

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

IN THE MATTER OF THE APPLICATION OF	)	
TIDEWATER ENVIRONMENTAL SERVICES, INC.,	)	
FOR A CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY TO PROVIDE WASTEWATER	)	
SERVICES TO THREE PARCELS OF LAND	)	
LOCATED ON THE NORTHEAST SIDE OF THE	)	PSC DOCKET NO. 07-WW-001
INTERSECTION OF HARMONY CEMETERY ROAD	)	( "AVEBURY" )
AND HOLLYVILLE ROAD, NEAR FAIRMOUNT,	)	
SUSSEX COUNTY, DELAWARE	)	
( FILED JANUARY 11, 2007 AND AMENDED	)	
MARCH 20, 2007 )	)	

**ORDER NO. 7169**

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE WASTEWATER SERVICES**

This 24<sup>th</sup> day of April, 2007, the Commission determines and Orders the following:

1. By the provisions of 74 Del. Laws ch. 317 (July 6, 2004), the General Assembly and Governor included wastewater systems within the public utilities subject to the regulatory oversight of this Commission. See 74 Del. Laws ch. 317 (2004) (amending "public utility" definition in 26 Del. C. § 102(2)).

2. The law includes a specific regime for the granting of Certificates of Public Convenience and Necessity ("CPCNs") to begin the business of a wastewater public utility or to extend the system and operations of an existing wastewater public utility. See 74 Del. Laws ch. 317 § 6, adding 26 Del. C. § 203D. Under the statute, specifically 26 Del. C. § 203D(d)(2), the Commission shall grant a CPCN to an applicant if it has submitted a petition requesting wastewater services signed by a majority of the landowners in the

proposed service area, as well as the proof that all of the landowners in the proposed service area were notified of the application.

3. On February 22, 2005, by PSC Order No. 6573, the Commission adopted final *Regulations Concerning the Jurisdiction of the Public Service Commission to Grant and Revoke Certificates of Public Convenience and Necessity to Provide Wastewater Services* ("Regulations") which govern the process that non-governmental wastewater utilities serving, or planning to serve, fifty or more customers (in the aggregate) apply for and are granted a CPCN.

4. Tidewater Environmental Services, Inc. ("TESI") is a public utility offering wastewater services and is subject to the regulatory oversight of this Commission. On January 11 2007, TESI filed an application with the Commission requesting a CPCN to provide wastewater services to five parcels of land located on both sides of Harmony Cemetery Road, near Fairmont, Sussex County, Delaware ("Proposed Service Area"). On March 20, 2007, TESI amended this CPCN by withdrawing two of the five parcels of land from its Proposed Service Area. The three remaining parcels of land, located on the northeast side of the intersection of Harmony Cemetery Road and Hollyville Road, are proposed for development as a 360-unit residential subdivision called "Avebury."<sup>1</sup>

5. As required by 26 Del. C. § 203D(d)(2), and Commission Regulations, TESI included in its application: (a) petitions requesting wastewater services signed by the owners of the parcels of

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<sup>1</sup>A proposal for the parcels was reviewed during 2004 under the Preliminary Land Use Service ("PLUS"), as outlined in Chapter 92 of Title 29 of the Delaware Code (PLUS Project 2004-07-08).

land comprising the Proposed Service Area, as amended; and (b) evidence, in the form of signed United States Postal Service certified mail receipts, showing that the landowners were sent notice of the Application. Also included with the amended Application were Sussex County tax maps showing the locations of the Proposed Service Area, as amended.

6. Pursuant to Commission Regulations, Commission Staff requested written comment from the Delaware Department of Natural Resources and Environmental Control ("DNREC") as to whether there are any outstanding issues with that Agency indicating TESI has been unwilling or unable to provide safe, adequate, and reliable wastewater services to its existing customers.<sup>2</sup> In its reply, DNREC indicated it had no objection to the Commission granting the requested CPCN to provide wastewater treatment and disposal services.

7. Consequently, consistent with the statutory requirement, the Commission shall grant a CPCN to TESI to provide wastewater public utility services within the Proposed Service Area, as amended.

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<sup>2</sup>Under Commission rules, the utility is required to file a copy of its application with DNREC, the Office of State Planning ("OSP"), and: "a) any county within whose boundaries the proposed service territory would be located; and b) any municipality, town, or local authority: i) whose boundaries are adjacent to the proposed service territory; or ii) within whose boundaries or existing wastewater service territory the proposed service territory would be located." Staff copied the OSP and the Sussex County Engineering Department ("the County") on its request for comment sent to DNREC. While written comment is only required from DNREC, by notifying the other agencies Staff can be alerted if an Application is not filed, or if there is a significant issue with an Applicant or Application that the Commission may wish to consider. In this case, the County replied stating it had no objection to a CPCN being issued, and the OSP did not offer any comment.

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

1. That, pursuant to the provisions of 26 Del. C. § 203D(d)(2), a Certificate of Public Convenience and Necessity is granted to Tidewater Environmental Services, Inc., to provide wastewater public utility services to the proposed "Avebury" subdivision located on the northeast side of the intersection of Harmony Cemetery Road and Hollyville Road, near Fairmount, Sussex County, Delaware, and more specifically identified by the Sussex County Tax Map Parcels Numbers 234-22.00-1.00, 234-16.00-28.00, and 234-21.00-146.00.

2. That Tidewater Environmental Services, 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 wastewater 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-WW-001, Order No. 7169 Cont'd.

/s/ Dallas Winslow  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary