

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

IN THE MATTER OF THE APPLICATION OF)
THE TOWN OF FELTON FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO) PSC DOCKET NO. 07-CPCN-03
PROVIDE WATER SERVICES TO ONE PARCEL) ("HURD'S CROSSING")
OF LAND LOCATED ON WALNUT STREET,)
NORTH OF FELTON, KENT COUNTY, DELAWARE)
(FILED JANUARY 25, 2007))

ORDER NO. 7147

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

This 20th day of March, 2007, the Commission finds, determines, and Orders the following:

I. BACKGROUND

1. The operation of municipal water systems generally fall outside the regulatory jurisdiction of this Commission; however, when seeking to expand or extend water services beyond its corporate boundaries, a municipal water utility must be granted by this Commission a Certificate of Public Convenience and Necessity ("CPCN") to provide water services to those properties. The Town of Felton ("Town" or "Felton") operates its own public water system and, on January 25, 2007, filed an application ("Application") with this Commission seeking a CPCN to provide water services to a parcel of land located on Walnut Street, outside of the municipal boundaries of the Town of Felton, Kent County, Delaware. The basis for the Application is the Town's possession of a petition requesting water services signed by the owner of the parcel of land as set forth in 26 Del. C. § 203C(e)(1)b.

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. All three agencies responded indicating that they have no issues relating to the Town's ability to provide safe, adequate, and reliable water services to its existing customers.

4. Staff directed the Town 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 on 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 comments on the Application, requests for hearing, objections, or a request to "opt-out" of the proposed service area.

II. SUMMARY OF THE EVIDENCE

5. The record in this matter consists of the Application, including the Town'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 requesting water services from the Town of Felton signed by the owner of the parcel of land;

- (ii) a copy of the United States Postal Service's forms verifying that the Town sent, via certified mail, a Commission approved notice to the landowner as prescribed by Water Utility CPCN Reg. 10.109;
- (iii) a listing of the landowner of record of the parcel of land and the associated tax maps; and
- (iv) the Town's statement that its expansion of service to the parcel of land in the proposed service area will comply with the water pressure requirements of 26 Del. C. § 403(a)&(b), and that it is not barred by any of the restrictions set forth in 26 Del. C. § 403(c);

4. The record also contains:

- (i) an affidavit of publication of the public notice of the Application in the Delaware State News and The News Journal newspapers on February 19, 2007;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated February 20, 2007), from the Office of the State Fire Marshal (dated February 21, 2007), and from the Department of Natural Resources and Environmental Control (printed e-mail dated February 15, 2007) reporting that there are no outstanding issues with the Town that might preclude granting the requested CPCN;
- (iii) Staff's March 15, 2007 memorandum of its investigation and recommending the Commission approve the Application and grant the requested CPCN. Staff reports that, based upon its review, the Town of Felton has complied with all the statutory and regulatory requirements necessary for granting the CPCN.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

5. The Town of Felton operates a water system for public use and the Commission has jurisdiction to grant a CPCN to a municipal water utility to expand its operations and facilities to areas outside of its municipal boundaries.

6. First, the Town obtained the consent of the owner of the property comprising the proposed service area in compliance of 26 Del. C. § 203C(e)(1)(b). Second, the Town sent an approved notice of its Application to the owner of the parcel of land as required. Third, the record reflects Felton's statement that the Town will continue to meet the water pressure requirements for its existing customers, and Felton's statement that the Town 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 Town and has not discovered that the Town 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 Town's service quality is necessary in order to render a decision in this proceeding.

8. In summary, the Town of Felton 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 Town 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. 07-CPCN-03 on January 25, 2007, is hereby approved to the extent it is consistent with this Order, and a CPCN is granted to the Town of Felton to serve the area identified by Kent County Tax Map Parcel Number SM00-128.00-02-45.03.

2. That the Town of Felton 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

PSC Docket No. 07-CPCN-03, Order No. 7147 Cont'd.

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary