

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

IN THE MATTER OF UNITED WATER )  
DELAWARE INC.'S SUBMISSION, PURSUANT )  
TO 26 DEL. C. § 1404, OF A WATER CON- ) PSC DOCKET NO. 06-207  
SERVATION PLAN FOR 2006-2009 AND A )  
CERTIFICATION OF ADEQUATE WATER )  
SUPPLY FOR NORTHERN NEW CASTLE COUNTY )  
FOR THE PROJECTED YEAR 2009 )  
(FILED JUNE 26, 2006) )

**ORDER NO. 7234**

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

1. In the "Water Supply Self-Sufficiency Act of 2003,"<sup>1</sup> the General Assembly and Governor announced the overarching command: that by the year 2010, each water utility serving northern New Castle County must have sufficient sources of supply and interconnection commitments within this State to meet the water demands of its customers in that area, even during drought of record conditions.<sup>2</sup> In order to achieve that goal, the Self Sufficiency Act installs a regime of public certification by each water utility: every three years, beginning in 2006, an officer of the water utility must publicly certify that the utility has an adequate supply of water to meet the "projected demand" of its customers in the relevant "projected year" three years hence.<sup>3</sup>

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<sup>1</sup>See 26 Del. C. §§ 1401-1408 (2006 Supp.) "the Self-Sufficiency Act").

<sup>2</sup>See 26 Del. C. §§ 1401(2); 1402(1), (3), (4), (7) (2006 Supp.).

<sup>3</sup>See 26 Del. C. §§ 1401(4), 1404(a)(1), (d)-(i) (2006 Supp.). The "projected demand" for the utility in such future "projected year" is

A. United Water Delaware's Adequate Supply Certification

2. On June 26, 2006, United Water Delaware Inc. ("UWD") filed its initial certification related to the adequacy of its water supply for the regime's first projected year, 2009. With such certification, UWD also supplied supporting materials to demonstrate that it will have adequate sources of supply to fully meet its "projected demand" for that year.<sup>4</sup>

3. Staff utilized a Commission-retained consulting firm to review the supporting materials submitted by UWD.<sup>5</sup> The consulting firm also reviewed other relevant materials and conducted its own analysis of the supply amounts that might be available to UWD in 2009 during a drought of record period.<sup>6</sup> Based largely on the consultant's investigation and analysis, Staff reports (in its memorandum of July 2, 2007) that it appears that UWD will have sufficient sources of

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determined by the Water Supply Coordinating Council ("WSCC"). See 26 Del. C. §§ 1402(7), 1403 (2006 Supp.). The WSCC, in setting this future customer demand, must assume that in the projected year the area will suffer 75 days of drought with conditions similar to those that occurred during the drought of 2002. See 26 Del. C. § 1402(3), 7 (2006 Supp.). Similarly, the utility in making its certification, and the Commission in reviewing the availability of adequate supply, must also assume the existence of such drought of record conditions in the projected year. See 26 Del. C. § 1402(1) (2006 Supp.).

<sup>4</sup>The WSCC set the "projected demand" for UWD's system for 2009 as 23.6 million gallons per day ("23.6 MGD"). See 26 Del. C. §§ 1402(7), 1403 (2006 Supp.). The consultant retained by the Commission interprets this demand target of 23.3 MGD to represent the average daily demand for the maximum month projected for the 2009 demand year. See n. 8 below. In its memorandum, Staff shares this interpretation.

<sup>5</sup>The Commission published notice of UWD's submission of its certification and its accompanying consumer education plan. See PSC Order No. 6986 (Aug. 8, 2006). No person or entity submitted any comments about the certification or conservation plan in response to such notice.

<sup>6</sup>The consulting firm, Leggette, Brashears & Graham, Inc. provided Staff with a final report (dated May 1, 2007) of its investigation, analysis, and recommendations. ("LBG Rpt.") Staff indicates that UWD had the ability to comment upon earlier drafts of LBG's Rpt.

and levels of supply (from its own sources and pursuant to supply agreements with other purveyors) to meet its "projected demand" in the drought sensitive northern New Castle County area for 2009. According to Staff, the consulting firm's independent analysis concludes that the amount of reliable water supply that would be available to UWD throughout a recurrence of drought of record conditions totals 26.6 MGD on an average daily basis.<sup>7</sup> This level of supply exceeds the projected demand figure of 23.6 MGD set by the WSCC. Therefore, Staff recommends that UWD's certification of adequate supply for the 2009 "projected year" be accepted.<sup>8</sup>

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<sup>7</sup>See Staff Mem. at pg. 3; LBG Rpt. at pg. 5-1. The consulting firm concluded that 28.3 MGD of water would be available from the five sources utilized by the utility on all but one day if daily conditions identical to those that occurred during the 2002 drought reoccurred in the projected year. On that one other day, the source of water available to UWD would likely total 26.1 MGD. Both the "all but one day" and the "critical day" amounts exceed the projected static demand amount (23.6 MGD) by more than 10 percent. LBG Rpt. at pg. 4-1 to 4-2. In fact, the consulting firm projected that if all the sources were reduced by 10 percent (except the amounts under two interconnection agreements which had already been reduced by 20 percent), UWD's sources would likely produce 25.6 MGD, an amount still above the target projected demand. See LBG Rpt. at pg. 4-1.

