

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 26, 2024

IN RE:

LIMESTONE WATER UTILITY OPERATING
COMPANY, LLC APPLICATION TO EXPAND
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY TO SERVE THE NASH RIDGE
SUBDIVISION IN WILLIAMSON COUNTY,
TENNESSEE

DOCKET NO.
23-00036

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Vice Chairman David F. Jones, Commissioner Robin L. Morrison, Commissioner Clay R. Good, Commissioner David Crowell and Commissioner John Hie of the Tennessee Public Utility Commission (“TPUC” or “Commission”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on December 11, 2023 for consideration of the *Limestone Water Utility Operating Company, LLC’s Application to Expand Its Certificate of Convenience and Necessity to Serve The Nash Ridge Subdivision* (“*Petition*”) filed by Limestone Water Utility Operating Company, LLC (“Limestone,” “Company,” or “Petitioner”) on May 23, 2023. In its *Petition*, Limestone requests the Commission’s approval of an amendment to the Company’s Certificate of Public Convenience and Necessity (“CCN”) in order to provide wastewater service to the Nash Ridge Subdivision (Nash Ridge”) located in Williamson County, Tennessee.

BACKGROUND AND PETITION

Limestone is a limited liability company organized under the laws of the State of Tennessee with a principal place of business located at 1630 Des Peres Road, Suite 140, Saint Louis, Missouri

63131. The Company holds a CCN to provide water and wastewater services within designated service areas in the State of Tennessee, serving approximately 455 water customers and 1,900 wastewater customers.¹ In its *Petition*, Limestone seeks to expand its service area to provide wastewater services to a subdivision known as Nash Ridge in Williamson County, Tennessee.²

In support of its *Petition*, the Company filed maps showing the location of Nash Ridge, documents demonstrating the corporate structure and management experience of the Company, letters from local governments and utility systems indicating that the area is not served by or in the service territory of another wastewater service provider, and information necessary to satisfy minimum filing requirements set forth in TPUC Rule 1220-04-13-.17.³ Upon completion of construction of the system, it will serve thirty-nine (39) single family houses located on 206.12 acres in Williamson County.⁴

Along with its *Petition*, Limestone also filed the testimony of Todd Thomas, Senior Vice President of Central States Water Resources, LLC (“CSWR”), the holding company operating Limestone and other affiliated utility operating companies that operate utilities in ten (10) other states.⁵ Subsequently, Aaron Silas, Director of Regulatory Operations for CSWR, submitted Pre-Filed Testimony adopting Mr. Thomas’ testimony.⁶ Mr. Silas testifies that Limestone received its initial CCN in 2020, and has been granted other CCNs to acquire and operate water and wastewater utilities formerly owned and operated by Aqua Utilities Company and Cartwright Creek.⁷ Mr. Silas

¹ *Petition*, p. 3 (May 23, 2023).

² *Id.* at 5.

³ *Id.* at 2-3 & Appx. A, Exhs. 1, 5, 10, and 24.

⁴ *Id.* at 5.

⁵ *Id.* at Exh. 7, Todd Thomas, Pre-Filed Direct Testimony, p. 8.

⁶ Aaron Silas, Pre-Filed Direct Testimony (December 5, 2023).

⁷ *Id.* See also *Petition*, Exh. 7, p 5.

states that Nash Ridge is located in Williamson County, Tennessee and is planned for thirty-nine (39) residential units.⁸

Mr. Silas also states that Nash Ridge does not fall within the service area of Harpeth Valley Utilities District. For this reason, Serenity Trust, developer of Nash Ridge, proposes to construct its own wastewater collection system and sent flows to the existing Grasslands Treatment Facility.⁹ Mr. Silas describes the system to be constructed as a decentralized wastewater system utilizing watertight, precast concrete septic tanks for each home with STEP system pumps and controls and PVC pipe collection force mains. This new collection system for Nash Ridge will connect to the Grasslands collection system at an existing manhole. From there, flows will be sent to the Grasslands Treatment facility.¹⁰ While Serenity Trust plans to construct the wastewater treatment assets, it does not wish to be the ongoing operator of the treatment system.¹¹ For this reason, Limestone was asked to accept ownership of the treatment system and accept ongoing responsibility for the operation of the system as well as providing wastewater services to the customers within this service area.¹² Mr. Silas also testifies that Limestone will abide by the orders and rules of the Commission in the operations of the wastewater facility and that granting the CCN is in the public interest.¹³

