-01-77.00), and the Wyoming Methodist Church parcel ((ED20-085.00-01-06.00).

¹³NM00-094.12-02-01.00 & NM00-094.12-02-01.01.

¹⁴NM00-094.08-03-47.00 & NM00-094.08-03-47.01.

¹⁵See Application at pg. 2. At least as to the projected Camden Square parcels, the Authority represents that it previously provided water services to a trailer park on these parcels for more than twenty years.

covering the parcels encompassed by those requests. In addition, the Commission will include the other annexed Camden Square and Townsend parcels within the CPCN, even though the Authority has not presented copies of petitions or requests for service for those parcels. In several prior CPCN proceedings, where a utility has already been providing services, the Commission has equated the fact of such existing service (continuing without objection) with a continued "petition for service" by the landowner that is sufficient to support a CPCN. Similarly, in instances where service to a property has been long-standing, the Commission has been willing to include such a parcel in a present CPCN simply as a reflection of such prior and continued service.

16. The Commission believes that the above reasoning is likewise appropriate for several reasons. First, each of the landowners of these eight annexed parcels - including the Camden Square and Townsend properties - were provided notice of the CWS&WA's application seeking to be certificated to provide water services to their properties. The notices explained the opportunities to object to the CPCN or to "opt-out" and exclude their properties from the Authority's service area. No landowner - including those who did not execute a petition - objected to the CWS&WA providing water services. Second, as of now, all of the parcels - including those not accompanied by a petition - are within the municipal boundaries of one or the other Town. In prior applications involving the CWS&WA, the Commission has suggested that, at least as to service within the Towns' municipal boundaries, the Towns may have delegated decisions

about when and where to provide water services to the Authority. Cf. 26 Del. C. § 203C(e)(1)c. (2004 Supp.) (allowing CPCN to be based upon resolution requesting service entered by governing board of municipality). The Commission will grant a CPCN for all the "in-Towns" parcels.

C. "Out of Towns" Parcels

1. The Three Camden Square Parcels

17. As noted earlier, three parcels¹⁶ - which CWS&WA represents as being integral parts of the projected Camden Square land development project - have apparently never been formally annexed by the Town of Camden. However, the Authority, for more than twenty years, provided water services to all the parcels in the development project when they were previously used as a mobile home park. Service to them would not be any expansion of the Authority's prior operations.

18. As with the annexed Camden Square parcels, the Authority has not provided petitions by the present landowner of these three parcels requesting water service from the CWS&WA. Yet, here again, the Commission will include these parcels in the CPCN based on the fact of the Authority's long-standing service to the area. The notice sent to the present owner of these parcels (being the same owner of the Camden Square annexed parcels) referenced all of the Camden Square parcels as being encompassed by the CPCN application. That owner did not seek to exclude any of the parcels, suggesting that it desires

¹⁶ The other parcels within the Camden Square development area were annexed in June, 2003.

continued water service by the Authority to all the lands in the Camden Square development area.

2. The Chase Alexa Parcel

19. The Authority also included in its application the Chase Alexa parcel. To support a CPCN for such parcel, the Authority provided a request for Authority water and sewer services executed by a lawyer for the landowner.¹⁷ The Commission finds such a request a sufficient petition under § 203C(e)(1)b.

20. No one disputes that the present landowner of the Chase Alexa property wants the Authority to provide water services to its property, which it apparently will develop into a residential housing subdivision.¹⁸ Rather, the issue raised belatedly by the two objecting members of the public is whether the Authority, under its enabling provisions, has the power to extend its water system and operations to this parcel that lies beyond the current boundaries of the Towns that initially formed the Authority over twenty years ago.

21. After reviewing the materials provided on this issue, the Commission determines that it cannot clearly find that the Authority lacks the authority to serve this particular parcel. The Commission frames its determination in this way because the Commission continues to be skeptical whether section 203C empowers it to undertake detailed, or exhaustive, investigations into the scope of the enabling provisions for government and municipal water utilities when such

¹⁷See Application, Exh. 4, Attach 5.

