

December 26, 2023

**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, AT LAKESIDE ESTATES DEVELOPMENT IN
LAFOLLETTE, CAMPBELL COUNTY, TENNESSEE
AND TO TRANSFER OR ISSUE A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

DOCKET NO.
23-00016

In the *Joint Application*, Limestone and DSH seek Commission authority to transfer from DSH to Limestone via purchase acquisition, all assets, property, and real estate currently used to

provide wastewater service to customers of the Lakeside Estates Development (“Lakeside Estates”) wastewater system currently owned and operated by DSH in LaFollette, Campbell County, Tennessee. In addition, Limestone requests that the Commission grant it a Certificate of Public Convenience and Necessity (“CCN”) in accordance with Tenn. Code Ann. § 65-4-201.

BACKGROUND AND JOINT APPLICATION

DSH is a Tennessee limited liability company currently providing wastewater service to fifty-four (54) customers at Lakeside Estates in Campbell County, Tennessee to a service area described and depicted by a map in the *Joint Application*.¹ DSH was granted a CCN to serve up to a combination of 200 residential/commercial customers upon full build out of the wastewater system.²

Limestone is a Tennessee limited liability company currently providing service to approximately 455 water customers and 1,900 wastewater customers in Tennessee.³ Limestone Water Utility Holding Company, LLC (“LWUHC”) is the sole member of Limestone and Josiah Cox is the sole officer. Limestone and LWUHC are members of affiliated companies owning and operating water or wastewater systems in Missouri, Arizona, Arkansas, Kentucky, Florida, Louisiana, Texas, North Carolina, South Carolina and Tennessee to approximately 133,000 customers.⁴ The *Joint Application* provides charts depicting the organizational details and the relationship of affiliate companies, as well as the number of customers served by each affiliate.⁵ One of Limestone’s affiliates, Central States Water Resources, Inc. (“CSWR”) provides technical, managerial, and financial services to Limestone and its other affiliates. Further, CSWR will

¹ *Joint Application*, p. 4, Exh. 1 (March 1, 2023).

² *See In re: Petition of DSH & Associates, LLC to Obtain a CCN for the Service of the Part of Campbell County, Tennessee known as Lakeside Estates*, Docket No. 11-0020, *Order Approving Petition for a Certification of Public Convenience and Necessity* (September 22, 2011).

³ *Joint Application*, pp. 4-5 (March 1, 2023).

⁴ *Id.* at 5.

⁵ *Id.* at Exhs. 5 and 6.

manage Limestone and the system that is the subject of the *Joint Application* upon approval by the Commission.⁶ Specifically, CSWR employs engineers and other qualified personnel with experience in the design and operation of water and wastewater systems, supplementing with qualified, licensed local operators by contract who are responsible for day-to-day plant operations. Limestone provides the resumes of key CSWR personnel who provide managerial and technical expertise and experience to Limestone.⁷ Equity capital used to acquire DSH's assets, to fund initial capital upgrades and improvements, and providing necessary working capital will be provided by CSWR.⁸

In the *Joint Application*, the parties state that, "DSH has determined it is in the best interests of both the company and its customers to sell the System at to a qualified operator."⁹ As a result of that determination, DSH and CSWR entered into an *Agreement for Sale of Utility System* ("Sale Agreement"), a copy of which is included with the *Joint Application*.¹⁰ The *Sale Agreement* provides the specific terms for DSH to sell all assets used for the provision of wastewater services to its Lakeside Estates system to CSWR, including "wastewater service facilities and equipment, intangibles, franchises, inventory, contracts and contract rights, and real estate."¹¹ As part of the *Sale Agreement*, CSWR will transfer all rights, title, and interests in the obtained DSH assets to Limestone.¹²

Limestone asserts that the *Sale Agreement* is in the public interest and in the interest of customers of the Lakewood Estates system because Limestone is willing and able to invest the capital needed to maintain the compliance of the Lakeside Estates system with applicable law and

⁶ *Id.* at 5.

⁷ *Id.* at 7-8 and Exh. 12.

⁸ *Id.* at 8-9.

⁹ *Id.* at 6.

¹⁰ *Id.* at 6 and Exh. 7.

¹¹ *Id.* at 6.

