

**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) PSC DOCKET NO. 16-0606
CONVENIENCE AND NECESSITY TO PROVIDE)
WASTEWATER SERVICES PURSUANT TO 26)
DEL. C. §203D (FILED APRIL 27, 2016))
("LOVE CREEK PINES"))

ORDER NO. 8896

This 7th day of June, 2016, the Delaware Public Service Commission (the "Commission") determines and Orders the following:

WHEREAS, the Commission exercises regulatory oversight over non-governmental wastewater public utilities that serve fifty or more customers. See 26 Del. C. §§102(2) and 203D(a). That regulatory oversight includes the authority to grant Certificates of Public Convenience and Necessity ("CPCN") to enable an entity to begin the business of a wastewater public utility or to permit an existing wastewater public utility to extend its system and operations. See 26 Del. C. §203D(a). Under such statutory regime, and specifically 26 Del. C. §203D(d)(2), a wastewater utility may obtain a CPCN for a new service territory if it parcel or property to be encompassed within such new proposed service area which request that the utility's wastewater services be extended; and

WHEREAS, on April 1, 2005, 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*, 26 Del. Admin. C. §6002 (the

"Regulations"). These Regulations implement the CPCN regime for public wastewater utilities; and

WHEREAS, Tidewater Environmental Services, Inc. ("TESI" or the "Company") is a public utility offering wastewater services and is subject to the regulatory oversight of the Commission. On April 27, 2016, TESI filed an application (the "Application") requesting a CPCN to provide wastewater services to 8 parcels of land in Sussex County, Delaware (the "Proposed Service Area"); and

WHEREAS, as required by 26 Del. C. §203D(d)(2) and the Regulations, TESI included in its Application: (1) petitions requesting wastewater services signed by all of the landowners of record of each parcel or property encompassed within the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; (4) a copy of the associated tax map clearly marking the Proposed Service Area; and (5) a copy of a letter from Sussex County approving the CPCN; and

WHEREAS, as required by the Regulations, Staff requested written comment from the Division of Water Resources of the Department of Natural Resources and Environmental Control ("DNREC"), the Delaware Office of State Planning ("OSP"), and the Sussex County Engineering Department ("County"); and

WHEREAS, on May 2, 2016, DNREC replied it had no objection to the Commission granting a CPCN to TESI to provide wastewater treatment and disposal services for the parcels of land. However, DNREC noted a concern about granting wastewater CPCNs for parcels or areas where the respective County officials have not approved a subdivision or development as it may impact future County endeavors and urged Staff to contact the County; and

WHEREAS, on April 8, 2016, the County received and reviewed the CPCN Application and noted its close proximity to the existing TESI wastewater system within Hart's Landing. The County agreed to permit the Application from TESI and stated they will not object to a CPCN being approved for these parcels. On May 2, 2016, the County forwarded this information to the Commission; and

WHEREAS, on May 3, 2016, OSP filed a response which did not object to the Application, but merely provided the Commission with the State of Delaware's investment level planning information with respect to the parcels included in the Proposed Service Area; and

WHEREAS, the Commission Staff ("Staff") has reviewed the Application and found there to be no errors or omissions. Staff reports to the Commission in its June 1, 2016 memorandum that the Application meets all applicable requirements for granting a CPCN pursuant to 26 Del. C. §203D and the Regulations; and

WHEREAS, for these reasons, the Commission finds that TESI has met the requirements for the granting of a CPCN and, therefore, the Commission shall approve the Application;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to the provisions of 26 Del. C. §203D(d)(2), the Application is approved and the Commission hereby grants a CPCN to TESI to provide wastewater public utility services to the area more specifically identified by the Sussex County Tax Map Parcel Numbers 334-18.00-12.00, 334-18.00-15.00, 334-18.00-16.00, 334-18.00-17.00, 334-18.00-18.00, 334-18.00-18.01, 334-18.00-19.00, and 334-18.00-20.00.

2. TESI 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 CPCN.

3. 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:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary