

# BUTLER | SNOW

November 1, 2023

**VIA ELECTRONIC FILING**

Electronically Filed in TPUC Docket  
Room on November 1, 2023 at 3:28 p.m.

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 *Pre-Filed Testimony of Todd Thomas Adopting 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.

Sincerely,

BUTLER SNOW LLP



Katherine Barnes

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*

**KATHERINE B. BARNES**  
615.651.6797  
[katherine.barnes@butlersnow.com](mailto:katherine.barnes@butlersnow.com)

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

BUTLER SNOW LLP

84222816.v1

**IN RE:** )  
 )  
 )  
**EXPEDITED JOINT APPLICATION OF** )  
**LIMESTONE WATER UTILITY** )  
**OPERATING COMPANY, LLC, AND** )  
**DSH & ASSOCIATES, LLC, FOR** ) **DOCKET NO. 23-00016**  
**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** )

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

A. My name is Todd Thomas. My business address is 1630 Des Peres Road, Suite 140, St. Louis Missouri, 63131.

**Q. PLEASE DESCRIBE CSWR, LLC AND LIMESTONE WATER UTILITY OPERATING COMPANY.**

A. CSWR, LLC (“CSWR”) is a holding company that currently indirectly owns utility operating companies in 11 states. Limestone Water Utility Operating Company, LLC (“Limestone Water” or “Company”) is the CSWR-affiliated utility operating company in Tennessee.

**Q. WHAT IS YOUR POSITION WITH CSWR?**

A. I am Senior Vice President of CSWR, the affiliated company that has operational oversight over CSWR’s utility operating companies including Limestone Water. At CSWR, my

responsibilities include the acquisition, development, and operation of CSWR-affiliated utilities. Among other duties, and relevant to this testimony, I am responsible for engaging and overseeing management and maintenance service providers including those contractors responsible for day-to-day operations and maintenance (“O&M”) of CSWR operating affiliates like Limestone Water. In addition, I am responsible for engaging and overseeing customer service providers. At the present time, I oversee such activities for affiliated operating companies providing water or wastewater utility services to approximately 135,000 connections in Kentucky, Missouri, Arkansas, Tennessee, Louisiana, Texas, Mississippi, North Carolina, South Carolina, Arizona, and Florida. CSWR has additional applications pending in most of these states as well as in California seeking authorization to acquire even more systems and customers. If those applications are approved, my oversight responsibilities will extend to those additional systems and customers.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL EXPERIENCE.**

A. My education includes a Bachelor of Science in Civil Engineering from the Missouri University of Science and Technology, and a Master of Business Administration from Washington University in St. Louis.

Before joining CSWR, I was President of Brotcke Well and Pump (the 2<sup>nd</sup> largest well driller and service provider in the Midwest); Vice President of Operations and Business Development of the Midwest for American Water Contract Operations; and General Manager of Midwest Operations for Environmental Management Corporation. I currently serve on the East Central Missouri Board of Directions and am an Advisory

36 Board member for the Public Water Supply District 2 of St. Charles County, Missouri  
37 which is the largest water and sewer district in the State of Missouri serving approximately  
38 60,000 connections.

39 Brotcke Well and Pump serves municipal potable, regulated potable, and industrial  
40 ground water suppliers in the states of Missouri, Illinois, Kansas, Tennessee, Kentucky,  
41 and Arkansas. Its total number of clients exceeds 200 and they range in size from the City  
42 of Bloomington, Illinois, with 31,000 water customers, to 230 customers in the City of  
43 Eminence, Missouri. Brotcke Well and Pump drills wells, cleans and treats wells, installs  
44 pumps, services pumps, rebuilds pumps, tests wells for regulatory compliance, and installs  
45 and services well controls. As President of Brotcke Well and Pump, I was involved in the  
46 design, maintenance, and repair of all client well systems. I have firsthand experience with  
47 how much damage can be done by lack of maintenance on a well system and how much  
48 money and effort is required to restore a well system after neglect.

49 As Vice President of Operations and Business Development of the Midwest for  
50 American Water Contract Operations, I was responsible for the water and wastewater  
51 operations and maintenance contracts for municipal and industrial clients. These clients  
52 included wastewater systems owned and operated by the City of St. Charles, in Missouri,  
53 and the cities of Godfrey, Mount Vernon, Quincy, Litchfield, Lincoln, Pittsfield, and  
54 Elwood in Illinois. These clients also included water and wastewater systems owned and  
55 operated by the City of Foristell, Missouri, and the Illinois cities of Brighton, and  
56 Monmouth. At one time I had responsibility for operating water and wastewater systems  
57 serving approximately 64,000 residential connections. My responsibilities included the  
58 direction and management of annual budgeting for each plant's operations and

59 maintenance, design and planning of plant upgrades and maintenance projects, regulatory  
60 reporting, plant operations, and regulatory compliance of these systems.

61 My position as General Manager of Midwest Operations for Environmental  
62 Management Corporation was similar to my position with American Water Contract  
63 Operations with regard to the size and scope of the systems the company managed.

64 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS CASE?**

65 A. The purpose of my testimony is to adopt the Rebuttal Testimony previously submitted in  
66 this matter by Josiah Cox supporting the Joint Application filed by Limestone Water Utility  
67 Operating Company, LLC and DSH & Associates, LLC which seeks Commission  
68 authority for Limestone to acquire all assets currently used by DSH to provide wastewater  
69 utility service to customers in Campbell County, Tennessee. A copy of Josiah Cox's  
70 Rebuttal Testimony is attached as **Exhibit 1**.

71 **Q. WHY ARE YOU ADOPTING MR. COX'S REBUTTAL TESTIMONY?**

72 A. Although Josiah Cox initially intended to be able to present his Rebuttal Testimony, a  
73 conflict arose and he will be unable to present it. Therefore, I am adopting his Rebuttal  
74 Testimony.

75 **Q. ARE YOU FAMILIAR WITH THE REBUTTAL TESTIMONY OF JOSIAH COX?**

76 A. Yes, I have reviewed the Rebuttal Testimony of Josiah Cox, including the exhibits, and I  
77 am familiar with its contents.

78 **Q. IF ASKED THE SAME QUESTIONS AS ARE IN THE REBUTTAL TESTIMONY**  
79 **OF JOSIAH COX, WOULD YOU ANSWER EACH QUESTION THE SAME?**

80 A. Yes, excepting that our professional and educational backgrounds are different.

81    **Q.     DO YOU WISH TO ADOPT THE REBUTTAL TESTIMONY OF JOSIAH COX**  
82           **WITHOUT CHANGES?**

83    A.     Yes.

84    No further questions.

# EXHIBIT 1

## 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:

# EXHIBIT 1

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



# EXHIBIT 1

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).

# EXHIBIT 1

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).

# EXHIBIT 1

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

100   **A.**    Yes, it does.

# EXHIBIT 1

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 1<sup>st</sup> day of November 2023.



---

Katherine Barnes