¹² *Id.* at 6 and Exh. 8.

regulations. In addition, Limestone asserts that it has access to capital to make necessary upgrades and improvements to the system and to continue to operate the system in a state of regulatory compliance. Further, Limestone proposes to adopt DSH's currently applicable rates and tariffs with any future changes subject to Commission approval.¹³

The Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate") filed a *Petition to Intervene* on March 15, 2023. The Hearing Officer entered an order granting the Consumer Advocate's intervention on April 17, 2023. Counsel for DSH entered its appearance on June 16, 2023.¹⁴ Following exchange of discovery requests and responses and the filing of Pre-Filed Testimony of the witnesses for the parties, Limestone, DSH, and the Consumer Advocate filed a *Stipulation and Settlement Agreement* ("*Settlement Agreement*").

THE PROPOSED SETTLEMENT AGREEMENT

On September 25, 2023, Limestone, DSH, and the Consumer Advocate filed a *Settlement Agreement* executed by each of the parties. Upon approval of the jointly submitted Settlement Agreement, all issues related to this docket would be resolved.¹⁵

The terms of the *Settlement Agreement* are as follows:

1. In its first rate case, Limestone will be allowed:
 - a. To seek the establishment of rate base in the amount of the net book value of the assets acquired from DSH, up to an amount not to exceed the purchase price of the assets (i.e., \$82,000), while other parties will be allowed to contest the amount and present evidence to the contrary; and

¹³ *Id.* at 6-7.

¹⁴ *Joint Representation Agreement for Central States Water Resources and DSH & Associates, LLC* (June 16, 2023).

¹⁵ *Consumer Advocate, Limestone Water Utility Operating Company, LLC and DSH & Associates, LLC Stipulation and Settlement Agreement* (September 25, 2023).

- b. To present evidence to establish and include in rate base amounts incurred for regulatory and other transaction-related costs, limited to such costs incurred in this proceeding. The Consumer Advocate or other interested parties may oppose such values or present their own evidence and argument concerning the proper amounts of these costs to be recovered in rates. The Parties agree that determination of recoverable regulatory and transaction costs will be deferred to Limestone's initial rate case, and that Limestone agrees it will not seek to recover in rates any amount exceeding 50% of the legal expenses paid to local counsel for the representation of the Buyer or Seller in this proceeding. The Consumer Advocate or other interested parties shall be allowed to contest the amount and present evidence to the contrary.
 - c. To present evidence and argument concerning the value of assets used and useful for provisioning public-utility services, and the Consumer Advocate or other interested parties may contest the amount and present evidence to the contrary.
- 2. Limestone, the Consumer Advocate, and other interested parties may present evidence and respective arguments related to the appropriateness of an acquisition premium for this transaction.
- 3. Limestone will file within thirty (30) days of closing the amount of legal costs, separated by the represented party, incurred for this matter.
- 4. Limestone is not requesting an acquisition premium. For ratemaking purposes, Limestone shall record the beginning value of the acquired assets as the amount recorded in the books and records of DSH at the date of acquisition.
- 5. Limestone is not authorized to book an above-the-line regulatory asset for ratemaking purposes for any portion of the amount by which the purchase price exceeds the value of

the acquired assets as reflected in DSH's books and records at the date of acquisition. In any future rate proceeding, Limestone may present evidence and argument concerning the value of assets used and useful for the provision of public utility services, and the Consumer Advocate or other interested parties may oppose such values or present their own evidence and argument concerning the value of such assets.

6. Limestone will not make any corrections or modifications to the accounting records of DSH at closing. Should Limestone wish to correct or change accounting entries, it will seek approval from the Commission to make the necessary accounting corrections at least 180 days prior to a request to increase base rates. The Consumer Advocate will receive a courtesy copy of such requests and reserves the right to oppose such a request for any reason.
7. Limestone will maintain separate asset and operating cost records for the DSH wastewater collection and treatment system. Limestone must also maintain its books and records in compliance with the Uniform System of Accounts as set forth in Commission Rule 1220-04-01-.11.
8. Limestone will file within thirty (30) days of closing a balance sheet and supporting general ledger consistent with the Uniform System of Accounts and Commission Rule 1220-04-01-.11. These documents shall show the DSH ending balances and Limestone beginning balances of the assets acquired by Limestone as of the closing date. The Limestone beginning balances shall not include an acquisition premium.
9. DSH shall transfer complete copies of DSH's accounting records, to the extent they exist, to Limestone, for the two calendar years immediately preceding the date of acquisition as

well as the complete year-to-date accounting records for the calendar year in which closing occurs.

