

Nashville, Tennessee 37243, c/o Karen H. Stachowski, on or before 2:00 p.m. (CDT), February 18, 2020.

PRELIMINARY MATTERS AND DEFINITIONS

1. **Continuing Request.** These discovery requests are to be considered continuing in nature and are to be supplemented from time to time as information is received by the Company and any of its affiliates which would make a prior response inaccurate, incomplete, or incorrect.

2. **Clear References.** To the extent that the data or information requested is incorporated or contained in a document, identify the document including page/line number if applicable.

3. **Format of Responses.** Provide all responses in the format in which they were created or maintained, for example, Microsoft Word or Microsoft Excel format with all cells and formulas intact and in working order. If a document (including without limitation a financial or other spreadsheet or work paper) is not created or maintained in Microsoft Excel format, convert the document to Microsoft Excel format or provide the document in a format that enables or permits functionality like or similar to Microsoft Excel (including without limitation the functionality of working cells and formulas), or provide the software program(s) that will enable the Consumer Advocate to audit and analyze the data and information in the same manner as would be enabled or permitted if the document were provided in Microsoft Excel format.

4. **Objections.** If any objections to this discovery are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege or immunity asserted. If you claim a document is privileged, identify the document and state the basis for the privilege or immunity asserted. If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.

5. **Singular/Plural.** The singular shall include the plural, and vice-versa, where appropriate.

6. **Definitions.** As used in this Request:

(a) “You,” “Your,” “Company,” or “Aqua Utilities,” shall mean Aqua Utilities Company, LLC and all employees, agents, attorneys, representatives or any other person acting or purporting to act on its behalf.

(b) “Affiliate” shall mean any entity who, directly or indirectly, is in control of, is controlled by, or is under common control with the Company. For greater clarification, “control” is the ownership of 20% or more of the shares of stock entitled to vote for the election of directors in the case of a corporation, or 20% or more of the equity interest in the case of any other type of entity, or status as a director or officer of a corporation or limited liability company, or status as a partner of a partnership, or status as an owner of a sole proprietorship, or any other arrangement whereby a person has the power to choose, direct, or manage the board of directors or equivalent governing body, officers, managers, employees, proxies, or agents of another person. In addition, the term “Affiliate” shall mean any entity that directly or indirectly provides management or operational services to the Company or any affiliate (as defined in the preceding sentence) of the Company, or to which the Company provides management or operational services. Further, the payment of money to the Company or receipt by the Company of money from an entity with which the Company has any relationship, other than such payment or receipt, shall include the payor or recipient of such money as an “Affiliate.”

(c) “Communication” shall mean any transmission of information by oral, graphic, written, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, meetings and personal conversations, or otherwise.

(d) “Document” shall have the broadest possible meaning under applicable law. “Document” shall mean any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, letter, note, report, electronic mail, memorandum (including memoranda, electronic mail, report, or note of a meeting or communication), work paper, spreadsheet, photograph, videotape, audio tape, computer disk or record, or any other data compilation in any form without limitation, which is in your possession, custody or control. If any such document was, but no longer is, in your possession, custody or control, state what disposition was made of the document and when it was made.

- (e) “Person” shall mean any natural person, corporation, firm, company, proprietorship, partnership, business, unincorporated association, or other business or legal entity of any sort whatsoever.
- (f) “Identify” with respect to:
 - i. Any natural person, means to state the full name, telephone number, email address and the current or last known business address of the person (if no business address or email address is available provide any address known to you) and that person’s relationship, whether business, commercial, professional, or personal with you;
 - ii. Any legal person, business entity or association, means to state the full name, the name of your contact person with the entity, all trade name(s), doing business as name(s), telephone number(s), email address(es), and current or last known business address of such person or entity (if no business address is available provide any address known to you);
 - iii. Any document, means to state the type of document (e.g., letter), the title, identify the author, the subject matter, the date the document bears and the date it was written; and
 - iv. Any oral communication, means to state the date when and the place where it was made, identify the person who made it, identify the person or persons who were present or who heard it, and the substance of it.
- (g) “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the discovery request inclusive rather than exclusive.
- (h) “Including” shall be construed to mean including but not limited to.

