

STATE OF TENNESSEE

Office of the Attorney General



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March 18, 2022

Charles B. Welch, Jr.
Tyler A. Cosby
Farris Bobango PLC
414 Union Street, Suite 1105
Nashville, TN 37219

Re: Tennessee Public Utility Commission, Docket No. 21-00059, *Application of Limestone Water Utility Operating Company, LLC for Authority to Purchase Title to the Assets, Property, and Real Estate of a Water System, Candlewood Lakes, and for a Certificate of Public Convenience and Necessity.*

Mr. Welch and Mr. Cosby:

This letter is to acknowledge the Consumer Advocate's review of Limestone Water Utility Operating Company, LLC's ("Limestone") Letter to Chairman Kenneth C. Hill dated February 7, 2022. Limestone's February 7, 2022, letter and attachments address Tennessee Public Utility Commission ("TPUC" or the "Commission") Rule 1220-04-14-.08, a rule which sets forth minimum filing requirements for an acquisition transaction.

The Consumer Advocate appreciates Limestone's filing of documentation pertaining to Commission Rule 1220-04-14-.08. However, the Consumer Advocate believes there are multiple documents still missing from Limestone's filing. Please see the attached document, Attachment B, which sets forth the documents that appear to be missing.

Also, for convenience, the Consumer Advocate is providing a Revised Attachment A showing the five outstanding issues regarding the minimum filing requirements for an amendment to a Certificate of Convenience and Necessity ("CCN"), which is set out in TPUC Rule 1220-04-13-.17. The Consumer Advocate previously referenced six outstanding items in its correspondence dated August 17, 2021. However, one item has been addressed by your recent filing, which is marked accordingly in Revised Attachment A.

Again, thank you for Limestone's attention to the Commission's minimum filing requirements. This information assists the Consumer Advocate in its review and consideration of Limestone's application in this Docket, specifically whether such application is in the public interest. If you have any questions, please contact me at (615) 741-2370.

Respectfully,

A handwritten signature in dark ink, reading "Karen H. Stachowski". The signature is written in a cursive, slightly slanted style.

Karen H. Stachowski
Senior Assistant Attorney General

cc: TPUC Docket Manager

Attachment B – Acquisition MFRs

Docket No. 21-00059

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Rule 1220-04-14-.08(2) Acquisitions

1. *Rule 1220-04-14-.08(2)(c)*. The Consumer Advocate could not locate the tariffs, schedules or lists detailing the rates, charges, and terms of service in effect for the selling utility at the time the application for acquisition is filed. The document filed appears to be Limestone's proposed tariff, and not that of the selling utility (Candlewood Lakes). **Please provide Candlewood Lakes' tariff.**
2. *Rule 1220-04-14-.08(2)(e)*. The Consumer Advocate could not locate maps that comprehensively describe the service area of the selling utility. To date, Limestone has not provided any legible map for this service area. Also, the written description set forth in the Petition does not comprehensively describe the service area of the selling utility. Please note that the CCN MFRs also detail the type of maps required for filing with the Commission in Rule 1220-04-13-.17(2)(a)7(i-v). **Please provide clarification or the missing information.**
3. *Rule 1220-04-14-.08(2)(f)*. The Consumer Advocate could not locate "a forecasted income statement detailing the projected operating revenues, expenses, taxes and net income attributable to the selling utility's operations for the twelve-month period following the estimated closing date of the acquisition transaction." **Please provide clarification or the missing information.**
4. *Rule 1220-04-14-.08(2)(g)*. The Consumer Advocate could not locate the anticipated capital budgets for the various construction projects as discussed by Witness Cox on page 13 of his testimony for the three-year period following the estimated closing date of the acquisition transaction. **Please provide clarification or the missing information.**
5. *Rule 1220-04-14-.08(2)(m)*. The Consumer Advocate could not locate a schedule identifying any assets that were contributed or donated to the selling utility that are included in the acquisition transaction. **Please provide clarification or the missing information.**
6. *Rule 1220-04-14-.08(2)(n)(ii)*. Witness Cox testifies that "if the revenue requirement for that [Candlewood Lakes] system increases in the future – as likely would be the case given the additional capital investment needed for system upgrades and improvements – Limestone may petition the Commission to increase rates or change certain operating regulations. Limestone may also seek authority to consolidate rates of the system it proposes to acquire in this case with those of other systems it operates in Tennessee." **Witness Cox does not, however, provide the costs of the listed post-acquisition capital investments.**
7. *Rule 1220-04-14-.08(2)(o)*. In Limestone's document for this particular rule, it lists details regarding "Aqua Utilities Service area" and "Chapel Woods HOA Service Area." However, there is no listing for Candlewood Lakes. The data under the Chapel

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Woods column is different than the information filed in TPUC Docket No. 21-00060. Is the column misnamed in this document? Please provide clarification.