10. Limestone shall provide copies of DSH's accounting records within thirty (30) days of closing to the Commission with the Consumer Advocate being provided a courtesy copy. Limestone shall maintain these records intact at least through completion of its first rate proceeding before the Commission.
11. Limestone shall record on its books the balance of Contributions in Aid of Construction ("CIAC") that is equal to the balance of Plant in Service for the acquired system. Limestone and DSH shall provide documentation demonstrating the value of Plant in Service at closing, excluding any writeup of land costs supported by an appraisal. This balance shall not be amortized unless authorized by the Commission. The Parties agree that the Commission should review that balance in Limestone's initial rate case, and other interested parties may present evidence regarding whether the CIAC balance is accurate or should be adjusted.
12. Limestone shall maintain a separate escrow account specific to DSH operations. Limestone and DSH shall provide documentation demonstrating the value of the Escrow Accounts at closing, the combined value of which should be no less than \$26,000. The escrow proceeds and the \$10.24 monthly escrow charge per customer shall be maintained separately from other Limestone escrow accounts and such account shall be dedicated to the legacy DSH system.
13. The Parties agree that Limestone be required to adopt DSH's presently tariffed rates, charges, and terms of service, and it shall file a new tariff substituting itself

in place of DSH as the service provider within thirty (30) days after the date of acquisition.

14. The Parties agree Limestone must post a bond compliant with the Commission's financial security rules within thirty (30) days of the date of acquisition.
15. The Parties agree Limestone must file within thirty (30) days of execution copies of contracts or pricing agreements between Limestone and any affiliate and between Limestone and contractors that provide ongoing operations and maintenance or billing services to the DSH system or customers served by that system.
16. The Parties agree Limestone must file copies of recorded deed(s) for land where DSH's facilities are located and copies of recorded easements in Limestone's name for all the land and ownership rights for any and all access to the acquired wastewater system within thirty (30) days after the date of recording.
17. The Parties agree Limestone must file a copy of the Purchase and Sale Agreement that has been fully executed by Seller and Buyer and acknowledged by the Title Company with the recorded effective date and with all exhibits attached, complete with documentation, within 30 days after the date of acquisition.
18. The Parties agree Limestone must file a copy of the final executed Assignment of Rights Agreement within 30 days after the date of acquisition.
19. The Parties agree Limestone must file a copy of the State Operating Permit "Request for Transfer" of the current permit, within 30 days of issuance.
20. The Parties agree Limestone must file copies of maps and engineering designs for the wastewater system within 30 days of availability.

21. The Parties agree Limestone must comply with all applicable Commission rules and regulations, including but not confined to the Commission's rules governing transactions with affiliates.

The *Settlement Agreement* also outlines general terms and conditions. The parties agree that all Pre-Filed Testimony, discovery, and exhibits will be introduced as evidence without objection, and cross-examination of witnesses is waived with respect to Pre-Filed Testimony. In addition, the parties are not bound to any position or term of the *Settlement Agreement* if not approved by the Commission in whole. The *Settlement Agreement* establishes no binding or precedential effect in any proceeding before the Commission, or any state or federal court except to the limited extent necessary to implement the provisions of the *Settlement Agreement* or enforcement thereof.¹⁶

HEARING ON THE *SETTLEMENT AGREEMENT*

A hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on November 6, 2023, as noticed by the Commission on September 30, 2022. Participating in the hearing were Vance Broemel, Esq., and Alex Bradley on behalf of the Consumer Advocate, and Todd Thomas, Senior Vice President of CSWR on behalf of Limestone. Melvin Malone, Esq. and Katherine Barnes, Esq. appeared as counsel jointly representing Limestone and DSH. During the hearing, Mr. Thomas summarized his Pre-Filed Testimony and presented a summary of the *Settlement Agreement* to the Commission and was subject to questions from the panel and Commission Staff. The Commission opened the floor for public comment , but no person came forward to comment.

¹⁶ *Id.*

STANDARD OF REVIEW

The Commission has “general supervisory and regulatory power, jurisdiction, and control over all public utilities, and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.”¹⁷ The Tennessee Supreme Court has interpreted the supervisory and regulatory powers of the Commission as “practically plenary authority over the utilities within its jurisdiction.” *BellSouth Adver. & Publ’g Corp. v Tenn. Reg. Auth.*, 79 S.W.3d 506, 512-513 (Tenn. 2002).

In performing its duties with regard to issues before the Commission in the current docket, several statutory provisions must be considered. First, Tenn. Code Ann. § 65-4-113(a) provides:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the commission, to any individual, partnership, corporation, or other entity without first obtaining the approval of the commission.¹⁸

When considering a transfer of authority to provide utility services, the Commission must consider all relevant factors, “including, but not limited to, the suitability, financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred, and the benefit to the consuming public to be gained from the transfer.” Upon a finding that the transfer furthers the public interest, the Commission shall approve the transfer.¹⁹ After the Commission approves the transfer, the transferee is granted full authority to provide the transferred utility services while the transferor no longer has authority to provide transferred services.²⁰

In addition, the Commission must consider whether to grant Limestone a CCN to provide wastewater services. A public utility is not permitted to begin construction or operation of a new

¹⁷ Tenn. Code Ann. § 65-4-104(a) (2022).

¹⁸ Tenn. Code Ann. § 65-4-113(a) (2022).

¹⁹ Tenn. Code Ann. § 65-4-113(b) (2022).

²⁰ Tenn. Code Ann. § 65-4-113(c) (2022).

utility service without first obtaining a CCN from the Commission, as set forth in Tenn. Code Ann.

§ 65-4-201(a), which states:

No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the commission, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line, or system, and not theretofore receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.²¹

Additionally, in order to obtain a CCN to provide wastewater service, TPUC Rule 1220-04-13-.17 (1) provides:

Any public wastewater utility requesting a Certificate of Public Convenience and Necessity (“CCN”) in accordance with Tenn. Code Ann. §§ 65-4-201, et seq., shall file an application that complies with Rule 1220-01-01-.03 and this rule. Each applicant shall demonstrate to the Commission that it possesses sufficient managerial, financial, and technical capabilities to provide the wastewater services for which it has applied. Each application shall demonstrate that there exists a public need for wastewater service and include the required financial security consistent with Tenn. Code Ann. § 65-4-201, and these rules.²²

The rule further establishes minimum information filing guidelines for applications for new or amended CCNs.²³

²¹ Tenn. Code Ann. § 65-4-109 (2022).

²² Tenn. Comp. R. & Regs. 1220-04-13-.17.

²³ *Id.*

FINDINGS AND CONCLUSIONS

The voting panel found that the terms of the *Settlement Agreement* are fair and reasonable, allowing the parties to avoid the time and cost associated with the extensive litigation associated with this type of matter. In addition, the panel found that settlement of this matter is in the public interest, as it offers potential savings in the legal expenses of the wastewater systems. In addition, as DSH avers that it no longer desires to continue operating the Lakeside Estates wastewater system, the *Settlement Agreement* permits the transfer of the ownership and operation of the wastewater systems to an operator of public utilities that is well-equipped with the financial, technical, and managerial capabilities to successfully operate and enhance the system as it requires maintenance, repairs, upgrades, and replacements. The level of commitment to operations and capital investments from Limestone will benefit the ratepayers.

The panel further found that the *Settlement Agreement* includes terms that require compliance with accounting procedures that are needed to assist in the analytical review of transactions. Limestone agreed to maintain the current terms, conditions, and rates of DSH for the customers of the Lakeside Estates system. The voting panel found that the *Joint Application* is compliant with the requirements established in Tenn. Code Ann. § 65-4-113 relative to petitions for approval for transfer of authority to provide utility service and Commission Rule 1220-04-14 relating to utility acquisitions. Therefore, the panel voted unanimously to approve the terms of the *Settlement Agreement* transferring the assets of DSH providing wastewater service to Lakeside Estates, including its service territory, to Limestone by an assignment from CSWR.

The panel noted that the *Settlement Agreement* recognizes that the Commission must approve a CCN for Limestone to assume operation of the Lakeside Estates wastewater treatment system also requested in the *Joint Application*. The Commission found that Limestone

demonstrated that it has sufficient financial, managerial, and technical expertise to operate the Campbell County wastewater system at issue.

