

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

IN THE MATTER OF THE ADOPTION OF RULES	)	
CONCERNING THE IMPLEMENTATION OF 72	)	
DEL. LAWS CH. 402 (2000) GRANTING THE	)	PSC REGULATION
COMMISSION THE JURISDICTION TO GRANT	)	DOCKET NO. 51
AND REVOKE THE CERTIFICATES OF PUBLIC	)	
CONVENIENCE AND NECESSITY FOR PUBLIC	)	
UTILITY WATER UTILITIES	)	
(OPENED NOVEMBER 12, 2000; REOPENED	)	
MARCH 20, 2007)	)	

**ORDER NO. 7833**

This 7<sup>th</sup> day of September, 2010, the Commission determines and Orders the following:

**WHEREAS**, on May 4, 2010, after extensive proceedings in the above docket, the Commission repealed and replaced its existing *Regulations Governing Certificates of Public Convenience and Necessity for Water Utilities* with a newly revised set of regulations (the "Revised Water CPCN Regulations"). See PSC Order No. 7774 (May 4, 2010); and

**WHEREAS**, pursuant to Order No. 7774 and 29 *Del. C.* §§10113 and 10115(a), the Commission Secretary caused to be published in the *Delaware Register of Regulations* a copy of the Revised Water CPCN Regulations, along with a notice (the "Notice") soliciting public comments to the Revised Water CPCN Regulations and stating that the Commission will hold hearing on the regulations on July 22, 2010, at the Commission's regularly schedule meeting; and

**WHEREAS**, the Secretary also published the Notice in both *The News Journal* and the *Delaware State News* newspapers; and

**WHEREAS**, on July 22, 2010, having received no comments to the Revised Water CPCN Regulations, the Commission entered Order No. 7813, approving the Revised Water CPCN Regulations as final; and

**WHEREAS,** the Revised Water CPCN Regulations contemplate the use of certain forms to be approved by the Commission that are to be used in compliance with the regulations. For instance, Rule 10.4 contemplates Commission-approved notices that water utilities are to send with CPCN applications that allow landowners to opt-out of a CPCN service territory and/or object to the CPCN application. Staff has proposed a notice for the Commission's approval, the form of which is attached hereto as Exhibit A; and

**WHEREAS,** Staff has also proposed a form envelope for the transmittal of such notices, a copy of which is attached hereto as Exhibit "B". Approval of a form envelope is required by Rule 10.5; and

**WHEREAS,** Staff has also proposed a form of public notice that the utilities are required to publish in accordance with Rule 10.7, which rule also requires that the Commission approve the form of notice. Staff's proposed notice is attached hereto as Exhibit "C"; and

**WHEREAS,** according to Staff, the proposed notices approved by this Order have been sent to the Commission's Class A regulated water utilities.

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

1. That notices attached hereto as Exhibits "A-C" are hereby approved.

2. That the Commission's regulated water utilities required to comply with the notice provisions set forth in Rules 10.4, 10.5 and 10.7 of the Commission's *Regulations Governing Certificates of Public*

*Convenience and Necessity for Water Utilities*, see 26 Del. Admin. C. §2002., shall utilize the notices approved herein.

3. That the Secretary shall promptly deliver a copy of this order with the attached forms approved herein to the Commission's regulated water utilities.

4. 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/ Alisa Carrow Bentley  
Secretary

# EXHIBIT A

**PROPERTY OWNER OPT-OUT/OBJECT FORM**

Delaware Public Service Commission  
861 Silver Lake Boulevard  
Cannon Building, Suite 100  
Dover, Delaware 19904

Dear Delaware Public Service Commission:

I/We are the recorded property owner(s), according to current tax records, for the following property/properties:

Tax Map Parcel Identification Number(s): *[Tax Map PIN]*

We received a notice from *[Utility]* that it plans to file an application with the Delaware Public Service Commission for a Certificate of Public Convenience and Necessity (Certificate) to provide water service to a proposed service territory described by *[Utility]* as *[description of the proposed service territory]* (hereafter, "Proposed Service Territory").

