

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)
)
JOINT APPLICATION OF LIMESTONE)
WATER UTILITY OPERATING)
COMPANY, LLC, SUNSET COVE)
CONDOMINIUM HOA OF NORRIS)
LAKE, INC. AND COMMERCIAL)
BANK FOR APPROVAL OF THE)
ACQUISITION OF AND TO OPERATE)
THE WASTEWATER SYSTEM OF)
SUNSET COVE CONDOMINIUM HOA)
OF NORRIS LAKE, INC. AND)
COMMERCIAL BANK, AND TO ISSUE)
A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)

DOCKET NO. 23-00070

DIRECT TESTIMONY

OF

DAVID N. DITTEMORE

January 11, 2024

Table of Contents

I.	BACKGROUND	1
II.	PURPOSE OF TESTIMONY	2
III.	EXECUTIVE SUMMARY	4
	COMPANY PROPOSALS	4
	CONSUMER ADVOCATE PROPOSALS	5
IV.	FINDINGS	5
	ACQUISITION APPROVAL	5
	PROPOSED CUSTOMER CHARGE	6
	TRANSACTION COSTS	8
	DEPRECIATION RATES	8
	ACCOUNTING ENTRIES	9
	FINANCIAL STATEMENTS	10
	REVENUE REQUIREMENT IMPLICATIONS OF ACQUISITIONS ON LEGACY CUSTOMERS	11
	THE COMMISSION SHOULD OPEN AN INVESTIGATION INTO THE POLICY ISSUE OF RATE CONSOLIDATION	16

1 **I. Background**

2 **Q1. PLEASE STATE YOUR NAME AND OCCUPATION FOR THE RECORD.**

3 **A1.** My name is David N. Dittmore. I am a self-employed consultant working in the utility
4 regulatory sector.

5 **Q2. PLEASE PROVIDE A SUMMARY OF YOUR BACKGROUND AND**
6 **PROFESSIONAL EXPERIENCE.**

7 **A2.** I received a Bachelor of Science Degree in Business Administration from the University
8 of Central Missouri in 1982. I am a Certified Public Accountant licensed in Oklahoma
9 (#7562). I was previously employed by the Kansas Corporation Commission (“KCC”) in
10 various capacities, including Managing Auditor, Chief Auditor, and Director of the
11 Utilities Division. I was self-employed as a Utility Regulatory Consultant for
12 approximately four years, representing primarily the KCC Staff in regulatory issues. I also
13 participated in proceedings in Georgia and Vermont, evaluating issues involving electricity
14 and telecommunications regulatory matters.

15 Additionally, during this time frame, I performed a consulting engagement for Kansas Gas
16 Service (“KGS”), my subsequent employer. For eleven years, I served as Manager and
17 subsequently Director of Regulatory Affairs for KGS, the largest natural gas utility in
18 Kansas, serving approximately 625,000 customers. KGS is a division of One Gas, a natural
19 gas utility serving about two million customers in Kansas, Oklahoma, and Texas. I joined
20 the Tennessee Attorney General's Office in September 2017 as a Financial Analyst. In July
21 2021, I began my consulting practice.

1 I have been a Board Member of the Financial Research Institute (University of Missouri).
2 I have also been a member of the National Association of Regulatory Utility Commissions
3 Subcommittee on Accounting, the Vice-Chair of the Accounting Committee of the
4 National Association of State of Utility Consumer Advocates ("NASUCA"), and an active
5 participant in NASUCAs' Natural Gas and Water Committees.

6 Overall, I have thirty years of experience in public utility regulation. I have presented
7 testimony as an expert witness on many occasions. Attached as Exhibit DND-1 is a detailed
8 overview of my background.

9 **Q3. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE**
10 **TENNESSEE PUBLIC UTILITY COMMISSION ("TPUC" OR THE**
11 **"COMMISSION")?**

12 **A3.** Yes. I have submitted testimony in many TPUC dockets.

13 **Q4. ON WHOSE BEHALF ARE YOU APPEARING?**

14 **A4.** I am appearing on behalf of the Consumer Advocate Division of the Tennessee Attorney
15 General's Office ("Consumer Advocate").

16 **II. Purpose of Testimony**

17 **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 **A5.** The purpose of my testimony is to provide recommendations on behalf of the Consumer
19 Advocate regarding the request of Limestone Water Utility Operating Company,
20 ("Limestone" or the "Buyer") to acquire the wastewater system of Sunset Cove

1 Condominium HOA of Norris Lake and Commercial Bank (“Sunset Cove” or the “Seller”)
2 and collectively (“Joint Applicants”).

3 **Q6. WHAT DOCUMENTS HAVE YOU REVIEWED IN CONJUNCTION WITH**
4 **YOUR WORK ON THIS DOCKET?**

5 **A6.** I have reviewed the original application, the amended application and the discovery
6 responses provided in this docket.

7 **Q7. WHAT ARE THE APPLICANTS REQUESTING IN THIS PROCEEDING?**

8 **A7.** The Joint Applicants request approval of the acquisition wherein the wastewater facilities
9 of Sunset Cove would be transferred to Limestone, and a finding that the transaction is in
10 the public interest, granting Limestone a Certificate of Convenience and Necessity
11 (“CCN”) and authorizing accounting and rate base treatment of the transaction. Limestone
12 seeks to implement a fixed customer charge of \$30.73 per month, consistent with the rates
13 of DSH adopted in the Company’s acquisition docket 23-00016.¹

14 **Q8. PLEASE IDENTIFY THE SCOPE OF LIMESTONE’S OPERATIONS.**

15 **A8.** CSWR, LLC (“CSWR”) operates water and wastewater utilities in eleven states serving
16 approximately 139,000 customers.² Limestone operates in Tennessee and is owned by
17 CSWR,³ a rapidly growing entity, having acquisition requests pending in nine states.⁴ The

¹ *Amended and Clarified Joint Application*, Supplemental Exhibit 9, Testimony of Josiah Cox at 3:6-12, TPUC Docket No. 23-00070 (December 21, 2023). Initially, Limestone stated it proposed the same monthly rates of \$43.37 that the Seller charged, but it clarified that Limestone would not charge the escrow fee or a bonding charge resulting in a monthly amount of \$30.73. *Id*

² *Joint Application*, Exhibit 6, Affiliates and Number of Customers.

³ *Joint Application*, Exhibit 5, Organizational Chart. The proposed acquisition is between the Seller and Central States Water Resources, Inc. (“Central States”). Once the transaction is complete, Central States “will transfer to Limestone all sewer system assets.” *Joint Application*, Exhibit 9, Testimony of Josiah Cox at 17:11-20.

⁴ *Joint Application*, Exhibit 9, Direct Testimony of Josiah Cox at 7:9-11.

1 Company's growth is further emphasized by the number of new employees joining the
2 Company in 2022 as highlighted in Exhibit 15 of the *Joint Application*. CSWR is owned
3 by US Water, LLC,⁵ who in turn is financed by an unidentified private equity firm.⁶

4 III. Executive Summary

5 Company Proposals

6 **Q9. PLEASE SUMMARIZE YOUR RECOMMENDATIONS IN THIS PROCEEDING.**

7 **A9.** I recommend the Commission approve the Company's proposals as follows:

- 8 1. Authority to acquire the assets of Sunset Cove for the nominal amount of \$1,
9 subject to the Company obtaining all necessary permits and other operating
10 authorizations from the Tennessee Department of Environmental Conservation
11 ("TDEC").
- 12 2. The adoption of the proposed monthly customer charge of \$30.73 per month
13 applied to each member of Sunset's Homeowner's Association ("HOA"). As
14 referenced in Supplemental Testimony, the Company does not request to charge
15 an escrow fee at this time.⁷
- 16 3. The determination of whether any regulatory and/or transaction costs are
17 eligible for recovery from customers will be determined in the Company's
18 initial rate case filing. Such costs should be set aside in Account 183, for ease
19 of reference in future proceedings. The Company has committed that it will not
20 seek recovery in rates more than 50% of the legal costs incurred in this
21 proceeding.⁸
- 22 4. The proposal to adopt the depreciation rates of Limestone should be approved.
23 The acceptance of the existing depreciation rates of Limestone⁹ should not be
24 used as evidence of the reasonableness of such rates in a future rate proceeding.

⁵ *Joint Application*, Exhibit 5, Organizational Chart.

⁶ *Amended and Clarified Joint Application*, Supplemental Exhibit 9, Direct Testimony of Josiah Cox at
12:17-21.

⁷ *Id.* at 3:6-12.

⁸ *Joint Application*, p. 10, TPUC Docket No. 23-00070 (September 15, 2023).

⁹ *Joint Application*, Appendix A, pp. 5-6 and Exhibit 20. The Company states in Appendix A that it seeks
adoption of the depreciation the Commission has approved for IRM, as reflected in IRM's annual report attached as
Exhibit 20. However, Exhibit 20 contains the financial statements of Limestone, not of IRM. It is more logical that
the Commission adopt the existing depreciation rates of Limestone in this proceeding. For purposes of my testimony,

Consumer Advocate Proposals

In addition to adopting the Company's proposals above, I also recommend adoption of the following provisions:

1. The Company should provide its proposed accounting entries at the time of the acquisition for review and approval by the Commission. The submission should be made within this docket and a copy provided to the Consumer Advocate.
2. The Commission should require the Company to identify and provide the financial statements of the Wall Street private equity firm referenced in the testimony of Mr. Cox.
3. The Commission should require future wastewater applications to address the revenue requirement implications of the acquisition on existing Limestone customers, assuming the Commission adopts consolidated rates. The Company should be required to submit an analysis estimating the revenue requirement of the acquired system after all necessary capital expenditures have been made.
4. The Commission should open an investigation into whether rate consolidation is in the public interest. The determination of this issue should then be incorporated into the definition of public interest in the evaluation of wastewater acquisitions.

IV. Findings

1. Acquisition Approval

Q10. PLEASE BEGIN A DISCUSSION OF YOUR FINDINGS BY OUTLINING WHY YOU ARE RECOMMENDING THE COMMISSION APPROVE THE COMPANY'S PROPOSAL, SUBJECT TO CONDITIONS.

A10. I believe the Company has demonstrated that they possess the technical and managerial expertise to operate the Sunset Cove facilities. The Company has indicated that its

I am assuming the Company is seeking adoption of the Limestone depreciation rates as set forth in its Exhibit 20 to be applied to the operations of Sunset Cove going forward. *Id.*

1 financial supporter is committed to providing the necessary capital to support the system.

2 I will discuss this point later in my testimony.

3 **Q11. DOES THE COMPANY RELY UPON THIRD-PARTY CONTRACTORS TO**
4 **OPERATE THEIR SYSTEMS?**

5 **A11.** Yes. Relying exclusively upon third-party operators to manage the day-to-day operations
6 of a utility is somewhat unique. Whether this model is optimal from an operational
7 standpoint has yet to be established. This approach selected by the Company, coupled with
8 the fact that its owners are private equity investors may be an indication that CSWR does
9 not intend to own these assets for an extended time period.

10 **Q12. DO YOU HAVE ANY OVERRIDING CONCERNS WITH THE OPERATIONS OF**
11 **LIMESTONE OR CSWR THAT SHOULD PREVENT ADOPTION OF THE**
12 **APPLICANT'S REQUEST?**

13 **A12.** No, none that I am aware of at this time. For this reason, I recommend the Commission
14 approve this transaction, subject to other conditions described in my testimony, none of
15 which in my opinion pose barriers for the transaction to proceed.

16 **2. Proposed Customer Charge**

17 **Q13. WHAT IS THE MONTHLY CUSTOMER CHARGE PROPOSED BY THE**
18 **COMPANY IN THIS PROCEEDING?**

19 **A13.** \$30.73.¹⁰

¹⁰ *Amended and Clarified Joint Application, Supplemental Exhibit 9, Testimony of Josiah Cox at 3:6-12.*

1 **Q14. WHY SHOULD THE COMMISSION ADOPT A RATE IN THIS PROCEEDING**
2 **RATHER THAN SIMPLY ADOPTING THE CURRENT RATES OF SUNSET**
3 **COVE?**

4 **A14.** Sunset Cove is unique in that there are no current rates charged for the provision of
5 wastewater service. Any costs incurred related to ownership of the system are incurred
6 through HOA fees. It is not reasonable to expect the new owners to operate the system
7 without collecting any customer revenue. Therefore, I support the concept that a rate
8 change is in order associated with this transaction. Further, the customers of Sunset Cove
9 are the Joint Applicant's in this proceeding, in which the proposed charge is being
10 requested.