Specifically, LWUHC is the sole member of Limestone. In addition, Limestone is part of a group of affiliated companies that own and operate water and wastewater systems in Missouri, Arizona, Arkansas, Kentucky, Louisiana, Florida, North Carolina, South Carolina, and Texas in addition to Tennessee. One of the affiliates, CSWR, provides the financial, technical, and managerial expertise to Limestone and the other affiliates within the group. CSWR will manage Limestone and the wastewater systems at issue.

Todd Thomas, Senior Vice President of CSWR, attests that Limestone possesses the necessary technical, managerial, and financial capabilities to provide wastewater service to the Lakeside Estates wastewater systems to be transferred.²⁴ Mr. Thomas states that the companies in the affiliated group, of which Limestone is a member, have acquired and are currently operating approximately 800 water or wastewater systems in eleven (11) states.²⁵ He also testifies that the affiliated group has secured an ongoing commitment from a Wall Street private equity firm, to provide capital necessary to purchase small and/or distressed water and wastewater systems and to bring the systems into compliance with applicable health, safety, and environmental law and regulations.²⁶

Limestone provided evidence of employees' credentials and company responsibilities. Both Mr. Cox and Mr. Thomas have education and work experience in engineering, business, and utility operations.²⁷ In addition, the *Joint Application* includes resumes that demonstrate the

²⁴ Todd Thomas, Pre-Filed Direct Testimony, pp. 4-5 (October 31, 2023). Mr. Thomas adopted the Pre-Filed Direct Testimony and Pre-Filed Rebuttal Testimony of Josiah Cox. *See also Joint Application*, Exh. 9, Josiah Cox, Pre-Filed Direct Testimony, pp. 13-14 (March 1, 2023).

²⁵ *Id.* *See also Joint Application*, Exh. 9, Josiah Cox, Pre-Filed Direct Testimony, p. 3 (March 1, 2023).

²⁶ *Id.* *See also Joint Application*, Exh. 9, Josiah Cox, Pre-Filed Direct Testimony, pp. 11-12 (March 1, 2023).

²⁷ *Id.* at 2-4. *See also Joint Application*, Exh. 9, Josiah Cox, Pre-Filed Direct Testimony, pp. 1-3 (March 1, 2023).

education and experience of key members of CSWR's senior team who will be involved in Tennessee operations.²⁸

The panel found that the evidence in the record demonstrates that Limestone, through CSWR and the group of affiliated companies, possesses the requisite financial, managerial, and technical abilities to operate the Lakeside Estates wastewater facilities to be transferred. Therefore, the panel voted unanimously to grant Limestone's request for a CCN to operate the wastewater system to be transferred.

IT IS THEREFORE ORDERED THAT:

1. The *Stipulation and Settlement Agreement* executed and submitted by the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General; Limestone Water Utility Operating Company, LLC; and DSH & Associates, LLC on September 25, 2023, is approved. A copy of the *Stipulation and Settlement Agreement* is attached to this Order as Exhibit 1 and is incorporated in this Order as if fully rewritten herein.

2. In accordance with Tenn. Code Ann. § 65-4-201, a Certificate of Public Convenience and Necessity is granted to Limestone Water Utility Operating Company, LLC to serve the Lakeside Estates Development wastewater systems in Campbell County, Tennessee, currently served by DSH & Associates, LLC.

3. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

²⁸ *Joint Application*, Exh. 12 (March 1, 2023).

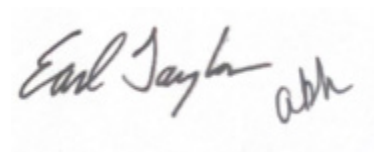
4. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Vice Chairman David F. Jones,
Commissioner Robin L. Morrison,
Commissioner Clay R. Good,
Commissioner Kenneth C. Hill, and
Commissioner John Hie concurring.**

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director

EXHIBIT 1

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

IN 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**

DOCKET NO. 23-00016

STIPULATION AND SETTLEMENT AGREEMENT

The Consumer Advocate Division of the Office of the Attorney General (the “Consumer Advocate”), Limestone Water Utility Operating Company, LLC (“Limestone” or “Buyer”), and DSH & Associates, LLC (“DSH” or “Seller”) jointly submit this Stipulation and Settlement Agreement (the “Settlement Agreement”) to the Tennessee Public Utility Commission (TPUC or the “Commission”) in TPUC Docket No. 23-00016. Limestone requested approval from the Commission to allow it to acquire and operate the DSH wastewater system and requested the Commission to authorize and grant Limestone a Certificate of Public Convenience and Necessity (“CCN”) pursuant to Tenn. Code Ann. § 65-4-201 and TPUC Rule 1220-04-13.-17. Subject to TPUC’s approval, the Consumer Advocate, Limestone, and DSH (hereinafter, individually “Party” and collectively “Parties”) stipulate and agree as follows and respectfully request Commission approval of the same:

