

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 13, 2007

| | | |
|--------------------------------------|---|------------|
| IN RE: |) | |
| |) | |
| PETITION OF INTEGRATED RESOURCE |) | DOCKET NO. |
| MANAGEMENT UTILITY, INC. TO AMEND |) | 07-00090 |
| ITS CERTIFICATE OF CONVENIENCE AND |) | |
| NECESSITY TO SERVE AN AREA IN SEVIER |) | |
| COUNTY, TENNESSEE KNOWN AS LANDING |) | |
| AT BIRD'S CREEK SUBDIVISION |) | |

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on June 25, 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 approve expansion of its service area to include a portion of Sevier County, Tennessee known as the Landing at Bird's Creek 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 from the TRA to provide wastewater service to two customers in Sevier County, Tennessee.¹ Since that time, through various other dockets, the Company has been granted approval to expand its

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).

service territory to include other areas of Tennessee. The Company's principal office is located in White Pine, Tennessee. On April 10, 2007, TWS filed the *Petition* in the present matter, along with the Pre-filed Direct Testimony of Jeffery W. Cox.

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's permanent rules for public wastewater utilities became effective June 12, 2006. TRA Rule 1220-4-13-.04(1)(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*

On April 10, 2007, IRM filed its *Petition* requesting that its service area be expanded to include a portion of Sevier County, Tennessee, known as the Landing at Bird's Creek Subdivision ("Bird's Creek"). IRM is proposing to provide wastewater service to approximately six residential lots and thirteen commercial lots. IRM filed its tariff rate sheet in response to the TRA Data Request issued May 1, 2007.² The Company will serve Bird's Creek with an onsite recirculating media filter and subsurface drip irrigation system.

In support of its *Petition* and as evidence of the public need for wastewater service in the requested area, IRM attached the Utility Agreement between The Landings at Bird's Creek, LLC, the developer of Bird's Creek, and IRM. In addition, IRM attached letters from other potential wastewater service providers stating that none of the potential providers currently serves the area or intends to extend wastewater service to Bird's Creek.³ The Company filed a service area map showing the location of Bird's Creek, which is marked Exhibit "A" to its *Petition*. Finally, IRM states in its *Petition* that the Tennessee Department of Environment and Conservation (TDEC) issued permit No. SOP-07004 on February 28, 2007. IRM further states that construction of the system should begin in April 2007 and should be completed by August 2007.

The June 25, 2007 Hearing

Public notice of the Hearing in this matter was issued by the Hearing Officer on June 13, 2007. No person sought intervention prior to or during the Hearing. During the Hearing held on June 25, 2007, Mr. Jeffrey Cox, President of IRM, participated, presented testimony and was subject to examination by the panel. Mr. Cox's Pre-filed Testimony, which was entered into the record without objection, states that the Company has the managerial, technical and financial ability to

² See *Data Response No. 1*, Exhibit A (June 5, 2007): Sewer Tariff Rate Sheet.

³ See *Petition*, Exhibits B (April 5, 2007): Larry Waters, Sevier County Mayor, letter dated February 9, 2006; and Dale Phelps, Manager of Gatlinburg Utility District, letter dated March 7, 2007.

provide wastewater services to Bird's Creek.⁴ Additionally, the panel took administrative notice of IRM's 2006 annual report on file with the Authority, the Secretary of State website reflecting the corporate status of IRM and IRM's Letter of Credit.

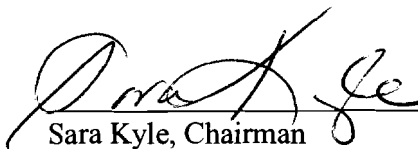
The panel found that IRM had met the requirements of Tenn. Code Ann. § 65-4-201(a) (Supp. 2006) and TRA Rule 1220-4-13-.04(1)(b). The panel also found that the rates filed by IRM were identical to those rates previously approved by the Authority for other areas served by the Company.

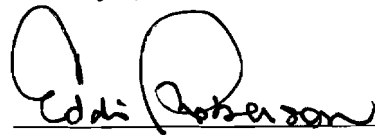
Based upon the evidentiary and administrative record as a whole and relying on the standards set forth in Tenn. Code Ann. § 65-4-201(a) (Supp. 2006) and TRA Rule 1220-4-13-.04(1)(b), the panel voted unanimously to grant approval of the *Petition*, including the rates filed by the Company.

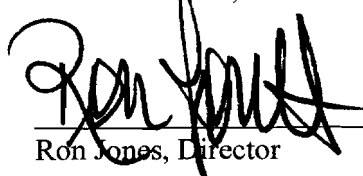
IT IS THEREFORE ORDERED THAT:

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 Sevier County, Tennessee known as the Landing at Bird's Creek 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 Landing at Bird's Creek Subdivision as filed in this docket are approved.


Sara Kyle, Chairman


Eddie Roberson, Director


Ron Jones, Director

⁴ Jeffrey Cox, Pre-Filed Testimony (April 10, 2007).