

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

IN RE:

**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 AND
FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY**

DOCKET NO. 21-00053

**CONSUMER ADVOCATE'S SECOND DISCOVERY
REQUEST TO CARTWRIGHT CREEK, LLC
PUBLIC VERSION**

To: Cartwright Creek, LLC
C/O Henry Walker
Bradley Arant Boult Cummings, LLP
1600 Division Street, Suite 700
Nashville, TN 37203
Email: hwalker@babbc.com

This Second Discovery Request is hereby served upon Cartwright Creek, LLC ("Cartwright Creek" or the "Company") pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11. The Consumer Advocate Unit in the Financial Division of the Office of the Attorney General ("Consumer Advocate") requests that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Financial Division, Consumer Advocate Unit, John Sevier Building, 500 Dr. Martin L. King Jr. Blvd., Nashville, Tennessee 37243, c/o Karen H. Stachowski, on or before 2:00 p.m. (CDT), August 9, 2021.

PRELIMINARY MATTERS AND DEFINITIONS

These Additional Discovery Requests incorporate by reference the same Preliminary Matters and Definitions as set forth in the *Consumer Advocate's First Discovery Request to Cartwright Creek* sent to the Company on June 29, 2021, and are to be considered continuing in nature, and are to be supplemented from time to time as information is received by the Company which would make a prior response inaccurate, incomplete, or incorrect.

SECOND DISCOVERY REQUESTS

2-1. Refer to the Petition, Exhibit 7 (CONFIDENTIAL) and Cartwright Creek's Response to Consumer Advocate DR No. 1-2 and provide the following:

- a. Clearly state whether the Agreement for Sale of Utility System submitted as part of this Petition [REDACTED];
- b. Confirm that the position of Cartwright Creek is that the Petition does not contain [REDACTED];
- c. Confirm that Cartwright Creek's position that whether [REDACTED], is exclusively subject to the discretion of the Commission; and
- d. If the Commission determines that [REDACTED], does Cartwright Creek envision a modification to the purchase price negotiated between the parties?

RESPONSE:

2-2. Refer to TRA/TPUC Docket Nos. 16-00127 and 19-00097. In TRA Docket No. 16-00127, the Commission authorized a \$7.50 capital surcharge for a period of 36 months to address "essential funding needed [for] facility improvements and upgrades.¹ The Commission

¹ *Order Approving Rate Increase*, p.5, TRA Docket No. 16-00127 (January 10, 2017). "The funds collected under the Surcharge, as well as all cash contributions in aid of construction received by Cartwright during the Surcharge's thirty-six (36) month collection period, shall be deposited and held in a separate FDIC insured state authorized interest-bearing bank account ("Capital Account") from which funds shall not be expended without Cartwright seeking and obtaining from the Authority (in a specified amount and for a specified purpose), prior to expenditure of such funds,

extended the “Capital Improvements Surcharge of \$7.50” per month for an additional 36 months subject to terms and conditions set by the Commission in its order.²

- a. Did Cartwright Creek inform Central States/CSWR/Limestone of the Commission’s directive about the necessary accounting entries for the Capital Improvements Surcharge of \$7.50/month? Provide support for your response.
- b. Will Cartwright Creek’s transfer the balance of the separate escrow account (i.e., Capital Account) of Capital Improvements Surcharge to Central States/CSWR/Limestone at the execution of the sale?

RESPONSE:

2-3. Refer to the Commission’s Order in TPUC Docket No. 19-00097. The Commission requires Cartwright Creek to file with TPUC on the 10th business day of the month after the end of each calendar quarter a report on the balance in the Capital Account, including copies of bank statements.³

- a. Did Cartwright Creek inform Central States/CSWR/Limestone of the Commission’s requirement of the quarterly reporting about the balance of the Capital Account? Provide support for your answer.
- b. Is it Cartwright Creek’s understanding that Central States/CSWR/Limestone will continue with the periodic filings set forth in TPUC Docket No. 19-00097 after the execution of the sale?

RESPONSE:

2-4. Refer to the Pre-filed Direct Testimony of Daniel Ray in TRA Docket No. 16-00127. Ray explained that the “Developer’s Operating Subsidy,” or Maintenance Fee, “is a negotiated fee between the company and the developer to cover the maintenance of the plant until enough customers connect to make the utility plant self-sustainable.”⁴ Since the Order was

an order by the Authority specifically authorizing the expenditure of such funds in a specified amount and for a specified purpose.” *Joint Petition*, pp. 3-4, TRA Docket No. 16-00127 (November 10, 2016).

² *Order Approving Extension of Surcharge*, pp. 6-9, TPUC Docket No. 19-00097 (August 25, 2020).

³ *Id.* at p. 7, ¶ c.

⁴ Pre-filed Direct Testimony of Daniel Ray on behalf of TRA Staff at 12:13-20, TRA Docket No. 16-00127 (November 10, 2016). See Daniel Ray’s Testimony, Schedule C at Ln. 6; Schedule 6, Ln. 6; and Workpaper 1.01.

issued in TRA Docket No. 16-00127, state whether the “Developer’s Operator Subsidy,” or Maintenance fee, is charged pursuant to Cartwright Creek’s Commission approved tariff or through private contract. If it is charged pursuant to its tariff, please identify the provision under which the subsidy is charged. If it is charged pursuant to a contract, provide a copy of such contracts.

RESPONSE:

- 2-5. Refer to the Commission’s Order in TPUC Docket No. 19-00034.⁵ In this Order the Commission approved the Company’s request to increase tap fees.⁶ In addition, the Commission required that certain accounting entries be made within the ordering clause of that docket.
- a. Provide the accounting entries made by Cartwright Creek as a result of the Commission’s Order.
 - b. Did Cartwright Creek inform Central States/CSWR/Limestone of the Commission’s directive about the necessary accounting entries for the increased tap fees? Provide support for your response.

RESPONSE:

- 2-6. Refer to the Commission’s Order in TPUC Docket No. 19-00034 and refer to the Petition’s Exhibit 7, p. 2, §1E (CONFIDENTIAL). The Commission required that Cartwright Creek “record and maintain all existing and future-collected tap fees in a separate escrow account to be dedicated to wastewater system repairs, rehabilitations, and upgrades, or for such other purposes as the Commission may authorize pursuant to Tenn. Comp. R. & Regs.

⁵ *Order Approving Increase of Tap Fees*, TPUC Docket No. 19-00034 (August 19, 2019).

⁶ *Id.* pp. 8-11.

1220-04-13-.07.”⁷ [REDACTED]

[REDACTED]⁸

a. Will Cartwright Creek [REDACTED]
[REDACTED]?

b. What is the current balance of the escrow account for the tap fees?

c. Did Cartwright Creek inform Central States/CSWR/Limestone of the Commission’s limitation on the use of tap fees?

RESPONSE:

2-7. Refer to the Commission’s Order in TRA Docket No. 09-00173. The Commission directed Cartwright Creek to file a petition for approval of a “\$205.86 undeveloped lot fee.”⁹ The Consumer Advocate could not locate a petition regarding the “undeveloped lot fee.”

Respond to the following:

- a. Confirm that Cartwright Creek did not petition or gain authorization from the Commission for the \$205.86 undeveloped lot fee; and
- b. Explain if this undeveloped lot fee is being covered as part of a different fee charged by Cartwright Creek. If so, please explain.

RESPONSE:

2-8. Refer to the Commission’s Order in TRA Docket No. 09-00056. In this docket, Cartwright Creek proposed a “Sewer Access Fee” which is a fee affecting “only customers who have been granted access to tap onto Cartwright Creek’s system but have not made a ‘Service Connection.’”¹⁰ The Commission approved the \$120 Sewer Access fee¹¹ and Cartwright

⁷ *Id.* at p. 11, No. 5.

⁸ Petition, Exhibit 7, pp. 1-2, §1E.

⁹ *Order Granting Approval of Special Contract*, p. 2-3, TRA Docket No. 09-00173 (December 15, 2009).

¹⁰ *Statement of Position on Issues Not Resolved by a Proposed Settlement Agreement*, TRA Docket No. 09-00056 (November 25, 2009).

¹¹ *Order Approving Settlement Agreement and Determining Contested Issues*, p. 8, No. 3, TRA Docket No. 09-00056 (March 2, 2010).

Creek had a paragraph¹² about this fee in its Tariff at the time. However, in the most current Tariff, there is no language or similar paragraph regarding Sewer Access Fees. In the current Sewer Service Contract, a customer agrees to pay “access, tap and service fees.”¹³ Is the access fee, referenced in the existing Sewer Service Contract, the previously described \$120 Sewer Access fee? If not, explain in detail the access fee referred to in the existing Sewer Service Fee.

RESPONSE:

2-9. Refer to the Petition, Exhibit 7 (CONFIDENTIAL). [REDACTED]

[REDACTED] Provide the following:

- a. [REDACTED];
- b. [REDACTED];
- c. [REDACTED];
- d. [REDACTED];

¹² *Submittal of Revised Tariff Pages*, TRA Tariff No. 1: Original Page. 2.1 Effective 1, 2010, TRA Docket No. 09-00056 (February 4, 2010).

¹³ Cartwright Creek’s Response to the First Discovery Request of the Consumer Advocate, CA DR No. 1-17a., p. 12 (July 19, 2021).

e. [REDACTED]; and

f. [REDACTED]

RESPONSE:

2-10. Refer to the Response and Attachment of Cartwright Creek to Consumer Advocate DR No.

1-18 (CONFIDENTIAL). [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

RESPONSE:

2-11. [REDACTED]
[REDACTED]?

RESPONSE:

2-12. Refer to Cartwright Creek's Response and Attachment to Consumer Advocate DR No. 1-

18 (CONFIDENTIAL) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

RESPONSE:

2-13. Refer to the Petition at p. 16, Appendix A, Part II(2)(a)(7). It states that "maps depicting the areas served by Cartwright Creek are on file with the Commission, and those maps are incorporated into the Application by reference." Respond to the following:

- a. Have you provided maps to Central States/CSWR/Limestone? If yes, provide such copies;
- b. If you have not provided maps to Central States/CSWR/Limestone, provide an explanation of why such maps have not been provided;
Has Cartwright Creek provided Central States/CSWR/Limestone the specific location of these maps in the TPUC files, (i.e., specific docket, date of filings)? If yes, provide such information; and
- c. Does Cartwright Creek possess maps that would comply with the Minimum Filing Requirement set out in TPUC Rule 1220-04-13-.17(2)(a)? If yes, provide such maps.

RESPONSE:

RESPECTFULLY SUBMITTED,

Karen H. Stachowski
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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, with a courtesy copy by electronic mail, upon:

Cartwright Creek, LLC
C/O Henry Walker
Bradley Arant Boult Cummings, LLP
1600 Division Street, Suite 700
Nashville, TN 37203
Email: hwalker@babco.com

Limestone Water Utility Operating Company, LLC
C/O Charles B. Welch, Jr., Esq.
C/O Tyler A. Cosby, Esq.
Farris Bobango PLC
414 Union Street, Suite 1105
Nashville, TN 37219
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This the 27th day of July, 2021.



KAREN H. STACHOWSKI
Senior Assistant Attorney General