In addition, Limestone states that it is part of a CSWR affiliate group providing water and/or wastewater services in eleven (11) states. To date, CSWR-affiliated utility operating companies have acquired and are operating water or wastewater systems in Missouri, Arkansas,

⁸ *Id.* See also Petition, Exh. 7, p. 11.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Kentucky, Louisiana, Texas, Mississippi, North Carolina, South Carolina, Arizona, Florida, and Tennessee.¹⁴

Commission Staff submitted data requests to the Company, which among other issues, requested information concerning the sufficiency of the Grasslands Treatment Facility to handle the additional load to be transported from the proposed Nash Ridge system.¹⁵ In response, Limestone acknowledged pre-existing inflow and infiltration issues associated with the Grasslands Treatment Facility, but asserted that several ongoing repair projects on the system will free up underutilized or unavailable treatment capacity that can be allocated to customers of Nash Ridge. Limestone expects these repairs to be complete within the next year.¹⁶ In addition, Limestone submitted a construction schedule that was provided to the Tennessee Department of Environment and Conservation (“TDEC”) outlining further upgrades to Grasslands Treatment Facility which the Company believes will add additional capacity to the existing system.¹⁷

The Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) filed a letter on July 12, 2023 requesting clarification of certain information and additional information that the Consumer Advocate determined was required to meet the Commission’s minimum filing requirements. In response, Limestone filed the requested information on August 29, 2023.¹⁸ No party sought intervention in this matter.

¹⁴ *Petition*, p..5 (May 23, 2023).

¹⁵ Commission Staff Data Request to Josiah Cox, Limestone Water Utility Operating Company (July 11, 2023).

¹⁶ Limestone Water Utility Operating Company Responses to Commission Staff Data Request Dated July 11, 2023, p. 2 (July 25, 2023).

¹⁷ *Id.* at Attachment C.

¹⁸ Limestone Water Utility Operating Company, LLC Response to MFR Letter Dated July 12, 2023 from Karen Stachowski, Consumer Advocate (August 29, 2023).

THE HEARING

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on December 11, 2023, as noticed by the Commission on December 1, 2023. Participating in the Hearing were:

Limestone Water Operating Utility Company, LLC – Katherine Barnes, Esq., Butler Snow, The Pinnacle at Symphony Place, 150 3rd Avenue South, Suite 1600, Nashville Tennessee 37201 and Aaron Silas, Director of Regulatory Operations for CWSR, 1630 Des Peres Road, Suite 140, St. Louis, Missouri 63131

During the Hearing, Aaron Silas, Director of Regulatory Operations for CWSR, appeared on behalf of the Company adopting and summarizing the Pre-Filed Direct Testimony previously submitted by Todd Thomas. Mr. Silas was subject to questions from the voting panel of Commissioners and Commission Staff. Members of the public were given an opportunity to offer comments. No comments were submitted.

STANDARD FOR COMMISSION APPROVAL

A public utility is not permitted to begin construction or operation of a new 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 a 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.¹⁹

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.²⁰

The rule further establishes minimum information filing guidelines for applications for new or expanded CCNs.²¹ Commission Rule 1220-04-13-.17 requires applications for a new or expanded CCN to include information providing evidence of sufficient managerial ability. The rule requires the filing of, “[c]opies of all contracts related to any pending merger or acquisition of the applicant, corporate parent or affiliate.”²² Commission Rules 1220-01-01-.05 allows the Commission to waive the requirements or provisions of any rule in a proceeding “for good cause.”²³

FINDINGS AND CONCLUSIONS

In its *Petition*, Limestone has asked the Commission to amend its CCN to include Nash Ridge in Williamson County, Tennessee, alleging that the Company possesses the managerial,

¹⁹ Tenn. Code Ann. § 65-4-109 (2022).

²⁰ Tenn. Comp. R. & Regs. 1220-04-13-.17.

²¹ *Id.*

²² Tenn. Comp. R. & Regs. 1220-04-13-.17(c)(3).

