

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**December 4, 2012**

**IN RE:**

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

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**DOCKET NO.  
11-00081**

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**ORDER APPROVING AMENDED CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

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This matter came before Vice-Chairman Herbert H. Hilliard, Director Kenneth C. Hill, and Director Sara Kyle of the Tennessee Regulatory Authority (“TRA” or “Authority”), the voting panel assigned to this docket, at a hearing held on November 8, 2012, to consider the *Petition to Amend Certificate of Public Convenience and Necessity* (the “*Petition*”) filed by Integrated Resource Management, Inc. d/b/a IRM Utility, Inc. (“IRM” or “Company”) on May 19, 2011 requesting that the Authority approve expansion of its service area to include a portion of Cumberland County, Tennessee known as Genesis Village Estates Subdivision (“Genesis Village”).

**BACKGROUND**

On March 16, 2004, IRM received a Certificate of Public Convenience and Necessity (“CCN”) in Docket No. 03-00467 from the TRA to operate a wastewater treatment plant in Tennessee.<sup>1</sup> The Company’s principal office is located in White Pine, Tennessee. On May 19, 2011, IRM filed the *Petition* in this matter, along with the Pre-filed Direct Testimony of Jeffrey W. Cox,

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<sup>1</sup> See *In re: Petition of Integrated Resource Management, Inc. for Authority to Provide Wastewater Services*, Docket No. 03-00467, *Order Approving Application for a Certificate of Public Convenience and Necessity, Tariff and Special Contract* (March 16, 2004).

Sr. Additionally, Amended Pre-filed Testimony of Jeffrey W. Cox, Sr. was filed on June 20, 2012.

**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**

In support of its *Petition*, IRM submitted financial information, estimated operating revenues and costs, and biographical information for management personnel. The Company also included the sworn Pre-filed testimony and Amended Pre-Filed testimony of Jeffrey W. Cox, Sr., IRM's President, further affirming the Company's managerial, financial, and technical qualifications.

In its *Petition*, IRM requested that its service area be expanded to include a portion of Cumberland County, Tennessee, known as Genesis Village Estates Subdivision. The system will be located off Genesis Road in Cumberland County and IRM will eventually serve 100 customers, once the subdivision is complete. Initially, IRM will limit the project to 32 residential and overnight rental condominium units in 11 different buildings.<sup>2</sup> IRM proposes an onsite wastewater treatment facility that beneficially reuses the water in the subsurface drip irrigation systems with a design capacity of 30,000 gallons per day.<sup>3</sup>

There are nine condominiums completed and an additional 13 scheduled for “build-out” by 2017. Additionally, Genesis Village Estates Townhomes, LLC (the “Developer”) has agreed to pay an annual access fee of \$300 per platted, unimproved lot once the system is built and until all the condominiums are sold. These fees are to offset the costs of maintenance and testing expenses for the facilities, as well as state requirements to conduct certain tests and maintain records until all the condominiums have been sold.<sup>4</sup>

IRM filed a copy of the negotiated contract between IRM and the Developer and the contract provides that the Developer shall construct and install the wastewater system.<sup>5</sup> IRM states the cost of the system is estimated at \$250,000, which will be paid by the Developer. This amount is secured by a letter of credit payable to IRM from the Developer to insure complete construction of the wastewater system in the event the Developer is unable to complete the system.<sup>6</sup> Additionally, a letter of intent from the Developer stating it intends to have IRM own and operate the wastewater system was filed on April 18, 2012.

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<sup>2</sup> *Petition*, Exhibit B & C (May 19, 2011).

<sup>3</sup> *Response to Data Request*, Exhibit B, pp. 1, 3 (June 20, 2012).

<sup>4</sup> *Response to Data Request*, Exhibit E, p. 2 (October 23, 2012) and *Complete 10 Year Build Out That Was Inadvertently Omitted in Exhibit B in Data Response of October 22, 2012*, Exhibit IRM-E, Schedule 2 (October 26, 2012).

<sup>5</sup> *Response to Data Request*, Exhibit D, p. 2 (October 23, 2012).

<sup>6</sup> *Response to Data Request*, Exhibit B, p. 4 (June 20, 2012) and *Response to Data Request*, Exhibit F (June 20, 2012).

In support of its *Petition* and as evidence of the public need for wastewater service in the requested area, the Company provided letters from the Mayor of Cumberland County, the Mayor of the City of Crossville, the Mayor of the Town of Pleasant Hill, and the Mayor of the City of Crab Orchard stating they do not furnish sewer service or plan on providing service in the next 12 months.<sup>7</sup> In addition, neither Crab Orchard Utility District nor Catoosa Utility District provides sewer services at the present time.<sup>8</sup>

The Tennessee Department of Environment and Conservation issued state permit number SOP-08040, effective on October 1, 2008.<sup>9</sup>

#### **November 8, 2012 Hearing**

Public notice of the Hearing in this matter was issued by the Hearing Officer on October 29, 2012. No person sought intervention prior to or during the Hearing. During the Hearing held on November 8, 2012, Mr. Jeffrey W. Cox, Sr., President of IRM, participated, presented testimony, and was subject to examination by the panel. Mr. Cox's Pre-filed Testimony and Amended Pre-filed Testimony was entered into the record without objection and stated the Company has the managerial, technical and financial ability to provide wastewater services to Genesis Village Estates.

The panel found IRM had met the requirements of Tenn. Code Ann. § 65-4-201 and TRA Rules 1220-4-8-.02 through 1220-4-8-.04. 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) and TRA Rules 1220-4-8-.02 through 1220-4-8-.04., the panel voted unanimously to approve the *Petition*, including the \$300 annual access fee to be paid by the Developer, Genesis Village Estates Townhomes, LLC, for each platted, unimproved lot.

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<sup>7</sup> *Petition*, Exhibit D (May 19, 2011); *Response to Data Request*, Exhibit A (June 20, 2012).

<sup>8</sup> *Response to Data Request*, Exhibit A (June 20, 2012); *Response to Data Request*, Exhibit E, p. 2 (October 23, 2012).

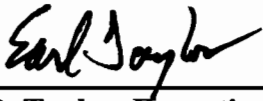
<sup>9</sup> *Petition*, Exhibit F, p. 1 (May 19, 2011)

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition to Amend Certificate of Public Convenience and Necessity* and the \$300 annual access fee to be paid by the Developer, Genesis Village Estates Townhomes, LLC, for each platted, unimproved lot, is approved.

**Vice-Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director Sara Kyle concur.**

**ATTEST:**

A handwritten signature in black ink, appearing to read "Earl Taylor", written over a horizontal line.

**Earl R. Taylor, Executive Director**