¹⁸The Authority has provided documents reflecting notice of its application to this landowner.

entities seek a CPCN to expand their operations or service territories. The Commission has no general supervision over municipal utilities, government water authorities, and government water districts. Consequently, it holds no special expertise on issues about what such governmental entities have been legislatively charged to do, or not to do.¹⁹ Any Commission investigation - in any depth - concerning the scope and reach of a governmental entity's delegated authority under its enabling statutes or documents would move the Commission into areas of statutory interpretation and application normally reserved for the courts of law. This would be particularly so if the task of finding answers to such questions requires moving beyond preliminary facial textual analysis to divining legislative purposes for particular provisions in specific enabling acts.²⁰

22. In this case, the Authority says that the Chase Alexa parcel will be served by its new "project" comprised of a new water main loop extending out from its current system within the Town of Wyoming and then returning to the current system within the Town of Camden. And it points to the provisions of 16 Del. C. § 1406(a) that describe the permissible purposes of a water and sewer authority to include "constructing," "maintaining," and "operating" a "project or

¹⁹Cf. 26 Del. C. § 212 (Commission, after hearing, may direct jurisdictional public utility to comply with provisions in its charter).

²⁰Of course, the Commission regularly interprets the text of statutes in the course of exercising its regulatory authority over "jurisdictional" public utilities. But in almost all of those instances, the statutory provisions the Commission interprets are those that it administers. Here the Commission is being asked to cull the meaning and application of statutory provisions related to the delegated powers of a water authority under a statutory scheme that the Commission does not superintend, and hardly knows.

projects" that are "within or partly within and partly without" one or more of the creating municipalities.²¹

23. Nothing submitted here counters the textual conclusion that § 1406(a) allows a water authority to build, maintain, and operate a "project" that may be partly outside the Town limits of their incorporating communities.²² And no one has offered in this record any indication that the particular articles of incorporation for the CWS&WA restrict the scope of the territorial authority generally permitted by § 1406(a).

24. It has been urged that the new water main loop, which will interconnect with the Authority's existing in-Town water infrastructure at each end, but will apparently currently serve few, or no, "in-Towns" subscribers can hardly be described as a project "partly within" the Towns. But that depends on how one defines "project" as used in § 1406(a). Is the "partly within and partly without" authority to be measured on a piecemeal basis, with each new extension deemed a separate "project" required to have an "in-town" attribute? Or is the "partly within" language to be determined on a "consolidated" system basis, looking to whether, as a whole, the entire system (or "project") operated by the water authority is

²¹Under the Water and/or Sewer Authorities' Act, a "project" is defined to include "any water system . . . and any combination or part or parts thereof owned, constructed, or operated by an authority. . . ." 16 Del. C. § 1401(9). In turn, a "water system" includes not only the necessary physical infrastructure but also "all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operations thereof." 16 Del. C. § 1401(12) (emphasis added).

²²See also 16 Del. C. § 1406(18) (implicitly recognizing authority's ability to build and serve beyond incorporating towns by allowing continued operations by an authority if a third municipality might annex the authority's service territory).

"partly within" an organizing town? The materials submitted to the Commission provide no clear method for how to interpret and apply the "partly within and partly without" text in § 1406(a). In the absence of any indication in the text of how the General Assembly and Governor (in 1953) intended this phrase to apply, the Commission is unwilling to draw its own interpretive lines - particularly under a statute it does not administer. The language of the phrase - on its face - is textually broad enough to encompass the CWS&WA's loop extension - whether viewed in isolation, or as part of the Authority's entire system.²³

25. The two members of the public cite the Commission to an earlier Court of Chancery ruling that a provision in a city charter restricting annexations to "contiguous" properties precluded "shoestring" annexations of distant and disbursed properties linked to the city solely by concurrently annexed roadways.²⁴ They say that the Authority (as a creature formed by and indirectly controlled by the two municipalities) is, or should be, likewise precluded from acquiring a service territory not contiguous to the current Towns' boundaries and only connected by the "shoestring" of the new loop extension. Initially, the Commission is not sure that the same principles that might call for cabining municipal annexations carry

²³The Commission does note that the CWS&WA has said that the "project area" for this new water main loop is the area within the new loop. However, the Authority has not yet applied for a CPCN to serve the areas within the loop. The Commission would expect that any future application by the Authority for a service territory encompassing such parcels would meet the requirements of section 203C.

²⁴State ex rel. Dept. of Transportation v. City of Milford, 576 A.2d 618 (Del. Ch. 1989).

over to the task of defining the areas to be served by a water and sewer authority created under Chapter 14 of Title 16. But more basically, what is missing from this assertion is any reference to the text in the Water and/or Sewer Authorities Act that acts as a grounding point for such "contiguous parcel only" rule to govern a water and sewer authority. As emphasized before, the Commission is reticent, in a section 203C application, to go beyond statutory text to determine the scope of a water authority's powers.

