

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) PSC DOCKET NO. 13-CPCN-12
NECESSITY TO PROVIDE WATER SERVICES)
PURSUANT TO 26 DEL. C. §203C (“DAFB”))
(FILED NOVEMBER 15, 2013)

IN THE MATTER OF THE APPLICATION OF)
TIDEWATER UTILITIES, INC. FOR)
APPROVAL OF CHANGES TO ITS TARIFF) PSC Docket No. 13-504T
26 DEL. C. §301)
(FILED DECEMBER 19, 2013))

ORDER NO. 8548

AND NOW, this 15th day of April, 2014:

WHEREAS, on November 15, 2013, Tidewater Utilities, Inc. (“Tidewater” or “the Company”) filed an application with the Delaware Public Service Commission (the “Commission”) pursuant to 26 Del. C. §203C(e) seeking a Certificate of Public Convenience and Necessity to provide water services to the Dover Air Force Base (“DAFB”) in Kent County, Delaware (the “CPCN Application”). The CPCN Application included by copy and by reference a signed and federally approved contract agreement between Tidewater and DAFB (the “Contract”) which provides for, among other things, Tidewater’s purchase of the current federally-owned water facility infrastructure located at the DAFB and the provision of water

service to the DAFB exclusively through that infrastructure. The Company properly and timely published notice of the filing on November 19, 2013 in the News Journal and the Delaware State News; and

WHEREAS, on December 19, 2013, Tidewater filed the Application for approval of changes to its tariff schedule of Rates Pursuant to 26 *Del. C.* §301 (the "Tariff Application"). The Tariff Application requests the Commission approval of the following additions to their current Tariff: (1) a 10" meter facilities charge, and (2) a per-month service charge to serve the nearly 280 fire hydrants currently located on the DAFB and which are part of the DAFB water utility infrastructure. The Tariff Application reflects that the fire hydrant charge is made for the exclusive purpose of serving the DAFB and both charges above are in compliance with the terms of the Contract; and

WHEREAS, Commission Staff has reviewed the CPCN Application and the Tariff Application and recommends that the Commission take no action on the CPCN Application for lack of jurisdiction; that the Commission approve the tariff filing for the 10" meter facilities charge and the per-month service charge for the fire hydrants located at DAFB.

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

1. The Commission acknowledges the filing of the CPCN Application but takes no substantive action thereon for lack of jurisdiction. *See, Balt. Gas & Elec. Co., et al. v. United States, et al.*; 133 F. Supp. 2d 721 (D. MD 2001) (state utility commission has no jurisdiction over utility sale and service procurement process at a federal military installation which is a federal enclave).

2. The tariff filing is approved for the addition of the 10" meter charge to Tidewater's current tariff and the per-month service charge for the fire hydrants located at DAFB.

3. The Commission reserves its jurisdiction and the rights of all parties with respect to the rates for service of the 10" meter and the fire hydrants located at the DAFB pursuant to 10 U.S.C. §2688(c)(2) and 26 Del. C. §301.

4. The Commission reserves jurisdiction and authority to enter such further Orders in these matters as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Dallas Winslow
Chair

/s/ Joann T. Conaway
Commissioner