FIRST DISCOVERY REQUESTS

- 1-1. Refer to TPUC Docket No. 19-00062, *Amended Joint Application*, Appendix A, II(2)(a)(7).
The Company and Limestone Water Utility Operating Company, LLC (Limestone Water) refer to “maps depicting the areas served by Aqua Utilities [that] are on file with the Commission” and state their intent to incorporate those maps in the Joint Application by reference. Provide copies of the existing maps of the Company’s systems.

RESPONSE:

- 1-2. The Commission rules require a description of the wastewater system and the services provided.”¹ Provide a description of the wastewater system to be sold by the Company. Provide the details such as the technology used and the type of system (e.g. collection and treatment facilities).

RESPONSE:

- 1-3. Provide a description of the water system to be sold by the Company. Provide the details such as the technology used and the type of system (e.g. storage, distribution, and treatment facilities).

RESPONSE:

- 1-4. As required by *Tenn. Comp. R. & Regs Rule 1220-04-13-.17(2)(d)5*, provide a copy of the certification from a design engineer that the water and wastewater facilities were constructed in accordance with the Tennessee Department of Environment and Conservation (TDEC) approved construction plans and specifications.²

RESPONSE:

- 1-5. Refer to Tenn. Code Ann. § 62-6-103(a)(1) which requires that “any person, firm or corporation engaged in contracting in this state shall be required to submit evidence of

¹ *Tenn. Comp. R. & Regs Rule 1220-04-13-.17(2)(a)8 & (f)2* (December 2018). This is especially important in this current Docket due to the lack of public information available in the docket for the original Certificate of Convenience and Necessity (CCN). Although Mr. Eddie Clausel says that he does not have a copy of the original CCN, as the current owner he should be able to provide a detailed description of the system. See Response to Staff DR No. 45, TPUC Docket No. 06-00187 (November 13, 2006).

² *Tenn. Comp. R. & Regs Rule 1220-04-13-.17(2)(d)5* (December 2018). Although this rule is applicable to wastewater systems, a description of the water system is necessary for a complete analysis of the sale/acquisition request proposed by the Parties.

qualification to engage in contracting, and shall be licensed.”³ Also, refer to *Tenn. Comp. R. & Regs. 0680-01-.16 Appendix A of Rule 0680-01-.12* which provides the category of building construction contractors. A building construction contractor includes a specialization entitled “MU – Municipal and Utility Construction.” Respond to the following:

- (a) Identify the contractor employed by Aqua Utilities for the construction activity associated with water and wastewater facilities including “supervision, labor, material and equipment to complete underground piping, water and sewer plants and sewer disposal, grading and drainage, and paving.”⁴
- (b) Confirm that your contractor is properly licensed with the State of Tennessee? Provide a copy of the contractor’s license issued by the Board for Licensing Contractors in the Tennessee Department of Commerce and Insurance or explain how the Company confirmed that its contractor is properly licensed.⁵

RESPONSE:

1-6. Pursuant to Tenn. Code Ann. § 62-6-503, local counties, municipalities or metropolitan governments may require licenses for persons performing work plumbing work, electrical work or gas and mechanical work. To this end, local governments may require a Limited License Plumber (LLP) license when projects cost less than \$25,000.⁶ The City of Savannah requires an LLP for plumbing work such as sewer lines. In the past, the

³ “Contractor” means any person or entity that undertakes to, attempts to or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, improvement or any other construction undertaking for which the total cost is twenty-five thousand dollars (\$25,000) or more.” Tenn. Code Ann. § 62-6-102(4)(A)(i).

⁴ “Municipal and Utility Construction includes all supervision, labor, material and equipment to complete underground piping, water and sewer plants and sewer disposal, grading and drainage, and paving (unless restricted to specific areas named).” *Tenn. Comp. R. & Regs. 0680-01-.16 Appendix A* (June 2018).

⁵ Information regarding the Board for Licensing Contractors can be accessed at <https://www.tn.gov/commerce/regboards/contractors.html>.

⁶ Information regarding Limited Plumbing Licenses can be accessed at <https://www.tn.gov/commerce/regboards/llp.html>.

Company used Storey Utility Contractors Inc., as a “primary subcontractor who installs all utility plant, including service line for customers.”⁷ However, Storey Utility Contractors Inc. does not appear to be a contractor licensed with the Tennessee Department of Commerce and Insurance.⁸ Respond to the following:

- a. Identify the plumbing contractor employed by Aqua Utilities for plumbing work such as sewer lines.
- b. Confirm that its contractor has a LLP license? Provide a copy of the LLP license or explain how the Company confirmed that its contractor is properly licensed.

RESPONSE:

- 1-7. Refer to TPUC Docket No. 19-00062, *Amended Joint Application*, Exhibit 17. An email dated August 31, 2016 states that Lannie J. Hutton is the certified operator for Aqua Utilities’ wastewater system. Since the date of the email is 2016, confirm that Aqua Utilities currently employs Mr. Hutton as the certified operator for the wastewater system and provide a copy of the current license of Mr. Hutton. If he is not the certified operator for the wastewater system, identify the certified operator or operators for Aqua Utilities’ wastewater system and provide a copy of his/her license.

RESPONSE:

- 1-8. Refer to TPUC Docket No. 19-00062, *Amended Joint Application*, Exhibit 17. An email dated August 31, 2016 states that William (Clark) Culver is the certified operator for Aqua

⁷ Notice of Filing by Energy and Water Division of the Tennessee Regulatory Authority, pp. 3, 12, TPUC Docket No. 00-01105 (Oct. 23, 2001). See also Response to Staff DR No. 64, TPUC Docket No. 06-00187 (Nov. 13, 2006).

⁸ The Consumer Advocate conducted a search for “Storey” in the License Search and Verification Database available online at <https://verify.tn.gov/>. This search resulted in two entities being listed: Storey Construction Company and Storey Custom Homes, LLLP. Both entities have expired licenses, and neither were licensed for “Municipal and Utility Construction.” The classification system for the various contractors’ licenses are set out in *Tenn. Comp. R. & Regs Rule 0680-.16* (June 2018).

Utilities' drinking water system. Confirm that Aqua Utilities currently employs Mr. Culver as the certified operator for the drinking water system and provide a copy of the current license of Mr. Culver. If he is not the certified operator for the drinking water system, identify the certified operator or operators for Aqua Utilities' drinking water system and provide a copy of his/her license.

RESPONSE:

1-9. Aqua Utilities and Limestone Water Utility Operating Company, LLC (Limestone Water) identified three contiguous developments in Hardin County that are served by the water and wastewater systems: The Preserve, Points of Pickwick, and Northshore.⁹ The Preserve and Points of Pickwick were developed in one phase. Respond to the following:

- a. Is The Preserve fully built out?
 - i. How many residences are located in the Preserve?
 - ii. How many residences have connected to the wastewater system?
 - iii. How many residences have connected to the drinking water system?
 - iv. Are there any non-residential customers in The Preserve? If yes, how many and describe the type of customer.
- b. Is the Points of Pickwick fully built out?
 - i. How many residences are located in the Points of Pickwick?
 - ii. How many residences have connected to the wastewater system?
 - iii. How many residences have connected to the drinking water system?
 - iv. Are there any non-residential customers in the Points of Pickwick? If yes, how many and describe the type of customer.

RESPONSE:

⁹ Amended and Restated Joint Application of Aqua Utilities Company, Inc., and Limestone Water Utility Operating Company, LLC, for Authority to Sell or Transfer Title to the Assets, Property, and Real Estate of a Public Utility and for a Certificate of Public Convenience and Necessity, Exhibit 1, TPUC Docket No. 19-00062 (December 13, 2019).

1-10. Aqua Utilities and Limestone Water explained that, unlike The Preserve and Points of Pickwick, Northshore was divided into three phases. Phase 1 includes three subdivisions: (1) Sailboat Pointe, (2) Turtle Cove, and (3) Pelican Pointe. Phase 2 includes three subdivisions (1) Ridge Pointe, (2) Anchor Bay Pointe; and (3) Park Place. Phase 3 includes 3 subdivisions: (1) Grand View, (2) Grand Villas, and (3) High Pointe.¹⁰ Commission rules require, that for a development constructed in phases, information must be given separately for each phase.¹¹ Provide the following information for each one of the 9 *specific subdivisions* listed above:

- a. Is the *specific subdivision* fully built out?
- b. How many residences are located in *specific subdivision*?
- c. How many residences have connected to the wastewater system?
- d. How many residences have connected to the drinking water system?
- e. Are there any non-residential customers in the *specific subdivision*? If yes, how many and describe the type of customer.

RESPONSE:

1-11. Refer to *Tenn. Comp. R. & Regs* 1220-04-13-.17(2)(b)3 and to the Consumer Advocate's Minimum Filing Requirement Review (MFRR) Letter, Attachment A-3 (SOP-92082). State Operating Permit, SOP-92082, Part III.F.a. states:

The permittee shall own the treatment facilities (and the land upon which they are constructed) including the land to be utilized for spray or spray irrigation. A perpetual easement (properly recorded) may be accepted in lieu of ownership. Evidence of ownership of the treatment facility land application site(s) and/or a copy of the perpetual easement(s) must be furnished to the division for approval prior to construction of the wastewater collection and treatment system.

- a. Provide a copy of the deed or perpetual easement for the *treatment facilities (and the land upon which they are constructed) including the land utilized for spray or spray irrigation.*

¹⁰ *Id.* at Exhibit 1.

¹¹ *Tenn. Comp. R. & Regs Rule 1220-04-13-.17(2)(a)10* (December 2018).

- b. Does the Company provide all wastewater service to all the subdivisions¹² named in the *Amended Joint Application* through the treatment facilities authorized by SOP-92082? If not, provide a description of the other treatment facilities; identify the state permit number for the other treatment facilities; and provide a copy of the deed or perpetual easement for the other treatment facilities.
- c. Will any planned improvements to the wastewater facilities require any additional property? If yes, does the Company have title to the treatment facilities? Is it separate from the title provided in subsection a. above? If so, provide a copy of the deed or perpetual easement for the additional property.

RESPONSE:

1-12. Does Aqua Utilities purchase all its drinking water from the Savannah Utility Department?

If not, identify Aqua Utilities' other source of water?

RESPONSE:

1-13. Does Aqua Utilities have a Capacity Development Plan? Such a plan is defined as "document(s) identifying what actions a public water system is taking or shall take to become a 'viable water system.' Such plan shall include information concerning retention of a Certified Operator in direct charge; system ownership and accountability; staffing and organizational structure; fiscal management and controls, source water assessment and protection plan; 'business plan;' and any and all other information identifying any further action that shall be taken."¹³ If yes, provide a copy of the Capacity Development Plan.

RESPONSE:

¹² The subdivisions named in the application are as follows: (1) Points of Pickwick, (2) The Preserve, (3) Anchor Bay Pointe, (4) Grand Villas, (5) Grandview, (6) High Pointe, (7) Park Place, (8) Ridge Point, (9) Sailboat Pointe, and (10) Turtle Cove. *Amended Joint Application* at pp. 3-4.

¹³ *Tenn. Comp. R. & Regs. 0400-45-01-.04(6)* (February 2019).

1-14. Does Aqua Utilities have a Business Plan? Such a plan is defined as “a document which identifies source(s) of income or revenue sufficient to meet expenses over a three (3) year period. The business plan will identify costs related to retaining a certified operator, estimated annual infrastructure repair costs, depreciation, facility maintenance fees, estimated annual monitoring costs, estimated costs of providing public notices, estimated administrative costs, and any and all other operational, treatment, and related costs (e.g. chemicals and other supplies used to treat water, etc.). The business plan must include the re-payment of borrowed and amortized funds.”¹⁴ If yes, provide a copy of the Business Plan.

RESPONSE:

1-15. Refer to *Tenn. Comp. R. & Regs. 0400-45-01-.35*. Provide copies of the Consumer Confidence Reports that Aqua Utilities sent to its customers and filed with TDEC in the most recent three years.

RESPONSE:

1-16. Does the Company have title to the drinking water system that serves the subdivisions¹⁵ named in the *Amended Joint Application*? Provide a copy of the deeds or perpetual easements for all property required for the operation of the water system.

RESPONSE:

¹⁴ *Tenn. Comp. R. & Regs. 0400-45-01-.04(5)* (February 2019).

¹⁵ The subdivisions named in the application are as follows: (1) Points of Pickwick, (2) The Preserve, (3) Anchor Bay Pointe, (4) Grand Villas, (5) Grandview, (6) High Pointe, (7) Park Place, (8) Ridge Point, (9) Sailboat Pointe, and (10) Turtle Cove. *Amended Joint Application* at pp. 3-4.

- 1-17. Refer to the Consumer Advocate's Minimum Filing Requirement Review (MFRR) Letter, Attachment A-4 (Sanitary Survey Letter). According to the Sanitary Survey Letter dated April 2, 2019, Aqua Utilities received an approved rating in its last Sanitary Survey of its water system. However, TDEC deducted three points from its overall score because Aqua Utilities' failure to have a current distribution map showing lines, line sizes, valves, blow-offs and hydrants. Provide a copy of Aqua Utilities' current distribution map.

RESPONSE:

- 1-18. Refer to the Consumer Advocate's Minimum Filing Requirement Review (MFRR) Letter, Attachment A-4 (Sanitary Survey Letter). At the time of the Sanitary Survey, Aqua Utilities could not provide any information on water loss.¹⁶
- a. Provide Aqua Utilities' water loss rate for 2018 and 2019 and documentation to support your response.
 - b. What action has Aqua Utilities taken to reduce its water loss since the Commission's Order in TPUC Docket No. 06-00187? Provide documentation to support your response.

RESPONSE:

- 1-19. Refer to the Consumer Advocate's Minimum Filing Requirement Review (MFRR) Letter, Attachment A-6 (Lead & Copper Monitoring Letter) and Attachment A-7 (Lead & Copper Monitoring Email). In both the referenced letter and email, TDEC informed Aqua Utilities

¹⁶ This is concerning, in light of the Commission previous determination that Aqua Utilities had a water loss rate of 49.94%. *Final Order Approving Rate Increase and Rate Design*, p. 8, TPUC Docket No. 06-00187 (Nov. 27, 2007). The Company provided the water loss rate to the Commission and explained that its calculation took "the rolling 12 months to date water purchases from the City of Savannah and subtracting the rolling 12 months to date recorded sales volumes for the same time period. The 49.94% amount represents the average of the monthly lost and unaccounted for water volumes from the 12 months ended November 2004 through the 12 months ended December 2005." Response to Staff DR No. 14, TPUC Docket No. 06-00187 (Aug. 31, 2006). *See also* Consumer Advocate's MFRR Letter, Attachment A-5 (Staff DR No. 17) for a copy of response to the data request

of the requirement to keep a Lead & Copper Monitoring Master Sampling Site list containing at least 20 approved sampling site locations. Provide a copy of the Master Sampling Site list required by the referenced letter and email. If the Company does not have a Master Sampling Site list, provide an explanation for the lack of such a list.

RESPONSE:

- 1-20. Provide a complete listing of all assets to be retained by Aqua Utilities after the proposed transaction is completed.

RESPONSE:

- 1-21. Provide a complete listing of any liabilities that will not be transferred to Limestone Utilities. If there are liabilities that will not be transferred, identify the responsible party for such liabilities.

RESPONSE:

- 1-22. Identify the Company's capital expenditures by year for the years 2013-2019.

RESPONSE:

- 1-23. Provide a copy of Aqua Utilities' financial statements for the years 2016 – 2018. Provide the financial statement for year 2019 when available.

RESPONSE:

- 1-24. Identify the source and date of all amounts of Contribution in Aid of Construction reflected on the Balance Sheet of Aqua Utilities as of June 30, 2019.

RESPONSE:


1-25. With respect to the balance of Contributions in Aid of Construction as of June 30, 2019, indicate how these balances will be impacted as a result of the proposed transaction. If applicable, provide a comprehensive discussion justifying the retention of these funds by Aqua Utilities.

RESPONSE:

1-26. Identify the computed Gain on the Sale resulting from this transaction, along with supporting calculations.

RESPONSE:

RESPECTFULLY SUBMITTED,


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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

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This the 29th day of January, 2020.

Karen H. Stachowski
KAREN H. STACHOWSKI