

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Wisecarver)
Environmental Services, Inc. for Request for) Case No. 01-3162-ST-WVR
Waiver from Jurisdiction)

In the Matter of the Application of Wisecarver)
Environmental LLC for a Certificate of Public)
Convenience and Necessity to Operate in the) Case No. 04-543-ST-ACE
State of Ohio and Request to Withdraw Its)
Waiver of Jurisdiction.)

ENTRY

The Commission finds:

- (1) On December, 2001, Wisecarver Environmental Services, Inc. (Wisecarver/Applicant) filed an application requesting a Waiver of Jurisdiction from regulation by the Public Utilities Commission of Ohio.
- (2) On April 13, 2004, Applicant requested to withdraw its request for Waiver from Jurisdiction (Waiver) and, subsequently, apply for a Certificate of Public Convenience and Necessity (Certificate). Applicant also requested that all documents submitted with the request for a Waiver be accepted as exhibits, and all other required exhibits for certification be waived.
- (3) Wisecarver Environmental Services, Inc. provides sewage service to three commercial enterprises in Muskingum County, Falls Township, Ohio. Originally the Applicant anticipated that Muskingum County would be extending within a year's time a sewage collection line that would serve the entities. Due to the short time period before service would be transferred, Applicant requested the Waiver from Jurisdiction.
- (4) For various reasons, Muskingum County has not extended the line and has no immediate plans to do so. The Applicant, therefore, requests the cancellation of the Waiver case and requests that it be granted a Certificate.
- (5) Due to the fact that all customers are served under contracts, the Applicant requested a waiver from filing the required information for a certificate beyond the contracts and additional information provided.
- (6) The contracts are between the Applicant and Super 8 Motel, Inc., the Applicant and McDonald's Corporation, and the Applicant and West Pike Exxon. The Agreements provide the rates, terms and conditions pursuant to which Wisecarver will render sewer

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service. These three entities are the Applicant's only sewer customers and account for all sewer service provided by the Applicant. All three customers are served under identical contracts.

- (7) On May 14, 2004, Applicant filed a draft tariff referencing the agreements and specifying that any and all current and future customers to be served by Wisecarver will be served on a "Special Contract" basis and that all such contracts are and will be subject to the approval of the Public Utilities Commission of Ohio.
- (8) Upon review, the Commission finds good cause to dismiss the Waiver from Jurisdiction application, filed in Case No. 01-3162-ST-WVR. Accordingly, the application in this case should be dismissed and this case should be closed of record.
- (9) Staff has reviewed the Agreements and finds the terms to be reasonable.
- (10) After reviewing the record in Case No. 04-543-ST-ACE, the Commission concludes that Wisecarver's application for a certificate should be granted. There appears to be a present and continuing need by the public in the area encompassed by the application for the facilities and services of the type which the applicant proposes to provide under the authority it seeks. Based on the record, Wisecarver possesses the managerial, technical, and financial resources to provide its existing sewer service. Accordingly, Certificate No. 44 should be issued to Wisecarver Environmental Services Inc. authorizing it to provide sewage treatment services in the service area designated in its application.
- (11) The contracts should be approved pursuant to Section 4905.31, Revised Code. Our approval of these contracts does not constitute state action for the purpose of the antitrust laws. It is not our intent to insulate the Applicant or any party to a contract approved by this Entry from the provisions of any state or federal law which prohibit the restraint of trade.

It is, therefore,

ORDERED, That Wisecarver's application is approved and that Certificate No. 44 be issued to Wisecarver Environmental Services Inc., authorizing it to provide sewage treatment, service in the service area designated in its application. It is, further,

ORDERED, That Case No. 01-3162-ST-WVR is dismissed and closed of record. It is, further,

ORDERED, That the Agreements as submitted to the Commission are approved, and that two copies of each Agreement as submitted shall be accepted for inclusion in the tariff files of the Commission. It is, further,

ORDERED, That Applicant is authorized to file in final form four complete, printed copies of tariffs consistent with the findings of this Entry with the Docketing Division of the Commission; one copy designated to be included in this docket; one copy designated to be included in the Company's TRF Docket No. 89-7050-ST-TRF; and two copies designated for the distribution to Commission Staff. It is, further,


ORDERED, That the effective date of the new tariffs shall be a date upon which four complete, printed copies of final tariffs are filed with the Commission. It is, further,

ORDERED, That nothing in this Entry shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

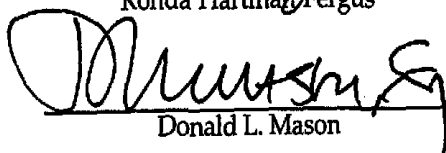
ORDERED, That a copy of this Entry be served upon Wisecarver and all other interested persons.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

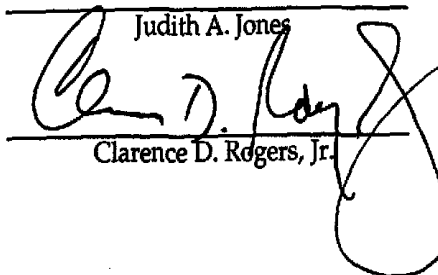


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Entered in the Journal

JUN 15 2004



Renee J. Jenkins

Secretary