

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>APPLICATION OF LIMESTONE WATER</b>	)	
<b>UTILITY OPERATING COMPANY, LLC</b>	)	<b>Docket No. 21-00053</b>
<b>FOR AUTHORITY TO SELL OR TRANSFER</b>	)	
<b>TITLE TO THE ASSETS, PROPERTY AND</b>	)	
<b>REAL ESTATE OF A PUBLIC UTILITY,</b>	)	
<b>CARTWRIGHT CREEK, LLC, AND FOR</b>	)	
<b>A CERTIFICATE OF PUBLIC</b>	)	
<b>CONVENIENCE AND NECESSITY</b>	)	

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**STIPULATION AND SETTLEMENT AGREEMENT**

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Jointly comes the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (the “Consumer Advocate”) and Limestone Water Utility Operating Company, LLC (“Limestone”), and Cartwright Creek, LLC (“Cartwright Creek”) and respectfully submit this Stipulation and Settlement Agreement (the “Settlement Agreement”) in TPUC Docket No. 21-00053 to the Tennessee Public Utility Commission (TPUC or the “Commission”). Subject to the TPUC's approval, the Consumer Advocate, Limestone, and Cartwright Creek (hereinafter, individually “Party” and collectively “Parties”) stipulate and agree as follows:

**I. BACKGROUND**

1. On May 6, 2021, Limestone filed its *Petition*, seeking authorization for it to purchase all assets, property, and real estate currently used to provide regulated wastewater services to customers in Cartwright Creek’s subdivisions. Limestone also seeks authorization to transfer the Certificate of Public Convenience and Necessity (CCN). On May 13, 2021, Cartwright Creek filed a notice stating that it joins as a party in support of the *Petition*.

2. On June 14, 2021, the Commission granted the Consumer Advocate's Petition to Intervene. On August 30, 2021, the Consumer Advocate filed the *Direct Testimony of David N. Dittemore*, which recommended approval of the transaction subject to eight conditions.

## II. SETTLEMENT TERMS

3. The Parties to this Settlement Agreement have undertaken discussions to resolve this case. As a result of the information obtained during the discussions between the Parties, and for the purpose of avoiding further litigation and resolving this matter upon acceptable terms, the Parties have reached this Settlement Agreement. Subject to the TPUC's approval, in furtherance of this Settlement Agreement, the Parties have agreed to the settlement terms set forth below.

4. The Parties agree to and accept the Consumer Advocate's recommendation that after closing Limestone will adhere to conditions prescribed by the Commission in TPUC Docket Nos. 19-00034 and 19-00097, subject to the stipulations proposed in Limestone's 08/12/21 email to the Consumer Advocate:

- i. At closing, Cartwright Creek will transfer to Limestone all fees held in escrow for Commission-authorized tap fees and the Capital Improvement Surcharge ("CIS").
- ii. At closing, Limestone will assume Cartwright Creek's obligations to collect tap fees and the CIS, deposit those funds in Commission-approved escrow accounts, and obtain Commission pre-approval for disbursements from those accounts.
- iii. Limestone will report quarterly, in the manner prescribed in the Commission's 08/25/20 Order in Docket No. 19-00097, regarding quarter-end balances in each escrow account and any disbursements made during the reporting quarter.

5. The Parties agree and accept the Consumer Advocate's recommendation that Limestone will be required to submit for Commission review and approval prior to closing all accounting entries related to the acquisition, including the transferred balances in each escrow account. The Consumer Advocate shall be copied on this submission to the Commission.

6. The balance of Contributions in Aid of Construction (CIAC) on the books of Cartwright Creek should be the same balance recorded on the books of Limestone at the outset of the transaction. This balance shall not be amortized unless authorized by the Commission. The Commission should review that balance in Limestone's initial rate case, and Limestone, the Consumer Advocate, or other interested parties may present evidence regarding whether the CIAC balance is accurate or should be adjusted.

7. Limestone shall not make any corrections or modifications to accounting records received from Cartwright Creek at closing. If Limestone believes accounting entries should be corrected or changed, it shall seek approval from the Commission to make the necessary accounting corrections at least 180 days prior to its initial base rate increase request. The Consumer Advocate reserves its rights to oppose such a request for any reason, including but not limited to such a request should occur during an acquisition docket as a part of the Buyer's due diligence.

8. The Parties agree and accept the Consumer Advocate's recommendation that Limestone be required to maintain separate asset and operating cost records for each of Cartwright Creek's current operating systems.

9. The Parties agree that Limestone shall be required to file, within 30 days after closing, a balance sheet and supporting general ledger, in the format prescribed by the Uniform System of Accounts and in accordance with Commission Rule 1220-04-01-.11, showing Cartwright Creek's ending balances of the assets acquired by Limestone as of the date of acquisition. Limestone also shall be required to file a balance sheet and supporting general ledger, in the format prescribed by the Uniform System of Accounts and in accordance with Commission Rule 1220-04-01-.11, showing Limestone's beginning balances of the assets acquired from Cartwright Creek as of the date of the acquisition.

10. Limestone is not requesting an acquisition premium and the Commission is not being asked to approve any acquisition adjustment related to the purchase of Cartwright Creek's assets. Furthermore, the Commission is not being asked to approve a Gain on Sale, as raised by the Consumer Advocate, related to the purchase of Cartwright Creek's assets. Accordingly, Limestone's beginning value of the acquired assets for ratemaking purposes shall be the value recorded in Cartwright Creek's books and records at the date of acquisition. Further, Limestone is not authorized to book an above-the-line regulatory asset for ratemaking purposes for any portion of the amount by which the purchase price exceeds the value of the acquired assets as reflected in Cartwright Creek's books and records at the date of acquisition. In any future rate proceeding, Limestone may present evidence and argument concerning the value of assets used and useful for provisioning public utilities services, and the Consumer Advocate or other interested parties may oppose such values or present their own evidence and argument concerning the value of such assets. Limestone, the Consumer Advocate, or other interested parties, may present evidence and set forth their respective arguments related to the appropriateness of an Acquisition Premium or Gain on Sale for this transaction in the next rate proceeding.

11. The Parties agree and accept the Consumer Advocate's recommendation that the disposition of regulatory and transaction costs related to the subject acquisition be deferred to Limestone's initial rate case involving those costs.

12. The Parties agree and accept the Consumer Advocate's recommendation that the Commission require Limestone to adhere to prior regulatory obligations imposed on Cartwright Creek.

13. The Parties agree that Limestone be required to adopt Cartwright Creek's presently tariffed rates, charges and terms of service and it shall file a new tariff substituting itself in place of Cartwright Creek as the service provider within 30 days after the date of acquisition. The tariff

shall identify all residential subdivisions by each subdivision name, as well as any commercial customers being served within Limestone's CCN.

14. The Parties agree that Limestone be required to maintain its books and records in compliance with the Uniform System of Accounts as set forth in Commission Rule 1220-04-01-.11.

15. The Parties agree that, at closing, Cartwright Creek shall transfer to Limestone complete copies of Cartwright Creek's accounting records for the two calendar years immediately preceding the date of acquisition as well as the complete year-to-date accounting records for the calendar year in which closing occurs. Limestone shall maintain these records intact at least through completion of its first rate proceeding before the Commission.

16. The Parties agree that Limestone be required to post a bond compliant with the Commission's financial security rules within 30 days of the date of acquisition.

17. The Parties agree that Limestone be required to file within 30 days of execution copies of contracts or pricing agreements between Limestone and any affiliate and between Limestone and contractors that provide ongoing operations and maintenance or billing services to the Cartwright Creek systems or customers served by those systems.

18. The Parties agree Limestone be required to file copies of recorded deed(s) for land where Cartwright Creek's facilities are located and registered easements in Limestone's name for all the land and ownership rights for any and all access to the acquired water system and wastewater systems within 30 days after the date of recording.

19. The Parties agree that Limestone be required to file a copy of the Purchase and Sale Agreement that has been fully executed by Seller and Buyer and acknowledged by the Title Company with the recorded effective date and with all exhibits attached, complete with documentation, within 30 days after the date of acquisition.

20. The Parties agree Limestone be required to file a copy of the final executed Assignment of Rights Agreement within 30 days after the date of acquisition.

21. The Parties agree Limestone be required to file a copy of the State Operating Permit "Request for Transfer" for current permits, both for water and wastewater, within 30 days of issuance.

22. The Parties agree Limestone be required to file copies of maps and engineering designs for the water and wastewater systems within 30 days of availability.

23. The Parties agree Limestone shall be required to comply with all applicable Commission rules and regulations, including but not confined to the Commission's rules governing transactions with affiliates.

