

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

IN RE:)	
)	
APPLICATION OF LIMESTONE WATER)	
UTILITY OPERATING COMPANY, LLC)	Docket No. 21-00053
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)	

PETITION TO INTERVENE

The Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (“Consumer Advocate”), by and through counsel, pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (TPUC or the “Commission”) to grant the Consumer Advocate’s intervention into this proceeding because consumers’ interests, rights, duties, or privileges may be determined or affected by the *Application of Limestone Water Utility Operating 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* (“Petition”). For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating and intervening as a party in any matter or proceeding before TPUC in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and TPUC rules.

2. Cartwright Creek, LLC (“Cartwright Creek”) is a public utility regulated by TPUC, and it provides wastewater services to consumers in Williamson County, Tennessee in the

following subdivisions: (1) Arrington Retreat, (2) The Grasslands, (3) The Hideaway, and (4) Hardeman Springs.¹

3. Limestone Water Utility Operating Company, LLC (“Limestone”) is a Tennessee limited liability company, whose principal office is located at 1650 Des Peres Rd., Suite 303, St. Louis, MO 63131.² Limestone is managed by CSWR, LLC, which is a “Missouri limited liability company, and its principal office is located at 1650 Des Peres Rd., Suite 303, St. Louis, MO 63131.”³

4. 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.⁴ Limestone also seeks authorization to transfer the Certificate of Public Convenience and Necessity (CCN) or, alternatively, for the Commission to grant Limestone a new CCN for these communities.⁵

5. On May 13, 2021, Cartwright Creek, LLC filed a notice stating that it joins as a party in support of the *Petition*.⁶

6. On March 15, 2021, Cartwright Creek entered into an *Agreement for Sale of Utility System* (“*Agreement*”) with CSWR.⁷ Previously, the purchase price for the assets being acquired

¹ *Petition* at pp. 1, 4. (May 6, 2021).

² *Id.* at p. 2.

³ *Id.* at p. 5. “CSWR will provide or oversee all financial, technical, and managerial services required by Limestone Operating. These services will include, but not necessarily be limited to, financial and accounting services, engineering and construction services, managerial oversight, and oversight of third-party contractors providing services.” *Limestone’s Response to the Consumer Advocate’s First Discovery Request* (“Limestone Response 19-00062”), DR 1-5, TPUC Docket No. 19-00062 (February 14, 2020). “US Water Systems, LLC (US Water), is the sole owner and member of CSWR.” *Id.* at DR 1-1. “Other than its status as the ultimate parent of the affiliate group . . . US Water performs no duties, provides no services, and has no formal business relationship with either Limestone Operating or Limestone Holding.” Limestone Response 19-00062 at DR 1-3.

⁴ *Petition*. at p. 1.

⁵ *Id.*

⁶ *Application of Limestone Water Utility Operating 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*, TPUC Docket No. 21-00053 (May 13, 2021).

⁷ *Id.* at p. 5.

from Cartwright Creek was \$880,000,⁸ but the current purchase price is unknown at this time since the Consumer Advocate has not been provided access to the confidential *Agreement for Sale of Utility System*.⁹

7. The Petitioners state their recognition of numerous deficiencies in the Cartwright Creek wastewater systems that are at issue in this Docket.¹⁰ “For example, CSWR and Limestone estimate additional investment of more than \$2.3 million would be required to bring the wastewater system serving The Grasslands into compliance with operational and environmental standards. Inflow and infiltration exceed the system's 250,000 gpd capacity and the system currently fails to achieve standards established by the Tennessee Department of Environment and Conservation (TDEC) for phosphorus.”¹¹

8. Limestone proposes to adopt the current tariff rates for all of Cartwright Creek's systems.¹² However, Limestone acknowledges the likelihood of it petitioning the Commission to increase rates “given the additional capital investment needed for system upgrades and improvements.”¹³ Limestone also acknowledges that they “may also seek authority to consolidate rates of the systems it proposes to acquire in this case with those of other wastewater systems it operates in Tennessee.”¹⁴

⁸ *Joint Application of Cartwright Creek, LLC 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 11, *Direct Testimony of Josiah Cox*, p. 9, TPUC Docket No. 19-00035 (March 14, 2019) and *Amendment to Agreement for Sale of Utility System*, Petition's Exhibit 9, TPUC Docket No. 19-00035 (March 14, 2019), the *Agreement for Sale* and the *Amendment to the Agreement for Sale* were not filed under seal in TPUC Docket No. 19-00035.

⁹ *Petition* at p. 3, Exhibit 7.

¹⁰ *Petition* at p. 6.

¹¹ *Id.*

¹² *Id.* at p. 9.

¹³ *Id.* at Exhibit 9, *Direct Testimony of Josiah Cox*, p. 13, TPUC Docket No. 21-00053 (May 6, 2021).

¹⁴ *Id.*

9. Cartwright Creek is currently receiving funds from ratepayers earmarked for system improvements that the Company has been unwilling¹⁵ to make using its own capital. One key issue is what will be the disposition of these funds residing in these escrow accounts as a result of the transaction? Commission Staff were also concerned about this issue resulting in a question in a Staff issued Data Request in TPUC Docket No. 19-00035:

Customer Deposits were not identified in the Pro Forma financial statements filed with the Petitions for First Round or Limestone; however, Customer Deposits are mentioned in the contract (Exhibit D). Is it Cartwright Creek's intention to refund the existing customer deposits (\$138,916 based on the 2018 Annual Report filed with the Commission) prior to the completion of the sale, or will the customer deposits be transferred to Limestone at the time of a completed sale?¹⁶

10. The interests of consumers in the transfer of authority to provide utility services from Cartwright Creek to CSWR and Limestone may be affected by determinations and orders made by the Commission with respect to its interpretation, application, and implementation of Tenn. Code Ann. § 65-4-113 and other relevant statutory and regulatory provisions. Such interests include, but are not limited to, the disposition of funds residing in these escrow accounts funded by customers; the affiliate relationship of Limestone and its parent company CWSR; the impact of the purchase price on the rates of the Aqua Utilities consumers; the benefit to consumers which may be gained from the transfer; and the assessment of the suitability, the financial responsibility, and technical capability of both Limestone and CSWR to operate the Cartwright Creek wastewater systems.

11. Only by participating as a party to this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

¹⁵ *Cartwright Creek, LLC's Response to Staff First Data Request*, p.3, DR1-2, TPUC Docket No. 19-00049 (January 17, 2020).

¹⁶ Staff Data Request to Mr. Thomas L. Kolschowsky, p. 2, Question 7, TPUC Docket No. 19-00035 (August 20, 2019).

Wherefore, the Consumer Advocate requests TPUC grant this *Petition to Intervene*.

RESPECTFULLY SUBMITTED,



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TPUC Docket No. 21-00053

Consumer Advocate's Petition to Intervene

CERTIFICATE OF SERVICE

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

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This the 4th day of June, 2021.

Karen H Stachowski
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Assistant Attorney General