

NASHVILLE, TENNESSEE
August 6, 2024

**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**

DOCKET NO.
23-00037

The *Settlement Agreement* was intended to resolve the *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 (“Joint Application”) filed by Limestone and IRM on May 24, 2023.

In the *Joint Application*, Limestone and IRM sought Commission authority to transfer from IRM to Limestone via purchase acquisition, all assets, property, and real estate currently used to provide wastewater service to customers of Riverstone Estates Development in Decatur 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. In summary, the panel stated that revisions to the proposed accounting treatment for acquisition, regulatory, and legal costs, were necessary for approval of the *Settlement Agreement*.

BACKGROUND AND JOINT APPLICATION

IRM is a public utility that provides wastewater service to a combination of 224 commercial and residential connections across the State of Tennessee via thirteen distinct and decentralized wastewater systems. IRM was originally granted its CCN to serve the Riverstone Estates Development in Commission Docket No. 09-00099 and, at that time, IRM was approved to operate a wastewater system capable of serving a combination of up to 150 residential customers and a 70-seat restaurant/marina upon full build-out.¹ Riverstone Estates system serves 36 connections as of December 5, 2023.²

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

¹ *In re: Petition of Integrated Resource Management, Inc. D/B/A IRM Utility, Inc. to Amend its CCN to Serve an Area of Decatur County, Tennessee Known as Riverstone Estates*, Docket No. 09-00099; *Order Approving Petition To Amend Certificate Of Public Convenience And Necessity*, p.3 (April 5, 2010).

² *Clarification of 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*, Revised Exhibit 13, Supplemental Ex. 31 (December 5, 2023).

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

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, serving approximately 133,000 customers.⁴ The *Joint Application* includes business charts depicting the organizational details and the relationship of affiliate companies, including 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 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

The *Joint Application* filed on May 24, 2023, requested authorization for IRM to sell and transfer to Limestone all assets, property, and real estate currently used to provide wastewater service to customers at Riverstone Estates in Decatur County, Tennessee. Additionally, Limestone requested that the Commission transfer IRM's CCN or, in the alternative, issue Limestone a new CCN in accordance with T.C.A. §65-4-201 and Commission Rule 1220-4-13-17. IRM and CSWR entered into an *Agreement for Sale of Utility System* dated June 21, 2022 ("*Sale Agreement*").⁹ The *Sale Agreement* provides the specific terms for IRM to sell all assets used for the provision of wastewater

⁴ *Id.* at 5.

⁵ *Id.* at Ex. 5, Ex. 6.

⁶ *Id.* at 5.

⁷ *Id.* at 7-8 and Ex. 12.

⁸ *Id.* at 8-9.

⁹ Joint Application, Exhibit 7 (May 24, 2023).

services to the Riverstone Estates Development in Decatur County, Tennessee. The sale included wastewater service facilities and equipment, inventory, merchandise, supplies, real estate—inclusive of facilities and easements, or any other assets not described that are used or useful for providing wastewater service to the customers in Decatur County.¹⁰ The *Sale Agreement* also gives CSWR the authority to assign its rights to an affiliated entity; therefore, according to that provision, CSWR has executed an *Assignment of Rights*, transferring at closing all rights to Limestone.¹¹ The Riverstone Estates Community in Decatur County, Tennessee, is the only one of IRM’s systems subject to the proposed transaction.

The *Joint Application* included the pre-filed direct testimony of Josiah Cox to provide information regarding the current condition of the Riverstone Estates wastewater system from Limestone’s point of view. A Notice of Violation (“NOV”) was issued by The Tennessee Department of Environment and Conservation (“TDEC”) for the Riverstone Estates system on January 4, 2022.¹² The NOV cited several maintenance deficiencies. Specifically, it was noted that the influent drop pipe was broken, that there was excessive vegetation overgrowth around the perimeter of the lagoon, and that a thick layer of duckweed was noted on the lagoon, indicating the aeration was not very effective and potentially adversely affecting treatment.¹³ In addition, CSWR conducted a third-party evaluation of the system and observed that there was no remote monitoring equipment present at the utility site. Additionally, CSWR observed that the existing flow measurement system was not functioning properly, and that the existing UV/filtration building was found to be cluttered with debris throughout and had no lighting to illuminate the building.¹⁴

¹⁰ *Id.*

¹¹ *Joint Application*, Exhibit 8, *Assignment of Rights*, p.1 (May 24, 2023).