I. BACKGROUND

1. Limestone and DSH entered into an *Agreement for Sale of Utility System* (“*Agreement*”) with Central States dated January 2, 2019.¹

2. On March 1, 2023, Limestone and DSH (collectively, “Joint Petitioners”) filed their *Petition*, seeking authorization for DSH to sell or transfer all assets, property, and real estate currently used to provide regulated wastewater services to customers in its service territory to Limestone.² Additionally, Limestone seeks authorization for DSH to transfer its CCN or, alternatively, for the Commission to grant Limestone a new CCN.³

3. On April 17, 2023, the Commission granted the Consumer Advocate’s *Petition to Intervene*. On August 7, 2023, the Consumer Advocate filed the *Direct Testimony of Alex Bradley*, which recommended approval of the transaction subject to seven conditions.

4. The Parties to this Settlement Agreement have undertaken discussions to resolve this case. As a result of the information obtained during the discussions between the Parties, and for the purpose of avoiding further litigation and resolving this matter upon acceptable terms, the Parties have reached this Settlement Agreement. Subject to the TPUC’s approval, in furtherance of this Settlement Agreement, the Parties have agreed to the settlement terms set forth below.

II. SETTLEMENT SPECIFIC TERMS

5. In its initial base-rate case that includes the DSH wastewater collection and treatment system, Limestone shall be allowed to present evidence seeking to establish and include in rate base the net book value of assets it acquires from DSH up to an amount not to exceed the

¹ *Petition* at 6, Exhibit 7.

² *Id.* at 1. Specifically, Limestone is seeking to acquire DSH’s wastewater system in Campbell County, Tennessee. The Tennessee Department of Environment and Conservation issued a State Operating Permit (“SOP”) for the Lakeside Estates WWTP, which is identified as SOP-07073. *Id.* at Exhibit 16.

³ *Id.*

purchase price paid for those assets (i.e., \$82,000.00). The Consumer Advocate or other interested parties may oppose such values or present their own evidence and argument concerning the value of such assets and the proper calculation of rate base, and the Consumer Advocate specifically reserves its right to do so.

6. In its initial base-rate case that will include the DSH wastewater collection and treatment system, Limestone shall be allowed to present evidence seeking to establish and include in rate base amounts incurred for legal and other transaction-related fees and services, limited to such costs incurred in this proceeding. The Consumer Advocate or other interested parties may oppose such values or present their own evidence and argument concerning the proper amounts of these expenses to be recovered in rates.

7. The Parties agree that a determination of recoverable regulatory and transaction costs related to the subject acquisition will be deferred to Limestone's initial rate case involving those costs. Limestone agrees that it will not seek to recover in rates any amount exceeding 50% of the legal expenses paid to local counsel for the representation of Buyer or Seller in the instant regulatory proceeding. The Consumer Advocate and other interested parties may present independent evidence and argument concerning the proper amounts to be recovered in rates. Limestone will file within 30 days of closing the amount of legal costs, separated by represented party, incurred for this matter.

8. Limestone is not requesting an acquisition premium, nor is the Commission being asked to approve any acquisition adjustment related to the purchase of DSH's assets. Accordingly, Limestone's beginning value of the acquired assets for ratemaking purposes shall be the value recorded in DSH's books and records at the date of acquisition. All changes to DSH records received at closing shall follow the process set out in Paragraph 9 below.

Further, Limestone is not authorized to book an above-the-line regulatory asset for ratemaking purposes for any portion of the amount by which the purchase price exceeds the value of the acquired assets as reflected in DSH's books and records at the date of acquisition. In any future rate proceeding, Limestone may present evidence and argument concerning the value of assets used and useful for provisioning public-utility services, and the Consumer Advocate or other interested parties may oppose such values or present their own evidence and argument concerning the value of such assets. In Limestone's initial base-rate case, Limestone, the Consumer Advocate, or other interested parties, also may present evidence and set forth their respective arguments related to the appropriateness of an acquisition premium for this transaction.

