



BOULT ■ CUMMINGS[®]
CONNERS ■ BERRY PLC

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June 27, 2007

Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Pkwy
Nashville, TN 37243-0505

filed electronically in docket office on 06/27/07

**Re: *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate
of Convenience and Necessity***
Docket No. 06-00259

Dear Chairman Kyle:

In behalf of Tennessee Wastewater Systems, Inc., enclosed is the pre-filed rebuttal testimony of Michael Hines.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:


Henry Walker

HW/djc
Enclosure
cc: All parties

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

June 27, 2007

In re: Petition of Tennessee Wastewater)
Systems, Inc. to Amend its Certificate of)
Convenience and Necessity)

Docket No. 06-00259

**PRE-FILED REBUTTAL TESTIMONY
OF
MICHAEL HINES**

1 Q. Please state your name and place of employment.

2 A. I am Mike Hines. I am an environmental engineer and, for the last thirteen years, have
3 designed, built and operated wastewater systems. My company, Southeast Environmental
4 Engineering, LLC, is responsible for the management of the East Tennessee wastewater systems
5 of Tennessee Wastewater Systems.

6 Q. Describe your education and training.

7 A. Attached as Exhibit 1 to my testimony is a description of my education and experience in
8 the field of environmental engineering.

9 Q. Have you previously testified before the TRA?

10 A. I participated on behalf of Tennessee Wastewater Systems in the TRA's workshop on
11 decentralized wastewater systems held in December, 2004.

12 Q. What is the purpose of your testimony today?

13 A. The purpose of my testimony is to support the proposed tariff changes of Tennessee
14 Wastewater Systems in Docket 06-00259 and to provide rebuttal to the testimony of Randall
15 Ussery and Lynn Hedrick.

16 Q. Please describe the tariff filing in Docket 06-00259.

17 A. On October 10, 2006, Tennessee Wastewater Systems filed an amended tariff to
18 reclassify overnight rental properties in eight developments, all located in Sevier County, from
19 the "residential" to "commercial" category so that TWS can correctly bill these properties under
20 our tariff.

21 Q. Please describe these overnight rental properties.

22 A. These are fully equipped cabins, ranging in size from one bedroom to twelve, with
23 accommodations to sleep from two adults to over fifty. With a few exceptions, these cabins are
24 commercial properties, used for overnight and weekly rentals. Since these are commercial

25 properties, they should be charged commercial sewer rates just as they are charged commercial
26 rates for water and electric service.

27 Q. Are there some cabins on these properties that are not commercial properties?

28 A. Yes, there are a few that are residential and are not available for overnight rental. These
29 proposed tariff changes will not apply to those units. Any cabin owner who notifies TWS that
30 the cabin is a residential property will continue to be billed at the residential rate.

31 Q. How are the overnight rental properties in these developments classified by other
32 utilities?

33 A. These properties are served by the Sevier County Electric System. Attached as Exhibit 2
34 to my testimony is a copy of the rates and policies of that utility. The policy states, "An
35 overnight rental unit, i.e., cabin, house or condominium, will be considered a 'business' and will
36 be classified under [sic] commercial rate in accordance with the System's 'Commercial Deposit
37 Policy for Rental Units.'" As shown on the rate chart, the commercial rates for Sevier County
38 Electric System are significantly higher, both as to the customer charge and the energy charge,
39 than the residential rates. The commercial electric rates, just like the commercial sewer tariff of
40 TWS, are structured in rate blocks in recognition of the fact that, unlike residential usage,
41 commercial usage can vary widely and commercial customers should be billed according to
42 usage, rather than on a flat rate.

43 Q. What about the water bills for these properties?

44 A. Water service is provided by the City of Pigeon Forge Utility Department. They also
45 classify rental cabins as commercial properties. As shown on their rate schedule, attached as
46 Exhibit 3 to my testimony, commercial customers such as "cabins, rental, market, church, bank,
47 and office" properties pay a connection fee of \$100 for water service, while residential properties
48 pay a connection fee of \$25 or \$50, depending upon the customer's location.

49 Q. How are these cabin rental properties treated for tax purposes?

50 A. Although I am not an attorney or an accountant, it is my understanding that all of these
51 overnight rental cabins must register as a business and pay the Tennessee business tax and that
52 they are also required to collect and remit sales tax on rental income. Attached as Exhibit 4 to
53 my testimony is a notice from the Tennessee Department of Revenue, dated July, 2001,
54 explaining that the overnight rental of vacation lodgings constitutes a business and that either the
55 owner or the property manager must register and pay both the business tax and sales tax to the
56 state.