¹² Josiah Cox, Pre-Filed Direct Testimony, pp.15-17 (May 24, 2023).

¹³ *Id.* at 16-17.

¹⁴ *Id.* at 16.

To remedy these issues, Limestone acknowledged the need to address the deficiencies highlighted in the NOV, repair the influent piping, clear vegetation from the site, and make repairs to the treatment plant building among other tasks. Specifically, Limestone provided a capital budget of \$215,000 to be used across a three-year period to bring the Riverstone Estates system up to CSWR and Limestone's standards, as well as safety and health regulations.¹⁵

Limestone proposed to adopt the current rates of IRM, with any future changes subject to Commission approval, with the exception of the escrow and access fees as explained in the *Clarification of the Joint Petition* filed on December 5, 2023.¹⁶ As a result, the customers of Riverstone Estates would pay a lower monthly bill of \$47.98 per month after the acquisition and until Limestone has a modification of rate design ordered by the Commission.¹⁷

Following the intervention of the Consumer Advocate and discovery, Mr. Cox filed supplemental testimony on December 5, 2023. The main purpose of this supplemental testimony is to clarify that Limestone does not intend to charge an escrow fee for Riverstone Estates, if the proposed acquisition is approved by the Commission.¹⁸ The Company proposed to adopt IRM's existing rate structure with the exception of charging the escrow fee.¹⁹

POSITION OF THE CONSUMER ADVOCATE

Following the intervention of the Consumer Advocate, the parties engaged in discovery pursuant to a procedural schedule. On December 13, 2023, Mr. Alex Bradley submitted pre-filed testimony on behalf of the Consumer Advocate. In Mr. Bradley's opinion, the financial information provided by IRM on its balance sheet lacked the necessary detail to determine the appropriate account

¹⁵ *Joint Application*; Exhibit 24 – Riverstone Estates WWTP Report (May 24, 2023).

¹⁶ Josiah Cox, Pre-Filed Direct Testimony, p.16 (May 24, 2023).

¹⁷ *Clarification of 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*, p. 2 (December 5, 2023).

¹⁸ *Id.* at Josiah Cox, Pre-Filed Supplemental Direct Testimony, p. 2 (December 5, 2023).

¹⁹ *Id.*

balances of the utility plant in service for the system. Therefore, he concluded that Limestone's proposal to divide IRM's consolidated account balances by the number of systems (13) owned by IRM, is reasonable given the result does not harm ratepayers and the nature of IRM's accounting records.²⁰ Nevertheless, Mr. Bradley recommended approval of the proposed acquisition transaction, subject to several conditions.

First, the Consumer Advocate recommended all security deposits retained by IRM as of May 24, 2023, should be transferred to Limestone and documentation of such transfer should be provided to the Commission within thirty days of closing. Mr. Bradley calculated that the ratepayers of Riverstone Estates have generated approximately \$19,450 in escrow funds since the Commission's escrow rules changes in 2018 and accordingly, he recommends that same balance of escrowed funds be transferred as part of the sale.²¹ As such, the Consumer Advocate recommended that Limestone and IRM should provide documentation demonstrating the value of the Escrow Account at closing, the value of which should be no less than \$19,450. Given the results of a review of IRM's annual reports, the Consumer Advocate further recommended that the Commission conduct an audit to determine whether IRM is in compliance with Commission rules regarding escrow accounts since it will continue to own and operate Commission-regulated wastewater utilities.²²

Next, Mr. Bradley recommended that Limestone should be required to provide documentation demonstrating the book value of Plant-in-Service at closing, excluding any writeup of land costs supported by an appraisal. 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.²³

²⁰ Alex Bradley, Pre-Filed Direct Testimony, pp.4-5 (December 13, 2023).

