

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 14, 2007

IN RE:

PETITION OF INTEGRATED RESOURCE MANAGEMENT
UTILITY, INC. TO AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO SERVE AN AREA IN
BLOUNT COUNTY, TENNESSEE KNOWN AS ASHLEY
MEADOWS SUBDIVISION

DOCKET NO.
07-00008

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Director Eddie Roberson, Director Pat Miller, and Director Ron Jones, of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the Hearing held on March 12, 2007, to consider the *Petition of Integrated Resource Management Utility, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority amend its service area to include a portion of Blount County, Tennessee known as Ashley Meadows Subdivision.

Background

On November 10, 2003, Integrated Resource Management Utility, Inc. d/b/a IRM Utility, Inc. ("IRM") received a certificate of public convenience and necessity ("CCN") in Docket No. 03-00467 to provide sewer service to two customers in Sevier County, Tennessee.¹ Since that time, through various other dockets, IRM has been granted approval to expand its service territory to include other areas of Tennessee.

¹ See *In Re: Application of Integrated Resource Management Utility, Inc. for a Certificate of Public Convenience and Necessity to Provide Wastewater Systems Services*, Docket No. 03-00467, *Order Approving Application for a Certificate of Public Convenience and Necessity, Tariff and Special Contract* (March 16, 2004).

On January 5, 2007, IRM filed its *Petition*, along with the Pre-filed Direct Testimony of Jeffery W. Cox,² to expand its service area to include a portion of Blount County, Tennessee known as Ashley Meadows Subdivision. The Authority issued a Data Request on January 31, 2007. IRM provided a response on February 12, 2007. On February 20, 2007, a copy of an electronic mail expressing concerns about the location of the proposed sewer system sent to Mr. Cox by Ms. Overton, a resident of Ashley Meadows Subdivision, was filed with the Authority. On March 8, 2007, TRA staff filed a memorandum and copies of electronic mail indicating that Ms. Overton's concerns had been satisfactorily addressed. Prior to that, a Notice of Hearing had been issued on February 28, 2007, stating that the voting panel assigned to this docket would conduct a Hearing and deliberate the merits of the *Petition* on Monday, March 12, 2007.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2006), which states as follows:

(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. . . .

The Authority promulgated permanent rules for public wastewater utilities that became effective June 12, 2006. TRA Rule 1220-4-13-.04(b) sets forth certain requirements for a wastewater CCN applicant as follows:

² See *Petition, Exhibit G* (January 5, 2007).

(b) Any public wastewater utility requesting a Certificate of Public Convenience and Necessity (CCN) authorizing such public utility to construct and/or operate a wastewater system or to expand the area in which such a system is operated, shall file an application in compliance with Rule 1220-1-1-.03 and this rule. All applicants shall demonstrate to the Authority that they are registered with the Secretary of State, have obtained the financial security required under 1220-4-13-.07, and possess sufficient managerial, financial, and technical abilities to provide the wastewater services for which they have applied. Each application shall justify existing public need and include the required financial security consistent with Tenn. Code Ann. § 65-4-201 and these rules.

The Petition

In its *Petition*, IRM requested an expansion of its authorized service area to include a portion of Blount County, Tennessee known as Ashley Meadows Subdivision and attached a map showing the area to which IRM proposes to extend its service.³ IRM states that the City of Maryville and Blount County have no desire to own, operate or provide wastewater treatment services to the area and attached letters to that effect from Jerry G. Cunningham, Blount County Mayor⁴ and Jeffrey A. Rose, Director of Water Quality Control, City of Maryville.⁵ IRM also provided a copy of an executed Utility Agreement between the owners/developers, Shore Builders, Inc. and Joseph W. King Construction, Inc., IRM, and David E. McKinney, a resident of Loudon, Tennessee stating that IRM will become the operator of the proposed sewer system upon completion of its construction.⁶

IRM proposes to serve Ashley Meadows Subdivision by an onsite recirculating sand filter and subsurface drip irrigation system.⁷ The system will be designed and constructed to serve a total of twenty-two residential lots on approximately 20 acres, or approximately 6,600 gallons per day, when fully built.⁸ IRM estimates that the developer will contribute a total of \$175,000.⁹ Therefore, limited funding is needed from IRM to construct the initial wastewater system.

³ See *Petition, Exhibit A* (January 5, 2007).

⁴ See *Petition, Exhibit B* (January 5, 2007).

⁵ See *Petition, Exhibit C* (January 5, 2007).

⁶ See *Petition, Exhibit E* (January 5, 2007).

⁷ See *Petition, Exhibit F* (January 5, 2007).

⁸ See *Data Response, Response #5* (February 12, 2007).

⁹ See *Data Response, Response #4* (February 12, 2007).

The developer is responsible for any repairs within one year from the date the system is accepted by IRM; however, IRM is responsible for any future additions to its infrastructure.

In accordance with Authority Rule 1220-4-13-.04(b), the Authority received a Corporate Surety Bond from Great American Insurance Company in the amount of \$20,000 which lists IRM as the applicant and the Authority as the beneficiary.¹⁰

Finally, IRM proposes to charge identical rates in Ashley Meadows Subdivision to those previously approved by the Authority in other areas served by IRM.¹¹

The March 12, 2007 Hearing

Pursuant to Tenn. Code Ann. § 65-4-201(a) (Supp. 2006), public notice of the Hearing in this matter was issued by the Hearing Officer on February 28, 2007. Ms. Cheyenne Overton of Ashley Meadows Subdivision inquired about intervening prior to the Hearing, but her concerns were resolved satisfactorily prior to the Hearing, which was held on March 12, 2007. Mr. Jeffrey Cox, President of IRM, participated in the Hearing, presented testimony and was subject to examination by the panel assigned to this docket. Based upon the presentation of IRM's proof and consideration of the evidentiary record as a whole, the panel found that IRM had met the requirements of Tenn. Code Ann. § 65-4-201(a) (Supp. 2006) and TRA Rule 1220-4-13-.04 and that the proposed rates were the same as rates previously approved for IRM.¹²

The panel noted that IRM had received a notice of complete application for a state operating permit from the Tennessee Department of Environment and Conservation, but the permit was still pending, and took administrative notice of IRM's 2005 annual report on file with the Authority.

¹⁰ See *Petition, Exhibit D* (January 5, 2007).

¹¹ See *Petition, Exhibit H* (January 5, 2007), *Commercial Rate Sheet and Territory Summary*. The residential rate of \$35.11 per month will apply unless the owner rents the unit to the public for any portion of the year. If that occurs, the commercial rate will apply and be determined according to IRM's approved tariff rate sheet, based on total projected gallons per day.

¹² In addition, Director Jones noted that the Company's Tariff format differs dramatically from the formats of other utilities, particularly with respect to the residential rates and the listing of residential rates and requested that the company work with TRA utilities staff to properly format its Tariffs.

Applying the standard set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2006), the panel voted unanimously to approve IRM's *Petition*.


IT IS THEREFORE ORDERED THAT:

1. The *Petition of Integrated Resource Management Utility, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include a portion of Blount County, Tennessee known as Ashley Meadows Subdivision, as shown in the map attached to the *Petition*, is approved, contingent upon receipt of a state operating permit from the Tennessee Department of Environment and Conservation.

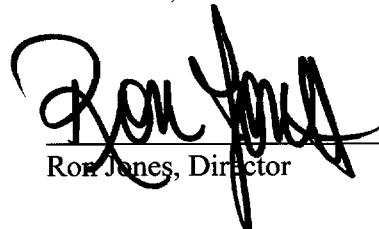
2. Integrated Resource Management Utility, Inc.'s rates for wastewater service for the Ashley Meadows Subdivision as filed in this docket are approved.

3. Any party aggrieved by the Authority's decision in this matter may file a *Petition for Reconsideration* with the Authority within fifteen days from the date of this Order.

4. Any party aggrieved by the Authority's decision in this matter has the right to judicial review by filing a *Petition for Review* in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.


Eddie Roberson, Director


Pat Miller, Director


Ron Jones, Director