

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

October 17, 2022

IN RE:

**APPLICATION OF LIMESTONE
WATER UTILITY OPERATION
COMPANY, LLC FOR AUTHORITY
TO SELL OR TRANSFER TITLE TO
THE ASSETS, PROPERTY, AND REAL
ESTATE OF A PUBLIC UTILITY,
CARTWRIGHT CREEK, LLC AND
FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY**

Docket No. 21-00053

RESPONSE TO PETITION TO INTERVENE

Cartwright Creek, LLC ("Cartwright Creek") submits the following response to the Petition to Intervene filed by Superior Wastewater Systems ("Superior Wastewater") on October 12, 2022.

Cartwright Creek asks that the Petition be denied because the Petition to Intervene is untimely. A final, unappealed order was issued ten months ago. The case is over, and there is no proceeding in which to intervene. Moreover, even if the matter were still open, the Petitioner has not demonstrated that its "legal rights, privileges, immunities or other legal rights may be determined" in this proceeding.

The Commission issued a final order in this docket on January 24, 2022 approving the transfer of "all assets, property and real estate" used by Cartwright Creek to provide wastewater service in Tennessee to Limestone Water Utility Operating Company, LLC ("Limestone") and granting Limestone a certificate of convenience and necessity to provide wastewater service in the

areas currently served by Cartwright Creek. On September 26, 2022, Cartwright Creek, Limestone and the Consumer Advocate Division in the Office of the Tennessee Attorney General jointly asked the Commission pursuant to Rule 60.02 of the Tennessee Rules of Civil Procedure to clarify that the certificate granted to Limestone covers the same service territory as the certificate previously granted to Cartwright Creek.¹ See dockets 04-00358, 07-00180 and 19-00061.

The Petitioner requests permission to intervene pursuant to T.C.A. § 4-5-310(a). Subsection (a) states that the agency shall grant a petition to intervene if the petition is filed "at least seven (7) days before the hearing" and if "the Petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding."

This matter was heard on December 6, 2021 and a final order issued January 24, 2022. The sixty-day deadline for filing an appeal has long since passed. Except for monitoring compliance with the instructions to Limestone set forth in the agency's order, the case is over, and the Petition to Intervene is almost a year late.²

Even if the case were still pending, Superior Wastewater does not have a legal interest in any issue addressed in this docket. The Petitioner acknowledges that the Commission has approved the transfer of "all assets, property and real estate" of Cartwright Creek to Limestone. Paragraph 4. In other words, all the service areas and other assets that belonged to Cartwright Creek have now been granted or transferred to Limestone. The Petitioner then states (paragraph 6) that a decision by the Commission "to change the certificated area of PGA5" could affect "future filings" made by the Petitioner. The Petitioner is incorrect. No one proposed "to change the certificated

¹ A motion filed pursuant to T.R.C.P. 62.02 to correct a "mistake" or "inadvertence" in a final order may be made up to one year after the order was issued but, as the rule itself states, such a motion "does not affect the finality" of the order that is being corrected.

² See footnote 1, *supra*.

area of PGA5" and the Commission made no such ruling. The area was not changed but moved from the service territory of Cartwright Creek to the service area of Limestone.

Limestone already provides service to two developments in PGA5. If the Petitioner wants to challenge Limestone's right to provide service in other parts of PGA5, this is not the place to do it. If Superior Wastewater someday wants to "expand its present service territory" (paragraph 2) to include a portion of PGA5, the company first needs to file an application alleging that there is a public need for another service provider in that area (*i.e.*, that there are customers who want to use Superior Wastewater instead of Limestone) and then try to persuade the Commission to amend Limestone's service territory. Such a proceeding would be the appropriate docket in which Superior Wastewater could raise any challenges to Limestone's right to serve all of PGA5. That, however, has nothing to do with this docket.

The Petition to Intervene should be quickly dismissed and the unopposed Motion for Clarification granted.

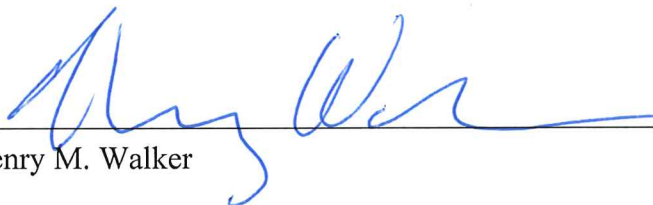
Respectfully submitted,

By: 

Henry Walker (B.P.R. No. 000272)
Bradley Arant Boult Cummings, LLP
1600 Division Street, Suite 700
Nashville, TN 37203
Phone: 615-252-2363
Email: hwalker@bradley.com

CERTIFICATE OF SERVICE

I hereby certify that I have on this 17th day of October, 2022, a copy of the foregoing document was served on all parties of record, via electronic email transmission and regular U.S. Mail, postage prepaid.



Henry M. Walker