²¹ *Id.* at 8-9 citing Tenn. Rules & Regs 1220-04-13-07(7) (2018)

²² *Id.* at 8.

²³ *Id.* at 4, 12.

Mr. Bradley further recommended that the requested Acquisition Premium, in this case, should be set aside in Account 114.00 as a Utility Plant Acquisition Adjustment and its ultimate treatment determined in a future proceeding.²⁴ Similarly, the legal and regulatory costs associated with this transaction should be set aside in Account 183.002 and its ultimate treatment determined in a future proceeding.²⁵ The Consumer Advocate also recommended that Limestone should maintain separate accounting records for Riverstone Estates, distinct from its other systems, and should provide direct customer notifications at the commencement of its first Commission rate case.

Mr. Bradley expressed concern about the impact the results of this proceeding will have on future rates. While Limestone requested the removal of the escrow fee from rates in this proceeding, the incremental operating costs of \$30,000 and the projected level of capital expenditures to be spent post-acquisition for improvements and repairs totaling \$215,000 will have a measurable impact on a small customer base.²⁶ As such, Mr. Bradley recommended the Commission should require Limestone to provide a customer notification to all customers at the commencement of its first rate case that includes prospective changes in rates along with detailed instructions on how customers can file comments regarding Limestone's request with the Commission.²⁷

REBUTTAL TESTIMONY OF JOSIAH COX

Mr. Cox submitted rebuttal and revised rebuttal testimony to support the *Joint Application*. In sum, Mr. Cox testified that while Limestone does not concede any of the Consumer Advocate's recommendations are necessary, Limestone accepts and agrees with certain conditions proposed by the Consumer Advocate. Specifically, Limestone agreed to the Consumer Advocate's proposed accounting treatment for acquisition and legal costs associated with acquiring the facility, maintaining separate accounting systems for Riverstone Estates, providing documentation demonstrating the

²⁴ *Id.* at 4.

²⁵ *Id.* at 10-11.

²⁶ *Id.* at 14.

²⁷ *Id.* at 15.

book-value of the Plant-in-Service at closing, and providing direct customer notifications upon the filing of Limestone's first rate case.²⁸

The Company opposed the remaining recommendations of the Consumer Advocate. With respect to the Consumer Advocate proposal to transfer the security deposits to Limestone, Mr. Cox expressed Limestone's preference to require IRM to refund all security deposits presently retained by IRM for Riverstone Estates.²⁹ In reference to the Consumer Advocate requirement for documentation of the balance of the escrow account at closing, Mr. Cox testified that the information has already been provided by IRM through discovery.³⁰ With respect to the Consumer Advocate's demand for an escrow audit as a condition on the transaction, Mr. Cox acknowledged that the Commission already has the authority to ensure compliance with its rules and regulations, including its escrow rules for wastewater providers and that the Commission may exercise its authority at its discretion at any time.³¹

Limestone opposed the Consumer Advocate's proposed prohibition on restating historical account balances. Mr. Cox asserted that while the Company works to avoid restating asset balances, accounting errors or abnormalities may be uncovered after an acquisition agreement has been executed, or perhaps even after closing.³² As a compromise, Mr. Cox proposed to align the Consumer Advocate's recommendation with language agreed upon by the Consumer Advocate and Limestone in a previously Commission approved settlement agreement in Docket No. 21-00055 which would allow Limestone to seek approval from the Commission to make such accounting changes.³³

²⁸ Josiah Cox, Revised Pre-Filed Rebuttal Testimony, p. 3 (January 22, 2024).

²⁹ *Id.* at 4.

³⁰ *Id.*

³¹ *Id.* at 3.

³² *Id.* at 4-5.

³³ *Id.* at 5 citing *In re: Application of Limestone Water Utility Operating Company, LLC for Authority to Sell or Transfer Title of the Assets, Property, and Real Estate of a Public Utility, Shiloh Falls Utilities, Inc. And for a Certificate of Public Convenience and Necessity*, Docket No. 21-00055, *Order Approving Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity*, Ex. 1, p. 3 (December 2, 2022).

On May 10, 2024, Limestone submitted the pre-filed testimony of Mr. Brent G. Thies, the Vice President and Corporate Controller of Limestone, to adopt the previously filed direct, rebuttal, and revised rebuttal testimony of Mr. Cox.³⁴

THE PROPOSED SETTLEMENT AGREEMENT

The *Settlement Agreement* was filed on February 14, 2024. It sets forth terms and conditions, which if approved by the Commission, would resolve the contested issues in this docket and effectuate the sale and transfer of the Riverstone Estates system to Limestone. With regard to Limestone's initial base rate case involving Riverstone Estates, the Parties have agreed to two significant conditions. First, Limestone would be allowed to present evidence and argument concerning an acquisition adjustment related to the purchase of IRM's assets in a future rate case.³⁵ The Consumer Advocate or other interested parties would have the opportunity to oppose such values or present their own evidence and argument concerning the value of such assets. In the interim, any future proposed acquisition adjustment should be set aside in Account 114.00 as a Utility Plant Acquisition Adjustment.

Second, Limestone would be allowed to present evidence seeking to establish and include in rate base amounts incurred for legal and other transaction-related fees and services. 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. The Parties agree the legal and regulatory costs associated with this transaction should be set aside in Account 183.002.³⁶

With respect to security deposits, the Parties agreed that the total of all security deposits held by IRM as of May 24, 2023, is *de minimis* and will be refunded to the appropriate customers.

³⁴ Brent G. Thies, Pre-Filed Direct Testimony, p. 3 (May 10, 2024).

³⁵ *Settlement Agreement*, p. 4 (February 14, 2024).

³⁶ *Id.*

Limestone will not require security deposits in its tariff.³⁷ The Consumer Advocate agreed to withdraw its recommendations concerning the appropriate amount to transfer from IRM's escrow account regarding the Riverstone system and whether a Commission Staff audit regarding escrow accounts is necessary to determine whether IRM has complied with Commission rules.

Limestone further agreed to provide documentation demonstrating the book value of Plant-in-Service at closing, excluding any writeup of land costs supported by an appraisal. Limestone agreed that it would 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.³⁸

The 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. Limestone will file within 30 days of closing the amount of legal costs, separated by represented party, incurred for this matter.³⁹

Under the settlement terms, Limestone is obligated to provide direct customer notifications at the commencement of its rate case filing and maintain separate accounting records for Riverstone Estates, distinct from its other systems. 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 IRM's ending balances of the assets acquired by Limestone as of the closing date. Limestone shall also file a balance sheet and supporting

³⁷ *Id.* at 3.

³⁸ *Id.* at 3-4.

³⁹ *Id.* at 5.

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 IRM as of the closing date.⁴⁰

Among other settlement terms, Limestone is required to adopt IRM's presently tariffed rates, charges, and terms of service, and it shall file a new tariff consistent with Exhibit 31 to the *Joint Application* within 30 days after the date of acquisition. The tariff shall identify all residential subdivisions by each subdivision name, as well as any commercial customers being served within Limestone's CCN.⁴¹ The *Settlement Agreement* requested that the Commission adopt the agreement in its entirety without modification; however, paragraph 31 of the agreement provides that in the event the Commission does not approve the *Settlement Agreement* in its entirety, the Parties may exercise their rights within 15 business days of the Commission's action to terminate the agreement or, by unanimous consent, elect to modify the Settlement Agreement to address any modification required by the Commission.⁴²

COMMISSION DATA REQUESTS

Following the filing of the *Settlement Agreement*, the Commission issued a data request on February 16, 2024. The data requests sought clarification of the requirements in the *Settlement Agreements*, specifically paragraphs 8 and 9. In summary, the Commission sought clarification as to whether the parties to the *Settlement Agreement* intended to alter the previous accounting treatment ordered by the Commission in previous Limestone acquisition dockets. In previous orders over several acquisition dockets, the Commission has specifically prohibited Limestone from deferring or booking a regulatory asset for acquisition adjustments or legal and regulatory costs associated with

⁴⁰ *Id.* at 6-7.

⁴¹ *Id.* at 5.

⁴² *Id.* at 8-9.

the acquisition.⁴³ The Commission further sought clarification as to whether the parties intended to create a presumption of recovery of acquisition and associated legal and regulatory costs by recording the costs in USOA Asset Accounts 114.00 and 183.002 respectively.⁴⁴

In a response filed on February 22, 2024, the Consumer Advocate indicated that there are no rate-making implications associated with the accounting treatment prescribed in the *Settlement Agreement*.⁴⁵ The Consumer Advocate indicated, in summary, it did not seek to deviate from the Commission's prior ruling in previous Limestone acquisition in a "substantive manner," but sought to provide a means to record the costs in the interim before Limestone's first rate case.⁴⁶ On March 14, 2024, Limestone filed a response to the Commission Data Request indicated it neither sought to change the accounting treatment ordered by the Commission in previous dockets nor did Limestone believe the accounting treatment proposed in the *Settlement Agreement* bound the Commission to accept those costs.⁴⁷

⁴³ See *In re: Joint Application of Aqua Utilities Company, Inc. and Limestone Water Utility Operating Company, LLC for Authority to Sell or Transfer Title to the Assets, Property, and Real Estate of a Public Utility and for a Certificate of Convenience and Necessity*, Docket No. 19-00062, *Order Approving Sale of Assets, Property, and Real Estate and Certificate of Public Convenience of Aqua Utilities Company, LLC Subject to Conditions and Requirements of the Tennessee Public Utility Commission*, pp. 17-18 (Dec. 7, 2020); *In re: Application of Limestone Water Utility Operating Company, LLC for Authority to Sell or Transfer Title to the Assets, Property, and Real Estate of a Public Utility, Cartwright Creek L.L.C., and for a Certificate of Public Convenience and Necessity*, Docket No. 21-00053, *Order Approving Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity*, pp. 5,11 (Jan. 24, 2022); *In re: Application of Limestone Water Utility Operating Company, LLC for Authority to Sell or Transfer Title to the Assets, Property, and Real Estate of a Public Utility, Shiloh Falls Utilities, Inc., and for a Certificate of Public Convenience and Necessity*, Docket No. 21-00055, *Order Approving Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity*, pp. 5,12 (Dec. 2, 2022); *In re: Application of Limestone Water Utility Operating Company, LLC for Authority to Purchase Title to the Assets, Property, and Real Estate of a Water System Candlewood Lakes, and for a Certificate of Public Convenience and Necessity*, Docket No. 21-00059, *Order Approving Settlement Agreement and Transfer of Systems, Granting Certificate of Convenience and Necessity, and Disallowing Continuation of Candlewood Lakes POA's Water Availability Fee* pp. 5,12 (Jan. 5, 2023); *In re: Application of Limestone Water Utility Operating Company, LLC for Authority to Purchase Title to the Assets, Property, and Real Estate of a Wastewater System, Chapel Woods, and for a Certificate of Public Convenience and Necessity*, Docket No. 21-00060, *Order Approving Settlement Agreement and Transfer of System, and Granting Certificate of Convenience and Necessity*, pp. 5,11 (Dec. 2, 2022); and *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, 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, *Order Approving Settlement Agreement and Transfer of System, and Granting Certificate of Convenience and Necessity*, pp. 5,14 (Dec. 26, 2023).