<sup>8</sup>Staff, echoing the consulting firm, suggests a caveat to such acceptance. The consulting firm points out that the WSCC expressed its "projected demand" amount as a "static" mean daily demand for the system. Thus, it is possible that actual daily demands (particularly in drought conditions) may be above, or below, this static averaged figure. In light of that, the consultant cautions that, depending on patterns of demand that would occur if the 2002 drought of record conditions would recur in 2009, it might be possible that on some days the actual daily demands could exceed the capacity of the supply system. The consulting firm offers a somewhat similar caution for the supply side of the comparison. The predictions of available supply were determined by looking to the actual stream flows on each day in the actual drought period in 2002. The consultant suggests that, if a similar drought occurred in 2009, differences in the timing of rain events might alter the levels of stream flows on particular days and could result, in some instances, in the supply capacity falling below actual daily demands on the system. See LBG Rpt. at pg. 4-2.

4. At its meeting on July 24, 2007, the Commission considered Staff's memorandum and heard from the retained consulting firm and UWD. From the consultant's and Staff's submissions, the Commission cannot find any basis to reject UWD's certification of adequate supply for the 2009 projected year. Such certification is therefore accepted. In doing so, the Commission acknowledges the cautions expressed by the consulting firm and Staff. See n. 8 above. However, the Commission does not believe that either of those "limitations" is significant enough to now warrant completely rejecting UWD's adequate supply certification for 2009. Instead, the certification is accepted with appropriate consideration that, as expressed in those "limitations," actual demand or particular drought events on a specific day in the 2009 projected year might possibly affect UWD's ability to meet demand on a particular day.<sup>9</sup>

B. United Water Delaware's Consumer Water Conservation Plan

5. The Self-Sufficiency Act also requires each Commission-jurisdictional water utility to file, concurrently with its adequate supply certification, its three-year "Consumer Water Conservation Plan." Such a plan must outline the utility's proposed methods for educating its customers about the benefits of water conservation, the workings of the utility's water conservation rate structure, the costs resulting from water leaks, and the availability of consumer equipment

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<sup>9</sup>At the same time, the Commission will send a copy of the LBG Rpt. to the WSCC so that the Council can review the comments made by the consulting firm relative to the possibility that actual daily demands may exceed a demand level expressed in terms of a static mean daily amount. The Council can then consider whether to continue to use such type of figure as the "projected demand" benchmark.

and devices that will improve efficient use of water supply.<sup>10</sup> UWD filed its consumer conservation plan with its certification in June, 2006. In PSC Order No. 7050 (Oct. 17, 2006), the Commission formally acknowledged UWD's plan.<sup>11</sup> In doing so, the Commission, with UWD's acquiescence, thought it might be worthwhile to continue review of the submitted plan to allow for possible further recommendations.

6. Staff retained a consultant for this further review. He offered nine further recommendations and UWD responded to them. In its July 2, 2007 memorandum, Staff sets out its views on the consultant's recommendations and UWD's responses. The Commission now endorses Staff's recommendations and offers them to UWD for its further consideration for the 2006 plan or later plans. In doing so, the Commission does not now define the exact scope of the required conservation plans. Rather, in this initial proceeding under the Self-Sufficiency Act, the Commission believes that Staff's views of how each of the consultant's recommendations might be considered - either in the conservation plan or in the context of some other proceeding - strike the appropriate balance.

7. At the same time, the Commission strongly urges UWD to consider the recommendations that focus on UWD making efforts to collect and retain data related to its customers' responses to its conservation education initiatives. The Commission recognizes that

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<sup>10</sup>See 26 Del. C. § 1404(a)(1), (b) (2006 Supp.).

<sup>11</sup>See 26 Del. C. § 1404(c). Under the Self-Sufficiency Act, the Commission must acknowledge the conservation plan within 120 days of its submission. In doing so, the Commission can offer recommendations for changes, which the submitting utility may then choose to incorporate into its plan.

any system for acquiring and holding onto data comes at some cost. However, the Self-Sufficiency Act requires - beginning in 2009 - that UWD also evaluate the "effectiveness" of its earlier conservation plan in informing customers of methods for efficient water use.<sup>12</sup> The Commission expects that when UWD files its first such "evaluation" in 2009, UWD will be able to point to both the specific criteria and the supporting data it utilized to reach its conclusion about the "effectiveness" of its 2006 plan. The collection of data now concerning customers' responses to the utility's initiatives can only make that 2009 evaluation task easier.

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

1. That, pursuant to 26 Del. C. § 1404(g), the certification of adequate water supply for the projected year 2009 submitted by United Water Delaware Inc. on June 26, 2006 is hereby accepted.

2. That the Secretary shall deliver a copy of the "Assessment of June 26, 2006 Filing of United Water Delaware under the Delaware Water Supply Sufficiency Act" (May 1, 2007) prepared by Leggette, Brashears & Graham, Inc., to the Water Supply Coordinating Council for its consideration of whether it desires, for future reporting years, to modify how it expresses the "projected demands" for a projected year.

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<sup>12</sup>See 26 Del. C. § 1404(b)(2) (2006 Supp.).

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/ Dallas Winslow  
Commissioner

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Commissioner

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Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary