

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

IN THE MATTER OF THE APPLICATION OF)	
TIDEWATER ENVIRONMENTAL SERVICES,)	
INC. INC. FOR A CERTIFICATE OF PUBLIC)	PSC DOCKET NO. 12-WW-003
CONVENIENCE AND NECESSITY TO PROVIDE)	("WANDENDALE 1512")
WASTEWATER SERVICES PURSUANT TO 26)	
DEL. C. §203D (FILED FEBRUARY 6,)	
2012))	

ORDER NO. 8129

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

This 3th day of April, 2012, the Commission determines and Orders the following:

WHEREAS, this 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 submits petitions requesting the utility's wastewater services executed by the landowners of record of each parcel or property to be encompassed within such new proposed service area; 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") is a public utility offering wastewater services and is subject to the regulatory oversight of this Commission. On February 6, 2012, TESI filed an application with the Commission (the "Application") requesting a CPCN to provide its wastewater services to nine parcels of land located northeast of Millsboro and southeast of Georgetown, Sussex County, Delaware (the "Proposed Service Area") On February 14, 2012 TESI filed an amended Exhibit C which removed three parcels from the Application. The amended Application now contains six parcels of land; and

WHEREAS, as required by 26 Del. C. §203D (d) (2) and the Regulations, TESI included in its application: (a) petitions requesting wastewater service signed by the landowners of record of each parcel or property encompassed within the Proposed Service Area; and (b) evidence, in the form of signed United States Postal Service certified mail receipts, showing that the landowners were sent notice of TESI's Application as required by 26 Del. Admin. C. §§6001-7.1 and 7.2. A Sussex County Tax Map showing the location of the Proposed Service Area was also included with the Application; and

WHEREAS, pursuant to the Regulations, Commission Staff requested written comment from the Delaware Department of Natural Resources and Environmental Control ("DNREC") as to whether there were any

outstanding issues with that agency that would indicate TESI has been unwilling or unable to provide safe, adequate, and reliable wastewater services to its existing customers.¹ In its reply, DNREC reported that it had no objection to the Commission granting the requested CPCN to provide wastewater treatment and disposal services to the Proposed Service Area; and

WHEREAS, the Commission Staff has reviewed the Application and found no errors or omissions. Staff reports to the Commission in its March 15, 2012, memorandum that TESI's Application meets all of the requirements for the granting of a CPCN under 26 Del. C. §203D and the Regulations and thus recommends approval of the Application; 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 as it was filed in PSC Docket No. 12-WW-002 on February 6, 2012, and amended on February 14, 2012.

¹Under the Regulations, the utility was required to submit a copy of its application to DNREC; the Office of State Planning ("OSP"); and "a) any county within whose boundaries the proposed service territory would be located; and b) any municipality, town or local authority: i) whose boundaries are adjacent to the proposed service territory; or ii) within whose boundaries or existing wastewater service territory the proposed service territory would be located." Here, Staff solicited comments from DNREC and, by copy, also gave both the OSP and the Sussex County Engineering Department ("the County") the opportunity to offer their views. OSP indicated that one of the parcels in the Proposed Service Area is within Investment Level 2 & 3, where growth is anticipated by local, county, and state plans in the near and longer term future, or areas that may have environmental or other constraints to development, two of the parcels are within Investment Level 3 & 4, where growth is anticipated in the future but the presence of Level 4 means there may be environmental features on these parcels that should be considered, and six of the parcels are within Investment Level 4, where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. The County expressed its concern with Tidewater's ability to serve scattered parcels. Further, the County questioned why a CPCN should be granted at this time when there are no immediate plans or schedules to provide service to the Proposed Service Area.

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

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 area more specifically identified by Sussex County Tax Map Parcel Numbers 234-11.00-423.00, 234-9.00-8.03, 234-9.00-32.02, 234-9.00-32.03, 234-15.00-20.07, and 234-23.00-38.00.

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 wastewater 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:

Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary