

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

IN RE:)	
)	
APPLICATION OF LIMESTONE)	
WATER UTILITY OPERATING)	
COMPANY, LLC FOR AUTHORITY TO)	DOCKET NO. 21-00060
PURCHASE TITLE TO THE ASSETS,)	
PROPERTY AND REAL ESTATE OF A)	
WASTEWATER SYSTEM AND FOR A)	
CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY)	
)	

DIRECT TESTIMONY

OF

ALEX BRADLEY

July 8, 2022

Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION FOR THE RECORD.

A1. My name is Alex Bradley. My business address is Office of the Tennessee Attorney General, John Sevier State Office Building, 500 Dr. Martin L. King Jr. Blvd, Nashville, Tennessee 37243. I am an Accounting & Tariff Specialist employed by the Consumer Advocate Division of the Tennessee Attorney General's Office ("Consumer Advocate").

Q2. PLEASE PROVIDE A SUMMARY OF YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE.

A2. I received a Bachelor of Science in Business Administration with a major in Accountancy along with a Bachelor of Arts with a major in Political Science from Auburn University in 2012. I have been employed by the Consumer Advocate since 2013. My duties include reviewing utility regulatory filings, preparing analysis used to support Consumer Advocate testimony and exhibits, and preparing my own testimony and supporting exhibits. I have completed multiple regulatory trainings, including those sponsored by the National Association of Regulatory Utility Commissions ("NARUC") held by Michigan State University.

Q3. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION ("TPUC" OR THE "COMMISSION")?

A3. Yes. I have previously testified in TPUC Docket Nos. 17-00108, 18-00009, 18-00107, 19-00010, 19-00034, 19-00042, 19-00043, 19-00057, 19-00062, 20-00028, 20-00049, 20-00086, 21-00006, 21-00107, 22-00005, and 22-00032.

1 **Q4. ON WHOSE BEHALF ARE YOU TESTIFYING?**

2 **A4.** I am testifying on behalf of the Consumer Advocate.

3 **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

4 **A5.** The purpose of my testimony is to provide recommendations regarding the request of
5 Limestone Water Utility Operating Company, LLC (“Limestone,” “Buyer,” or
6 “Company”) and Central States Water Resources, Inc. (“CSWR”) to acquire the assets of
7 Chapel Woods Home Owners Association (“Chapel Woods” or the “Seller”). My
8 testimony provides the results of my review and provides a number of recommendations.

9 **Q6. WHAT DOCUMENTS HAVE YOU REVIEWED IN PREPARATION FOR THIS**
10 **TESTIMONY?**

11 **A6.** I have reviewed the Petition of parties along with their respective responses to discovery.

12 **Q7. WHAT ARE THE PETITIONERS REQUESTING FROM THE COMMISSION IN**
13 **THIS PROCEEDING?**

14 **A7.** The petitioners are requesting that the Commission authorize Limestone to purchase the
15 wastewater system currently owned by Chapel Woods.

16 **Q8. CAN YOU PROVIDE A SUMMARY OF THE CHAPEL WOODS SYSTEM?**

17 **A8.** Chapel Woods is currently a non-profit wastewater system operating in Marshall County
18 that provides wastewater service to approximately 149 customers.¹

¹ *Letter To Chairman Kenneth Hill from Attorney Charles B. Welch, Jr. Re: Supplemental Documents to Address Consumer Advocate’s Request Regarding Newly Adopted Filing Requirements*, p. 76 (Feb 7, 2022).

1 **Q9. CAN YOU PROVIDE A SUMMARY OF THE OPERATIONS OF CENTRAL**
2 **STATES WATER RESOURCES, LLC (CSWR)?**

3 **A9.** CSWR, an “upstream parent” company of Limestone, operates water and wastewater
4 utilities in Missouri, Arkansas, Kentucky, Tennessee, Texas, and Louisiana.²

5 **Q10. CAN YOU SUMMARIZE YOUR RECOMMENDATION FOR THIS**
6 **PROCEEDING?**

7 **A10.** I recommend the approval of the proposed transaction subject to the following conditions:

- 8 1. The Commission should require Limestone to record on its books a balance of
9 Contribution in Aid of Construction (“CIAC”) equal to the balance of Plant in
10 Service.
- 11 2. Legal expenses deferred as a regulatory asset and transaction costs should be
12 reduced by half to account for the Seller’s legal expenses. The remaining 50%
13 of legal expenses should not be deferred as an above-the-line regulatory asset
14 and any future recoverability or disallowance should be determined at a future
15 rate proceeding.
- 16 3. Limestone should be precluded from restating historical account balances post
17 acquisition and the prospective accounting entries for the acquisition should be
18 submitted to the Commission prior to closing for review as a condition of
19 Commission approval.
- 20 4. Limestone should maintain separate accounting records for Chapel Woods,
21 distinct from its other systems.