57 Finally, I would assume that the owners of these commercial cabins must report their
58 rental income on their federal income taxes but can deduct all their operating costs including
59 their utility bills, as business expenses.

60 Q. Why is that relevant?

61 A. Each of these cabin owners is running a commercial enterprise. These are not
62 "residences" in any sense of the term. Under state law, under federal law, and in the view of
63 other utilities, these are commercial properties and ought to be charged commercial sewer rates.

64 Q. Why does TWS have separate rates for residential and commercial customers?

65 A. Like every other utility, TWS recognizes that commercial usage and residential usage are
66 different. The TRA recognizes this difference every time the agency approves a tariff containing
67 separate classifications for residential and commercial customers. First, as I have stated earlier,
68 residential usage is generally regular, predictable and, as a result, often flat rated. Commercial
69 usage, on the other hand, can vary widely and therefore has different rates, depending upon
70 usage. Second, residential systems require less maintenance than commercial customers. In my
71 experience from managing the sewer systems which serve these overnight rental cabins, these
72 resort properties operate in a completely different manner than residential. Most of the cabins

73 have sleeping facilities often significantly in excess of the bedroom capacity of the unit. Guests
74 often flush foreign materials into the interceptor tank at the cabin that results in significantly
75 increased service calls and maintenance expense to the utility. Under the commercial rate
76 structure, TWS can also require cabin owners to pay for capital costs to upgrade the sewer
77 systems if they are exceeding their capacity. Finally, charging more to commercial customers
78 allows us to maintain cheaper rates for "real" residential users and promotes universal service.

79 Q. Why were these developments initially classified on residential properties?

80 A. As Mr. Pickney explained in his direct testimony, that was a mistake on our part. We
81 thought that these resort cabins would be similar to residential houses. Experience has shown
82 that we were wrong. We did not anticipate these log cabin "hotels" sleeping 30, 40 and 50
83 people, nor did we anticipate the difference in usage between a home owner, who has an
84 incentive to maintain his system and use it properly, and a transient tenant who has no such
85 incentive and will sometimes abuse the system.

86 Q. Based on your experience, does TWS now charge commercial rates to rental cabins in
87 other similar developments?

88 A. Yes. At this time, TWS is currently charging or is authorized to charge commercial rates
89 to overnight rental cabins in ten developments. In each case, the commercial rates were
90 approved by the TRA. They are: Brigadoon #05-00241, Elk Springs #05-00211, German Creek
91 #05-00138, Happy Creek #06-00104, Legacy Mountain East #03-00329, Legacy Preserve #03-
92 00329, Settlers Ridge #06-00081, Sugar Loaf Ridge #06-00022, Summit View #06-00078, and
93 The Villages at Norris #06-00277. Some of these systems are still under construction but the
94 rates have been filed and approved. The properties in these developments are, or will be,
95 substantially similar to the properties in the eight developments which are the subject of this
96 proceeding.

97 Q. Do you know whether other TRA-certified sewer utilities classify overnight rental cabins
98 as commercial properties?

99 A. Yes. It is my understanding that Integrated Resource Management, Inc., another sewer
100 utility regulated by the TRA, also classifies overnight rental cabins as commercial properties.

101 Q. Do you know whether the TRA has recently ruled on whether this classification is
102 appropriate?

103 A. Yes. Attached as Exhibit 5 to my testimony is a transcript from the TRA agenda
104 conference on June 25, 2007. In Docket 07-00090, the TRA Directors granted a certificate to
105 IRM, Inc. to serve "The Landing at Bird's Creek Subdivision" in Sevier County. Mr. Jeffrey
106 Cox of IRM explained in response to a question from Director Roberson that full time residents
107 in the development would be charged a residential rate but that if the property is a "rental cabin,"
108 the owner will be charged a commercial rate "due to the transient nature and the management of
109 those types of systems." The Authority then approved the application and proposed tariff by a
110 two-to-one vote. Director Roberson and Chairman Kyle voted yes. Director Jones dissented.

111 Q. In his dissent, Director Jones said, "It seems to me that they [part-time tenants] would use
112 less system resources [than full-time residents] and not more." Would you please respond to that
113 point.

114 A. Director Jones is right if we are talking about average usage over the period of a year. A
115 property housing full-time residents will use more water and generate more sewage over a year
116 than overnight tenants who rent the same property on a weekend or seasonal basis during the
117 same period of time. Director Jones is wrong, however, in concluding that the size of the system
118 is based on average usage. The size of the system is determined by its anticipated peak usage,
119 not average usage, and we have learned from experience that the peak usage associated with
120 these overnight rental properties far exceeds the peak usage for residential properties. We are

121 now designing our systems to take this difference into account. For our existing systems, as
122 explained in Mr. Pickney's direct testimony, the impact of these high volume cabin "hotels" is
123 becoming a matter of concern. Our commercial tariff recognizes that some large users may force
124 us to expand our systems to accommodate the customers' peak usage. In that situation, the tariff
125 allows us to require a commercial property owner to pay for the capital costs of upgrading our
126 system if the customer's anticipated usage exceeds the system's existing capacity. The provision
127 in the tariff insures that these capital costs will be paid by the large commercial users and not
128 imposed on other customers. There is no similar provision in the residential tariff. This is
129 another reason why it is important to move these customers to the commercial tariff.

130 Q. Mr. Hedrick testified that the resort cabins in Smoky Cove are "typical of residences built
131 in this area" and are "undoubtedly residential in nature." Do you agree?

132 A. No. The information submitted in response to our discovery requests shows that these
133 rental properties are designed to sleep from four to twenty-eight adults. Most are designed to
134 sleep ten to twelve adults. A house that size is not a "typical residence," nor is the transient use
135 of the properties "residential in nature."

136 Q. He states that your commercial rate would cause owners to pay "close to \$300 a month."
137 Is that true?

138 A. I don't know which properties he is describing but a bill that large would mean that the
139 property is using between 1,001 and 2,000 gallons of water per day which is substantially in
140 excess of the expected design flow. That commercial user ought to be paying a higher rate and
141 not that flat rate charged to residential customers.

142 Q. He also states that had he known these properties might have to pay commercial sewer
143 rates, he would have considered using septic tanks. Would that have been a practical option for
144 this development?

145 A. No. Based on the Sevier County Environmental Health Department Regulations and the
146 Pigeon Forge Planning Commission Regulations, Mr. Hedrick would not have been able to
147 develop near as many lots as he is able to do with the approved public utility sewerage system.

148 Q. Mr. Ussery testified that TWS has always known that the cabins in Starr Crest Resort
149 would be used as rental properties. Is that correct?

150 A. Yes. As I explained, we initially believed that these transient customers would have the
151 same usage patterns and characteristics as residential customers. Experience has shown that is
152 not the case.

153 Q. Mr. Ussery believes that it would not be fair to reclassify these properties as commercial.
154 Do you agree?

155 A. It is unfortunate that we did not properly classify these properties as commercial in the
156 beginning. Now we know better. What would be unfair is to continue subsidizing these
157 commercial properties by charging them a residential rate while requiring other, similarly
158 situated owners of rental cabins to pay commercial rates.

159 Q. Does that conclude your testimony?

160 A. Yes.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via U.S. Mail, to:

Christopher W. Conner
Garner & Conner
250 High Street
P.O. Box 5059
Maryville, TN 37802
c_conner@gkfclaw.com

Robert G. Wheeler, Jr.
Attorney at Law
P.O. Box 110971
Nashville, TN 37222-0971

on this the 27th day of June, 2007.


Henry Walker

EXHIBIT 1

Michael Hines, M.S., P.E.
Founding Principal
Southeast Environmental Engineering, LLC

Education: BS Engineering, Southern Illinois University
MS Environmental Health Engineering, University of Kansas

Experience: 14 years with the Illinois Department of Public Health with four years as a stream pollution control engineer, six years as manager of all environmental health programs in a 16 county regional office, and four years managing all environmental health programs statewide through eight regional offices.

14 years with the Tennessee Valley Authority managing corporate environmental compliance programs.

13 years as a private consulting engineer designing, building, and operating wastewater systems. Under contract, provide management of Tennessee Wastewater Systems, Inc. operations in east Tennessee. Provided testimony to TRA Waste Water Forum regarding decentralized systems held in December 2004.

EXHIBIT 2

SEVIER COUNTY ELECTRIC SYSTEM

September 1, 2006

DIRECTIVE NO. 3 - SUPPLEMENT NO. 8**TO: ALL SEVIER COUNTY ELECTRIC SYSTEM CUSTOMERS****SUBJECT: CUSTOMER DEPOSITS****I. RESIDENTIAL:**

- A. Property Owners: \$50.00 - \$100.00
B. Renters: \$250.00

II. COMMERCIAL:

The security deposit for any commercial account shall be for a sum equal to two (2) times the highest bill during the preceding twelve (12) months for the similar previous customer. If figures are not available from previous customer, an estimate based on similar establishment, or size of electrical service, may be made.

An overnight rental unit, i.e., cabin, house or condominium, will be considered "a business" and will be classified under commercial rate in accordance with the System's "Commercial Deposit Policy for Rental Units". A \$100 deposit will be charged for each unit.

If the required deposit or deposits are \$200 or more, they may be transacted through the customer's bank by certificate of deposit, letter of credit or by surety bond.

All deposits, letters of credit, certificates of deposit and surety bonds will remain in place until service is discontinued and will be released only after all final bills are satisfied.

SEVIER COUNTY ELECTRIC SYSTEM

Howard Murrell
Superintendent

This supersedes Directive No. 3, Supplement No. 7, dated October 1, 2004.

SEVIER COUNTY ELECTRIC SYSTEM
ELECTRIC RATES

Effective Date: April 1, 2006

RESIDENTIAL RATE - SCHEDULE RS

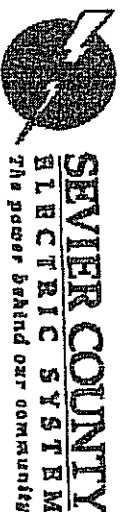
Base Charges

Customer Charge \$ 8.50
 Energy Charge per kWh 7.076

COMMERCIAL RATE - SCHEDULE CSA

Base Charges

1. Demand 0 to 50 kW for customer with or without contract demand:
 Customer Charge \$12.85
 Energy Charge 0 to 15,000 kWh per kWh 8.084
2. Demand 50 kW to 1,000 kW or demand less than 50 kW but kWh more than 15,000 kWh:
 Customer Charge \$40.00
Demand Charge in dollars per kW of demand:
 First 50 kW of billing demand per month No Charge
 Over 50 kW of billing demand per month \$12.09
Energy Charge per kWh:
 First 15,000 kWh per month 8.064
 Additional kWh per month 4.094
3. Demand greater than 1,000 kW:
 Customer Charge \$50.00
Demand Charge in dollars per kW of demand:
 First 1,000 kW of billing demand per month \$12.15
 Next 1,500 kW of billing demand per month \$13.31
 Over 2,500 kW of demand per month \$13.71
 Plus an additional \$13.71 per kW per month for each kW, if any, of the amount by which the customer's billing demand exceeds the higher of 2,500 kW or its contract demand.
 Energy charge per kWh 4.094



RULES AND REGULATIONS

22. **OUTDOOR LIGHTING FACILITIES.** SCES will supply, install, and maintain the light fixture, all the equipment pertaining to the fixture, and furnish electrical energy to the customer. No pole will be located a distance greater than ten feet from a roadway or drive for the purpose of installing a security light. SCES shall, at the request of customer, relocate or change existing SCES-owned equipment. The customer will be required to pay the estimated cost of relocation, including appropriate overhead, prior to the work being done.

23. **BILLING PERIODS.** The customer change and the energy change set forth in the Schedule of Rates and Charges are based on billing period of approximately one month. In the case of the first billing of new accounts and the final billings of discontinued accounts where the period covered by the billing involves fractions of a month, the customer change will be billed based on thirty (30) day period and energy change will be the kWh's used.

24. **SCOPE.** This Schedule of Rules and Regulations is a part of all contracts for receiving electric service from SCES and applies to all service received from SCES, whether the service is based upon contract, agreement, signed application or otherwise. A copy of this schedule, together with a copy of SCES's Schedule of Rates and Charges, shall be kept open to inspection at the office of SCES.

25. **REVISION.** These Rules and Regulations may be revised, amended, supplemented, or otherwise changed from time to time, without notice. Such changes, when effective, shall have the same force as the present Rules and Regulations.

26. **CONFLICT.** In case of conflict between any provision of any Schedule of Rules and Charges and the Schedule of Rules and Regulations, the Schedule of Rules and Charges shall apply.