8. *Rule 1220-04-14-.08(2)(p)*. In Limestone's document for this particular rule, it lists details regarding "Aqua Utilities Service area" and "Chapel Woods HOA Service Area." However, there is no listing for Candlewood Lakes. The data under the Chapel Woods column is different than the information filed in TPUC Docket No. 21-00060. Is the column misnamed in this document? **Please provide clarification.**
9. *Rule 1220-04-14-.08(2)(q)*. In Limestone's document for this particular rule, it lists details regarding "Aqua Utilities Service area" and "Chapel Woods HOA Service Area." However, there is no listing for Candlewood Lakes. The data under the Chapel Woods column is different than the information filed in TPUC Docket No. 21-00060. Is the column misnamed in this document? **Please provide clarification.**
10. *Rule 1220-04-14-.08(4)*. It appears that Limestone filed its proposed tariff but identifies it as a response to the Acquisition MFR Rule 1220-04-14-.08(2)(c) identified above. **Please confirm this is correct.**

Revised Attachment A – CCN MFRs

Docket No. 21-00059

March 18, 2022

Rule 1220-04-13-.17(2)(a) General Information

1. *Rule 1220-04-13-.17(2)(a)7(i-v)*. The map provided is not legible.¹ Please provide a legible copy of this map. Additionally, Limestone states that “[m]aps depicting the area served by Candlewood Lakes are on file with the Commission, and those maps are incorporated into the Application by reference.”² Candlewood Lakes has not been before the Commission; therefore, no maps will be on file with the Commission. The Consumer Advocate utilized the Tennessee Department of Environment’s (TDEC) Water Resources Permit Data Viewer³ to attempt to locate publicly accessible documents pertaining to Candlewood Lakes and found that as of March 2019 Candlewood Lakes has 105 service connections with an estimated population of 308.⁴ Because TDEC requires all community water systems that serve 50 or more service connections to have and maintain updated maps of the distribution system,⁵ current maps of Candlewoods Lakes should be available. **Please provide a map(s) that meets the requirements set forth in Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(a)7(i)-(v).**

Rule 1220-04-13-.17(2)(c) Sufficient Managerial Ability

1. *Rule 1220-04-13-.17(2)(c)3*. The Consumer Advocate could not locate “copies of all contracts related to any pending merger or acquisition of” Limestone or Limestone’s corporate parent or affiliate. **Please provide the missing information or clarify.**

Rule 1220-04-13-.17(2)(d) Sufficient Technical Ability

1. *Rule 1220-04-13-.17(2)(d)4*. Limestone states that there are no current complaints or notices of violation.⁶ According to TDEC’s Water Resources Permit Data Viewer, Candlewood Lakes has non-compliance issues, including continued non-compliance for TDEC’s requirement for a back-up well.⁷ **Please clarify if there are any other complaint(s), notices of violation or administrative action filed with or issued by TDEC or any other regulatory agency.**

¹ Petition, Exhibit 1, pp. 19-20.

² *Id.* at Appendix A, p. 15.

³ Water Resources Permit Data Viewer is located at:

https://dataviewers.tdec.tn.gov/pls/enf_reports/f?p=9034:34001

⁴ *TDEC Sanitary Survey Report Letter*, PWSID #TN0000797 (March 5, 2019). A copy of this letter is attached as CA Attachment A-1.

⁵ *Tenn. Comp. R. & Regs. Rule 0400-45-01-.17(15)* (February 2019). “These maps must show the locations of the water mains, sizes of mains, valves, blow-offs or flush hydrants, air-release valves, and fire hydrants. One up-to-date copy of the overall system distribution map(s) is to be submitted to the Division of Water Resources every five years.” *Id.* Additionally, TDEC requires that prior to construction of a water system, engineering plans, including engineering reports, be submitted to TDEC. *Tenn. Comp. R. & Regs. Rule 0400-45-01-.05 (1)* (February 2019).

⁶ Petition, Appendix A, p. 16.

⁷ *See also Consumer Advocate’s Petition to Intervene*, pp. 3-4, ¶¶ 7-9, TPUC Docket No. 21-00059 (July 23, 2021).

Revised Attachment A – CCN MFRs

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Rule 1220-04-13-.17(2)(e) Sufficient Financial Ability

1. *Rule 1220-04-13-.17(2)(e)2.* The Consumer Advocate located only two years of Pro forma income statements.⁸ The rule requires the utility provide Pro forma income statements for first three (3) years of operations. Also, the rule directs that “in the calculations of utility revenues show the number of consumers and the rates used in the calculations. Show operation and maintenance expenses by account number and provide the basis and/or assumptions used to arrive at these amounts.” **Please provide the missing information or clarify.**
2. *Rule 1220-04-13-.17(2)(e)5.* Limestone states that it will be using depreciation rates last approved by the Commission for Candlewood Lakes.⁹ Candlewood Lakes has not, however, appeared before the Commission requesting authorization of depreciation rates. Please provide the required “depreciation rates the applicant intends to use for each plant account that will be on the wastewater utility's books. Include the estimated useful life of each account. If no depreciation study has been performed, explain the basis for these rates.” **Please provide the missing information or clarify.**
3. *Rule 1220-04-13-.17(2)(e)8.* The proposed tariff shows no “Schedule of Rates.”¹⁰ Josiah Cox stated, however, that initially Limestone proposes to adopt Candlewood Lakes’ rates.¹¹ The rule requires that you provide “[a] tariff showing products, services, terms, conditions and proposed rates to be charged for wastewater service. A tariff should include all pass-through fees, including but not limited to, customer deposits, disconnect or reconnect fees, late fees, tap fees, escrow fees, bond fees, franchise fees and taxes.” Please provide the required information. **In its filing dated February 7, 2022, Limestone provided its proposed tariff in response to Acquisition Rule 1220-04-13-.08(2)(c). Limestone’s proposed tariff addresses the Consumer Advocate’s concerns for this Rule 1220-04-13-.17(2)(e)(8).**

⁸ Petition, Exhibit 11 (Confidential) and Appendix A, pp. 16-17.

⁹ *Id.* at Appendix A, p. 17.

¹⁰ *Id.* at Exhibit 17, Sheet 2.

¹¹ *Id.* at Exhibit 9, pp. 13-14.