11 **Q15. DO YOU BELIEVE THE PROPOSED MONTHLY CUSTOMER CHARGE OF**
12 **\$30.73 IS REASONABLE?**

13 **A15.** Yes.

14 **Q16. WHAT IS THE BASIS FOR YOUR OPINION THAT THE PROPOSED CHARGE**
15 **IS REASONABLE?**

16 **A16.** The proposed rates are less than most of the existing rates charged by Limestone.¹¹ Further,
17 as I will discuss later in my testimony, once Limestone's operations are fully implemented,
18 the cost to service this small system will far exceed the revenue stream from the proposed
19 customer charge. I have not conducted a formal study to evaluate the reasonableness of this

¹¹ *Id.* at Supplemental Exhibit 31.

1 proposed rate. However, a review of the confidential response to Consumer Advocate DR
2 No. 1-10, causes me to conclude that the proposed rate is not excessive.

3 **3. Transaction Costs**

4 **Q17. WHAT IS THE COMPANY PROPOSING WITH REGARD TO THE RECOVERY**
5 **OF THE TRANSACTION COSTS INCURRED IN THIS PROCEEDING?**

6 **A17.** The Company's position is that.

7 *"Limestone commits that a determination of recoverable regulatory and*
8 *transaction costs related to this acquisition will be deferred to Limestone's*
9 *initial rate case involving such costs. Limestone commits that it will not seek*
10 *to recover in rates any amount exceeding 50% of the legal expenses paid to*
11 *local counsel for the representation of Limestone, Sunset Cove or Commercial*
12 *Bank related to this regulatory proceeding. The Consumer Advocate Unit and*
13 *other interested parties may present evidence and argument concerning the*
14 *proper amounts to be recovered in rates."*¹²

15 **Q18. DO YOU AGREE WITH THE COMPANY'S POSITION ON THIS ISSUE?**

16 **A18.** Yes. I would also recommend that these costs be accounted for in a distinct subaccount
17 that is exclusively related to this transaction.

18 **4. Depreciation Rates**

19 **Q19. IS THE COMPANY SEEKING ADOPTION OF DEPRECIATION RATES IN THIS**
20 **PROCEEDING?**

21 **A19.** Yes. The Company is seeking approval of depreciation rates, purportedly identical to those
22 of IRM.¹³ However, the referenced depreciation rates appear to be those of Limestone as
23 set forth in Exhibit 20.¹⁴

¹² Joint Application at p. 10.

¹³ Limestone's Response to Consumer Advocate DR No. 1-4, TPUC Docket No. 23-00070 (November 21,
2023).

¹⁴ Joint Application, Appendix A II. (2)(e)(4).

1 **Q20. WHAT IS YOUR RECOMMENDATION REGARDING THE ADOPTION OF**
2 **DEPRECIATION RATES FOR THE NEW SUNSET COVE SYSTEM?**

3 **A20.** I recommend the Commission adopt the depreciation rates contained in Exhibit 20,
4 Schedule S-2 of the *Joint Application*. Sunset Cove has virtually no plant-in-service at this
5 time. During discovery, Limestone stated that it is only seeking to establish a net book
6 value of the acquired assets of \$1.¹⁵ I recommend that the Commission indicate that there
7 should not be any depreciation expense recorded on legacy Sunset Cove plant in service,
8 such that the referenced depreciation rates would only apply to subsequent capital
9 investment made by Limestone.

10 **5. Accounting Entries**

11 **Q21. DO YOU HAVE A RECOMMENDATION REGARDING THE ACCOUNTING**
12 **ENTRIES THE COMPANY WILL MAKE TO RECORD THIS TRANSACTION?**

13 **A21.** Yes. During discovery, Limestone stated that it does not intend to restate its account
14 balances resulting from the transaction at a later date and provided a pro-forma accounting
15 entry within its response.¹⁶ If the Company intends to record an accounting entry that
16 differs from its stated position,¹⁷ I recommend it be supplied to the Commission within this
17 docket upon closing, for Commission approval.

¹⁵ Limestone's Response to Consumer Advocate DR No. 1-2.

¹⁶ Limestone's Response to Consumer Advocate DR No. 1-3.

¹⁷ *Id.*

1 **6. Financial Statements**

2 **Q22. HAS THE COMPANY RECEIVED PROMISES FROM ITS OWNERS TO**
3 **PROVIDE THE NECESSARY CAPITAL TO MAKE IMPROVEMENTS TO THE**
4 **LIMESTONE SYSTEM?**

5 **A22.** Yes. Mr. Cox stated the following:

6 *The affiliated group of which Limestone is a member has been able to secure*
7 *an ongoing commitment from a Wall Street private equity firm to provide*
8 *capital necessary to purchase small, oftentimes distressed, water and*
9 *wastewater systems and then make investments necessary to bring those*
10 *systems into compliance with applicable health, safety, and environment*
11 *protection laws and regulations. This investment commitment also includes*
12 *working capital necessary to operate until an application for compensatory*
13 *rates, where and when appropriate, can be formally requested and approved.*¹⁸

14 **Q23. DO YOU BELIEVE THIS COMMITMENT IS SUCH THAT IT DEMONSTRATES**
15 **THE FINANCIAL CAPABILITY OF LIMESTONE TO MAKE NECESSARY**
16 **IMPROVEMENTS?**

17 **A23.** No. The ultimate source of Limestone financing is provided by the private equity firm
18 referenced in Mr. Cox's testimony.¹⁹ Without such financing, Limestone would not be
19 able to make the system upgrades it believes are necessary in the provision of wastewater
20 service. This entity has no obligation or requirement to finance the operations of CSWR.
21 The Company has not provided any evidence of the financial capability of the private
22 equity firm, rather simply the unnamed, unregulated entity has made a "commitment" of
23 some type to provide the necessary financing.

¹⁸ Joint Application, Exhibit 9, Direct Testimony of Josiah Cox at 12:17 – 13:1.

¹⁹ Id. at 12:17 – 13:12.

1 **Q24. HAS THE PRIVATE EQUITY FIRM THUS FAR PROVIDED THE NECESSARY**
2 **CAPITAL TO OWN AND OPERATE WASTEWATER SYSTEMS?**

3 **A24.** CSWR continues to expand the scope of its operations.²⁰ Therefore, it would appear that
4 the private equity firm has thus far provided the necessary financial support to operate its
5 various systems.

6 **Q25. WHAT IS YOUR RECOMMENDATION REGARDING FUTURE REQUESTS BY**
7 **LIMESTONE TO ACQUIRE WASTEWATER SYSTEMS BEFORE**
8 **COMMISSION?**

9 **A25.** I recommend that the Commission require Limestone to identify the private equity firm
10 providing the financing to CSWR and to provide the firms audited financial statements as
11 an exhibit within the *Joint Application*. This would provide some measure of transparency
12 regarding the financial capability of the entity responsible for providing financing. These
13 two requirements I am supporting are in alignment with the Russian proverb: which
14 President Reagan quoted in arms talks with the Soviet Union: "Trust but verify."²¹ Absent
15 these requirements, the Commission is simply taking the word of Mr. Cox that a third party
16 has indicated to him that appropriate financing will be available.

17 **7. Revenue requirement implications of Acquisitions on legacy customers**

18 **Q26. HAVE YOU REVIEWED THE INCREMENTAL COSTS TO LIMESTONE THAT**
19 **WILL BE INCURRED ONCE THIS TRANSACTION IS APPROVED?**

²⁰ *Joint Application*, Exhibit 9, Direct Testimony of Josiah Cox at 7:9-11.

²¹ William D. Watson, *Trust, but Verify: Reagan, Gorbachev, and the INF Treaty*, The Hilltop Review. Vol. 5: Iss. 1, Article 5, p. 38 (2011) (citing Hoffman, David E. *The Dead Hand: The Untold Story of the Cold War Arms Race and Its Dangerous Legacy*. New York: Doubleday, 2009). The Hilltop Review article can be accessed at <https://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=1045&context=hilltopreview>.

1 **A26.** Yes. I have calculated the revenue requirement associated with the return on the estimated
2 capital expenditures identified by the Company.²² I have also determined the incremental
3 O&M costs resulting from this transaction based upon confidential information provided
4 during discovery.²³ The sum of these two revenue requirement components approximates
5 ████████ per month.

6 **Q27. WHAT DOES THIS AMOUNT REPRESENT?**

7 **A27.** If the Commission were to authorize the establishment of rates for Sunset Cove based upon
8 the costs to serve these twelve customers, I estimate the cost would be more than ██████████
9 per month. The underlying calculations are set forth in Exhibits DND-2 through DND-4,
10 with the latter two Exhibits containing information deemed confidential by the Company.

11 **Q28. WHY DO YOU BELIEVE THE RATES CHARGED WOULD BE IN EXCESS OF**
12 **THIS AMOUNT?**

13 **A28.** I have considered two of the largest revenue requirement components, the return on Rate
14 Base and the incremental O&M costs associated with third-party labor necessary to operate
15 the new system. However, these costs do not include any allocated internal labor of CSWR
16 that is incurred to manage external contractors, provide customer service support, as well
17 as traditional legal, accounting and regulatory functions. These internal costs would be in
18 addition to the costs identified above. In summary, if the Commission established rates for
19 Sunset Cove on a stand-alone basis, the resulting rates would be extremely high.

²² *Joint Petition*, Exhibit 24, Anticipated Capital Budgets for the System.

²³ Limestone's Response to Consumer Advocate DR No. 1-10.

1 **Q29. DO THE ASSUMPTIONS YOU USED IN COMPUTING THE RETURN ON RATE**
2 **BASE DRIVE THE RESULTS OF YOUR ESTIMATE?**

3 **A29.** No, not to a significant degree. Certainly, a different capital structure and return on equity
4 estimates could be used. However, regardless of which set of assumptions are used, the
5 resulting monthly customer charge is alarmingly high. Assumptions used to compute the
6 return on rate base are identified within Exhibit DND-2.

7 **Q30. ARE THERE ALTERNATIVES TO SETTING FUTURE SUNSET COVE RATES**
8 **BASED UPON SOMETHING OTHER THAN THE SPECIFIC COSTS INCURRED**
9 **IN SERVING THIS SYSTEM?**

10 **A30.** Yes. The Commission could adopt what is known as a consolidated rate structure where
11 all customers of Limestone would pay the same rate, regardless of the costs to serve the
12 customers individual system.²⁴

13 **Q31. WHAT ARE THE RATE IMPLICATIONS OF ADOPTING A STAND-ALONE**
14 **RATE STRUCTURE, THAT IS IF THE RATES FOR SUNSET COVE WERE**
15 **DETERMINED BASED UPON THE COSTS TO SERVE THE TWELVE**
16 **CUSTOMERS?**

17 **A31.** I have estimated the stand-alone rate for Sunset Cove customers to be in excess of
18 ██████ per month. This cost is driven by the estimated capital expenditures necessary
19 to upgrade the system as set forth in Exhibit 24 of the Company's *Joint Application*,
20 \$205,000 spread over twelve customers. The rate is also significantly impacted by the

²⁴ *Joint Application* at p. 11. Limestone stated that it "may also seek authority to consolidate rates of the system it proposed to acquire in this case with those of other wastewater systems it operates in Tennessee." *Id.*

1 estimated incremental O&M costs identified in confidential documents provided in
2 discovery.²⁵

3 **Q32. WHAT ARE THE RATE IMPLICATIONS FOR OTHER LIMESTONE**
4 **CUSTOMERS IF THE COMMISSION ULTIMATELY DETERMINES THAT A**
5 **CONSOLIDATED RATE STRUCTURE IS APPROPRIATE?**

6 **A32.** If the Commission adopts a consolidated rate structure for Limestone in its initial rate case,
7 other Limestone customers will be significantly subsidizing Sunset Cove customers.

8 **Q33. WHY ARE DIFFERENT SCENARIOS IN THE INITIAL LIMESTONE RATE**
9 **CASE RELEVANT IN THIS PROCEEDING?**

10 **A33.** The Commission is tasked with determining whether an acquisition transaction is in the
11 public interest. The public interest in this case clearly includes the customers of Sunset
12 Cove. If the Commission ultimately adopts a consolidated rate structure method for rate
13 setting purposes, the public interest should also be defined to include the impact of the
14 transaction on legacy Limestone customers. If the Commission adopts a consolidated rate
15 structure approach in the Company's initial rate case, Sunset Cove customers will be
16 subsidized significantly by the other Limestone customers.²⁶ I have estimated the subsidy

²⁵ Limestone's Response to Consumer Advocate DR No. 1-10.

²⁶ Assume the Commission adopts a monthly consolidated rate of \$50 in Limestone's next rate case, a very substantial monthly rate for wastewater service. The resulting subsidy assigned to other customers can be determined by comparing the stand alone Sunset Cove costs, conservatively estimated at [REDACTED] per month, less the \$50 consolidated rate. The subsidy of approximately [REDACTED] per month per customer would be shifted to the other 1,900 wastewater customers of Limestone. The monthly impact would be in the neighborhood of [REDACTED] per year per Limestone customer. ([REDACTED]/month*12 customers*12 months = [REDACTED]/1,900 customers approximates [REDACTED]/year). The reference to 1,900 Limestone wastewater customers is found on page 5 of the *Joint Application*. If the Commission adopts a consolidated rate less than the assumed \$50/month, the amount of subsidy would increase proportionately. This should not be construed as a conclusion by the Consumer Advocate that a \$50 monthly wastewater rate is reasonable. Instead, I calculated the estimated subsidy using the most conservative of assumptions regarding the incremental costs to serve Sunset Cove. A more reasonable estimated consolidated rate would only produce a greater subsidy.

1 that would be incurred by the 1,900²⁷ other Limestone customers from this acquisition to
2 be approximately [REDACTED] per year, assuming a consolidated rate of \$50 per month. The
3 Commission should consider whether such a subsidy spread across the other 1,900
4 customers of Limestone is appropriate and in the public interest.

5 I believe the Commission should consider the revenue requirement impact of proposed
6 acquisition transactions on existing Limestone customers when evaluating whether an
7 acquisition such as this has met the public interest standard.

8 Failing to consider future cost implications of an acquisition, such as this, on other
9 Limestone customers is analogous to endorsing government spending without giving any
10 thought to how such spending will be paid for by citizens (or in this instance, customers).

11 In the initial Limestone rate proceeding the Commission will be faced with the troubling
12 issue of whether to endorse a rate that likely will be in excess of [REDACTED] per month or
13 spread these costs to existing Limestone customers resulting in significant cross-subsidies
14 to a large number of customers.

15 **Q34. PLEASE SUMMARIZE YOUR SUPPORT FOR EVALUATING THE REVENUE**
16 **REQUIREMENT IMPACT OF ACQUISITION TRANSACTIONS ON EXISTING**
17 **CUSTOMERS AS PART OF THE PUBLIC INTEREST EVALUATION.**

18 **A34.** If the Commission endorses the concept of rate consolidation as a matter of public policy,
19 then the implications of a transaction such as Sunset Cove are significant to the existing
20 customer base of Limestone and must be given consideration when evaluating the public

²⁷ *Joint Application* at p. 5. Limestone identified that it has 1,900 wastewater connections.

1 interest evaluation. Failing to address the rate implications for existing customers does not
2 result in an adequate determination of whether the proposal's public interest evaluation has
3 been met.

4 The Commission should require prospective buyers of wastewater properties to estimate
5 the rate implications of the transaction on its existing customer base, the results of which
6 would be one component of whether the transaction meets the public interest evaluation.
7 This conclusion is closely tied to my next recommendation. This analysis should include
8 consideration of the stand-alone rate calculation as well as the implications if rates are
9 determined on a consolidated basis. For purposes of the rate consolidated scenario, the
10 Joint Applicants should assume a baseline consolidated rate of \$50 to compute the
11 implications of the transaction on its legacy customer base. These calculations should be
12 included in all future acquisition applications.

13 **8. The Commission should open an investigation into the policy issue of rate consolidation**

14 **Q35. DO YOU BELIEVE THE COMMISSION SHOULD FORMALLY EVALUATE**
15 **THE POLICY ISSUE OF STAND-ALONE VERSUS CONSOLIDATED RATES IN**
16 **A NEW INVESTIGATIVE DOCKET?**

17 **A35.** Yes. There are three compelling reasons to evaluate the stand-alone versus consolidated
18 rate issue in a separate investigation.

19 First, absent such an investigation, the parties to Limestone's initial rate proceeding will
20 be tasked with addressing this issue in conjunction with a host of other regulatory issues
21 associated with each prior acquisition. These other issues include whether to include
22 acquisition premiums incurred in prior transactions should be included in Rate Base;

1 whether transaction costs should be recoverable in rates; an evaluation of the
2 appropriateness of transaction costs; as well as the long list of traditional items that must
3 be reviewed in a normal rate case proceeding. If the stand-alone rate structure is pursued
4 by any party, individual revenue requirement calculations will be required for each
5 Limestone system. All of which would be required to be accomplished within an
6 established and hurried procedural schedule. Further, it is likely that the Company would
7 not voluntarily provide such individual calculations for each system based upon its history
8 in other states of supporting a consolidated rate structure. In summary, regardless of the
9 merits of stand-alone rate calculations, there will be insufficient time to determine what
10 such rates would be without some prior Commission requirement to provide such
11 information in the rate filing.

12 Secondly, if the Commission were to determine that consolidated rates should be adopted
13 in Limestone's initial rate filing, then existing acquisition applications are deficient as they
14 do not presently consider the implications of acquisitions on existing legacy customers and
15 the Commissions' current public interest evaluation is incomplete.

16 Finally, a separate stand-alone investigation will allow a thorough consideration of the
17 issues and implications of this important policy matter. This issue should be evaluated in
18 its own case, uncluttered by the numerous details found in a rate case docket.

19 **Q36. ARE YOU AWARE OF OTHER STATE REGULATORY COMMISSIONS**
20 **INVESTIGATING THIS POLICY ISSUE?**

1 **A36.** Yes. North Carolina Utility Commission, in Docket No. W-100, Sub 67, has opened an
2 investigation regarding issues associated with rate consolidation for water and wastewater
3 utilities. A copy of the order is attached as Exhibit DND-5.

4 **Q37. DO YOU BELIEVE THE POLICY ISSUES IDENTIFIED IN THE NORTH**
5 **CAROLINA COMMISSIONS' ORDER MAY BE USED BY THIS COMMISSION**
6 **TO DEFINE THE SCOPE OF THE INVESTIGATION?**

7 **A37.** Yes. A number of the issues set forth in the North Carolina Commission's order may be
8 incorporated into a Commission's investigatory docket.²⁸ Specifically, I recommend that
9 the investigation incorporate the following issues:²⁹

- 10 1. Whether a consolidated rate structure is the appropriate policy to adopt
11 in future wastewater rate proceedings?
- 12 2. If a consolidated rate structure is determined to be in the public interest,
13 should there be any limitation on cross-subsidies inherent within such a
14 policy?
- 15 3. Should stand-alone rates be adopted by system to ensure cross-subsidies
16 among customer groups do not exist?
- 17 4. If a consolidated rate structure is determined to be in the public interest,
18 should this be factored into the consideration of whether a "high-cost"
19 system should be acquired, and if so, how should a "high-cost" system
20 be defined?
- 21 5. Should the Commission consider a hybrid approach whereby the
22 amount of cross-subsidies across systems is limited to a specified level
23 at which point excess subsidies are incurred by the customers of the
24 cost-causing system? If so, what should be the parameters of such an
25 approach?
- 26 6. Should rate shock and gradualism be considered in setting rates across
27 multiple systems and if so, what should be the parameters of such an
28 approach?

²⁸ Exhibit DND-5 at 2-3.

²⁹ Exhibit DND-5 at 2-3. The items referencing specific North Carolina statutes should not be incorporated into the investigation. Specifically, Items 2(a) and (f) should not be included in the Commissions' investigation as they are not relevant.

1 7. Is the cost to both the utility and to the Commission and intervenors
2 from a stand-alone rate structure justified?

3 8. Whether and how situations where a system to be acquired has rates that
4 do not fully reflect the cost to provide utility service impacts the
5 consideration of whether a uniform rate structure is appropriate?

6 **Q38. DO YOU HAVE A RECOMMENDATION REGARDING THE MANNER IN**
7 **WHICH SUCH A GENERIC DOCKET SHOULD PROCEED?**

8 **A38.** Adopting a format including a series of technical conferences may be the preferable
9 approach where all parties to the docket could discuss issues in an open forum, but
10 otherwise I will leave the format of the investigation up to the Commission. I would
11 strongly encourage the Commission to adopt a definitive timeline for completion of this
12 docket, as it is important to reach a decision prior to the submission of Limestone's initial
13 rate filing. It is also important to rely upon the outcome of this docket in the consideration
14 of all future acquisition filings.

15 **Q39. DO YOU HAVE ANY OTHER ISSUES YOU WISH TO IDENTIFY?**

16 **A39.** Yes. The Company proposes that the Sunset Cove HomeOwners Association ("Sunset
17 HOA") will be its customer³⁰ for the Sunset Cove complex, incorporating the proposed
18 monthly charge applied to the twelve Sunset Cove customers. The Sunset Cove HOA in
19 turn would pay the bill and presumably be reimbursed for the wastewater charges from its
20 membership. This methodology differs from existing Commission rules governing the
21 provision of water service in which end-use customers must be billed directly by the water
22 utility.³¹ Mr. Cox stated that "post acquisition Sunset Cove HOA, and not the individual

³⁰ Limestone's Response to Consumer Advocate DR No. 2-1, TPUC Docket No. 23-00070 (December 21,
2023).

³¹ TENN. COMP. R. & REGS. 1220-04-03-.06(3) (July 28 Revised).

1 condominium owners, will be Limestone's customer."³² This clarification by Limestone
2 raises more questions about the rights of individual homeowners. For example, what would
3 occur if only half of the homeowners paid their monthly rate, and Sunset HOA did not have
4 the funds to cover the remaining bill from Limestone? If an individual homeowner is
5 having a wastewater service problem, can the individual contact Limestone directly or must
6 it go through the "customer", Sunset HOA?

7 **Q40. DOES THIS CONCLUDE YOUR TESTIMONY?**

8 **A40.** Yes, but I reserve the right to supplement my testimony if new information arises.

³² *Amended and Clarified Joint Application*, Exhibit 9, Supplemental Direct Testimony of Josiah Cox at 3:17-18.

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

**JOINT APPLICATION OF LIMESTONE
WATER UTILITY OPERATING
COMPANY, LLC, SUNSET COVE
CONDOMINIUM HOA OF NORRIS
LAKE, INC. AND COMMERCIAL
BANK FOR APPROVAL OF THE
ACQUISITION OF AND TO OPERATE
THE WASTEWATER SYSTEM OF
SUNSET COVE CONDOMINIUM HOA
OF NORRIS LAKE, INC. AND
COMMERCIAL BANK, AND TO ISSUE
A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY**

DOCKET NO. 23-00070

AFFIDAVIT

I, David N. Dittmore, on behalf of the Consumer Advocate Division of the Attorney General's Office, hereby certify that the attached Direct Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Advocate Division.


DAVID N. DITTEMORE

Sworn to and subscribed before me
this 3rd day of January, 2024.



NOTARY PUBLIC



My commission expires: January 31, 2027.

