

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 5, 2010

IN RE:	)	
	)	
PETITION OF INTEGRATED RESOURCE	)	DOCKET NO.
MANAGEMENT, INC. TO AMEND ITS CCN TO	)	10-00122
SERVE AN AREA IN SEVIER COUNTY, TENNESSEE	)	
KNOWN AS COVE CREEK RESORT	)	

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ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

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This matter came before Chairman Mary W. Freeman, Director Eddie Roberson and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a Hearing held on August 23, 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 June 16, 2010 requesting that the Authority approve expansion of its service area to include a portion of Sevier County, Tennessee, known as Cove Creek Resort (“Cove Creek”).

**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.<sup>1</sup> 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 June 16, 2010, IRM filed the *Petition* in the

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<sup>1</sup> 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, Sr. A revised Cove Creek spreadsheet was filed on August 11, 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 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 Sevier County, Tennessee, known as Cove Creek. IRM is proposing to provide wastewater service to approximately 120 resort quality recreational vehicle camping sites and a 20,000 square foot commercial building with a maximum of four tenants.<sup>2</sup> The Company is proposing an onsite wastewater

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<sup>2</sup> *Petition*, Exhibit J, p. 2.

treatment facility that beneficially reuses the water in subsurface drip irrigation systems<sup>3</sup> with 17,375 gallons per day.<sup>4</sup>

In support of its *Petition* and as evidence of the public need for wastewater service in the requested area, the Company provided a letter from the Mayor of Sevier County stating that there are no plans to provide sewer to the property identified as Cove Creek, which is located on Wears Valley Road, during the next twelve months.<sup>5</sup> Additionally, IRM provided a Commercial Utility Services Agreement between the Company, Custom Crafted Properties, Inc. (the developer) and Cove Creek Resort Owners Association, Inc. (“Association”) to establish the terms and conditions for construction, installation, operation, maintenance and conveyance of the system. This contract establishes a request by the Association for IRM to provide wastewater services to the development after the completion of the construction and installation of the system.<sup>6</sup> The Tennessee Department of Environment and Conservation (“TDEC”) application was submitted for State approval, and the permit tracking number is SOP-08013.<sup>7</sup> The Petitioner states that the system should be completed approximately thirty days after approval of the CCN.<sup>8</sup>

#### **The August 23, 2010 Hearing**

Public notice of the Hearing in this matter was issued by the Hearing Officer on August 9, 2010. No person sought intervention prior to or during the Hearing. During the Hearing held on August 23, 2010, Mr. Jeffrey Cox, Sr., President of IRM, participated, presented testimony and was subject to examination by the panel. Billy Cox, IRM Vice President, was also in attendance. The Company was represented by Reen Locker, Esq. Mr. Cox’s Pre-filed Testimony, which was entered

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<sup>3</sup> *Petition*, Exhibit J, p. 1.

<sup>4</sup> *Company is Submitting the Design Capacity of the System at Cove Creek Resort*, p. 1 (July 21, 2010).

<sup>5</sup> *Petition*, Exhibit D, p. 1.

<sup>6</sup> *Petition*, Exhibit B, p. 1.

<sup>7</sup> *Petition*, Exhibit F, p. 1. At the Hearing, Mr. Cox testified that the TDEC permit had been received.

<sup>8</sup> *Petition*, p. 3.

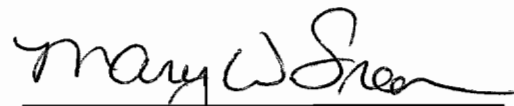
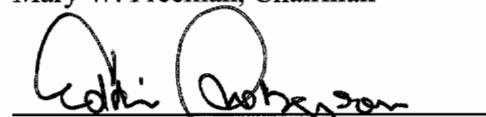
into the record without objection, states that the Company has the managerial, technical and financial ability to provide wastewater services to Cove Creek.

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). 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 Sevier County, Tennessee, known as Cove Creek Resort, as shown in the map attached to the *Petition*, is approved.

2. Integrated Resource Management Utility, Inc. d/b/a IRM Utility Inc.'s rates for wastewater service for Cove Creek Resort as filed in this docket are approved.

  
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Mary W. Freeman, Chairman  
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Eddie Roberson, Director  
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Sara Kyle, Director