

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

October 30, 2000

IN RE:

**PETITION OF ON-SITE SYSTEMS, INC. TO AMEND ITS
CERTIFICATE OF CONVENIENCE AND NECESSITY**

**DOCKET NO.
00-00272**

**ORDER APPROVING PETITION OF ON-SITE SYSTEMS, INC.
TO AMEND ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before the Tennessee Regulatory Authority (the "Authority") at the regularly scheduled Authority Conference held on August 1, 2000 on the Petition (the "Petition") of On-Site Systems, Inc. ("On-Site") to amend its Certificate of Public Convenience and Necessity ("CCN") for expansion of its service area to include a portion of Blount County known as the Townsend Town Square.

Legal Standard for Granting CCN

On-Site's Petition was made pursuant to and was considered in light of the criteria for granting a CCN as set forth in Tenn. Code Ann. § 65-4-201, which provides, in pertinent part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

Background

On April 4, 1994, On-Site received a CCN in Docket No. 93-09040 from the Tennessee Public Service Commission to provide sewer service to Oakwood Subdivision in Maury County. Since that time, through various other dockets, On-Site has been granted approval to expand its service territory to include locations in other parts of Tennessee. In addition, on January 11, 2000, in Docket No. 99-00393, the Authority approved On-Site's request for a change in rate structure, a rate increase, and an addition in fees, and an Order memorializing this action was issued on August 4, 2000. As stated in that Order, On-Site proposed a commercial rate for the Southridge Subdivision in Montgomery County of \$25.00 per month plus a pass-through of actual treatment and disposal costs charged by the City of Clarksville. On-Site did not propose specific commercial rates for the other areas for which it held CCNs at the time of the January 11, 2000 decision in Docket No. 99-00393. As explained in the August 4, 2000 Order,

For the remaining areas, On-Site states that its commercial rates will be based on waste strength, system components, and gallons of flow, which On-Site states were unknown at the time it filed its Petition. In its revised projections for 1999 and 2000 income and operating income and expenses, On-Site indicates that it anticipates no income from commercial customers through 2000.¹

Petition to Amend CCN

On May 11, 2000, On-Site filed its Petition to amend its CCN to include a portion of Blount County known as the Townsend Town Square. A map showing the area to which On-Site proposes to extend service is attached to its Petition. The Petition states that there is no public sewer located in Townsend, and at present neither Tuckaleechee Utility District, the current supplier of water for this area, nor the Blount County government has any desire to provide sewer service in this area. This is evidenced by letters from Neal Hutchens,

¹ *Order Approving Change in Rate Structure, Rate Increase, and Addition of Fees*, August 4, 2000, Authority Docket No. 99-00393, p. 3.

Tuckaleechee Utility District Manager, and William A. Crisp, Blount County Executive, copies of which were filed with and are attached to the Petition. No person sought intervention as to On-Site's Petition.

In a letter submitted in reference to its Petition, On-Site states that the Townsend Town Square is a shopping center that will contain On-Site's first commercial customers. On-Site further states that these customers will be divided into two categories, those providing and those not providing food service. On-Site proposes a minimum monthly bill of \$100.00 based on a designed flow of 300 gallons per day or less for customers providing food service and a minimum monthly bill of \$75.00 based on a designed flow of 300 gallons per day or less for customers not providing food service. Customers will be charged additional monthly rates for each additional 1,000 gallons of designed daily flow. These additional rates will vary with the category of customer, the method of treatment, and the method of disposal, as set forth in the tariff rate sheets attached to the Petition. In attachments to its Petition, On-Site has listed the costs of providing service to the two categories of commercial customers at the Townsend Town Square, along with a detailed explanation of its proposed commercial rates for this area. These proposed commercial rates differ from those approved for the Southridge Subdivision in Authority Docket No. 99-00393.

Findings

Upon consideration of the Petition and pertinent portions of the record, the Authority finds that the proposed extension of sewer service by On-Site to commercial customers in the Townsend Town Square area is without opposition, would provide service in an area that neighboring providers of sewer service do not at present intend to serve, and is required by the present and future public convenience and necessity, thus meeting the requirements of Tenn. Code Ann. § 65-4-201.

In addition, the commercial rates proposed for On-Site's customers at the Townsend Town Square appear to be just and reasonable and are therefore approved for the Townsend Town Square area only. The Authority makes this finding bearing in mind that the Authority may declare On-Site's proposed commercial rates unlawful if they are subsequently determined not to be just and reasonable, pursuant to Tenn. Code Ann. § 65-4-122, and shall determine whether any subsequent rate increase proposed by On-Site is just and reasonable, pursuant to Tenn. Code Ann. § 65-5-203.

On this basis, at the Authority Conference held on August 1, 2000, the Directors unanimously granted On-Site's Petition.

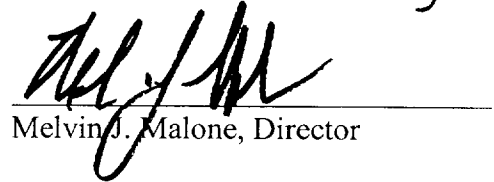
IT IS THEREFORE ORDERED THAT:

1. The Petition of On-Site Systems, Inc. to amend its Certificate of Public Convenience and Necessity to expand its service territory to include a portion of Blount County known as the Townsend Town Square, as shown in the map attached to the Petition, is approved;
2. On-Site's rates for sewer service to its customers in the Townsend Town Square area shall be as listed in the attachment to On-Site's Petition and as set forth in this Order;
3. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order; and
4. Any party aggrieved with the Authority's decision in this matter has the right of

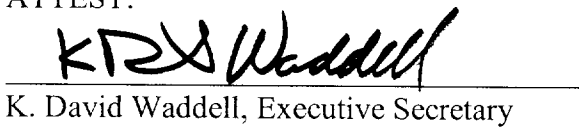
judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary