

January 9, 2024

DOCKET NO.
23-00055

ORDER APPROVING PETITION TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY

This matter came before Vice Chairman David F. Jones, Commissioner Robin L. Morrison, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner John Hie of the Tennessee Public Utility Commission, (“TPUC” or “Commission”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on November 6, 2023, 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,” “Company,” or “Utility”) on August 2, 2023. In its *Petition*, IRM requests the Commission’s approval of an amendment to the Company’s Certificate of Public Convenience and Necessity (“CCN”) to expand its existing service territory to include the Paradise Pointe Subdivision in Union County, Tennessee.

BACKGROUND AND *PETITION*

IRM is a corporation organized under the laws of the State of Tennessee with a principal place of business located at 3444 Saint Andrews Drive, White Pine, Tennessee.¹ The Company

¹ *Petition*, p. 3 (August 2, 2023).

holds a CCN to provide wastewater services within designated service areas in the State of Tennessee. In its *Petition*, IRM seeks to expand its service area to provide wastewater services to the Paradise Pointe Subdivision (“Paradise Pointe”), a residential development located in Union County.²

In support of its *Petition*, the Company filed maps showing the location of Paradise Pointe, documents demonstrating the corporate structure and management experience of the Company, and a letter from Hallsdale-Powell Utility District indicating that it neither operates nor intends to operate a wastewater facility serving Paradise Pointe.³ Upon completion of construction of the system, it will serve thirty-three (33) planned residential properties.⁴

The Company also filed the testimony of Jeffrey W. Cox, Jr., President of IRM.⁵ Mr. Cox testifies that IRM received its initial CCN in 2003 and has been granted thirteen (13) active CCNs.⁶ Mr. Cox states that Paradise Pointe is located in Union County, Tennessee and is planned for thirty-three (33) residential-style units that will serve a combination of customers living in full-time occupancy, vacation homes, and rental units.⁷ Mr. Cox also states that IRM will be “operating an onsite wastewater disposal that is a standard [Low Pressure Pipe] LPP Subsurface Sewage Disposal System.”⁸ The system is similar to other IRM facilities. According to Mr. Cox, IRM already provides service within Union County, Tennessee to the Lost Creek Campground and Flat Hollow Subdivision. Both areas are in close proximity to Paradise Pointe, and the requested area fits within the Company’s growth plan. Mr. Cox states that IRM has the resources necessary to

² *Id.* at 1-2.

³ *Id.* at Exhs. 4, 5, and 7.

⁴ *Id.* at 4.

⁵ *Id.* at Exh. 1, Jeffrey W. Cox, Jr., Pre-Filed Direct Testimony, p. 1.

⁶ *Id.* at Exh. 1, p. 2.

⁷ *Id.*

⁸ *Id.* at Exh. 1, p. 1.

manage Paradise Pointe.⁹ Finally, Mr. Cox asserts that IRM will abide by the orders and rules of the Commission in the provision of wastewater service.¹⁰

IRM responded to data requests submitted to the Company by Commission Staff. This responsive information includes, in compliance with Commission Rules, the valid contractor's license of the Developer, who will be responsible for performing the build out of the wastewater system at Paradise Pointe.¹¹ In addition, IRM provided a copy of the completed Tennessee Department of Environment and Conservation ("TDEC") permit modification application for the treatment facility to serve Paradise Pointe.¹² No party sought intervention in this matter.

THE HEARING

A hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on November 6, 2023, as noticed by the Commission on October 27, 2023. Participating in the hearing were:

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

During the hearing, Jeffrey W. Cox, Jr., President of IRM, presented testimony on behalf of the Company and adopted and summarized his Pre-Filed Direct Testimony offering no corrections or revisions. Mr. Cox was subject to questions from the voting panel of Commissioners and Commission Staff. Members of the public were given an opportunity to offer comments, at which time, no comments were submitted.

⁹ *Id.* at Exh. 1, p. 2.

¹⁰ *Id.*

¹¹ *IRM Utility, Inc.'s Responses to Tennessee Public Utility Commission's Data Request* (October 20, 2023).

¹² *IRM Utility, Inc.'s Supplemental Responses to Tennessee Public Utility Commission's Data Request* (October 20, 2023).

STANDARD FOR COMMISSION APPROVAL

A public utility is not permitted to begin construction or operation of a new utility service without first obtaining a CCN from the Commission, as set forth in Tenn. Code Ann. § 65-4-201(a), which states:

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; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line, or system, and not theretofore receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.¹³

Additionally, in order to obtain a CCN to provide wastewater service, TPUC Rule 1220-04-13-.17(1) provides:

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.¹⁴

The rule further establishes minimum information filing guidelines for applications for new or expanded CCNs.¹⁵

¹³ Tenn. Code Ann. § 65-4-109 (2022).