27. **SHORTAGE OF ELECTRICITY.** In the event of an emergency or other condition causing a shortage in the amount of electricity for SCES to meet the demand on its system, SCES may, by an allocation method deemed equitable by SCES, fix the amount of electricity to be made available for use by customer under any other restrictions the time during which customer may make use of electricity and the uses which customer may make of electricity. If such actions become necessary, customer may request a variance because of unusual circumstances including military service and changing additional amounts because of the excess use of electricity. The provisions of the Sections entitled Interruption of Service of this Schedule of Rules and Regulations, Item No. 15, are applicable to any such allocation or restriction.

October, 2004

1. **APPLICATION FOR SERVICE.** Each prospective customer desiring electric service will be required to sign SCES's standard application for service contract, post a deposit or acceptable guarantor's agreement and pay the service connection charge. Service will not be supplied by SCES to any applicant (A) who is then indebted to SCES or (B) who, at the time of application, is a member of the household of a former customer who is indebted to SCES or (C) who was an adult member of the household of a former customer when said indebtedness was incurred and who was either a spouse of said customer or otherwise shared contractual liability for the indebtedness incurred, except upon payment of such indebtedness.

2. **DEPOSITS.** All customers are required to post a deposit for service.
 - A. Residential: \$50.00-\$250.00
 - B. Overnight Rental: \$100.00
 - C. Commercial: Two times the highest monthly bill (\$200.00 minimum)

3. **POINTS OF DELIVERY.** The point of delivery is the point, as designated by SCES, on customer's premises where electric power is to be delivered. All wiring and equipment beyond this point of delivery shall be provided and maintained by customer at no expense or responsibility of SCES.

Point of delivery is further defined as that point where obligation ends for SCES to furnish and install conductor, and where obligation begins for customer to furnish and install conductor.

4. **CUSTOMER'S WIRING - STANDARDS.** All electrical wiring of customer must comply to standards set forth by the National Electrical Code, the State of Tennessee Division of Fire Prevention, or by local city or county codes. The National Code is superseded by more stringent state and local codes, but in all cases is the minimum acceptable standard.

All meter locations, for both underground and overhead services, must be approved by a representative of SCES.

5. **INSPECTIONS.** SCES will install electric service only after satisfactory inspection has been performed by an authorized representative of the Division of Fire Prevention, Department of Insurance, State of Tennessee. Application for such electrical inspection may be made at the office of SCES, Customer Service Department, 315 East Main Street, Sevierville, Tennessee. However, such inspections or failure to inspect or reject shall not render SCES liable or responsible for any loss incurred or from property damages resulting from defects in the installation, wiring, or appliances, or from violation of SCES or other governmental rules, or from accidents which may occur upon customer's premises.

EXHIBIT 3

COMMERCIAL CONNECTION FEES

| | |
|----------------------------------------------|----------|
| cabins, retail, market, church, bank, office | 100.00 |
| car wash, grocery, amusements, fast food | 500.00 |
| motels, condos | 3,000.00 |
| restaurants | 1,000.00 |

**The above fees are based on the following averages,
with a minimum payment being \$100.00:*

| | <u>Water</u> | <u>Water/Sewer</u> | <u>2 Months</u> |
|---------------|--------------|--------------------|-----------------|
| Cabins | 19.25 | 38.49 | 76.98 |
| Motels | 1,529.81 | 3,059.62 | 6,119.24 |
| Restaurants | 513.18 | 1,026.36 | 2,052.72 |
| Fast Food | 174.63 | 349.26 | 698.62 |
| Retail | 13.54 | 27.08 | 54.16 |
| Amusement | 219.18 | 438.36 | 876.72 |
| Market/Gas | 69.39 | 138.78 | 277.56 |
| Grocery Store | 192.09 | 384.18 | 768.36 |
| Car Wash | 387.37 | 774.73 | 1,549.46 |
| Bank/Office | 20.92 | 41.84 | 83.68 |

RESIDENTIAL CONNECTION FEES**Inside City Limits:**

| | |
|---------------|-------|
| Water | 25.00 |
| Sewer | 25.00 |
| Water & Sewer | 50.00 |

Outside City Limits:

| | |
|-------|-------|
| Water | 50.00 |
|-------|-------|

EXHIBIT 4

**Business Tax on Short-term Rental of Vacation Lodging
Including Cabins, Cottages and Chalets**

**Sales &
Use tax
notice**

The law applying to the short-term rental of vacation lodgings (including but not limited to cabins, cottages, and chalets) has changed. Pursuant to Public Chapter 224, effective May 15, 2001, individual property owners are no longer required to register and remit business tax on the overnight rental of vacation lodgings if they utilize a property management company to manage the property. The law change provides that the management companies are responsible for the business tax levied on the total gross proceeds from these types of rentals. This notice replaces the notice issued August 1999.

