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September 26, 2024

VIA ELECTRONIC FILING

Hon. David Jones, 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 September 26, 2024 at 8:53 a.m.

RE: *Joint Application of Limestone Water Utility Operating Company, LLC, and Bridget J. Willhite, as Administrator CTA of the Estate of Glenna Newport, for Approval of the Acquisition of and to Operate the Newport Resort Water System, and to Transfer or Issue a Certificate of Public Convenience and Necessity, TPUC Docket No. 24-00034*

Dear Chairman Jones:

Attached for filing is a substitute page 2 to Limestone Water Utility Operating Company, LLC's *Response to Consumer Advocate's Statement Regarding Limestone's Opposition to Petition to Intervene Filed by Rhea County, Tennessee, and North Utility District of Rhea County*, which was filed on September 24, 2024, in the above-referenced docket.

For ease of reference, the correction to the *Response* is as follows: on substitute page 2, paragraph 2, sentence 5, "CCN" is changed to "exclusive right." With this correction on substitute page 2, the corrected sentence now reads: Newport Resort's area and customers have never been in NUDRC's territory and NUDRC has no exclusive right to serve Newport Resort's territory or customers.

A redlined copy of page 2 showing the correction to the *Response* is also attached.

As required, the original plus four (4) hard copies will follow. Should you have any questions concerning this filing, or require additional information, please do not hesitate to contact me.

Sincerely,

BUTLER SNOW LLP



Katherine Barnes

Attachments

cc: Russ Mitten, Limestone Water Utility Operating Company, LLC
David Woodsmall, Central States Water Resources
Bridget J. Willhite, Esq.
Carol Ann Barron, Esq.
Shilina B. Brown, Consumer Advocate Division
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service “is clear evidence of a city or county’s interest in utility service within its boundaries.”² Setting aside the question of whether this requirement is “clear evidence” of a legal right or interest, Limestone maintains that the Consumer Advocate’s argument does not consider the relevant facts that render this requirement inapplicable under the circumstances.

Newport Resort was granted its CCN by the Tennessee Public Service Commission on August 31, 1992.³ See **Exhibit 3**, *Order in re: Petition of Ancil Newport and Wife, Glenna Newport an Elzo Newport and Wife, Maggie Newport d/b/a Newport Resort Water System for a Certificate of Convenience and Necessity*, Docket No. U-88-7581 (Aug. 31, 1992). By contrast, NUDRC was not formed until December 21, 1993.⁴ Therefore, the utility district was created after the Commission granted Newport Resort the exclusive authorization to serve the area. Newport Resort’s area and customers have never been in NUDRC’s territory and NUDRC has no exclusive right to serve Newport Resort’s territory or customers. Therefore, the Petitioners have no territory or franchise, i.e., legal right, upon which Limestone could infringe. In fact, the 1992 Commission’s Order itself acknowledges this fact: “This Commission finds that the company is clearly a public utility subject to the Commission’s jurisdiction. Its services meet an existing public demand that cannot be provided by any other utility.”⁵ In short, Newport Resort had authorization from the Commission to serve this area first. Therefore, the requirement to provide a letter from local governments and utilities that ensures a would-be transferee is not infringing on their territory or right to serve is inapplicable here.

The Consumer Advocate also states, “it should be obvious to all that Rhea County and [NUDRC] have a right and interest in representing or safeguarding their consumers of utility

² *Id.* at 2.

³ The Tennessee Public Utility Commission was formerly known as the Tennessee Public Service Commission.

⁴ See NUDRC’s “About Us” website, <https://nudrc.org/about-us>.

⁵ Ex. 3 at p. 2.

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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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Rhea County Attorney and Attorney for NUDRC

This the 26th day of September 2024.



Katherine Barnes