¹⁴ Tenn. Comp. R. & Regs. 1220-04-13-.17.

¹⁵ *Id.*

FINDINGS AND CONCLUSIONS

In its *Petition*, IRM has asked the Commission to amend its CCN to include the Paradise Pointe Subdivision in Union County, Tennessee, asserting that the Company possesses the managerial, technical, and financial capability to provide service to the subdivision and store. Based on a review and consideration of the pleadings, the Pre-Filed Testimony, and the entire administrative record, the voting panel made the following findings and conclusions:

The panel found that Paradise Pointe requires wastewater service to move forward with the proposed development and that the proposed subdivision is not currently connected to a wastewater treatment facility operated by any other municipal utility, utility district, or other private wastewater utility. No other utility is seeking to serve the parcel. Therefore, the panel voted unanimously that there exists a public need to provide wastewater service to Paradise Pointe as required by Tenn. Code Ann. § 65-4-201(a) and Commission Rules 1220-04-13-.17(1) and 1220-04-13-.17(2)(b).

The panel found that IRM has demonstrated that it possesses the requisite managerial, financial, and technical capabilities to provide wastewater service to Paradise Pointe. In addition, IRM is in good standing with the Commission and currently complies with all Commission rules. Based upon these findings, the panel voted unanimously to grant the Company's *Petition*, contingent upon the filing of the following documents:

1. The deed and/or easements for all the land and ownership rights to the wastewater system within fifteen (15) days of being issued and before the first customer is connected to the wastewater system, as set forth in the contracts submitted to the Commission by IRM;
2. A final copy of the State Operating Permit issued by the TDEC within fifteen (15) days of issuance;
3. A copy of the as-built plans with signed certification by IRM indicating the

wastewater system has been inspected and is approved to begin operation;

4. A copy of the signed plat, once the area of development is approved by the City and/or County government within fifteen (15) days of being issued and before the first customer is connected to the wastewater system;

5. A copy of the performance bond from the developer or builder of the wastewater system made payable to the Utility to ensure the construction of the wastewater system. The performance bond should be for an amount equal to or greater than the cost of the system as provided in contracts between builder, developer and/or utility; and

6. The final amount of contributed capital being transferred to IRM no later than fifteen (15) days after the final plat is signed by the Utility.

The panel also directed the Company to file a report in this docket demonstrating its compliance with the filing requirements prior to providing wastewater service to Paradise Pointe. In the event the compliance report is not filed, the panel directed IRM to file within six (6) months from the date of this order, and every three (3) months thereafter until the installation is complete, a report on the status of providing wastewater service to Paradise Pointe, as well as the status of its compliance with each of the aforementioned filing requirements.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Integrated Resource Management, Inc. for a Certificate of Convenience and Necessity* filed by Integrated Resource Management, Inc. is approved, contingent upon Integrated Resource Management, Inc. filing the following in this docket:

a. The deed and/or easements for all the land and ownership rights to the wastewater system within fifteen (15) days of being issued and before the first customer is connected to the wastewater system, as set forth in the contracts submitted to the Commission by Integrated Resource Management, Inc.;

b. A copy of the final State Operating Permit issued by the Tennessee Department of Environment and Conservation within fifteen (15) days of issuance;

c. A copy of the as-built plans with certification from Integrated Resource Management, Inc. indicating inspection and approval to begin operation;

d. A copy of the signed plat, once the area of development is approved by the City and/or County government within fifteen (15) days of being issued and before the first customer is connected to the wastewater system;

e. A copy of the performance bond from the developer or builder of the wastewater system made payable to Integrated Resource Management, Inc. to ensure the construction of the wastewater system. The performance bond should be for an amount equal to or greater than the cost of the system as provided in contracts between builder, developer and/or utility; and

f. The final amount of contributed capital being transferred Integrated Resource Management, Inc. no later than fifteen (15) days after the final plat is signed by the Utility.

2. Integrated Resource Management, Inc. is directed to file a report in this docket demonstrating its compliance with the filing of the above referenced documents. If the required documentation is not filed within six (6) months of this order, then Integrated Resource Management, Inc. is directed to file a report on the status of the provision of wastewater service to the Paradise Pointe Subdivision as well the status of the filing of required documentation. The compliance report shall be updated every three (3) months until installation of the wastewater system is complete.

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:

**Vice Chairman David F. Jones,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good,
Commissioner Kenneth C. Hill, and
Commissioner David Crowell concurring.**

None dissenting.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish or initials "abh" at the end.

Earl R. Taylor, Executive Director