

**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 SEVEN PARCELS)	PSC DOCKET NO. 05-WW-008
OF LAND TO BE DEVELOPED AS)	(BLACKWATER CREEK)
"BLACKWATER CREEK," LOCATED WEST OF)	
THE TOWN OF DELMAR, SUSSEX COUNTY,)	
DELAWARE (FILED JUNE 2, 2005))	

ORDER NO. 6713

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

This 6TH day of September, 2005, 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)).¹

2. The law includes a specific regime for the granting of Certificates of Public Convenience and Necessity ("CPCN") 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

¹The enactment continued, in the context of wastewater systems, exemptions from Commission oversight systems owned or operated by municipalities and specific water and sewer districts. 74 Del. Laws ch. 317 §§ 3, 5 (2004) (amending 26 Del. C. § 202(b)). The new law also exempted from Commission oversight wastewater public utilities serving fewer than fifty customers in the aggregate. 74 Del. Laws ch. 317 § 4 (2004), adding 26 Del. C. § 202(h).

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. Under 26 Del. C., § 203D(e), the Commission may deny a request for a CPCN if the applicant is currently subject to a Commission finding, or if the Commission finds, that the applicant is unable or unwilling to provide safe, adequate and reliable service to existing customers.

3. Tidewater Environmental Services, Inc. ("TESI") is a public utility offering wastewater services, and is subject to the regulatory oversight of this Commission. On June 2, 2005, TESI filed an application with the Commission requesting a CPCN to provide wastewater services to seven parcels of land to be developed as "Blackwater Creek," located west of Delmar, Sussex County, Delaware ("Proposed Service Area"), more specifically identified by the following Sussex County tax parcels numbers: 532-12.00-01.00, 532-18.00-42.00, 532-18.00-43.00, 532-18.00-44.00, 532-18.00-45.00², 532-18.00-46.00, and 532-19.00-01.00.

4. As required by 26 Del. C., § 203D(d)(2), and Commission Regulations, TESI included in its application: (a) petitions requesting wastewater services signed by a majority of the landowners (in this case, all of the landowners) in the Proposed Service Area;

²This parcel number was not shown in the listing of parcel numbers in the initial Application; however, TESI did submit a petition signed by the owner of the parcel. Commission Staff contacted TESI and determined that the parcel number should be included in the listing of parcel numbers.

and (b) evidence in the form of a United States Postal Service certified mail receipt showing that all of the landowners in the Proposed Service Area were sent notice of the Application. Also included were Sussex County tax maps showing the location of the parcels in the Proposed Service Area.

5. TESI is a new utility, with its first CPCN granted August 23, 2005 (PSC Order No. 6703). To the best of the Commission's knowledge, TESI is not presently providing wastewater services to customers in any of its certificated service areas. Thus, there is no determination to be made as to whether or not the utility is unwilling or unable to provide safe, adequate, and reliable service to existing customers. The Commission Staff did notify the Division of Water Resources of the Delaware Department of Natural Resources and Environmental Control ("DNREC"), the Delaware Office of State Planning ("OSP"), and Sussex County of the CPCN application. There were no comments from any of these agencies indicating an objection to the Commission issuing a CPCN to TESI for this parcel of land.

6. 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.

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 seven parcels of land to be developed as "Blackwater Creek," located west of the Town of Delmar,

Sussex County, Delaware, and identified by the following Sussex County tax parcels numbers: 532-12.00-01.00, 532-18.00-42.00, 532-18.00-43.00, 532-18.00-44.00, 532-18.00-45.00, 532-18.00-46.00, and 532-19.00-01.00.

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 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

Vice Chair

/s/ Jaymes B. Lester
Commissioner

/s/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary