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BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	)	
	)	
RULEMAKING TO REVISE TRA WASTEWATER RULES, 1220-04-13	)	**DOCKET NO. 16-00112**
	)	

COMMENTS OF INTERGRATED RESOURCE MANAGEMENT, INC.

Comes Integrated Resource Management, Inc. (hereinafter "IRM"), by and through counsel, and hereby files written comments.

The proposed draft rule 1220-04-13.04, requires a public wastewater utility to file certain documents with the Tennessee Regulatory Authority (hereinafter "TRA"). The requirements in 1220-04-13-.04 create additional regulatory burdens on the utility. The burden of meeting the filing requirements increases the cost to the utility, thus making it less financially viable. IRM respectfully requests that rule 1220-04-13-.04 be carefully reconsidered to make it less burdensome, and for filing requirements to be more streamlined as to fit the purpose and intent of the TRA rules.

In the proposed draft rule, subparagraph (a) of 1220-04-13-.07(2) requires a public wastewater utility to post security in the amount of seventy five percent (75%) of its annual wastewater revenue. A baseline percentage approach should be reconsidered because not all public wastewater utilities are same in terms of size and annual revenue and thus should not be

held to the same security requirement as their counterparts. One size does not fit all. Seventy five percent (75%) across the board avoids any analysis of the appropriate amount of security which should be required of each utility. If a base percentage is absolutely necessary, it should be on a sliding scale. For example, seventy five percent (75%) of $2,000,000 in revenue may be excessive whereas it may not be sufficient for a utility that has $50,000 in revenue. The condition of the utilities' systems and the anticipated repairs and maintenance of said systems should also be considered.

The TRA's proposed language in rule 1220-4-13-.07(7) requires TRA pre-approval for disbursements from escrow accounts for non-routine maintenance expenses. If a public wastewater utility wishes to utilize escrow funds for non-routine maintenance expenses it will be required to either petition the TRA or in emergency situations, receive approval from the TRA Chairman. Emergency situations should be excepted from prior approvals as not being feasible or practical. Emergency events can occur outside the TRA's business hours, and these non-routine repairs may need to be quickly addressed. Failure to timely address certain non-routine repairs could exaserbate serious public health risks. The potential health risks should be a major concern for the TRA and should be considered when amending this rule.

Proposed draft rule 1220-4-13-.09(7)(a) sets forth the procedure for requesting an extension to the three year construction requirement found in subparagraph (7). A CCN holder seeking an extension will be required to file a written request to the TRA or risk expiration of their CCN. The proposed language gives the TRA the discretion to grant a one year extension from the original deadline, and gives the CCN holder no recourse to contest the decision. Allowing for multiple years extensions seems more appropriate given the uncertaintity and unpredictability that arises with the construction of developments and/or utility systems. The

current economic condition should also be a considering factor. The problems that arise are often times outside the control of the public wastewater utility, therefore the length of an extension should be determined after considering all the circumstances surrounding the delay. Given the financial and administrative impact it could have on the CCN holder if not granted an extension, the determination should be made via contested hearing.

Proposed draft rule 1220-4-13-.17(2)(a) imposes information requirements for applicants seeking a new or expanded CCN. The requirements are identical for both. Subparagraph (a) of the aforementioned rule should not apply in its entirety to an expansion. The expansion involves on-site systems and requiring all of this information for each site is unnecessary unless there has been a change in the information since the grant of a new CCN. Each site is generally a relatively small percent of the utility's total operations. Unless there has been a change since the original grant of authority, the following subsections in subparagraph (a) of 1220-4-13-.17, regarding expansions should be deleted: (2), (3), (5), and (6). Subsection (9) of subparagraph (a) requires the CCN holder to include in the application, the estimated dates for the commencement and completion of the construction of the system, and subsection (10) of subparagraph (a) requires the CCN holder to provide information as to if the system will be built in phases and to how many houses or units will be connected at each phase. These requirements are not feasible for a wastewater utility and will be difficult to comply with, for a wastewater utility does not have control of these matters, as the developer often constructs the system.

The comments made in the previous paragraph would apply to subparagraphs (b), (c), (d) of 1220-4-13-.17(2) with the exception of (2)(d)(1). Generally, expansions should be treated differently and be less onerous than new CCNs. It seems unduly burdensome to require all of this information in order to obtain authority to serve a limited number of residential units.

Proposed draft rule 1220-04-13-.13(2)(b)(4) requires proof that the utility owns the land and/or has easements for the proposed wastewater system. This requirement is impracticable because often times land is not conveyed until after construction and acceptance by the utility of the wastewater system. IRM proposes the following language "proof that the utility has an enforceable, equitable interest in the land for the proposed wastewater system".

Integrated Resource Management, Inc. respectfully requests the TRA to consider and incorporate the above suggestion into the new proposed rules.

Respectfully submitted,

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