\_\_\_\_\_ As permitted by applicable law, I hereby opt-out of *[Utility's]* proposed service territory. I understand that by opting out of the Proposed Service Territory, I may be charged additional fees if I later change my mind and choose to be included in the Proposed Service Territory and receive water service from *[Utility]*.

\_\_\_\_\_ I hereby object to the *[Utility's]* application for the Certificate of Public Convenience and Necessity. I understand that by objecting to the *[Utility's]* application I am not merely objecting to being included in the Proposed Service Territory (in which case, I may merely opt out as permitted by electing to opt out above), but rather am objecting to the Commission authorizing the *[Utility]* to provide water service to *any territory* within the Proposed Service Territory, including, but not limited to, my own property. The basis of my objection is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Property Owner(s): *[Property Owner Name]* \_\_\_\_\_  
*[Property Owner Address]* \_\_\_\_\_  
\_\_\_\_\_

Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# EXHIBIT B

Whichever Utility  
12345 Water Lane  
Somewhere, DE 19999

Homeowner  
Wherever They May Live  
In Some City, DE 19999

ENCLOSED IS IMPORTANT INFORMATION FROM THE PUBLIC SERVICE COMMISSION  
THAT AFFECTS YOUR RIGHTS REGARDING WATER SERVICE

# EXHIBIT C



**LEGAL NOTICE**

IN THE MATTER OF THE APPLICATION OF [UTILITY NAME] FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICES PURSUANT TO 26 DEL. C. §203C (FILED XXX, XX, 2010)	) ) ) ) ) ) )	PSC DOCKET 10-CPCN-XX ("Short Name Here")
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On [Date], [Utility Name], filed an application with the Delaware Public Service Commission ("PSC") for a Certificate of Public Convenience and Necessity ("CPCN") to provide water services to [description of property including (a) the nearest intersecting roads (i.e at the intersection of Canterbury Road and Delaware Avenue or approximately one-half mile from intersection of Canterbury Road and Delaware Avenue); (b) directional information about the parcels (i.e on the north side of Delaware Avenue, etc.); specifically [County Name] Tax Parcel Numbers [tax id numbers] located at [the street address if available]. The basis for the application is [Utility's] possession of petitions requesting water services signed by all of the landowners in the proposed service area as set forth in 26 Del. C. §203C(e)(1)b.

The PSC is investigating this matter to the extent deemed necessary to determine whether the CPCN should be granted. An evidentiary hearing on this application will not be held unless there is a meritorious request received within thirty (30) days of publication of this notice. A meritorious request is deemed to be one which sets forth reasonable grounds why a public hearing would be appropriate or would be in the public interest.

Pursuant to current law, property owners within the proposed CPCN service area may file an objection to the issuance of a CPCN to [Utility] and may also choose to "opt-out" of inclusion in the proposed service area. Written notice of such objection or a decision to "opt-out" of inclusion in the proposed service area must be sent to the Delaware Public Service Commission at the following address within thirty (30) days after publication of this notice.

The Commission's mailing address is:

Public Service Commission  
 861 Silver Lake Blvd., Cannon Bldg.  
 Suite 100, Dover, DE 19904  
 Attention: PSC Docket No. 10-CPCN-XX – Short Name Here

Copies of [Utility's] application in this matter are available for public inspection at the Commission's Dover office at the address noted above during normal business hours, or from the Commission's website at <http://depsec.delaware.gov/cpcn/cpcnindex.shtml>.

Any individual with a disability who wishes to participate in these proceedings, or to review the application, should contact the Commission to discuss any auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, by writing, telephonically, by use of the Telecommunications Relay Service, or otherwise. Persons with questions concerning this matter may contact the Commission at its toll-free number (within Delaware) 1-800-282-8574, by Text Telephone ("TT"), by regular telephone at (302) 736-7500, or by e-mail to [kevin.neilson@state.de.us](mailto:kevin.neilson@state.de.us).