#### **B. General Terms**

24. All pre-filed discovery (formal and informal), testimony and exhibits of the Parties will be introduced into evidence without objection, and the Parties waive their right to cross-examine all witnesses with respect to all such pre-filed testimony. If, however, questions should be asked by any member of the public, Commissioners, or Commission Staff, the Parties may present testimony and exhibits to respond to such questions and may cross-examine any witnesses with respect to such testimony and exhibits. The Parties would ask to permit any out-of-town witnesses to be available by telephone or video conference to reduce the costs associated with such appearance.

25. After the filing of this Settlement Agreement, the Parties agree to support this Settlement Agreement before the Commission and in any hearing, proposed order, or brief conducted or filed in this matter. The provisions of this Settlement Agreement are agreements reached in compromise and solely for the purpose of settlement. The provisions in this Settlement Agreement do not necessarily reflect the positions asserted by any Party. None of the Parties to

this Settlement Agreement shall be deemed to have acquiesced in or agreed to any ratemaking or accounting methodology or procedural principle.

26. This Settlement Agreement, which is the product of negotiations and substantial communication and compromise between the Parties, is just and reasonable and in the public interest.

27. This Settlement Agreement shall not have any precedential effect in any future proceeding or be binding on any of the Parties in this or any other jurisdiction except to the limited extent necessary to enforcement and implementation of the provisions hereof.

28. The Parties agree and request the Commission to order that the settlement of any issue pursuant to this Settlement Agreement shall not be cited by the Parties or any other entity as binding precedent in any other proceeding before the Commission, or any court, state or federal, except to the limited extent necessary to implement the provisions hereof and for the limited purpose of enforcement should it become necessary.

29. The terms of this Settlement Agreement have resulted from negotiations between the signatories and the terms hereof are interdependent. The Parties jointly recommend that the Commission issue an order adopting this Settlement Agreement in its entirety without modification.

30. If the Commission does not accept the settlement in whole, the Parties are not bound by any position or term set forth in this Settlement Agreement. In the event that the Commission does not approve this Settlement Agreement in its entirety, each of the signatories to this Settlement Agreement retains the right to terminate this Settlement Agreement by giving notice of the exercise of such right within 15 business days of the date of such action by the Commission; provided, however, that the signatories to this Settlement Agreement could, by unanimous consent, elect to modify this Settlement Agreement to address any modification required by, or issues raised

by, the Commission within the same time frame. Should this Settlement Agreement terminate, it would be considered void and have no binding or precedential effect, and the signatories to this Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this Settlement Agreement.

31. By agreeing to this Settlement Agreement, no Party waives any right to continue litigating this matter should this Settlement Agreement not be approved by the Commission in whole or in part.

32. No provision of this Settlement Agreement shall be deemed an admission of any Party. No provision of this Settlement Agreement shall be deemed a waiver of any position asserted by a Party in this matter or any other docket.

33. Except as expressly noted herein, the acceptance of this Settlement Agreement by the Attorney General shall not be deemed approval by the Attorney General of any of the Joint Parties' acts or practices.

34. The Consumer Advocate's agreement to this Settlement Agreement is expressly premised upon the truthfulness, accuracy, and completeness of the information provided by the Joint Parties to TPUC and the Consumer Advocate throughout the course of this Docket, which information was relied upon by the Consumer Advocate in negotiating and agreeing to the terms and conditions of this Settlement Agreement.

35. This Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee, notwithstanding conflicts of law provisions.

36. The Parties agree that this Settlement Agreement constitutes the complete understanding among the Parties and that any and all oral statements, representations or agreements made prior to the execution of this Settlement Agreement shall be null and void.



37. The signatories to this Settlement Agreement warrant that they have informed, advised, and otherwise consulted with the Parties for whom they sign regarding the contents and significance of this Settlement Agreement, and, based on those communications, the signatories represent that they are authorized to execute this Settlement Agreement on behalf of the Parties.

The foregoing is agreed and stipulated to this 15<sup>th</sup> day of October, 2021.

*[signature page follows – remainder of page intentionally left blank]*

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Limestone Water Utility Operating Company, LLC Signature Page

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*[additional signature page follows – remainder of page intentionally left blank]*

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Cartwright Creek, LLC Signature Page

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Attorney General's Signature Page

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