22 **I. BOOK BALANCE OF UTILITY PLANT IN SERVICE (“UPIS”) INCLUDING**
23 **CIAC**

24 **Q11. WHAT IS YOUR RECOMMENDATION REGARDING THE UPIS BALANCE TO**
25 **BE TRANSFERRED TO LIMESTONE?**

² *Limestone’s Response to Consumer Advocate*, DR No. 2-1, TPUC Docket No. 21-00053 (August 11, 2021). Limestone identifies CSWR as an “upstream parent” and “U.S. Water” also as an upstream parent for equity needs. *Id.* In a previous docket, Limestone explained that [REDACTED]

[REDACTED] *Limestone’s Response to Consumer Advocate DR No. 1-1*, TPUC Docket No. 19-00062 (February 14, 2020) (CONFIDENTIAL). Central States [REDACTED] *Limestone’s Response to Consumer Advocate DR No. 1-4b*, TPUC Docket No. 19-00062 (February 14, 2021) (CONFIDENTIAL).

A11. As discussed below, the acquisition should reflect that the assets to be transferred be offset with an entry to CIAC in the corresponding value.

Q12. CAN YOU ELABORATE ON YOUR CONCERNS REGARDING THE COMPANY'S REQUEST AND THE HISTORICAL ACCOUNTING RECORDS?

A12. I have concerns regarding the proposed accounting treatment of the assets to be transferred by Chapel Woods to Limestone. In Limestone's response to Consumer Advocate's DR No. 1-9 the Company indicated it intends to book plant in service of approximately \$111,266³ in the year following acquisition. Additionally, the same response shows the Company does not intend to book any CIAC for this acquisition. In response to Consumer Advocate's DR No. 1-2 the Seller stated, "none of these assets were contributed by a third party."⁴

Q12. WHY IS THE RESPONSE PROBLEMATIC?

A12. While the Seller states that none of the assets being transferred were contributed by a third party, there is evidence that some, if not all, of the wastewater plant was funded by a third party.⁵

Q13. WHAT EVIDENCE HAVE YOU REVIEWED THAT SUPPORTS THE OPINION THAT ASSETS WERE CONTRIBUTED BY A THIRD PARTY?

A13. Yes, in the response to Consumer Advocate's DR No. 1-5 the Seller indicated that ratepayers paid a tap fee to join the system. In the same response the Seller stated that tap fees varied between \$1,250 or \$2,000 depending on the size and location of the lot.⁶ While

³ Limestone's Response to Consumer Advocate's First Discovery Request No. 1-9.

⁴ Chapel Woods' Response to Consumer Advocate's First Discovery Request No. 1-2.

⁵ Chapel Woods' Response to Consumer Advocate's First Discovery Request No. 1-4.

⁶ Chapel Woods' Response to Consumer Advocate's First Discovery Request No. 1-5.

1 this Commission has historically treated tap fees as revenues⁷ which provided an
2 immediate offset to the revenue requirement, I believe the prior unregulated status of this
3 system requires a different approach.

4 **Q14. WHY IS ANOTHER APPROACH WARRANTED IN THIS MATTER?**

5 **A14.** I believe that a different approach regarding the treatment of these fees is necessary for a
6 variety of reasons.

7 I believe an approach similar to the Order in TPUC Docket No. 19-00034 is warranted. In
8 that matter the Commission found that “continu[ing] to book tap fees as revenue could
9 result in a double recovery of costs from ratepayers who pay the tap fee, as it does recognize
10 any offset to rate base for investments funded by tap fees for ratemaking purposes.
11 Recognizing this, the Commission ordered that the Cartwright Creek, the Company in
12 question, should “classify and report [tap] fees in its books and records as Contributions in
13 Aid of Construction . . . in accordance with the Uniform System of Accounts [(“USoA”)],
14 rather than operating revenues.”⁸ Further the order references that “the US[o]A provides
15 that money, services or property that represents an addition to the utility, which is provided
16 at no cost to the utility by any person or governmental entity, and is utilized to offset
17 acquisition improvement or construction costs of the utility’s property, facility or
18 equipment used to provide public utility services shall be recorded as CIAC.”⁹ NARUC,
19 USoA for Class A Wastewater Utilities, p. 92 (1996).

⁷ *Direct Testimony of Alex Bradley*, p. 4, TPUC Docket No. 19-00034 (May 15, 2019).

⁸ *Order Approving Increase of Tap Fees*, p. 9, TPUC Docket No. 19-00034 (August 19, 2019).

⁹ *Id.* n.33.

Typically, for non-profit systems, a tap fee is a charge to a homeowner who desires to receive wastewater service. Often these fees cover the costs of connecting a customer and can recover from new customers a portion of the prior capital investment of the wastewater utility.

Additionally, it is also common practice for developers of subdivisions, in which no existing wastewater service is available, to recoup the costs associated with the construction of the water plant within the costs of the lots sold.

Finally, as shown below, based on the information provided, I can demonstrate that the balance of tap fees received exceeds the plant in service.

Tap Fee	Customer Count	Monies Received:
\$ 1,250	136	\$ 170,000
\$ 2,000	13	\$ 26,000
	149	\$ 196,000
Prospective PIS Balance proposed by Limestone:		
Plant, Property, and Equipment		\$ 111,266
Tap Fees in Excess of PIS:		\$ 84,734

Q15. ARE THERE ANY OTHER CONSIDERATIONS REGARDING THE BALANCE OF UTILITY PLANT IN SERVICE THAT NEED TO BE MENTIONED?

A15. Yes, the Seller's Balance Sheet provided in response to Consumer Advocate's DR No. 1-3 details two plant additions (in 2018 and 2020) that total \$57,655¹⁰ offset by approximately \$10,895¹¹ in accumulated depreciation for a total utility plant in service

¹⁰ Limestone's Response to Consumer Advocate's First Discovery Request No. 1-3.

¹¹ *Id.*

(additions) of \$46,761. However, it appears that these capital expenditures were funded using the tap fees received.

Q16. WHAT LEADS YOU TO THE CONCLUSION THAT THE CAPITAL EXPENDITURES INCURRED IN 2018 AND 2020 WERE FUNDED USING CONTRIBUTED CAPITAL?

A16. In response to Consumer Advocate’s DR No. 1-5, the Seller stated that “Chapel Woods keeps a saving account for Reserve funds and the Tap Fees were deposited there. Chapel Woods moved money to the Checking when we had large expenditures for upgrades or repairs that could not be covered with the normal dues income.”¹² Based on that response, it is my opinion that the upgrades and expenditures completed on the system have been funded by the customers of the system.

Q17. WHAT IS YOUR RECOMMENDATION FOR THE BALANCE OF UTILITY PLANT IN SERVICE POST ACQUISITION?

A17. It is my opinion that the tap fees should be considered contributed capital to the system. Given that, it is my opinion that the acquisition should reflect that the assets to be transferred be offset with a credit entry to Account 271 -CIAC in the corresponding value. In other words, that the acquisition would have a net rate base of zero. This is important because, as stated in TPUC Docket No. 21-00053, Limestone “believes that a Rate Base rate of return methodology is most appropriate given the characteristics of Limestone’s operations.”¹³

¹² Chapel Woods’ Response to Consumer Advocate’s First Discovery Request No. 1-5.

¹³ *Limestone Water Utility Operating Company, LLC Response to First Set of Data Request*, DR No. 1-27, TPUC Docket No. 21-00053 (July 16, 2021).

1 **II. RECOVERY OF LEGAL EXPENSES RESULTING FROM THE TRANSACTION**

2 **Q18. WHAT IS YOUR RECOMMENDATION REGARDING THIS ISSUE?**

3 **A18.** As discussed below, legal expenses deferred as regulatory and transaction costs should
4 be reduced by half to account for the Seller’s legal expenses. The future recoverability or
5 disallowance of the remaining costs should be determined at a future rate proceeding.

6 **Q19. HOW DID THIS ISSUE ARISE?**

7 **A19.** The issue arose in response to Consumer Advocate’s DR No. 1-11, Limestone indicated
8 that “all [legal] costs related to ‘this docket’, will be billed to Limestone.”¹⁴

9 **Q20. IS THIS THE APPROACH TAKEN IN PRIOR ACQUISITION DOCKETS?**

10 **A20.** Yes, in TPUC Docket No. 21-00053, the regulatory and transaction costs relating to the
11 acquisition of the Cartwright Creek system by Limestone were to be deferred and that the
12 appropriate treatment/recovery of these costs were to be determined in Limestone’s initial
13 rate case.¹⁵

14 **Q21. DO YOU AGREE THIS APPROACH IS APPROPRIATE FOR THIS MATTER?**

15 **A21.** I am in agreement with this approach with one caveat. As stated earlier, the legal expenses
16 for both parties are being borne by Limestone, in my opinion, this could lead to the
17 possibility of rate recovery of legal expenditures that should be borne by the Seller. Legal
18 and transaction costs deferred as a regulatory asset should be only include 50% of the legal
19 fees accumulated by the parties’ collective counsel. In summary, only the Buyer’s
20 transaction costs should be deferred. The agreement between the parties that the Seller

¹⁴ Limestone’s Response to Consumer Advocate’s First Discovery Request No. 1-11.

