

**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-36  
SEVEN PARCELS OF LAND LOCATED ON ) ("GREENFIELD")  
SUSSEX ROAD, NORTH OF DELMAR, SUSSEX )  
COUNTY, DELAWARE )  
(FILED JULY 5, 2007)

**ORDER NO. 7271**

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

This 4<sup>th</sup> day of September, 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 July 5, 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 seven parcels of land located on Sussex Road, north of Delmar, Sussex County, Delaware ("Proposed Service Area"). The basis for the Application is Tidewater's possession of a petition requesting water services signed by the owners of the parcels of land comprising the Proposed Service Area 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 a typographical error in one parcel number which was later corrected by the Company. 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 Tidewater's ability to provide safe, adequate, and reliable water services to its existing customers.

3. 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 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 requests to "opt-out."

## **II. SUMMARY OF THE EVIDENCE**

4. 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 all of the landowners of the parcels of land comprising the

Proposed Service Area 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 in the Proposed Service Area as prescribed by Water Utility CPCN Reg. 10.109;<sup>1</sup>
- (iii) the County tax map parcel identification numbers of the properties;
- (iv) a listing of the landowners of record of each of the parcels and the associated tax maps; and
- (v) the Applicant's statement that its expansion of service to the Proposed Service Area 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);

5. The record also contains:

- (i) affidavits of publication of the public notices of the Application in the Delaware State News newspaper on July 14, 2007, and in The News Journal newspaper on July 18, 2007;
- (ii) correspondence from the Office of Drinking Water of the Division of Public Health (dated July 16, 2007), from the Office of the State Fire Marshal (dated July 26, 2007), and from the Department of Natural Resources and Environmental Control (printed e-mail dated July 12, 2007) reporting that there are no outstanding

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<sup>1</sup>During review of the Application, Staff also expressed its concern to Tidewater about two parcels of land where the petitions showed multiple owners (all of whom had signed petitions) with differing addresses, yet the landowner notifications had been sent only to the addresses provided by Sussex County land records. To comply with the statutory requirements, Tidewater then sent landowner notifications to these additional addresses. Certified mail receipts showing proof of mailing were received from the Company on August 9, 2007.

issues with the Applicant that might preclude granting the requested CPCN;

- (iii) Staff's August 28, 2007 memorandum of its investigation and 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**

6. 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.

7. First, the Applicant obtained the consent of all of the landowners in the Proposed Service Area 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. 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.

8. 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 services 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.

9. 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-36 on July 5, 2007 is hereby approved to the extent it is consistent with this Order, and a Certificate of Public Convenience and Necessity is granted to Tidewater Utilities, Inc., to serve the area more specifically identified by the Sussex County Tax Map Parcels Numbers 532-13.00-86.00, 532-13.00-86.01, 532-13.00-86.02, 532-13.00-86.03, 532-13.00-86.04, 532-20.00-111.00, and 532-20.00-112.00.

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