

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 5, 2010

IN RE:

**PETITION OF INTEGRATED RESOURCE
MANAGEMENT, INC. D/B/A IRM UTILITY, INC.
TO AMEND ITS CCN TO SERVE AN AREA IN
DECATUR COUNTY, TENNESSEE KNOWN AS
RIVERSTONE ESTATES**

**DOCKET NO.
09-00099**

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

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a Hearing held on March 22, 2010, to consider the *Petition to Amend Certificate of Public Convenience and Necessity* (the “*Petition*”) filed by Integrated Resource Management Utility, Inc. d/b/a IRM Utility, Inc. (“IRM”) on July 13, 2009 requesting that the Authority approve expansion of its service area to include a portion of Decatur County, Tennessee known as Riverstone Estates (“Riverstone”).

Background

On November 10, 2003, 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 service territory to include other areas of Tennessee. The Company’s principal office is located in White Pine, Tennessee. On July 13, 2009, IRM filed the *Petition* in the

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).

present matter, along with the Pre-filed Direct Testimony of Jeffery W. Cox. An amendment to Mr. Cox's testimony was filed on February 9, 2010.

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. 2009), 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. . . .

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

IRM requests that its service area be expanded to include a portion of Decatur County, Tennessee, known as Riverstone. IRM is proposing to provide wastewater service to approximately

150 residential customers and a 70-seat restaurant and marina.² The Company will serve Riverstone with an onsite wastewater treatment facility that beneficially reuses the water in a subsurface drip irrigation system.³ IRM filed its tariff rate sheet in response to the TRA Data Request issued on January 14, 2010.⁴

In support of its *Petition* and as evidence of the public need for wastewater service in the requested area, IRM filed the Utility Services Agreement between Riverstone and IRM.⁵ In addition, IRM filed 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 Riverstone.⁶ The Company filed a service area map showing the location of Riverstone.⁷ The Tennessee Department of Environment and Conservation (TDEC) issued permit No. SOP-090005 to IRM on June 1, 2009.⁸ IRM further states that installation of the system will begin immediately following approval of its *Petition* by the Authority and should be completed by June 2010.⁹

The March 22, 2010 Hearing

Public notice of the Hearing in this matter was issued by the Hearing Officer on March 12, 2010. No person sought intervention prior to or during the Hearing. During the Hearing held on March 22, 2010, Mr. Jeffrey Cox, President of IRM, participated, presented testimony and was subject to examination by the panel. Mr. Cox's Pre-filed Testimony, as amended, which was entered into the record without objection, states that the Company has the managerial, technical and financial ability to provide wastewater services to Riverstone.¹⁰ Additionally, the panel took administrative

² *Amendment to the Pre-filed Direct Testimony of Jeffrey W. Cox, Sr.*, p. 2 (February 9, 2010) (hereinafter "*Amended Testimony*").

³ *Id.*

⁴ *Data Response*, Exhibit B (January 21, 2010).

⁵ *Data Response Filed on Behalf of Jeffrey Cox, President of Integrated Resource Management, Inc.*, Exhibit A (January 21, 2010) (hereinafter "*Cox Data Response*").

⁶ *Id.*, Letter from Carey Johnson, Mayor, Town of Scotts Hill, Exhibit E. See also *Amended Testimony*, Unnumbered Exhibit, Letter from Jason Scott, Mayor, Decatur County.

⁷ *Cox Data Response*, Exhibit D (January 21, 2010).

⁸ TDEC Permit (November 4, 2009).

⁹ *Data Response filed on behalf of Jeffrey W. Cox*, p. 2 (January 21, 2010).

¹⁰ Jeffrey Cox, Pre-Filed Testimony (July 13, 2009, amended February 9, 2010).

notice of IRM's 2008 annual report on file with the Authority, the Secretary of State website reflecting the corporate status of IRM, and IRM's Letter of Credit.¹¹


The panel found that IRM had met the requirements of Tenn. Code Ann. § 65-4-201(a) (Supp. 2009) 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. 2009) 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.

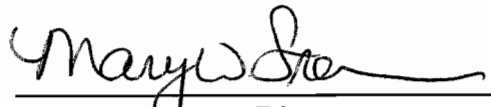
IT IS THEREFORE ORDERED THAT:

1. The *Petition to Amend Certificate of Public Convenience and Necessity* filed by Integrated Resource Management Utility, Inc. d/b/a IRM Utility, Inc. to expand its service area to include a portion of Decatur County, Tennessee known as the Riverstone Estates, as shown in the map attached to the *Petition*, is approved.

2. Integrated Resource Management Utility, Inc.'s rates for wastewater service for Riverstone Estates as filed in this docket are approved.


Sara Kyle, Chairman


Eddie Roberson, Director


Mary W. Freeman, Director

¹¹ Letter of Credit (Sept. 24, 2009).