

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

September 28, 2020

IN RE:

**PETITION OF INTEGRATED RESOURCE
MANAGEMENT, INC. FOR A
CERTIFICATE OF CONVENIENCE
AND NECESSITY**

)
)
)
)
)

**DOCKET NO.
20-00038**

**ORDER APPROVING PETITION TO AMEND CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Kenneth C. Hill, Vice Chair Herbert H. Hilliard, and Commissioner David F. Jones of the Tennessee Public Utility Commission (“TPUC” or “Commission”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on August 10, 2020,¹ for consideration of the *Petition of Integrated Resource Management, Inc., for a Certificate of Convenience and Necessity* (“*Petition*”), filed by Integrated Resource Management, Inc. (“IRM” or “Company”) on March 6, 2020. In its *Petition*, IRM requests the Commission’s approval for an expansion of IRM’s service area to include a portion of Van Buren County, Tennessee, known as the Isha Enclave Subdivision.

¹ Due to the state of emergency declared by Governor Bill Lee relative to the Coronavirus Disease 2019 (“COVID-19”) pandemic in Tenn. Exec. Order No. 14 on March 12, 2020, (superseded by Tenn. Exec. Order No. 15 on March 19, 2020 which was extended until June 30, 2020 in Tenn. Exec. Order No. 36 on May 12, 2020), the Commission Conference was held electronically via WebEx. The public health emergency places limitations on public gatherings and meetings in order to prevent the spread of COVID-19. In convening the Commission Conference electronically, the Commission relied upon Tenn. Exec. Order No. 16 (March 20, 2020), which was extended until June 30, 2020 by Tenn. Exec. Order No. 34 (May 6, 2020), and affirmed on the record that the electronic meeting was necessary to conduct the essential business of the agency and to protect the health, safety, and welfare of Tennesseans.

BACKGROUND AND PETITION

IRM holds a Certificate of Public Convenience and Necessity (“CCN”), which was initially granted by the Commission on March 16, 2004, authorizing it to operate wastewater treatment plants and provide wastewater service to specific areas in Tennessee.² IRM’s principal office is in White Pine, Tennessee.

On March 6, 2020, IRM filed its *Petition* and the Pre-Filed Direct Testimony of Jeffrey W. Cox, Sr., President of IRM, requesting to amend its CCN to expand its service area to include one hundred and two (102) residential properties located in Van Buren County, Tennessee known as the Isha Enclave Subdivision.³ In his testimony, Mr. Cox stated that IRM has all the necessary technical, managerial, and financial capabilities to provide wastewater service to the Isha Enclave Subdivision.⁴ Mr. Cox has a State of Tennessee Grade 1 Wastewater Collection System Operator License and a State of Tennessee Biological/Natural Operator Treatment System License to ensure IRM’s technical compliance.⁵ IRM filed with its *Petition* a copy of a Negotiated Utility Service Agreement.

On July 17, 2020, IRM filed an *Amended and Restated Utility Services Agreement*; however, in the Amended Agreement; the Developer was only conveying the treatment part of the wastewater system to IRM. The Commission Rules require the Utility holding the CCN to own the wastewater system. On July 21, 2020, IRM filed the *Second Amended and Restated Utility Services Agreement*, which provided the information, not provided in the initial *Amended and Restated Utility Services Agreement*, necessary to satisfy Commission Rule 1220-04-13-.02(7).⁶ No party requested to intervene in this docket.

² Integrated Resource Management, Inc. was first granted a CCN on March 16, 2004. *See In Re: Application Of Integrated Resource Management, Inc. For a Certificate Of Convenience and Necessity* Docket No. 03-00467, Order (March 16, 2004).

³ *Petition*, (March 6, 2020).

⁴ *Id.* at Exhibit 1, Jeffrey W. Cox, Sr., Pre-Filed Direct Testimony (March 6, 2020).

⁵ *Petition*, p. 2, Exhibit 5.

⁶ *Seconded Amended and Restated Utility Services Agreement*, p.1 (July 20, 2020), Tenn. Comp. R. & Regs. 1220-04-13-.02(7).

STANDARD FOR COMMISSION APPROVAL

No public utility is permitted to begin construction or operation of a new utility facility or service without first obtaining a CCN from the Commission, as set forth in Tenn. Code Ann. § 65-4-201(a), which reads:

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 commission, 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...

Additionally, in order to obtain a CCN to provide wastewater service, Commission Rule 1220-04-13-.17(1) requires that a public wastewater utility satisfy the following requirements:

Any public wastewater utility requesting a Certificate of Public Convenience and Necessity ("CCN") in accordance with Tenn. Code Ann. §§ 65-4-201, et seq., shall file an application that complies with Rule 1220-01-01-.03 and this rule. Each applicant shall demonstrate to the Commission that it possesses sufficient managerial, financial, and technical capabilities to provide the wastewater services for which it has applied. Each application shall demonstrate that there exists a public need for wastewater service and include the required financial security consistent with Tenn. Code Ann. § 65-4-201, and these rules.⁷

THE HEARING

The Hearing in this matter was held before the voting panel during a regularly scheduled Commission Conference held on August 10, 2020, as noticed by the Commission on July 31, 2020. Participating in the Hearing were:

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

⁷ Tenn. Comp. Rules & Regs. 1220-04-13-.17 (1).

During the Hearing, Mr. Cox ratified, then summarized his Pre-Filed Testimony, and was subject to questioning before the panel. 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 Commission for approval under Tenn. Code Ann. § 65-4-201(a) and Commission Rule 1220-04-13-.17(1) to amend its CCN to provide service to the Isha Enclave Subdivision in Van Buren County, Tennessee. Based on a review and consideration of the pleadings, Pre-Filed Testimony, and the entire administrative record, the panel made the following findings and conclusions:

The panel found that IRM has demonstrated that it possesses the requisite managerial, financial, and technical capabilities to provide wastewater services to the Isha Enclave Subdivision in Van Buren County, Tennessee, and that a public need exists for such service as required under Tenn. Code Ann. § 65-4-201(a) and Commission Rule 1220-04-13-.17(1). Further, the panel found that IRM is in good standing with the Commission and in compliance with all Commission rules. Based on these findings, the panel voted unanimously to grant the *Petition*, contingent upon the filing of various documents of proof being filed in this docket.

IT IS THEREFORE ORDERED THAT:

1. *Petition of Integrated Resource Management, Inc., for a Certificate of Convenience and Necessity* filed on March 3, 2020 is approved contingent upon Integrated Resource Management Inc. filing the following evidence of fitness in the docket file:

- a. The registered deed to the 12.16 acres as approved by the Tennessee Department of Environment Conservation (“TDEC”) for the needed soil for the treatment system, as well as the underlying land of the plant for the wastewater system and recorded easements for the collection system connections and any

areas that might be accessed by the utility when operating the wastewater system;

b. A copy of the signed and notarized document giving entitlement to the wastewater system at the Isha Enclave Subdivision;

c. All final signed contracts between Integrated Resource Management, Inc. and any of the utility's affiliates, September Bloom, Inc. and/or any parties on behalf of the Isha Enclave Subdivision;

d. A copy of the final signed plat from Van Buren County showing Integrated Resource Management, Inc. as the utility of record within fifteen (15) days of plat signing;

e. A copy of "as-built" plans with signed certification for both the utility and the Tennessee Department of Environment and Conservation ("TDEC") indicating the wastewater system has been inspected and is approved to begin operation;

f. The final cost breakdown and total dollar amount for contributed plant for the wastewater system at the Isha Enclave Subdivision prior to the first customer being connected.

2. Integrated Resource Management, Inc. shall file a report in this docket that demonstrates its compliance with these requirements before providing wastewater service to the Isha Enclave Subdivision. In the event that the compliance report is not filed, Integrated Resource Management, Inc. shall file, within six (6) months of the issued-date of this the Order, a report on the status of its provision of wastewater service to the Isha Enclave Subdivision, as well as the status of its compliance with each of the aforementioned filing requirement.

3. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of

this Order.

4. Any person who is aggrieved by the Commission'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 (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Kenneth C. Hill,
Vice Chair Herbert H. Hilliard, and
Commissioner David F. Jones concur.**

None dissenting.

ATTEST:

A handwritten signature in cursive script, appearing to read "Earl Taylor", written in dark ink.

Earl R. Taylor, Executive Director