The Tennessee Code Annotated has been amended to include the following:

“Business” does not include an individual property owner who utilizes a property management company to manage a vacation lodging for overnight rentals; provided, however, that “business” shall include any other activity of such individual property owner that is subject to any tax levied by this part.

A property management company shall owe business tax based on its gross proceeds from overnight rentals and

gross proceeds from any other source subject to the business tax levied by this part.

Tenn. Code Ann. Sections 67-4-702(a)(1) and 67-4-730. Tenn. Code Ann. Section 67-4-702(a) has also been amended to include the definition of several terms including “individual property owner,” “overnight rentals,” “property management company,” and “vacation lodging.” The complete text of Public Chapter 224 is on the next page of this notice.

Property management companies must collect sales tax from the consumer as provided in Tenn. Code Ann. Sections 67-6-501 and 67-6-502.

Individual property owners who do not utilize a property management company to manage their properties are responsible for registering and remitting the business tax and sales tax.

Have questions or comments? Please let us know. [Contact us.](#)

Publication Date: July 2001

EXHIBIT 5

BEFORE THE TENNESSEE REGULATORY AUTHORITY

EXCERPT OF
TRANSCRIPT OF AUTHORITY CONFERENCE
Monday, June 25, 2007

TRA Docket No. 07-00090

APPEARANCES:

For IRM Utility: Mr. Jamie R. Hollin
TRA Docket Manager: Ms. Sharla Dillon

Reported By:
Patricia W. Smith, RPR, CCR

1 (The aforementioned Authority
2 Conference came on to be heard on Monday, June 25,
3 2007, beginning at approximately 1:00 p.m., before
4 Chairman Sara Kyle, Director Eddie Roberson,
5 Director Pat Miller, and Director Ron Jones. The
6 following is an excerpt of the proceedings which were
7 had, to-wit:)

8
9 MS. DILLON: Next we have Docket
10 No. 07-00090, IRM Utility, Inc., a/k/a Integrated
11 Resource Management Utility, Inc. Petition of
12 Integrated Resource Management, Inc., to amend its CCN
13 to serve an area in Sevier County, Tennessee, known as
14 The Landing at Bird's Creek Subdivision, hear and
15 consider petition.

16 CHAIRMAN KYLE: Thank you. That was
17 scheduled next on our agenda, so we're going to at this
18 time call the hearing in this docket. And to
19 streamline our transcript, the hearing will begin in
20 Docket 07-00090. It is called to order regarding the
21 petition of IRM, Inc., to amend its certificate of
22 public convenience and necessity to serve an area in
23 Sevier County, Tennessee, known as The Landing at
24 Bird's Creek Subdivision.

25 This matter was duly noticed on

1 June 13th, 2007. I see the parties have come forward.
2 Will you identify yourself for the record?

3 MR. HOLLIN: Madame Chair, Directors,
4 Jamie Hollin with the Farris Mathews law firm.

5 MR. COX: And I'm Jeffrey Cox,
6 president of IRM Utility.

7 CHAIRMAN KYLE: And you will be
8 testifying today, Mr. Cox; is that correct?

9 MR. COX: Yes, ma'am.

10 CHAIRMAN KYLE: Thank you very much.
11 Let me swear the witness in.

12 (Witness sworn.)

13 CHAIRMAN KYLE: Thank you so much.
14 Counsel, do you want to proceed?

15 MR. HOLLIN: Yes, ma'am.

16
17 JEFFREY W. COX, SR.,
18 was called as a witness, and having been duly sworn,
19 was examined and testified as follows:
20

21 EXAMINATION

22 BY MR. HOLLIN:

23 Q. Mr. Cox, would you please state your name
24 again, your title, and your business address for the
25 record.

1 A. Yes. Jeffrey Cox, president of IRM
2 Utility. We're located at 3444 St. Andrews Drive, and
3 that's in White Pine, Tennessee.

