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January 22, 2024

VIA ELECTRONIC FILING

Hon. Herbert H. Hilliard, Chairman
c/o Ectory Lawless, Docket Room Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243
TPUC.DocketRoom@tn.gov

Electronically Filed in TPUC Docket
Room on January 22, 2024 at 2:33 p.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*

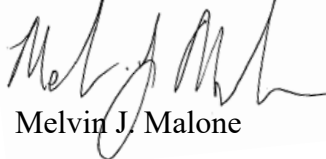
Dear Chairman Hilliard:

Attached for filing please find the *Revised 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

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REVISED 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 rules¹ 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.

¹ 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. 1-9 are necessary,
51 in the spirit of cooperation, Limestone accepts and agrees with CAD's recommendation
52 Nos. 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 on page 9 of the Joint Application, CAD recommendation No. 6 is not necessary
62 because Limestone has not requested an Acquisition Adjustment in this proceeding. In fact,
63 on page 13 (lines 8-9) of his testimony, Mr. Bradley appropriately notes that Limestone is
64 not requesting an Acquisition Adjustment. For a third example, CAD recommendation No.
65 7 is not necessary because it is expressly proposed on page 11 of the Joint Application that
66 any determination of recoverable regulatory and transaction costs related to the acquisition
67 be deferred to Limestone's initial rate case. Fourth and finally, CAD recommendation No.
68 8 is not necessary because it is expressly provided on page 12 of the Joint Application that

Limestone commits to maintain separate asset and operating-costs records for the System's well, water treatment and distribution.

Q. WHAT IS LIMESTONE'S POSITION WITH RESPECT TO MR. BRADLEY'S RECOMMENDATION NO. 1?

A. If the Joint Application is approved by the Commission, it is Limestone's position that all security deposits presently retained by IRM should be refunded to IRM's customers prior to closing.

Q. WHAT IS LIMESTONE'S POSITION REGARDING MR. BRADLEY'S RECOMMENDATION NO. 2?

A. It appears that this information has already been provided. In its November 27, 2023, Supplemental Responses to the CAD's DR 1-21, IRM responded, in part, that "IRM Utility maintains a negligible balance in its escrow bank account due to the non-routine expenses drawn against the deposits. An annual summary of the escrow bank account activity utilized for all systems is included in the Annual Report filed by IRM Utility."

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

A. Although Limestone reviews practices and records prior to closing, final asset values recorded will be dependent on further evaluation of IRM's 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 post-acquisition.

Further, Limestone does not believe that requiring it to submit the prospective accounting entries for the acquisition prior to closing for 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 IRM acquisition.

Q. WITH RESPECT TO MR. BRADLEY'S RECOMMENDATION NO. 5, DOES LIMESTONE HAVE A 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 [IRM] 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 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."²

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.³

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

³ See *Order Approving Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity*, TPUC Docket No. 21-00055 (Dec. 2, 2022).

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

120 A. No, not at all. I am certain that there are provisions or issues that Limestone has resolved
121 in other cases without intending that such compromising resolutions become a permanent,
122 binding template of sorts for all future similar cases. Rather, Limestone believes that the
123 above-quoted language from the Stipulation and Settlement Agreement in Docket No. 21-
124 00055 represents potentially workable and satisfactory language here in place of Mr.
125 Bradley’s 5th recommendation.

126 For instance, in the Stipulation and Settlement Agreement between Limestone and
127 the CAD in TPUC Docket No. 21-00059 (Candlewood), the parties did not include any
128 requirement that prospective accounting entries for the acquisition be submitted prior to
129 closing for Commission approval.⁴

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

133 A. Yes, in TPUC Docket No. 23-00016.⁵

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

135 A. I recommend that the Joint Application be approved subject to the modifications outlined
136 above in my Rebuttal Testimony, which modifications would consist of Mr. Bradley’s

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

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

137 recommendation Nos. 4 and 6-9, and Limestone's proposed language outlined above in
138 place of Mr. Bradley's recommendation No. 5.

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

140 **A.** Yes, it does.

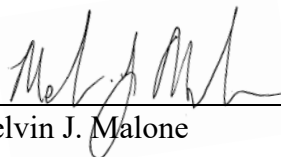
CERTIFICATE OF SERVICE

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

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This the 22nd day of January 2024.



Melvin J. Malone