

**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. 07-CPCN-17
THIRTY-TWO PARCELS OF LAND DISTRIBUTED) ("SEAFORD AREA")
SOUTH OF SEAFORD, SUSSEX COUNTY,)
DELAWARE (FILED MARCH 27, 2007 AND)
AMENDED MAY 16, 2007)

ORDER NO. 7214

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

This 19th day of June, 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 March 27, 2007, 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 thirty-seven parcels of land distributed south of Seaford, Sussex County, Delaware. The basis for the Application is Tidewater's possession of petitions requesting water services signed by a majority the landowners as set forth in 26 Del. C. § 203C(e)(1)b.¹

¹In this case, two parcels of land were included where some, but not all, of the owners of these parcels had signed petitions requesting water services from the Applicant.

2. Staff reviewed the Application in accordance with the rules adopted in PSC Regulation Docket No. 51 (PSC Order No. 5730, Jul. 10, 2001), and found issues with the Application as filed, including one parcel of land which the Town of Blades ("Blades") had annexed into its corporate limits and another parcel located within an area designated by the Town of Blades for short-term annexation. The Commission has also received written requests from the owners of two parcels of land requesting to "opt-out" of Tidewater's Proposed Service Area. The Company filed an amendment to the Application, dated May 16, 2007, correcting all deficiencies noted by Staff and removing a total of five parcels of land.² The amended Proposed Service Area, therefore, consists of thirty-two parcels of land in which all landowners have signed petitions requesting water services from Tidewater.

3. 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 Artesian's ability to provide safe, adequate, and reliable water services to its existing customers.

4. In addition to the required landowner notification, Staff directed Tidewater to publish notice of the Application in two newspapers of general circulation, advising residents of the

²One of the two requests to "opt-out," both excluded in the May 16, 2007 amendments to the Application, was received from the owners of a parcel where not all the owners had signed the petition requesting service. The other parcel where all the owners did not sign was also removed from the Proposed Service Area, as well as the two parcels of interest to the Town of Blades.

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 additional requests to "opt-out."

II. SUMMARY OF THE EVIDENCE

5. The record in this matter consists of the Application, including Applicant's request that the Commission proceed in this matter under the informal fact-finding procedures set forth in *29 Del. C. § 10123* (¶ 3). The Application includes:

- (i) petitions signed by a majority of the landowners in the Proposed Service Area, as amended, requesting water services;
- (ii) copies of the United States Postal Service's forms verifying that the Applicant sent, via certified mail, a Commission approved notice to all landowners within the Proposed Service Area, as amended, as prescribed by Water Utility CPCN Reg. 10.109;
- (iii) the County tax map parcel identification numbers of the properties comprising the Proposed Service Area, as amended;
- (iv) a listing of the landowners of record of the parcels comprising the Proposed Service Area, as amended, and the associated tax maps; and
- (v) the Applicant's statement that its expansion of service to the Proposed Service Area, as amended, will comply with the water pressure requirements of *26 Del. C. § 403(a)&(b)*, and it is not barred by any of the restrictions set forth in *26 Del. C. § 403(c)*;

6. The record also contains:

- (i) affidavits of publication of the public notices of the Application in the Delaware State News on April 24, 2007, and in The News Journal newspaper on April 26, 2007;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated June 1, 2007), from the Office of the State Fire Marshal (dated April 10, 2007), and from the Department of Natural Resources and Environmental Control (printed e-mail dated April 23, 2007) reporting that there are no outstanding issues with the Applicant that might preclude granting the requested CPCN;
- (iv) Staff's June 14, 2007 memorandum of its investigation recommending the Commission approve the amended 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

7. 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.

8. First, the Applicant obtained the consent of a majority of the landowners (in this case all) of the Proposed Service Area, as amended, in compliance of 26 Del. C. § 203C(e)(1)(b). Second, the Applicant sent by certified mail an approved notice of its Application to all landowners in the Proposed Service Area, as amended. 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.

9. 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.

10. 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. 07-CPCN-17 on March 27, 2007 and amended on May 16, 2007, 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 the Sussex County Tax Map Parcels Numbers listed in "Exhibit A" to this Order.

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

E X H I B I T "A"

APPROVED SERVICE AREA
PARCELS WITHIN CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

TIDEWATER UTILITIES, INC.
PSC DOCKET NO. 07-CPCN-17
"SEAFORD AREA"

SUSSEX COUNTY TAX MAP PARCELS NOS.

132-6.00-228.02	531-15.00-17.00
132-6.00-308.00	531-15.00-21.01
132-7.00-14.00	531-15.00-30.16
132-7.00-96.03	531-15.00-89.02
132-11.00-9.00	531-15.00-122.00
132-11.00-10.00	531-15.00-131.00
132-11.00-37.00	531-17.00-2.01
132-11.00-45.00	531-17.00-6.00
132-12.00-112.04	531-17.00-7.01
132-12.00-114.00	531-17.00-7.09
232-4.00-8.00	531-17.00-17.15
232-11.00-68.00	531-18.00-5.00
531-14.00-19.00	531-18.00-9.00
531-14.00-24.00	531-19.00-6.02
531-14.00-49.00	531-19.00-6.05
531-14.00-56.09	531-19.00-6.06