4 Q. Did you assist in the preparation of the
5 petition filed in this docket, and are you familiar
6 with its contents?

7 A. Yes.

8 Q. Did you submit prefiled testimony as an
9 exhibit to the petition?

10 A. Yes.

11 Q. Would you please summarize the petition for
12 the benefit of the panel.

13 A. It will be a wastewater system that's
14 similar to what we've been doing in the past. And it
15 will service 19 rental cabins.

16 Q. Are there any changes you would like to
17 make to that testimony?

18 A. No, sir.

19 Q. Does IRM have the managerial, technical,
20 and financial ability to serve the proposed service
21 area?

22 A. Yes, sir.

23 Q. Is there any further information you would
24 like to submit to the panel prior to their
25 consideration of the petition?

1 A. No, sir.

2 MR. HOLLIN: No more questions, Madame
3 Chair.

4 CHAIRMAN KYLE: Do you want to move
5 the filings into the record?

6 MR. HOLLIN: I would so move.

7 CHAIRMAN KYLE: Without any objection,
8 we will put into the record the testimony and
9 application and any documents you have submitted with
10 the application.

11 Thank you very much.

12 Do my fellow directors have any
13 questions?

14 DIRECTOR ROBERSON: I have one.

15 Will the rate that -- these are rental
16 units; is that correct?

17 THE WITNESS: Yes, sir.

18 DIRECTOR ROBERSON: Will they be
19 charged a residential rate?

20 THE WITNESS: They will be marked on
21 their tariff as the commercial rate, and it will be a
22 combined rate.

23 On our -- on our application to serve,
24 there's a section there for them to check-mark whether
25 they're full-time residents. Some folks buy these as

1 full-time residents. They will be charged the
2 residential rate.

3 If they would check the box that it is
4 a rental cabin, then due to the transient nature and
5 the management of those types of systems they will
6 apply then to a commercial rate.

7 DIRECTOR ROBERSON: Thank you.

8 CHAIRMAN KYLE: Because this is a
9 public hearing, I will ask if there are any members of
10 the public who would like to make a comment at this
11 time.

12 (No audible response.)

13 CHAIRMAN KYLE: Let the record show
14 that no one has come forward and that no interventions
15 have been filed in this docket.

16 Fellow Commissioners, are we ready to
17 deliberate? Do we have a motion?

18 DIRECTOR ROBERSON: I do. Based on
19 the administrative record and the testimony given
20 today, I find that the petitioner has met the
21 requirements of TCA Code Annotated 65-4-201 and
22 Authority Rule 1220-4-13.04 by demonstrating that it
23 has sufficient managerial, financial, and technical
24 expertise to operate the wastewater system in the
25 requested area.

1 I further find that the requested
2 rates are identical to those previously approved by the
3 Authority. Therefore, I move that we take
4 administrative notice of the company's 2006 annual
5 report and approve the petition.

6 CHAIRMAN KYLE: Second.

7 DIRECTOR JONES: I also would vote
8 yes.

9 I would like to offer a friendly
10 amendment, that we also take administrative notice of
11 the Secretary of State's website posting indicating
12 that the company is still legally operating in the
13 state of Tennessee.

14 And I would also like to vote yes on
15 the part of your tariff with respect to the residential
16 rate for the full-time tenants in the rental units, but
17 no on the part for the part-time tenants and the
18 commercial rate. It seems to me that they would use
19 less system resources and not more.

20 Thank you.

21 (End of excerpt of
22 proceedings.)
23
24
25

1 REPORTER'S CERTIFICATE

2 STATE OF TENNESSEE)

3 COUNTY OF DAVIDSON)

4 I, Patricia W. Smith, Registered
5 Professional Reporter, with offices in Nashville,
6 Tennessee, hereby certify that I reported the foregoing
7 proceedings at the time and place set forth in the
8 caption thereof; that the proceedings were
9 stenographically reported by me; and that the foregoing
10 proceedings constitute a true and correct transcript of
11 said proceedings to the best of my ability.

12 I FURTHER CERTIFY that I am not
13 related to any of the parties named herein, nor their
14 counsel, and have no interest, financial or otherwise,
15 in the outcome or events of this action.

16 IN WITNESS WHEREOF, I have hereunto
17 affixed my official signature and seal of office this
18 26th day of June, 2007.

19
20
21
22 PATRICIA W. SMITH, REGISTERED
23 PROFESSIONAL REPORTER AND NOTARY
PUBLIC FOR THE STATE OF TENNESSEE

24 My Commission Expires:

25 July 19, 2008