

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 13, 2007

IN RE:

**PETITION OF INTEGRATED RESOURCE MANAGEMENT
UTILITY, INC. TO AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO SERVE AN AREA
IN CAMPBELL COUNTY, TENNESSEE KNOWN AS
FLAT HOLLOW SUBDIVISION**

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**DOCKET NO.
07-00009**

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a 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 Campbell County, Tennessee known as Flat Hollow 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, to expand its service area to include a portion of Campbell County, Tennessee known as Flat Hollow Subdivision. The Authority issued a Data Request on January 31, 2007. IRM provided a response on February 12, 2007. A Notice of Hearing was 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:

(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 Campbell County, Tennessee known as Flat Hollow Subdivision and attached a map showing the area to which IRM proposes to extend its service.¹ IRM states that Campbell County and LaFollette Utilities have no desire to own, operate or provide wastewater treatment services to the area and attached letters to that effect from Jeff Hall, Campbell County Mayor² and Eddie W. Troxell, Superintendent of Water/Wastewater Operation, LaFollette Utilities.³ IRM also provided a copy of an executed Utility Agreement between the owners/developer, Trimbach Properties, Ltd. and IRM, stating that IRM will become the operator of the wastewater treatment system upon completion of its construction.⁴

IRM proposes to serve Flat Hollow Subdivision by an onsite recirculating sand filter and subsurface drip irrigation system.⁵ The system will be designed and constructed to serve a total of twenty-three residential lots on approximately 4.85 acres,⁶ or approximately 6,000 gallons per day, when fully built. IRM estimates that the total contributed capital from the developer will be \$185,000;⁷ therefore, limited funding is needed from IRM to construct the initial wastewater system. 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.

¹ See *Petition, Exhibit A* (January 5, 2007).

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

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

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

⁵ See *Petition, Pre-filed Direct Testimony of Jeffrey W. Cox, Sr.* (January 5, 2007).

⁶ See *Data Response, Response #5* (February 12, 2007).

⁷ *Data Response, Response #4* (February 12, 2007).

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.⁸

Finally, IRM proposes to charge identical rates in Flat Hollow subdivision to those previously approved by the Authority in other areas served by IRM.⁹

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. No persons sought intervention prior to or during the Hearing. The Hearing 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 approved the *Petition* with its attached Tariffs.

The panel noted that IRM had received a permit, No. SOP-06039, from the Tennessee Department of Environment and Conservation, and took administrative notice of IRM's 2005 annual report on file with the Authority. 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 Campbell

⁸ See *Petition, Exhibit D* (January 5, 2007).

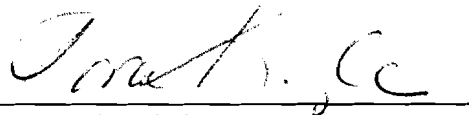
⁹ See *Petition, Exhibit H* (January 5, 2007), *Commercial Rate Sheet and Territory Summary*. The residential rate of \$35.11 per month will apply unless the owner rents the unit to the public for any portion of the year. If that occurs, the commercial rate will apply and be determined according to IRM's approved tariff rate sheet, based on total projected gallons per day.

County, Tennessee known as Flat Hollow Subdivision, as shown in the map attached to the *Petition*, is approved.

2. Integrated Resource Management Utility, Inc.'s rates for wastewater service for the Flat Hollow 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.



Sara Kyle, Chairman



Eddie Roberson, Director



Pat Miller, Director