¹⁵ *Order Approving Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity*, pp. 17, TPUC Docket No. 21-00053 (January 24, 2022).

1 should not bear any transaction costs should not then require the ratepayers to bear the
2 costs truly incurred by the Seller and which should be borne by the departing entity, Chapel
3 Woods.

4 **III. HISTORICAL ACCOUNT BALANCES**

5 **Q22. WHAT IS YOUR RECOMMENDATION REGARDING THIS ISSUE?**

6 **A22.** As discussed below, as a matter of public interest Limestone should not be permitted to
7 restate the account balances for the Chapel Woods system at a later date. Additionally, the
8 prospective accounting entries to record the acquisition should be submitted to the
9 Commission prior to closing.

10 **Q23. HOW DID THIS ISSUE ARISE?**

11 **A23.** In response to Consumer Advocate's DR No. 1-4, Limestone stated it was "unable to
12 confirm that it agrees with Chapel Woods' historic accounting practices."¹⁶ Additionally,
13 in response to Consumer Advocate's DR No. 1-5 Limestone stated it was "seek(ing) to
14 reserve the opportunity to modify historical account balances."¹⁷

15 **Q24. DO YOU AGREE WITH THE COMPANY ON THIS POINT?**

16 **A24.** I do not agree with the Company's position.

17 **Q25. CAN YOU ELABORATE ON YOUR DISAGREEMENT?**

18 **A25.** Reserving the right to modify the recorded balances of the Chapel Woods system removes
19 the Commission's ability analyze the impact of the proposed transaction. As stated by Mr.
20 Dave Dittemore in TPUC Docket No. 21-00053:

¹⁶ Limestone's Response to Consumer Advocate's DR No. 1-4.

¹⁷ Limestone's Response to Consumer Advocate's DR No. 1-5.

1 Accounting entries should be submitted to the Commission before closing
2 for review as a condition of the Commission's approval of the transaction.
3 The Commission, its Staff, and the Consumer Advocate should have the
4 opportunity to review Limestone's proposed accounting entries used to
5 record the acquisition.¹⁸

6 The prospective buyer has the responsibility to perform its due diligence before making a
7 submission of its request to the Commission. Any "corrections" to accounting records
8 would impact the value of the utility as well as have potentially significant implications
9 on the purchase price agreed-to between the parties.

10 **Q26. DO YOU HAVE A RECOMMENDATION REGARDING THIS ISSUE?**

11 **A26.** Yes. The Commission should not permit an acquiring utility to restate the historical
12 accounting records of the selling utility in the future unless such accounting issue was
13 raised within the Application, and specifically approved by the Commission within the
14 acquisition docket. Additionally, the prospective accounting entries of Limestone should
15 be submitted to the Commission before closing to allow the Commission, its Staff, and the
16 Consumer Advocate an opportunity to review the proposed accounting entries for the
17 acquisition.

18 **IV. SEPARATE ACCOUNTING RECORDS**

19 **Q27. ARE THERE ANY OTHER CONDITIONS YOU WOULD RECOMMEND?**

20 **A27.** Yes, I would recommend that Limestone be required to maintain separate accounting
21 records for Chapel Woods, distinct from its other systems. This is the same

¹⁸ *Direct Testimony of David Dittmore*, p. 21, TPUC Docket No. 21-00053 (August 30, 2021).

1 recommendation made by Mr. Dittemore in TPUC Docket No. 21-00053¹⁹ and which
2 Limestone was previously agreeable to.²⁰

3 **Q28. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 **A28.** Yes. However, I reserve the right to supplement my testimony if additional information
5 becomes available.

¹⁹ *Id.*, p. 22.

²⁰ *Limestone's Response to Consumer Advocate*, DR No. 23, TPUC Docket No. 21-00053.

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AT NASHVILLE, TENNESSEE

IN RE:

APPLICATION OF LIMESTONE
WATER UTILITY OPERATING
COMPANY, LLC FOR AUTHORITY TO
PURCHASE TITLE TO THE ASSETS,
PROPERTY AND REAL ESTATE OF A
WASTEWATER SYSTEM AND FOR A
CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY

DOCKET NO. 21-00060

AFFIDAVIT

I, Alex Bradley, on behalf of the Consumer Advocate Division of the Attorney General's Office, hereby certify that the attached Direct Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Advocate Division.

Alex Bradley
ALEX BRADLEY

Sworn to and subscribed before me
this 8th day of July, 2022.

Terra Allen

NOTARY PUBLIC



My commission expires: September 28, 2022.