26. In sum, the Commission, recognizing its limited expertise in this area, cannot say that the CWS&WA's line extension is a project "unauthorized" by its enabling provisions. And, in turn, it cannot say that the Authority's service off of such loop to the Chase Alexa parcel would similarly be "ultra vires."²⁵

D. Notices and Potential Disqualifications

27. The Commission also finds that the CWS&WA sent notices of its application, by certified mail, to all of the landowners consistent with Reg. 10.109 of this Commission's Water Utility CPCN Regulations. Moreover, in the case of these twelve parcels of land, the record is devoid of any request by a landowner to "opt-out" of the requested service territory.

28. The CWS&WA has also submitted a statement, consistent with 26 Del. C. § 403 (2004 Supp.), indicating that in expanding its

²⁵The Commission appreciates the argument that service by the Authority beyond the incorporating Towns' limits will leave its "out-of-Towns" customers without any voice in the selection of the Authority's board members that are appointed by the Towns' councils. However, the Commission does not believe it has the power to look to such policy issues of "political accountability" - however weighty - to trump the statutory text of section 1406(a) that allows extraterritorial expansions.

operations to these twelve parcels the Authority will continue to meet the statutory-required minimum water pressure requirements both as to its existing customers, and any new customers within the twelve parcels. The Authority also represents that it is not now subject to any regulatory Order or finding pertaining to the quality of its services to its existing customers which would preclude it from expanding its operations.²⁶

29. Finally, the Authority - as a non-jurisdictional utility - could not be subject to any existing finding by this Commission that it is unwilling or unable to provide adequate and reliable services to its existing customers. Nor does the present record provide any basis for the Commission to believe that any investigation into the quality of the service being provided by the CWS&WA is necessary in order to render a decision on a service territory encompassing the twelve parcels.²⁷

30. In summary, the Commission finds, that the CWS&WA has submitted documents which meet the provisions of 26 Del. C. § 203C(e)(1), (3) (2004 Supp.).²⁸ Under the statutory scheme, the Commission therefore shall issue a CPCN permitting the CWS&WA to

²⁶See 26 Del. C. § 203C(e)(3) (2004 Supp.).

²⁷26 Del. C. § 203C(f) (2004 Supp.). The ODW did report issues surrounding earlier "chlorine level" readings related to the Authority's water services. However, the ODW has not sought to have this Commission withhold the requested CPCN based on such earlier test results.

²⁸The Commission rejects the notion that the CWSWA is a "new" water utility under section 203C(e)(2). The Authority has apparently provided water services since the early 1960s and has been issued prior CPCNs for its service territories.

expand its operations to provide water utility services to the twelve parcels of land designated in the application.

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

1. That, pursuant to 26 Del. C. § 203A(c), the written requests filed by Tidewater Utilities, Inc. on January 12, January 26, and September 6, 2006 seeking permission to abandon, or remove, from its service territory the three parcels of land identified by Kent County Tax Map Parcels Nos. NM00-103.00-01-26.00, NM00-103.00-01-30.00, and NM00-103.06-01-77.00 is hereby granted. These parcels of land shall be deleted from the service territory granted to Tidewater Utilities, Inc., by the Certificate of Public Convenience and Necessity awarded in PSC Order No. 1190 (Mar. 7, 1973). Such deletion shall become conditioned on the grant of the Certificate of Public Convenience and Necessity awarded by paragraph 2 below.

2. That, pursuant to 26 Del. C. § 203C(e), a Certificate of Public Convenience and Necessity is hereby granted to the Camden-Wyoming Sewer & Water Authority to expand its water utility facilities and operations to provide water utility services to the following twelve parcels of land identified by the following Kent County Tax Map Parcels Nos.:

ED20-085.00-01-06.00	NM02-094.12-01-01.00
NM00-094.08-03-47.00	NM02-094.12-01-03.00
NM00-094.08-03-47.01	NM02-094.12-01-04.00
NM00-094.12-02-01.00	NM00-103.00-01-26.00
NM00-094.12-02-01.01	NM00-103.00-01-30.00
NM00-102.00-01-04.00	NM00-103.06-01-77.00

3. That the Camden-Wyoming Sewer & Water Authority 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.

4. 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