²³ Tenn. Comp. R. & Regs. 1220-01-01-.05(1).

technical, and financial capability to provide service to the subdivision. Based on a review and consideration of the pleadings, the Pre-Filed Testimony, and the entire administrative record, the voting panel made the following findings and conclusions:

The panel found that Nash Ridge requires wastewater service to move forward with the proposed development and that the proposed development is not currently connected to a wastewater treatment facility operated by any other municipal utility, utility district, or other private wastewater utility. No other utility is seeking to serve the parcel. Therefore, the panel voted unanimously that there exists a public need to provide wastewater service to Nash Ridge as required by Tenn. Code Ann. § 65-4-201(a) and Commission Rule 1220-04-13-.17(1).

The panel found that Limestone has demonstrated that it possesses the requisite managerial, financial, and technical capabilities to provide wastewater service to Nash Ridge. In addition, Limestone is in good standing with the Commission and is compliance with all Commission rules. Based upon these findings, the panel voted unanimously to grant the Company's *Petition*, contingent upon the filing of the following documents:

1. The deed and/or easements for all the land and ownership rights to the wastewater system within fifteen (15) days of being issued and before the first customer is connected to the wastewater system, as set forth in contract submitted by Limestone with the Commission;
2. Certification from an engineer that Limestone has sufficient capacity to serve the additional customers at Nash Ridge prior to new customers being connected to the system;

3. Copies of all necessary TDEC approved documents relating to Nash Ridge, if any, prior to new customers being connected to the wastewater system within fifteen (15) days of issuance;

4. A copy of the as-built plans with signed certification by Limestone indicating the wastewater system has been inspected and is approved to begin operation; and

5. A copy of the signed plat once the area of development is approved by the City and/or County government within fifteen (15) days of being issued and before the first customer is connected to the wastewater system.

The panel also directed the company to file a report in this docket demonstrating its compliance with the filing requirements prior to providing wastewater service to Nash Ridge. In the event the compliance report is not filed, the panel directed Limestone to file within six (6) months from the date of this order, and every three (3) months thereafter until the installation is complete, a report on the status of providing wastewater service to Nash Ridge, as well as the status of its compliance with each of the aforementioned filing requirements.

IT IS THEREFORE ORDERED THAT:

1. The *Limestone Water Utility Operating Company, LLC's Application to Amend Its Certificate of Convenience and Necessity to Include the Nash Ridge Subdivision* filed by Limestone Water Utility Operating Company, LLC is approved, contingent upon Limestone Water Utility Operating Company, LLC filing the following in this docket:

a. The deed and/or easements for all the land and ownership rights to the wastewater system within fifteen (15) days of being issued and before the first customer is

connected to the wastewater system, as set forth in contract submitted by Limestone Water Utility Operating Company, LLC with the Commission;

b. Certification from an engineer that Limestone Water Utility Operating Company, LLC has sufficient capacity to serve the additional customers at the Nash Ridge development prior to new customers being connected to the system;

c. Copies of all necessary Tennessee Department of Environment and Conservation approved documents relating to the Nash Ridge development, if any, prior to new customers being connected to the wastewater system within fifteen (15) days of issuance

d. A copy of the as-built plans with signed certification by Limestone Water Utility Operating Company, LLC indicating the wastewater system has been inspected and is approved to begin operation; and

e. A copy of the signed plat once the area of development is approved by the City and/or County government within fifteen (15) days of being issued and before the first customer is connected to the wastewater system.

2. Limestone Water Utility Operating Company, LLC. is directed to file a report in this docket demonstrating its compliance with the filing of the above referenced documents. If the required documentation is not filed within six (6) months of this order, then Limestone Water Utility Operating Company, LLC. is directed to file a report on the status of the provision of wastewater service to the Nash Ridge Subdivision as well as the status of the filing of required documentation. The compliance report shall be updated every three (3) months until installation of the wastewater system is complete.

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.

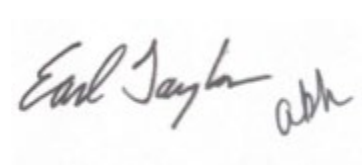
4. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

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

None dissenting.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" followed by a stylized monogram or initials "abh".

Earl R. Taylor, Executive Director