

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 21, 2015

IN RE:

PETITION OF INTEGRATED RESOURCE
MANAGEMENT, INC. D/B/A IRM UTILITY,
INC. TO POST ALTERNATIVE FINANCIAL
SECURITY

DOCKET NO.
14-00072

ORDER DENYING PETITION FOR ALTERNATIVE FINANCIAL SECURITY

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, and Director Kenneth C. Hill of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 4, 2014 to consider the *Petition of Integrated Resource Management to Post Alternative Financial Security* (“*Petition*”) filed on July 18, 2014.

RELEVANT BACKGROUND AND PETITION

Integrated Resources Management, Inc. (“IRM” or the “Company”) had a letter of credit in place issued by Central Bank of Savannah, Tennessee in the amount of \$95,000. On July 23, 2014, however, the Authority received notification from Central Bank that the letter of credit would not be renewed and would be canceled on its maturity date of September 23, 2014. IRM filed a *Petition* seeking approval to post alternative financial security pursuant to TRA Rule 1220-4-13-.07(5).¹ The Company seeks to provide a letter of credit in the amount of \$95,000 in favor of the Authority.² IRM states that \$95,000 covers 88% of the Company’s annual revenue

¹ *Petition*, p.1 (July 18, 2014).

² *Id.*

and is adequate to cover any operational problems that might arise.³ IRM also asserts that its successful operating experience supports the sufficiency of the proposed amount.⁴

On September 12, 2014, IRM filed a *Motion of Integrated Resource Management, Inc. for a Continuance* requesting to defer the hearing on its *Petition* to the next Authority Conference because it is in the process of applying for replacement financial security in the amount of \$120,000, which would be in excess of the required amount of financial security. At the regularly scheduled Authority Conference on September 15, 2014, the panel voted unanimously to continue this matter until the next regularly scheduled Authority Conference, which would be held on October 10, 2014.

On October 10, 2014, IRM filed a *Motion of Integrated Resource Management to Withdraw Petition and Defer Further Proceedings* (“*Motion to Withdraw*”) asking to withdraw its *Petition* scheduled for hearing on October 10, 2014 or to hold the hearing in abeyance until November 1, 2014 pending the result of the IRM application for a letter of credit.⁵ In its *Motion to Withdraw*, IRM asserted that “IRM is in the process of making application for replacement financial security in an amount of \$120,000 in the form of a letter of credit. According to the authorized officer at Peoples Bank, the letter of credit is expected to be issued on or before October 31, 2014.”⁶ At the October 10, 2014 Authority Conference, IRM stated that a letter of credit would be issued by October 31, 2014 and its *Petition* would then be moot. The panel found that IRM had made a good faith showing that it had applied for financial security in an amount that meets or exceeds the Authority’s requirements and that such security was pending and likely to be issued, which would make IRM’s *Petition* moot and cure its current

³ *Id.*

⁴ *Id.*

⁵ *Motion to Withdraw*, p. 1 (October 10, 2014).

⁶ *Id.*

incompliance. Thereafter, the panel voted unanimously to continue the hearing until the November 4, 2014 Authority Conference, and if the appropriate financial security is filed on or before October 31, 2014 then this matter would be closed.

NOVEMBER 4, 2014 AUTHORITY CONFERENCE

On November 3, 2014, IRM filed a letter of credit in the amount of \$110,000 issued by People's Bank of Clifton, Tennessee in favor of IRM as the bond principal and with the TRA designated as beneficiary. At the regularly scheduled November 4, 2014 Authority Conference, the panel considered the letter of credit filed on November 3, 2014. IRM asserted that while the form of the letter of credit differed from that set forth in the Authority's rules, it "comports in all material respects with the intent of that rule" and asked that the Authority accept it as "adequate security."⁷

Based on the record, which consisted of the letter of credit filed November 3, 2014, the majority of the panel found that while the amount of the letter is acceptable, it does not otherwise satisfy the Authority's financial security requirements because the letter is not issued in favor of the Authority. In addition, the majority of the panel found that the letter of credit does not contain the required terms and conditions under which the Authority may draw on the letter, all of which are required as set forth in the form letter of credit published in TRA Rule 1220-4-13-.08. Thereafter, the majority of the panel voted that the November 3, 2014 letter of credit be denied.⁸ The majority of the panel stressed the importance of the financial security rule in helping to assure that the customer will continue to receive essential wastewater services should the Authority have to assume control of a troubled utility system. The panel also emphasized

⁷ Transcript of Proceedings, p. 26 (November 4, 2014).

⁸ Director Hill agreed with the majority regarding the fact that IRM had not been in compliance but abstained from voting on the letter of credit because he had not had an opportunity to review the letter of credit because it was filed the afternoon on the day before the Authority Conference.

that IRM is not in compliance with the TRA rules and continues to be subject to civil penalties of up to \$50 per day for each day it has not been in compliance beginning September 23, 2014.⁹

IT IS THEREFORE ORDERED THAT:

The Petition of Integrated Resource Management to Post Alternative Financial Security filed by Integrated Resources Management, Inc. is denied.

Chairman Herbert H. Hilliard and Vice Chairman David F. Jones concur. Director Kenneth C. Hill concurs in part.

ATTEST:



Earl R. Taylor, Executive Director

⁹ On November 17, 2014, IRM filed with the Authority a letter of credit in favor of the Authority in the amount of \$110,000 that complies with TRA rules. Such filing renders IRM's *Petition* moot.