

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 28, 2016

IN RE:

PETITION OF INTEGRATED RESOURCE
MANAGEMENT, INC., FOR APPROVAL OF
SPECIAL CONTRACT

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)
) DOCKET NO.
) 16-00048
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ORDER APPROVING SPECIAL CONTRACT

This matter came before Vice Chairman David F. Jones, Director Kenneth C. Hill and Director Robin L. Morrison of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 20, 2016 for consideration of the *Petition of Integrated Resource Management, Inc., for Approval of a Special Contract* (“*Petition*”) filed on May 2, 2016.

BACKGROUND AND PETITION

In its *Petition*, Integrated Resource Management, Inc. (“IRM” or the “Company”) has asked the Authority to approve a Special Contract (“contract” or “agreement”) between it and Wild Briar, LLC (“Wild Briar”) pursuant to TRA Rule 1220-4-.1-.07. Wild Briar is an existing high volume IRM customer wishing to enter into a negotiated volume discount rate contract.¹ In order to facilitate this rate discount, the Company and Wild Briar have reached an agreement for the volumes necessary for Wild Briar’s operations. The terms of the agreement state that it shall apply to the twelve properties currently owned by Wild Briar, as well as to all future lots purchased, and improvements constructed by, Wild Briar in the development.²

¹ *Petition for Approval*, p. 1 (May 2, 2016).

² *Id.* at Sewer and Wastewater Treatment System Service Agreement, p. 1.

Additionally, the agreement provides that it will not inure to the benefit of Wild Briar's successors or assigns without the express written consent of IRM and the appropriate regulatory approval.³ Transfer of ownership of a lot to a third party, shall subject it to the rates, terms, and conditions of service to individual lot owners as provided by IRM's tariffs.⁴ The proposed special contract monthly rates are listed in Exhibit B to the Sewer and Wastewater Treatment System Service Agreement.

STANDARD FOR AUTHORITY APPROVAL

TRA Rule 1220-4-1-.07, states:

Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules, or rules filed by such utilities are subject to supervision, regulation, and control by the Authority. A copy of such special agreements shall be filed, subject to review and approval.

The Authority has established and considers four criteria when considering approval of specials contracts. The criteria are whether:

1. Customer by-pass is imminent;
2. Such by-pass would be uneconomic;
3. The contract rates and terms are just and reasonable and are not unjustly preferential or unduly discriminatory; and
4. The contract rates are the highest that could be negotiated.⁵

THE HEARING

The Hearing in this matter was held before the voting panel of Directors during the regularly scheduled Authority Conference on June 20, 2016, as noticed by the Authority on June 10, 2016.

Participating in the Hearing was:

³ *Id.*

⁴ *Id.*

⁵ See e.g. *In re: Application of Nashville Gas Company, a Division of Piedmont Natural Gas Company, for Approval of Negotiated Gas Redelivery Agreement with Visteon Corporation*, Docket No. 01-00530, *Order Approving Negotiated Gas Redelivery Agreement* (November 28, 2001); *In re: Petition of Nashville Gas Company for Extension of Negotiated Gas Redelivery Agreement with State Industries*, Docket No. 02-01270, *Order Approving Negotiated Gas Redelivery Agreement* (April 3, 2003); *In re: Petition of Nashville Gas Company for Extension of Negotiated Gas Redelivery Agreement with Bridgestone/Firestone Industries*, Docket No. 02-01271, *Order Approving Amendment to Negotiated Gas Redelivery Agreement* (April 4, 2003); *In re: Application of Piedmont Natural Gas Company, Inc. for Approval of Negotiated Gas Redelivery Agreement with Bridgestone/Firestone*, Docket No. 10-00015, *Order Granting Approval of Special Contract* (October 28, 2010).

Integrated Resource Management, Inc. – Charles B. Welch, Jr., Esq., Farris Bobango, PLC, 414 Union Street, Suite 1105, Nashville, Tennessee 37219 and Jeffrey W. Cox, Sr., President, Integrated Resource Management, Inc., 3444 Saint Andrews Drive, White Pine, Tennessee 37890.

During the Hearing, Mr. Cox ratified, then summarized his pre-filed testimony and was subject to questioning before the panel. There were no intervening parties to the Docket. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

FINDINGS AND CONCLUSIONS

In its *Petition*, IRM has asked the Authority for approval of a special contract for Wild Briar under TRA Rule 1220-4-1-.07. Based on a review and consideration of the pleadings, pre-filed testimony and the entire administrative record, the Authority finds as follows:

The terms of the special contract between IRM and Wild Briar are fair, reasonable and not unjustly preferential. The contract provides incentive for Wild Briar to continue expanding operations in the Wild Briar subdivision and thereby provide additional volume and revenue for IRM. The discounted rates help alleviate the by-pass threat of Wild Briar not continuing to build homes on their lots and pursuing other locations for future operations. The overall discount for Wild Briar equals approximately 25% however; IRM should receive additional revenue that it otherwise would not receive if Wild Briar chose not to continue construction in the subdivision. Accordingly, the Authority finds that the special contract between IRM and Wild Briar meets the intent of TRA Rule 1220-4-1-.07, benefits the Company and its other customers, and provides the incentive needed for Wild Briar to continue and expand its operations.

Additionally, the Authority recognizes that the rate schedule included in the Special Contract as Exhibit B, lists only the applicable rates for existing lots owned and operated by Wild Briar. Accordingly, properties not yet purchased by Wild Briar cannot properly be included in this rate schedule nor can any homes built in the future that do not meet the specifications and requirements listed in the rate schedule. Accordingly, the Authority finds that extension of the contract terms to

future properties not identified in the contract rate schedule will require the filing of a contract amendment subject to the Authority's approval.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Integrated Resource Management, Inc., for Approval of a Special Contract* filed on June 20, 2016, is approved.

2. This agreement is by and between Integrated Resource Management Inc. and Wild Briar LLC and shall not inure to the benefit of Wild Briar LLC's successors or assigns.

3. Notwithstanding language to the contrary in the contract, extension of the contract terms to future properties not identified in the contract rate schedule in Exhibit B to the "Sewer and Wastewater Treatment System Service Agreement" will require the filing of a contract amendment subject to the Authority's approval.

4. Any person who is aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order.

5. Any person who is aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Vice Chairman David F. Jones, Director Kenneth C. Hill and Director Robin L. Morrison concur.

ATTEST:



Earl R. Taylor, Executive Director