9. 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. Limestone will courtesy copy the Consumer Advocate on such requests to the Commission. 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.

10. The Parties agree and accept the Consumer Advocate's recommendation that Limestone must maintain separate asset and operating-cost records for the DSH wastewater collection and treatment system.

11. The Parties agree that Limestone must file, within 30 days after closing, a balance sheet and supporting general ledger, in the format prescribed by the Uniform System

of Accounts and in accordance with Commission Rule 1220-04-01-.11, showing DSH's ending balances of the assets acquired by Limestone as of the closing date. Limestone also shall file a balance sheet and supporting general ledger, in the format prescribed by the Uniform System of Accounts and in accordance with Commission Rule 1220-04-01-.11, showing Limestone's beginning balances of the assets acquired from DSH as of the closing date.

12. The Parties agree Limestone must maintain its books and records in compliance with the Uniform System of Accounts as set forth in Commission Rule 1220-04-01-11.

13. The Parties agree that, at closing, DSH shall transfer to Limestone complete copies of DSH's accounting records, to the extent they exist, for the two calendar years immediately preceding the date of acquisition as well as the complete year-to-date accounting records for the calendar year in which closing occurs. Limestone shall provide copies of DSH's accounting records within 30 days of closing to the Commission with the Consumer Advocate being courtesy copied. Limestone shall maintain these records intact at least through completion of its first rate proceeding before the Commission.

14. Limestone shall record on its books the balance of Contributions in Aid of Construction ("CIAC") that is equal to the balance of Plant in Service for the acquired system. Limestone and DSH shall provide documentation demonstrating the value of Plant in Service at closing, excluding any writeup of land costs supported by an appraisal. This balance shall not be amortized unless authorized by the Commission. The Parties agree that the Commission should review that balance in Limestone's initial rate case, and Limestone, the Consumer Advocate, or other interested parties may present evidence regarding whether the CIAC balance is accurate or should be adjusted.

15. Limestone shall maintain a separate escrow account specific to DSH operations. Limestone and DSH shall provide documentation demonstrating the value of the Escrow Accounts at closing, the combined value of which should be no less than \$26,000.00. The escrow proceeds and the \$10.24 monthly escrow charge per customer shall be maintained separately from other Limestone escrow accounts and such account shall be dedicated to the legacy DSH system.

16. The Parties agree that Limestone be required to adopt DSH's presently tariffed rates, charges, and terms of service, and it shall file a new tariff substituting itself in place of DSH as the service provider within 30 days after the date of acquisition.

17. The Parties agree Limestone must post a bond compliant with the Commission's financial security rules within 30 days of the date of acquisition.

18. The Parties agree Limestone must file within 30 days of execution copies of contracts or pricing agreements between Limestone and any affiliate and between Limestone and contractors that provide ongoing operations and maintenance or billing services to the DSH system or customers served by that system.

19. The Parties agree Limestone must file copies of recorded deed(s) for land where DSH's facilities are located and copies of recorded easements in Limestone's name for all the land and ownership rights for any and all access to the acquired wastewater system within 30 days after the date of recording.

20. The Parties agree Limestone must file a copy of the Purchase and Sale Agreement that has been fully executed by Seller and Buyer and acknowledged by the Title Company with the recorded effective date and with all exhibits attached, complete with documentation, within 30 days after the date of acquisition.

21. The Parties agree Limestone must a copy of the final executed Assignment of

Rights Agreement within 30 days after the date of acquisition.

22. The Parties agree Limestone must file a copy of the State Operating Permit "Request for Transfer" for current permit, within 30 days of issuance.

23. The Parties agree Limestone must file copies of maps and engineering designs for the wastewater system within 30 days of availability.

24. The Parties agree Limestone must comply with all applicable Commission rules and regulations, including but not confined to the Commission's rules governing transactions with affiliates.

III. SETTLEMENT GENERAL TERMS

25. All pre-filed discovery (formal and informal), testimony and exhibits of the Parties will be introduced into evidence without objection, and the Parties waive their right to cross-examine all witnesses with respect to all such pre-filed testimony. If, however, questions should be asked by any member of the public, Commissioners, or Commission Staff, the Parties may present testimony and exhibits to respond to such questions and may cross-examine any witnesses with respect to such testimony and exhibits. The Parties would ask to permit any out-of-town witnesses to be available by telephone or video conference to reduce the costs associated with such appearance.

26. After the filing of this Settlement Agreement, the Parties agree to support this Settlement Agreement before the Commission and in any hearing, proposed order, or brief conducted or filed in this matter. The provisions of this Settlement Agreement are agreements reached in compromise and solely for the purpose of settlement. The provisions in this Settlement Agreement do not necessarily reflect the positions asserted by any Party. None of the Parties to this Settlement Agreement shall be deemed to have acquiesced in or agreed

to any ratemaking or accounting methodology or procedural principle.

27. This Settlement Agreement, which is the product of negotiations and substantial communication and compromise between the Parties, is just and reasonable and in the public interest.

28. This Settlement Agreement shall not have any precedential effect in any future proceeding or be binding on any of the Parties in this or any other jurisdiction except to the limited extent necessary to enforcement and implementation of the provisions hereof.

29. The Parties agree and request the Commission to order that the settlement of any issue pursuant to this Settlement Agreement shall not be cited by the Parties or any other entity as binding precedent in any other proceeding before the Commission, or any court, state or federal, except to the limited extent necessary to implement the provisions hereof and for the limited purpose of enforcement should it become necessary.

30. The terms of this Settlement Agreement have resulted from negotiations between the signatories and the terms hereof are interdependent. The Parties jointly recommend that the Commission issue an order adopting this Settlement Agreement in its entirety without modification.

31. If the Commission does not accept the settlement in whole, the Parties are not bound by any position or term set forth in this Settlement Agreement. In the event that the Commission does not approve this Settlement Agreement in its entirety, each of the signatories to this Settlement Agreement retains the right to terminate this Settlement Agreement by giving notice of the exercise of such right within 15 business days of the date of such action by the Commission; provided, however, that the signatories to this Settlement Agreement could, by unanimous consent, elect to modify this Settlement Agreement to address

any modification required by, or issues raised by, the Commission within the same time frame. Should this Settlement Agreement terminate, it would be considered void and have no binding or precedential effect, and the signatories to this Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this Settlement Agreement.

32. By agreeing to this Settlement Agreement, no Party waives any right to continue litigating this matter should this Settlement Agreement not be approved by the Commission in whole or in part.

33. No provision of this Settlement Agreement shall be deemed an admission of any Party. No provision of this Settlement Agreement shall be deemed a waiver of any position asserted by a Party in this matter or any other docket.

34. Except as expressly noted herein, the acceptance of this Settlement Agreement by the Attorney General shall not be deemed approval by the Attorney General of Limestone's or DSH's acts or practices.

35. The Consumer Advocate's agreement to this Settlement Agreement is expressly premised upon the truthfulness, accuracy, and completeness of the information provided by the Limestone and DSH to TPUC and the Consumer Advocate throughout the course of this Docket, which information was relied upon by the Consumer Advocate in negotiating and agreeing to the terms and conditions of this Settlement Agreement.

36. This Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee, notwithstanding conflicts of law provisions.

37. The Parties agree that this Settlement Agreement constitutes the complete understanding among the Parties and that any and all oral statements, representations or

agreements made prior to the execution of this Settlement Agreement shall be null and void.

38. The signatories to this Settlement Agreement warrant that they have informed, advised, and otherwise consulted with the Parties for whom they sign regarding the contents and significance of this Settlement Agreement, and, based on those communications, the signatories represent that they are authorized to execute this Settlement Agreement on behalf of the Parties.

The foregoing is agreed and stipulated to this 25 day of September 2023.

[signature pages follow – remainder of page intentionally left blank]

Stipulation and Settlement Agreement
Tennessee Public Utility Commission Docket No. 23-00016
Limestone Water Utility Operating Company, LLC and DSH & Associates, LLC Signature Page

LIMESTONE WATER UTILITY OPERATING COMPANY, LLC and
DSH & ASSOCIATES, LLC

BY: Melvin Malone by permission (Ets)

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[additional signature page follows – remainder of page intentionally left blank]

Stipulation and Settlement Agreement
Tennessee Public Utility Commission Docket No. 23-00016
Attorney General's Signature Page

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