⁴⁴ Commission Data Request, pp. 2-3 (February 16, 2024).

⁴⁵ *Consumer Advocate's Response to Staff's Joint Data Request to All Parties*, p. 2 (February 22, 2024).

⁴⁶ *Id.* at 3-4.

⁴⁷ *Limestone's Response to Staff's Joint Data Request*, pp. 2-3 (March 14, 2024).

HEARING ON THE MERITS

A hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on May 20, 2024, as noticed by the Commission on May 10, 2024. Participating in the hearing were the following parties and their respective counsel:

Limestone – Katherine Barnes, Esq., Butler Snow, LLP, 150 3rd Avenue South, Suite 1600, Nashville, Tennessee 37201.

IRM – Charles B. Welch, Jr., Esq., Farris Bobango PLC, 414 Union Street, Ste. 1105, Nashville, Tennessee 37219

Consumer Advocate – Shilina B. Brown, Esq., Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, TN 37202.

Mr. Brent G. Thies provided testimony telephonically in support of the *Settlement Agreement*. During the hearing, the public was given an opportunity to offer comment, but no member of the public sought to comment.

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.”⁴⁸ 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 issues by the commission, to any individual, partnership, corporation, or other entity without first obtaining the approval of the commission.⁴⁹

⁴⁸ Tenn. Code Ann. § 65-4-104(a) (2022).

⁴⁹ Tenn. Code Ann. § 65-4-113(a) (2022).

When considering a transfer of authority to provide utility services, the Commission must consider all relevant factors, “including, but not limited to, the suitability, the 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.”⁵⁰ Upon a finding that the transfer furthers the public interest, the Commission shall approve the transfer.⁵¹ 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.⁵²

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 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.⁵³

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

⁵⁰ Tenn. Code Ann. § 65-4-113(b) (2022).

⁵¹ *Id.*

⁵² Tenn. Code Ann. § 65-4-113(c) (2022).

⁵³ Tenn. Code Ann. § 65-4-109 (2022).

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.⁵⁴

The rule further establishes minimum information filing guidelines for applications for new or amended CCNs.⁵⁵

FINDINGS AND CONCLUSIONS

The panel found that the Parties’ proposed *Settlement Agreement* outlining the terms and conditions for the transfer of a CCN, and sale and transfer of authority to provide utility services for Riverstone Estates from Integrated Resources Management, Inc. d/b/a IRM Utility to Limestone Water Utility Operating Company, LLC, appears reasonable in that the agreement prescribes certain accounting, ratemaking, and filing requirements that are consistent with the accounting standards, ratemaking methodologies, and documentation provisions approved by the Commission in prior cases involving utility acquisitions and CCNs. Consistent with the settlement agreement and the evidentiary record, the panel also found that Limestone has the requisite managerial, technical, and financial capabilities to operate the Riverstone Estates wastewater system in Decatur County now owned and operated by IRM.

Additionally, since the owner of IRM no longer wants to provide wastewater service to customers in the Riverstone Estates service territory, the panel found that the agreement demonstrates a public need for Limestone to service the area, and that the agreement’s sale and transfer of the service area and authority to provide wastewater services to Limestone, furthers the public interest. However, the panel found that the interim accounting provision regarding any future proposed

⁵⁴ Tenn. Comp. R. & Regs. 1220-04-13-.17.

⁵⁵ *Id.*

acquisition adjustment set forth in the last sentence of paragraph 8 of the agreement, as well as the interim accounting provision regarding any potential recovery of legal and regulatory costs set forth in the first sentence of paragraph 9, are not consistent with the Commission's orders issued in Limestone's prior utility acquisition cases and do not satisfy appropriate asset recognition principles for ratemaking purposes.

As in setting just and reasonable rates, the Commission has a great deal of latitude, discretion, and authority over public utilities and their accounting practices. Nevertheless, it would be remiss to deviate too far from accepted accounting principles as they relate to the creation and consequences of a regulatory asset and how such assets are accounted.⁵⁶ In the course of several dockets, the Commission has ordered Limestone not to book a regulatory asset for acquisition adjustments or for legal and regulatory costs associated with the acquisition of assets. These directives are at odds with provisions of the proposed settlement requiring the creation of such assets in USOA Asset Accounts 114.00 and 183.002, respectively. A strict application of accounting principles to such requirements would create a presumption of recovery for issues that have not yet been heard by the Commission, and indeed, on issues the parties have agreed to defer until Limestone files a future rate case. While it is the express intent of the parties that the proposed accounting treatment does not bind the hands of the Commission, the Commission deems that it is important public policy not to encourage too much flexibility in the application of accounting principles for the creation of regulatory assets that can have unforeseen influence and unintended consequences in future dockets with different parties.

As the Commission has consistently ordered in Limestone's prior utility acquisition cases, and consistent with the Parties' agreement filed in this docket, the panel found that the determination of the recoverability of any future proposed acquisition adjustment and regulatory and transaction

⁵⁶ FASB (Financial Accounting Standards Board), *Industry "Recognition of Regulatory Assets" 980-340-25-1*, Accounting Standards Codification (Aug. 5, 2024, 4:00 PM), <https://asc.fasb.org/1943274/2147477711/980-340-25-1>; NARUC (National Association of Regulatory Utility Commissioners), Uniform System of Accounts (USOA) for Class A Wastewater Utilities, Definition 28 "Regulatory Assets and Liabilities" (1996).

costs associated with this case will be deferred to Limestone's initial rate case involving Riverstone Estates and that, in the interim, Limestone shall adopt IRM's presently tariffed rates, charges, and terms of service, as provided in the agreement.

Furthermore, as the Commission has consistently ordered in Limestone's prior utility acquisition cases, the panel found that Limestone shall not be authorized to book regulatory assets for any future proposed acquisition adjustment or for any potential recovery of regulatory and transaction costs associated with this case, but it may account for these items either in the calculation of earnings or in nonutility accounts.

Therefore, the panel voted unanimously to approve the *Settlement Agreement*, conditioned upon removal of the interim accounting provisions set forth in the last sentence of paragraph 8 and the first sentence of paragraph 9. Consistent with paragraph 31 of the agreement, the Parties shall notify the Hearing Officer within 15 business days of this date whether they elect to modify the *Settlement Agreement* accordingly and refile a revised agreement removing the interim accounting provisions, or whether they elect to terminate the agreement. If the agreement is terminated, the Hearing Officer is directed to set the *Joint Application* for hearing before the Commission.

IT IS THEREFORE ORDERED THAT:

1. The Stipulation and Settlement Agreement executed and submitted by the Consumer Advocate Division of the Office of the Tennessee Attorney General, Limestone Water Utility Operating Company, LLC, and Integrated Resource Management, Inc., on February 14, 2024, is approved contingent upon removal of the last sentence of Paragraph 8 and the first sentence of paragraph 9 of the Stipulation and Settlement Agreement.

2. The Consumer Advocate Division of the Office of the Tennessee Attorney General, Limestone Water Utility Operating Company, LLC, and Integrated Resource Management, Inc., shall notify the Hearing Officer by June 10, 2024, as to whether the Parties will file a revised settlement agreement reflecting this decision or choose to terminate the Stipulation and Settlement Agreement

and proceed to hearing.

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.

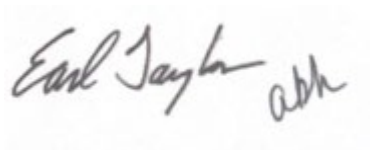
4. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Herbert H. Hilliard,
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 smaller, less legible signature or initials "abh".

Earl R. Taylor, Executive Director