

# BUTLER | SNOW

January 16, 2024

**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)

Electronically Filed in TPUC Docket  
Room on January 16, 2024 at 11:19 a.m.

**RE: *Joint Application of Limestone Water Utility Operating Company, LLC, and Integrated Resource Management, Inc. d/b/a IRM Utility, Inc., for Approval of the Acquisition of and to Operate the Wastewater System of Integrated Resource Management, Inc. d/b/a IRM Utility, Inc., and to Transfer or Issue a Certificate of Public Convenience and Necessity, TPUC Docket No. 23-00037***

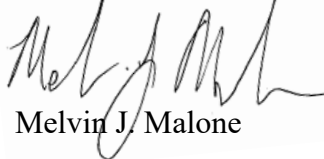
Dear Chairman Hilliard:

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

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: Russ Mitten, Limestone Water Utility Operating Company, LLC  
Chuck B. Welch, Jr., Farris Bobango PLC  
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

**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 TESTIMONY IN THIS MATTER ON BEHALF**  
9       **OF LIMESTONE IN SUPPORT OF THE JOINT APPLICATION.**

10  A.   Yes. I submitted both Pre-filed Direct Testimony and Pre-filed Supplemental Direct  
11       Testimony.

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

13  A.   The purpose of my Rebuttal Testimony is to support the Joint Application submitted in this  
14       matter by both Limestone and Integrated Resource Management, Inc. d/b/a IRM Utility,  
15       Inc. (“IRM”), collectively the “Joint Applicants,” by responding to the Pre-filed Testimony  
16       of Consumer Advocate Witness Alex Bradley.

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

18  A.   On pages 3-4 of his Pre-filed Testimony, Mr. Bradley outlines nine (9) Consumer Advocate  
19       Division (“CAD” or “Consumer Advocate”) recommendations. Those recommendations  
20       are as follows:

- 21 1. All security deposits retained by IRM as of May 24, 2023 should be  
22 transferred to Limestone and documentation of such transfer should  
23 be provided to the Commission within thirty days of closing.
- 24 2. Limestone and IRM should provide documentation demonstrating  
25 the value of the Escrow Account at closing, the value of which  
26 should be no less than \$19,450.
- 27 3. The Commission conduct an audit on whether IRM is in compliance  
28 with Commission rules<sup>1</sup> regarding escrow accounts since it will  
29 continue to own and operate TPUC-regulated wastewater utilities.
- 30 4. Limestone should provide documentation demonstrating the book  
31 value of Plant-in-Service at closing, excluding any writeup of land  
32 costs supported by an appraisal.
- 33 5. Limestone should be precluded from restating historical account  
34 balances post-acquisition and the prospective accounting entries for  
35 the acquisition should be submitted to the Commission prior to  
36 closing for review as a condition of Commission approval.
- 37 6. The requested Acquisition Premium, in this case, should be set aside  
38 in account 114.00 (Utility Plant Acq Adj) and its ultimate treatment  
39 determined in a future proceeding.
- 40 7. The legal and regulatory costs associated with this transaction  
41 should be set aside in Account 183.002 (PSI – Legal) and its ultimate  
42 treatment determined in a future proceeding.
- 43 8. Limestone should maintain separate accounting records for  
44 Riverstone Estates, distinct from its other systems.
- 45 9. Limestone should provide direct customer notifications at the  
46 commencement of its first rate case.

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<sup>1</sup> Tenn Comp. R. & Regs 1220-04-13-.07 (7) (December 2018).

47 **Q. WHAT ARE LIMESTONE'S POSITIONS ON THE CAD'S**  
48 **RECOMMENDATIONS SET FORTH IN MR. BRADLEY'S PRE-FILED**  
49 **TESTIMONY?**

50 A. While Limestone does not concede that CAD's recommendation Nos. 1-4 and 6-9 are each  
51 necessary, in the spirit of cooperation, Limestone accepts and agrees with CAD's  
52 recommendation Nos. 1-4 and 6-9.

53 **Q. CAN YOU EXPLAIN WHY LIMESTONE BELIEVES THAT CERTAIN CAD**  
54 **RECOMMENDATIONS ARE NOT NECESSARY?**

55 A. Yes. For instance, recommendation No. 3. The Tennessee Public Utility Commission  
56 ("Commission" or "TPUC") has rules regarding escrow accounts for wastewater providers.  
57 Limestone has committed to abide by TPUC rules and regulations. The Commission  
58 already has the authority to ensure compliance with its rules and regulations, including its  
59 escrow rules for wastewater providers. Therefore, CAD recommendation No. 3 is not  
60 necessary. The Commission may exercise its authority at its discretion at any time. Also,  
61 as outlined in the Joint Application, CAD recommendation No. 5 is not necessary because  
62 Limestone has not requested an Acquisition Adjustment in this proceeding. In fact, on page  
63 13 (lines 8-9) of his testimony, Mr. Bradley appropriately notes that Limestone is not  
64 requesting an Acquisition Adjustment. For a third example, CAD recommendation No. 7  
65 is not necessary because it is expressly proposed in the Joint Application that any  
66 determination of recoverable regulatory and transaction costs related to the acquisition be  
67 deferred to Limestone's initial rate case.

68 **Q. WHY DOES LIMESTONE NOT ACCEPT AND AGREE WITH MR. BRADLEY'S**  
69 **RECOMMENDATION NO. 5?**

70 A. Although Limestone reviews practices and records prior to closing, final asset values  
71 recorded will be dependent on further evaluation of IRM's asset records and will be  
72 completed post-closing. While every reasonable effort may be made to avoid it, in  
73 acquiring a small utility it is possible that accounting errors or abnormalities may be  
74 uncovered after an acquisition agreement has been executed and even post-closing.  
75 Limestone believes it would be premature to preclude it from restating or correcting  
76 historical account balances within a reasonable time post-acquisition.

77 Further, Limestone does not believe that requiring it to submit the prospective  
78 accounting entries for the acquisition prior to closing for Commission approval is  
79 warranted or necessary. To the extent necessary, a review of any prospective accounting  
80 entries for the acquisition may be performed in relation to Limestone's initial rate case  
81 proceeding involving the assets acquired in the IRM acquisition.

82 **Q. WITH RESPECT TO MR. BRADLEY'S RECOMMENDATION NO. 5, DOES**  
83 **LIMESTONE HAVE A REASONABLE COMPROMISE THAT ADDRESSES THE**  
84 **CONCERNS OF BOTH THE CAD AND LIMESTONE?**

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

88 "Limestone shall not make any corrections or modifications to accounting  
89 records received from [IRM] at closing. If Limestone believes accounting  
90 entries should be corrected or changed, it shall seek approval from the  
91 Commission to make the necessary accounting corrections at least 180 days  
92 prior to its initial request to increase base rates. [Limestone will courtesy  
93 copy the Consumer Advocate on each 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."<sup>2</sup>

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

A. Yes, the Commission approved the Stipulation and Settlement Agreement submitted by the parties.<sup>3</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>4</sup>

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<sup>2</sup> See *Stipulation and Settlement Agreement*, TPUC Docket No. 21-00055 (Aug. 23, 2022).

<sup>3</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>4</sup> See, e.g. *Stipulation and Settlement Agreement*, TPUC Docket No. 21-00059 (Aug. 19, 2022).

115 **Q. HAS THE COMMISSION ACCEPTED AND APPROVED LIMESTONE’S**  
116 **ABOVE-PROPOSED LANGUAGE (IN PLACE OF CAD’S RECOMMENDATION**  
117 **NO. 5) IN ANY OTHER LIMESTONE ACQUISITION CASE?**

118 A. Yes, in TPUC Docket No. 23-00016.<sup>5</sup>

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

120 A. I recommend that the Joint Application be approved subject to the modifications outlined  
121 above in my Rebuttal Testimony, which modifications would consist of Mr. Bradley’s  
122 recommendation Nos. 1-4 and 6-9, and Limestone’s proposed language outlined above in  
123 place of Mr. Bradley’s recommendation No. 5.

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

125 A. Yes, it does.

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<sup>5</sup> See *Order Approving Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity*, TPUC Docket No. 23-00016 (Dec. 26, 2023).

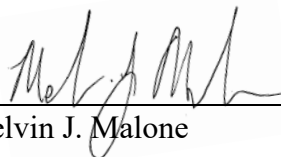
CERTIFICATE OF SERVICE

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 16<sup>th</sup> day of January 2024.

  
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Melvin J. Malone