

**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 ) PSC DOCKET NO. 06-CPCN-57  
NECESSITY TO PROVIDE WATER SERVICES TO ) ("SOUTH COASTAL REGIONAL  
ONE PARCEL OF LAND LOCATED ON BEAVER ) WW FACILITY")  
DAM ROAD, EAST OF OCEAN VIEW, SUSSEX )  
COUNTY, DELAWARE )  
(FILED OCTOBER 4, 2006)

**ORDER NO. 7112**

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

This 23<sup>rd</sup> day of January, 2007, 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 October 4, 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 one parcel of land located on Beaver Dam Road, east of Ocean View, Sussex County, Delaware. The basis for the Application is Tidewater's possession of a petition requesting water services signed by the owner of the parcel of land<sup>1</sup> as set forth in 26 Del. C. § 203C(e)(1)b.

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<sup>1</sup>The petition also includes the following written statement from the landowner: "This [petition for water service] is conditioned upon the continued use of well water for the industrial process for the South Coastal

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 no errors or omissions. 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. The Commission has not received any correspondence regarding this Application as a result of either the landowner notification or the newspaper notices.

## **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

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Regional Wastewater Facility." When asked about the "condition," Tidewater faxed to Staff a copy of a letter from the Sussex County Engineering Department to Tidewater which states, "The County reserves the right to, at a later date, have Tidewater petition the Public Service Commission to remove the Administrative Building and the Operations and Maintenance Building from the Tidewater Utilities, Inc. water service territory and serve the entire tax parcel 1-34-16-388.01 with water from wells owned by Sussex County." The Commission takes no present position on this reservation. It may be that the utility and the owner might agree that the utility, at some future time, will ask to abandon the certificated service territory. However, such an application for abandonment, even if triggered by a prior agreement, would still have to be approved by the Commission under the statutory criteria for abandonments set forth in 26 Del. C. § 203A(c).

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

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

- (i) a petition requesting water services signed by the owner of the parcel of land;
- (ii) a copy of the United States Postal Service's form verifying that the Applicant sent, via certified mail, a Commission approved notice to the landowner as prescribed by Water Utility CPCN Reg. 10.109;
- (iii) the County tax parcel identification number of the property;
- (iv) a listing of the landowner of record of the parcel, and the associated tax map; and
- (v) the Applicant's statement that its expansion of service to the parcel of land 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 October 19, 2006 and in The News Journal newspaper on October 23, 2006;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated October 24, 2006), from the Office of the State Fire Marshal (dated October 10, 2006), and from the Department of Natural Resources and Environmental Control (printed e-mail dated October 17, 2006) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN; and
- (iii) Staff's December 22, 2006 memorandum of its investigation recommending the Commission approve the Application 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 landowner 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 the parcel of land. 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.

7. 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.

8. 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).

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-57 on October 4, 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 Parcel Number 134-16.00-388.01.

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

PSC Docket No. 06-CPCN-57, Order No. 7112 Cont'd.

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary