

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT**

**NASHVILLE, TENNESSEE**

January 2, 2002

**IN RE:**

**Application of H C Sewage Treatment, LLC for a  
Certificate of Convenience and Necessity.**

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**DOCKET NO. 00-00667**

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**INITIAL ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

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This matter came before the Tennessee Regulatory Authority (“Authority”), upon the application (the “Application”) of H C Sewage Treatment, LLC. (“Applicant”) for a certificate of public convenience and necessity (“CCN”) to provide sewer service to a proposed development in Carter County. The Application was made pursuant to Tenn. Code Ann. § 65-4-201 *et seq.* A Hearing on the Application was held before K. David Waddell, acting as Hearing Officer, on December 18, 2001.

**LEGAL STANDARD FOR GRANTING CCN**

The Application was considered in light of the criteria for granting a CCN as set forth in applicable statutes. Tenn. Code Ann. § 65-4-201 provides, in 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 . . .

## INTERVENORS

Public notice of the hearing in this matter was made by the Authority's Executive Secretary, pursuant to Tenn. Code Ann. § 65-4-204. No interested persons sought intervention prior to or during the hearing.

## APPLICANT'S HEARING

The Application was uncontested. At the hearing held on December 18, 2001, Mr. Charles B. Welch, Jr. of Farris, Mathews, Branan, Bobango & Helen PLC, 618 Church Street, Suite 300, Nashville, Tennessee 37219 represented the Applicant. In addition, Mr. Jack Strickland, Chief Manager and Partner of the Applicant presented testimony and was subject to examination by the Hearing Officer and Authority staff. Upon Applicant's conclusion of the proof in its case, the Hearing Officer approved of the Application based upon the following findings of fact and conclusions of law:

## FINDINGS

1. The Applicant is a limited liability company organized under the laws of the State of Tennessee.
2. The complete street address of the Applicant's principal place of business is 4718 Lake Park Drive, Suite 3, Johnson City, Tennessee 37615.
3. The Applicant was created to build a sewage treatment facility in Hampton, Carter County, Tennessee. The plant has been designed to serve the lessees of a six-acre commercial development. The development is in an area not currently served by the City of Elizabethton, or any other municipal utility, utility district, or other private sewer utility. Letters from the City of Elizabethton and Carter County, submitted in support of the Application, indicated that the city and county approve the Applicant's project.

To serve the development, the Applicant proposes to build an on site, re-circulating sand filter wastewater treatment facility with a capacity of twelve thousand (12,000) gallons per day. The facility will be financed by a loan of approximately \$175,000 from a commercial lender. The loan will be repaid from tap fees paid by customers in accordance with the tariff. Customers

will be required to pay a tap fee in proportion to their anticipated usage of total volume. During its initial years of operation tap fees may not generate enough revenue to repay the construction loan. However, the partners of the Applicant have committed to provide funds to offset any deficit.

The Applicant has proposed rates for monthly sewer service of \$100 for the first 10,000 gallons and \$10/1000 gallons over that amount. The applicant asserts the proposed rates for monthly service will cover its operating expenses beginning in the first year of operation.

4. The Applicant has the necessary capital and financial capability to provide the services it proposes to offer. The rates proposed for sewer services are just and reasonable. The amount of debt, the repayment of the debt by tap fees and the agreement to fund any deficit will enable the Applicant to provide the requested service at rates which are just and reasonable and will permit it to be a viable sewer utility.

5. The application and supporting documentation demonstrate the Applicant has the requisite technical and managerial ability necessary to provide sewer services by virtue of an agreement with the City of Johnson City to operate and manage the facility for a reasonable fee. Johnson City has several years experience in managing similar facilities.

6. The Applicant has represented that it will adhere to all applicable policies, rules and orders of the Authority.

7. Upon a review of the Application and the record in this matter, the Hearing Officer finds that approval of the Application would inure to the benefit of the present and future public convenience and necessity.

**IT IS THEREFORE ORDERED THAT:**

1. H C Sewage Treatment, L.L.C.'s application is approved;
2. Any party aggrieved by this initial decision may file a Petition for Reconsideration with the Tennessee Regulatory Authority within fifteen (15) days from and after the date of this Order. Such Petition shall be considered by the Hearing Officer presiding herein;

3. Any party aggrieved by the decision of the Hearing Officer in this matter may also file a Petition for appeal pursuant to Tenn. Code Ann. § 4-5-315 with the Tennessee Regulatory Authority within fifteen (15) days from and after the date of the Order. If the Tennessee Regulatory Authority or any of the parties herein do not seek review of this Initial Order within the time prescribed by Tenn. Code Ann. § 4-5-315, this Order shall become the Final Order.

ENTERED THIS 2nd DAY OF January, 2002.

A handwritten signature in black ink, appearing to read "K. David Waddell", is written over a horizontal line.

K. DAVID WADDELL,  
AS HEARING OFFICER