

Office of the Attorney General



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September 30, 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. 22-00059, *Application of Limestone Water Utility Operating Company, LLC for: (1) Authority to Expand its Certificate of Convenience and Necessity to Include the Lauren Creek Subdivision and (2) Motion to Waive Commission Rule 1220.04-13-.17(c)(3).*

Dear Mr. Welch and Mr. Cosby:

The Consumer Advocate has reviewed the additional documents and information provided by Limestone Water Utility Operating Company, LLC's ("Limestone") on September 9, 2022. Limestone's correspondence was in response to the Consumer Advocate's letter regarding Limestone's compliance with the minimum filing requirements for an amendment to a Certificate of Convenience and Necessity (CCN), set out in TPUC Rule 1220-04-13-.17.

The Consumer Advocate has updated Attachment A to include your most recently filed information relating to compliance with TPUC Rule 1220-04-13-.17. However, a few items remain that we could not either locate or for which we seek clarification.

Thank you in advance for Limestone's attention to the Consumer Advocate's request. If you have questions regarding this request, please contact me at (615) 741-2370.

Respectfully,

A handwritten signature in blue ink that reads "Karen H. Stachowski".

Karen H. Stachowski
Senior Assistant Attorney General

cc: TPUC Docket Manager

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

1. *Rule 1220-04-13-.17(2)(a)7(ii)-(iii)*. The maps provided are illegible. However, detailed maps were provided to TDEC, and TDEC shared these maps with the Consumer Advocate. Copies of these maps are attached for the record. **No response was provided.**
2. *Rule 1220-04-13-.17(2)(a)7(v)*. It is unclear if there are any portion of the areas that will not be serviced when the wastewater system becomes operational. Please address whether there will be any areas of the development that will not be served by the wastewater system. **Limestone explained that “[a]ll areas of the development will be served by the wastewater system.”**

Rule 1220-04-13-.17(2)(b) Property Rights and Public Need

1. *Rule 1220-04-13-.17(2)(b)1*. The Consumer Advocate could not locate “a letter(s) from local government(s) and public wastewater utilities in or near the proposed service area stating that they do not provide wastewater service to the proposed service area and that they are unable or unwilling to provide wastewater service to the proposed service area within the ensuing twelve (12) months.”¹ The Petition states that “the Developer contacted both the Gatlinburg Utility District and the Sevier County Utility District” to determine that these public utilities do not and will not service the area.² Please provide letters from these two utilities to that effect. **Limestone stated that the “Developer has stated that all conversations have been verbal. Written documentation has been requested from both the Gatlinburg Utility District and the Sevier County Utility District and will be supplemented upon receipt.”**
2. *Rule 1220-04-13-.17(2)(b)2*. The Consumer Advocate could not locate “as applicable, a copy of any application for a franchise and the franchise agreement issued by a city or county.”³ The Consumer Advocate notes, however, that a waiver of franchising requirements is being sought.⁴ **No response required at this time.**

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 the applicant, corporate parent or affiliate.”⁵ The Consumer Advocate notes, however, that a waiver of the rule has been sought and is under consideration by the Commission.⁶ **No response required at this time.**

¹ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(b)1.

² Petition, Appendix 2, Exhibit 2.1, p. 155.

³ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(b)2.

⁴ Petition, Appendix 2, Exhibit 2.2, p. 156.

⁵ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(c)3.

⁶ Petition, Appendix 2, Exhibit 3.3, p. 168.

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

1. *Rule 1220-04-13-.17(2)(d)1.* The Petition includes a copy of the application for a State Operating Permit filed with the TDEC. A check of TDEC's Water Permit Dataviewer shows that a draft permit has been issued.⁷ A copy of the draft permit is attached for convenience. **No response required at this time.**
2. *Rule 1220-04-13-.17(2)(d)2.* The Consumer Advocate could not locate a copy of a State Operator Certificate for the wastewater operator of record (or certified operator license). The Petition's Introduction states that the State Operator Certificate would be included in Appendix 2 as Exhibit 4.2.⁸ However, the Consumer Advocate could not locate Exhibit 4.2 in the petition. Please provide a copy of a State Operator Certificate for the wastewater operator of record. **Limestone provided a "chart which details the State Operator Certificate Information for Limestone Water."**

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

1. *Rule 1220-04-13-.17(2)(e)1.* The rule requires the financial statements of the applicant, Limestone; however, the financials provided are those of CSWR, LLC and Subsidiaries. Also, the consolidated balance sheet is illegible. Please provide a copy of Limestone's financial statements and a legible balance sheet. **Limestone provided Confidential financial statements.**
2. *Rule 1220-04-13-.17(2)(e)2.* The rule requires that the pro forma income statements "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."⁹ The Consumer Advocate could not locate this information in the pro forma income statements included in the Petition.¹⁰ Please supplement the income statements with the required information. **Limestone explained that at this time it "is unable to project specific expenses at the level of detail necessary to list by account number. However, the Company provided with its application a chart of accounts that the Company proposes to use when applicable to break out the operating expenses. Additionally, the income statement provided in the Company's application details all consumers and rate assumptions in the 'assumptions' table."**
3. *Rule 1220-04-13-.17(2)(e)8.* The Consumer Advocate located the tariff filed with this Petition, but it is for Cartwright Creek. Please file a tariff for Laurel Creek in the docket. **Limestone provided a "rate sheet which the Company proposes would replace sheet 1-2 in Exhibit 5.8. This would incorporate Laurel Creek into the currently approved tariff on file." However, the rates do not align with the assumptions shown on Exhibit 2 filed**

⁷ The draft permit can be accessed at:
https://dataviewers.tdec.tn.gov/dataviewers/f?p=9034:34051::::34051:P34051_PERMIT_NUMBER:SOP-22008.

⁸ *Id.* at Introduction, p.3.

⁹ Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(e)2.

¹⁰ Petition, Appendix 2, Exhibit 5.2 (Confidential), pp. 204-206.

confidentially by the Company. Please provide clarification or an explanation of the discrepancy.

The proposed tariff, Exhibit 5.8, shows a Capital Improvement Surcharge of \$7.50 per month. By Commission Order¹¹ on August 25, 2020, this surcharge was extended for an additional 36 months. The Consumer Advocate recommends that the proposed tariff clearly indicate the termination date of the surcharge.

4. *Rule 1220-04-13-.17(2)(e)11.* The Consumer Advocate could not locate a demonstration of a performance bond from the developer; the Consumer Advocate notes, however, that the Petition “will supplement this response with the performance bond once it has been received.”¹² **No response required at this time.**

¹¹ *Order Approving Extension of Surcharge*, TPUC Docket No. 19-00097 (Aug 25, 2020).

¹² *Petition* at Appendix 2, Exhibit 5.11, p. 208.