

# BUTLER | SNOW

September 19, 2023

Electronically Filed in TPUC Docket Room  
on September 19, 2023 at 1:58 p.m.

**VIA ELECTRONIC FILING**

Hon. Herbert H. Hilliard, Chairman  
c/o Ectory Lawless, Docket Room Manager  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
[TPUC.DocketRoom@tn.gov](mailto:TPUC.DocketRoom@tn.gov)

**RE: *Expedited Joint Application of Limestone Water Utility Operating Company, LLC, and DSH & Associates, LLC, for Approval of the Acquisition of and to Operate the Wastewater System of DSH & Associates, LLC, and to Transfer or Issue a Certificate of Public Convenience and Necessity***  
**TPUC Docket No. 23-00016**

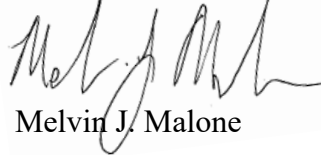
Dear Chairman Hilliard:

Attached for filing please find the *Rebuttal Testimony of Josiah Cox* in the above-captioned matter.

As required, the original plus four (4) hard copies will be mailed to your office. Should you have any questions concerning this filing, or require additional information, please do not hesitate to contact me.

Very truly yours,

BUTLER SNOW LLP



Melvin J. Malone

clw

Attachment

cc: Doug Hodge, DSH & Associates  
Russ Mitten, Limestone Water Utility Operating Company  
Karen H. Stachowski, Consumer Advocate Division  
Shilina B. Brown, Consumer Advocate Division

*The Pinnacle at Symphony Place  
150 3<sup>rd</sup> Avenue South, Suite 1600  
Nashville, TN 37201*

MELVIN J. MALONE  
615.651.6705  
[melvin.malone@butlersnow.com](mailto:melvin.malone@butlersnow.com)

T 615.651.6700  
F 615.651.6701  
[www.butlersnow.com](http://www.butlersnow.com)

BUTLER SNOW LLP

82572579.v1

**REBUTTAL TESTIMONY**

**OF JOSIAH COX**

**LIMESTONE WATER UTILITY OPERATING COMPANY, LLC**

1   **Q.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2   A.   My name is Josiah Cox. My business address is 1630 Des Peres Road, Suite 140, St. Louis  
3       Missouri, 63131.

4   **Q.   WHAT IS YOUR POSITION WITH LIMESTONE WATER UTILITY**  
5       **OPERATING COMPANY, LLC (“LIMESTONE” OR “COMPANY”)?**

6   A.   I am President of Limestone. I also am President of CSWR, LLC (“CSWR”), a Limestone  
7       affiliate.

8   **Q.   DID YOU SUBMIT PRE-FILED DIRECT TESTIMONY IN THIS MATTER ON**  
9       **BEHALF OF LIMESTONE IN SUPPORT OF THE JOINT APPLICATION.**

10  A.   Yes.

11  **Q.   WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS CASE?**

12  A.   The purpose of my Rebuttal Testimony is to support the Joint Application submitted in this  
13       matter by both Limestone and DSH & Associates, LLC (“DHS” or, collectively, “Joint  
14       Applicants”) by responding to the Pre-filed Testimony of Consumer Advocate Witness  
15       Alex Bradley.

16  **Q.   WHAT IS YOUR RESPONSE TO MR. BRADLEY’S PRE-FILED TESTIMONY?**

17  A.   On page 3 of his Pre-filed Testimony, Mr. Bradley outlines seven (7) Consumer Advocate  
18       Division (“CAD” or “Consumer Advocate”) recommendations. Those recommendations  
19       are as follows:

1. The Commission should require Limestone to record on its books a balance of Contribution in Aid of Construction (“CIAC”) equal to the balance of Plant in Service.
2. Limestone and DSH should provide documentation demonstrating the values of the Escrow Accounts at closing, the combined value of which should be no less than \$26,000.
3. Legal expenses deferred as a regulatory asset and transaction costs should be reduced by half to account for the Seller’s legal expenses. The remaining 50% of legal expenses should not be deferred as an above-the-line regulatory asset and any future recoverability or disallowance should be determined at a future rate proceeding.
4. Limestone should provide documentation demonstrating the values of Plant in Service at closing, excluding any writeup of land costs supported by an appraisal.
5. Limestone should be precluded from restating historical account balances post-acquisition and the prospective accounting entries for the acquisition should be submitted to the Commission prior to closing for review as a condition of Commission approval.
6. The requested Acquisition Premium, in this case, should be set aside in a separate account and its ultimate treatment determined in a future proceeding.
7. Limestone should maintain separate accounting records for DSH, distinct from its other systems.

With the exception of No. 5 above, Limestone accepts and agrees to Mr. Bradley’s other six (6) recommendations.

**Q. WHY DOES LIMESTONE NOT ACCEPT AND AGREE TO MR. BRADLEY’S FIFTH RECOMMENDATION?**

A. As noted in Limestone’s Response to the Consumer Advocate’s DR 1-4, Limestone reviews practices and records after an agreement is in place, but prior to closing. As further acknowledged in Limestone’s Response to the Consumer Advocate’s DR 1-7, final asset values actually recorded will be dependent on further evaluation of DSH asset records and will be completed post-closing. While every reasonable effort may be made to avoid it, in

acquiring a small utility it is possible that accounting errors or abnormalities may be uncovered after an acquisition agreement has been executed and even post-closing. Limestone believes it would be premature to preclude it from restating or correcting historical account balances within a reasonable time period post-acquisition.

Further, Limestone does not believe that requiring it to submit the prospective accounting entries for the acquisition prior to closing for Tennessee Public Utility Commission (“TPUC” or “Commission”) approval is warranted or necessary. To the extent necessary, a review of any prospective accounting entries for the acquisition may be performed in relation to Limestone’s initial rate case proceeding involving the assets acquired in the DSH acquisition.

**Q. WITH RESPECT TO MR. BRADLEY’S 5<sup>TH</sup> RECOMMENDATION, DOES LIMESTONE HAVE A PROPOSED REASONABLE COMPROMISE THAT ADDRESSES THE CONCERNS OF BOTH THE CAD AND LIMESTONE?**

A. Yes, it does. Instead of the language proposed by the Consumer Advocate, Limestone proposes the following language, which Limestone and the CAD agreed to in TPUC Docket No. 21-00055 (Shiloh Falls):

“Limestone shall not make any corrections or modifications to accounting records received from DSH at closing. If Limestone believes accounting entries should be corrected or changed, it shall seek approval from the Commission to make the necessary accounting corrections at least 180 days prior to its initial request to increase base rates. The Consumer Advocate reserves its rights to oppose such a request for any reason, including but not limited to if such a request should occur during an acquisition docket as a part of the buyer’s due diligence.”<sup>1</sup>

**Q. DID THE COMMISSION APPROVE THE STIPULATION AND SETTLEMENT AGREEMENT SUBMITTED BY THE PARTIES IN DOCKET NO. 21-00055?**

---

<sup>1</sup> See *Stipulation and Settlement Agreement*, TPUC Docket No. 21-00055(Aug. 23, 2022).

A. Yes, the Commission approved the Stipulation and Settlement Agreement submitted by the parties.<sup>2</sup>

**Q. IS IT LIMESTONE’S CONTENTION HERE THAT PARTIES IN A SUBSEQUENT CASE SHOULD BE BOUND BY SETTLEMENT AGREEMENTS REACHED BY THE SAME PARTIES IN A PREVIOUS, SEPARATE AND TOTALLY INDEPENDENT MATTER?**

A. No, not at all. I am certain that there are provisions or issues that Limestone has resolved in other cases without intending that such compromising resolutions become a permanent, binding template of sorts for all future similar cases. Rather, Limestone believes that the above-quoted language from the Stipulation and Settlement Agreement in Docket No. 21-00055 represents potentially workable and satisfactory language here in place of Mr. Bradley’s 5<sup>th</sup> recommendation.

For instance, in the Stipulation and Settlement Agreement between Limestone and the CAD in TPUC Docket No. 21-00059 (Candlewood), the parties did not include any requirement that prospective accounting entries for the acquisition be submitted prior to closing for Commission approval.<sup>3</sup>

**Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION?**

A. I recommend that the Joint Application be approved subject to the modifications outlined above in my Rebuttal Testimony, which modifications would consist of Mr. Bradley’s recommendation Nos. 1, 2, 3, 4, 6 and 7, and Limestone’s proposed language outlined above in place of Mr. Bradley’s recommendation No. 5.

---

<sup>2</sup> See *Order Approving Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity*, TPUC Docket No. 21-00055 (Dec. 2, 2022).

<sup>3</sup> See, e.g. *Stipulation and Settlement Agreement*, TPUC Docket No. 21-00059 (Aug. 19, 2022).

99     **Q.     DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

100    **A.     Yes, it does.**

STATE OF MISSOURI )  
 )  
COUNTY OF ST LOUIS )

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Josiah Cox, being by me first duly sworn deposed and said that:

He is appearing as a witness on behalf of Limestone Water Utility Operating Company, LLC before the Tennessee Public Utility Commission, and if present before the Commission and duly sworn, his testimony would be as set forth in his pre-filed testimony in this matter.

  
\_\_\_\_\_  
Josiah Cox

Sworn to and subscribed before me  
this 12<sup>th</sup> day of SEPTEMBER, 2023.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: NOV 16, 2026



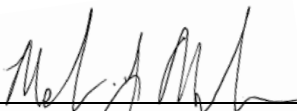
CERTIFICATE OF SERVICE

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

Karen H. Stachowski, Esq.  
Deputy Attorney General  
Office of the Tennessee Attorney General  
Consumer Advocate Division  
P.O. Box 20207  
Nashville, TN 37202-0207  
[Karen.Stachowski@ag.tn.gov](mailto:Karen.Stachowski@ag.tn.gov)

Shilina B. Brown, Esq.  
Assistant Attorney General  
Office of the Tennessee Attorney General  
Consumer Advocate Division  
P.O. Box 20207  
Nashville, TN 37202-0207  
[Shilina.Brown@ag.tn.gov](mailto:Shilina.Brown@ag.tn.gov)

This the 19<sup>th</sup> day of September 2023.

  
\_\_\_\_\_  
Melvin Malone