David Dittamore

Experience

Areas of Specialization

Approximately thirty-years experience in evaluating and preparing regulatory analysis, including revenue requirements, mergers and acquisitions, utility accounting and finance issues and public policy aspects of utility regulation. Presented testimony on behalf of my employers and clients in natural gas, electric, telecommunication and transportation matters covering a variety of issues.

Self-Employed; **Consultant July 1 - Current**; Responsible for providing evaluation of utility ratemaking issues on behalf of clients. Prepare analysis and expert witness testimony.

Tennessee Attorney General's Office; **Financial Analyst September, 2017 – June 2021**; Responsible for evaluation of utility proposals on behalf of the Attorney General's office including water, wastewater and natural gas utility filings. Prepare analysis and expert witness testimony documenting findings and recommendations.

Kansas Gas Service; **Director Regulatory Affairs 2014 - 2017; Manager Regulatory Affairs, 2007 - 2014**

Responsible for directing the regulatory activity of Kansas Gas Service (KOS), a division of ONE Gas, serving approximately 625,000 customers throughout central and eastern Kansas. In this capacity I have formulated strategic regulatory objectives for KOS, formulated strategic legislative options for KOS and led a Kansas inter-utility task force to discuss those options, participated in ONE Gas financial planning meetings, hired and trained new employees and provided recommendations on operational procedures designed to reduce regulatory risk. Responsible for the overall management and processing of base rate cases (2012 and 2016). I also played an active role, including leading negotiations on behalf of ONE Gas in its Separation application from its former parent, ONEOK, before the Kansas Corporation Commission. I have monitored regulatory earnings, and continually determine potential ratemaking outcomes in the event of a rate case filing. I ensure that all required regulatory filings, including surcharges are submitted on a timely and accurate basis, I also am responsible for monitoring all electric utility rate filings to evaluate competitive impacts from rate design proposals.

Strategic Regulatory Solutions; 2003 -2007

Principal; Serving clients regarding revenue requirement and regulatory policy issues in the natural gas, electric and telecommunication sectors

Williams Energy Marketing and Trading; 2000-2003

Manager Regulatory Affairs; Monitored and researched a variety of state and federal electric regulatory issues. Participated in due diligence efforts in targeting investor owned electric utilities for full requirement power contracts. Researched key state and federal rules to identify potential advantages/disadvantages of entering a given market.

MCI WorldCom; 1999 - 2000

Manager, Wholesale Billing Resolution; Manage a group of professionals responsible for resolving Wholesale Billing Disputes greater than \$50K. During my tenure, completed disputes increased by over 100%, rising to \$150M per year.

Kansas Corporation Commission; 1984- 1999

Utilities Division Director - 1997 - 1999; Responsible for managing employees with the goal of providing timely, quality recommendations to the Commission covering all aspects of natural gas, telecommunications and electric utility regulation; respond to legislative inquiries as requested; sponsor expert witness testimony before the Commission on selected key regulatory issues; provide testimony before the Kansas legislature on behalf of the KCC regarding proposed utility legislation; manage a budget in excess of \$2 Million; recruit professional staff; monitor trends, current issues and new legislation in all three major industries; address personnel issues as necessary to ensure that the goals of the agency are being met; negotiate and reach agreement where possible with utility personnel on major issues pending before the Commission including mergers and acquisitions; consult with attorneys on a daily basis to ensure that Utilities Division objectives are being met.

Asst. Division Director - 1996 - 1997; Perform duties as assigned by Division Director.

Chief of Accounting 1990 - 1995; Responsible for the direct supervision of 9 employees within the accounting section; areas of responsibility included providing expert witness testimony on a variety of revenue requirement topics; hired and provided hands-on training for new employees; coordinated and managed consulting contracts on major staff projects such as merger requests and rate increase proposals;

Managing Regulatory Auditor, Senior Auditor, Regulatory Auditor 1984 - 1990; Performed audits and analysis as directed; provided expert witness testimony on numerous occasions before the KCC; trained and directed less experienced auditors on-site during regulatory reviews.

Amoco Production Company 1982 - 1984

Accountant Responsible for revenue reporting and royalty payments for natural gas liquids at several large processing plants.

Education

- B.S.B.A. (Accounting) Central Missouri State University
- Passed CPA exam; (Oklahoma certificate # 7562) - Not a license to practice

Revenue Requirement Calculation
Docket 23-00070
Sunset Cove
Return on Rate Base Only

Exhibit DND-2

Hypothetical Capital Structure	% of Capitalization	Cost	Wtd Cost	Tax Gross-Up	Gross of Tax Cost
Debt	50%	5%	3%		3%
Equity	50%	10%	5%	1.3538	6.43%
Total Cost					8.93%

Tax Gross Up Calculation	
Taxable Income	100%
Less: TN Excise Tax	6.50%
Federal Taxable Income	93.50%
Federal Tax Rate	21.00%
Effective Federal Rate	19.64%
Plus: TN Excise Tax Rate	6.50%
Total Effective Tax Rate	26.14%
Reciprocal Tax Rate	73.87%
Gross Up Factor (1/Reciprocal Rate)	1.3538

Estimated Capital Expenditure- Application

Exhibit 24 (1)	\$	205,000
Return - Including Taxes	\$	18,307.83
Depreciation @ 3%	\$	6,150.00
Property Taxes (Estimate)	\$	500
Total Estimated Annual Costs	\$	24,957.83
Divided By Customer Count		12
Annual Revenue Requirement per Customer	\$	2,079.82
Monthly Cost	\$	173.32

(1) Budgeted Cost includes a footnote that the estimate does not include contractor general requirements or contingency to be accounted for by CSWR.

Exhibit DND-3

Filed CONFIDENTIALLY

Exhibit DND-4

Filed CONFIDENTIALLY

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-100, SUB 67

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	ORDER SCHEDULING
Investigation Regarding Consolidation of)	TECHNICAL CONFERENCE
Water and Wastewater Utilities and the)	
Utilization of Uniform Rates)	

BY THE CHAIR: The Commission has generally considered consolidation of separate water and wastewater systems into one single cost of service utilizing uniform rates to be in the public interest. Uniform rates reflect the use of a unified rate division for multiple water systems or wastewater systems that are owned or operated by a single utility. Under the Commission's uniform rate paradigm, customers pay a utility the same rate for similar service, regardless of the physical location of their system. The Commission has previously concluded that the uniform rate paradigm serves the public interest in a number of ways. First, the Commission has recognized that consolidating the costs associated with many systems into a single rate division spreads those costs over a larger customer base, which provides downward pressure on rates. The uniform rate paradigm spreads risks across customers to their benefit, as, while customers share in the risk of the need for significant investment in one system or the occurrence of significant unexpected costs by one system, that risk is borne by a much larger body of customers. Second, the ability to spread costs over a larger customer base has encouraged and enabled larger, well-capitalized utilities like Aqua North Carolina, Inc. (Aqua) and Carolina Water Service, Inc. of North Carolina (CWSNC) to acquire financially or operationally troubled water and wastewater systems in North Carolina that are in need of significant investment and to make that necessary investment in the acquired systems. Third, the Commission has recognized the administrative and regulatory efficiencies that arise from the uniform rate paradigm. As a consequence, both Aqua and Carolina CWSNC have uniform rate divisions for both water and sewer service.

There have been instances, however, in which the Commission has determined that inclusion of certain systems in stand-alone rate divisions rather than in the utility's uniform division is in the public interest, as a result of facts and circumstances that are unique to the separate system, and an interest in avoiding rate shock to customers or other such unjust or unreasonable outcomes. To this end, the Commission has approved five separate rate divisions for Aqua's water and wastewater systems¹ and four for CWSNC.²

¹ Uniform Water, Uniform Sewer, Fairways and Beau Rivage Water, Fairways and Beau Rivage Sewer, and Brookwood Water.

² Uniform Water, Uniform Sewer, Bradfield Farms/Fairfield Harbour/Treasure Cove Water, and Bradfield Farms/Fairfield Harbour Sewer.

Water and wastewater systems in North Carolina face an increasing number of challenges to their provision of safe, adequate, reliable and affordable service. Replacing aging or failing infrastructure, complying with environmental regulations, addressing secondary water quality issues, planning for and implementing treatment for PFOS/PFOA³ and other chemicals of emerging concern, protecting against physical and cyber threats to infrastructure, and generally responding to customer expectations regarding service quality are but several of these challenges. Each of these challenges implicates investment, and addressing these challenges, while managing costs that customers must bear, is and will continue to be the greatest challenge for water and wastewater utilities. Given these challenges, the Commission has determined that it is appropriate, at this time, to consider whether the uniform rate paradigm continues to serve the public interest. Further, to the extent that the uniform rate paradigm does continue to serve the public interest, the Commission determines that it is also appropriate, at this time, to consider how and when to achieve uniformity as water and wastewater utilities seek to acquire new systems. Therefore, the Commission will conduct a technical conference for this purpose and directs the Public Staff, Aqua, and CWSNC to participate in the technical conference.

In presentations to the Commission, Public Staff, Aqua, and CWSNC are directed to address:

1. Whether the uniform rate paradigm continues to serve the public interest in North Carolina; and
2. Whether the path to uniformity should or must change in light of the challenges faced by the water and wastewater utilities in North Carolina, including consideration of:
 - a. Whether the availability of the Water and Sewer Investment Plan (WSIP) ratemaking mechanism, N.C.G.S., § 62-133.1B, affects the analysis of whether uniform rates or stand-alone rates are appropriate at the time of approval of a request to transfer a utility franchise;
 - b. How rate shock and rate gradualism should be balanced during any migration to uniform rates in a rate case proceeding or WSIP for systems acquired since the last rate case proceeding or WSIP;
 - c. Whether, and under what circumstances, the commitment of resources, both utility and Public Staff/Commission, to reviewing and maintaining a stand-alone rate paradigm for regulatory treatment is justified;

³ Perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) are chemical compounds, which are part of the larger per- and polyfluoroalkyl substances (PFAS) family of compounds.

- d. Whether, and under what circumstances, the justification for uniform rates in a transfer proceeding should deviate from a traditional historical cost-of-service analysis;
- e. Whether and how those situations where a system to be acquired has rates that do not fully reflect the cost to provide utility service impact the consideration of whether a uniform rate paradigm is appropriate;
- f. Whether, and under what circumstances, stepped-in rate increases to the acquiring utility's uniform rates should be considered when uniform rates are not supported by the historical cost-of-service analysis at the time of transfer, including:
 - i. Whether the Commission is authorized to consider planned capital improvements over the stepped-in rate period under N.C.G.S. § 62-133; and
 - ii. If so, whether the acquiring utility should be required to provide supporting documentation to the Public Staff and Commission of in-service dates prior to stepping up the rates to the next level; and
- g. Whether and how the existing stand-alone rate divisions currently in place for Aqua, CWSNC, and any other intervenor would eventually be consolidated into one unified rate structure.

In addition, within the 20-minute timeframe allotted for each presenter, the presenting parties may address any other matter relevant to the uniform rate policy that the Commission should consider.

At the technical conference, the Public Staff and intervening parties will be allowed the opportunity to ask questions of other parties and, in addition, are directed to respond to Commission questions.

IT IS, THEREFORE, SO ORDERED as follows:

1. That a technical conference for the purpose of receiving presentations by Public Staff, Aqua, and CWSNC is scheduled for Wednesday, October 11, 2023, starting

at 9:30 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina;

2. That Aqua and CWSNC are made parties to this proceeding;
3. That the Public Staff, Aqua, and CWSNC, shall appear and participate at the technical conference on October 11, 2023, presenting on the issues as directed in this Order;
4. That other interested parties shall file petitions to intervene in the proceeding on or before Monday, September 25, 2023; and
5. That the Public Staff, Aqua, CWSNC, and any other intervenors shall file with the Commission a list of the individuals who will appear at the technical conference, as well as presentation materials to be used, on or before Friday, October 6, 2023.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of September, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, reading "Tamika D. Conyers". The signature is written in a cursive, flowing style.

Tamika D. Conyers, Deputy Clerk