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Re: Transfer of Total Environmental Solutions, Inc. to Red Bird Utility Operating  
Company, LLC, d/b/a Red Bird Water  
Docket Nos.: W-1328, Sub 10 and W-1146, Sub 13

Dear Bill:

I write in response to your letter of August 3, 2021, identifying the three aspects of the Transfer Application in these dockets that the Public Staff considers to be deficient. Red Bird Water provides the following information regarding the matters addressed in your letter.

Item 1: When evaluating a system for possible acquisition, Red Bird water routinely consults publicly available documents (such as annual reports filed with the Commission and information available from health and environmental regulators), and conducts site visits to gauge for itself the plant configuration and the condition of facilities. However, a final purchase price is determined based on arms-length negotiations between the parties, with Red Bird's objective being to pay the least amount a utility/seller will accept. Insofar as appraisals are concerned, while Red Bird routinely acquires an appraisal, it does not do so until after a system is under contract. Therefore, appraisals are not relied on in negotiating a purchase price.

Item 2: As Red Bird Water has explained in prior correspondence with Public Staff relating to other pending acquisition applications, information included on Exhibit B of the *Agreement for Sale of Utility System* is gathered throughout the due diligence period after the purchase agreement was executed, and this exhibit itself is not completed until shortly before closing. Consequently, all information that will ultimately be included on that exhibit currently is not available and this

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exhibit has not yet been finalized. However, Red Bird will contact its transaction counsel to see how much information is available and will supplement this Application with such information as soon as it's received.

Red Bird contracted to acquire all the assets and rights used by TESI to provide utility service and Red Bird has the contractual right to not close the transaction if the seller cannot convey all such assets at closing, free and clear of any liens or encumbrances. Section 1 of the purchase agreement provides that the buyer will acquire all of the seller's utility assets, all tracts where seller's utility facilities are located and all related easements, rights, etc., utilized in providing water and sewer service including, but not limited to, the following:

- A. The land, improvements thereon, servitudes, rights of way, and permits and governmental authorizations (to the extent transferrable) and leases related to the System and Service Areas depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"* attached hereto;
- B. All of Seller's water and sewer service facilities and their component parts permanently attached to the water and sewer system including but not limited to lines, plant, pipes, manholes and appurtenances;

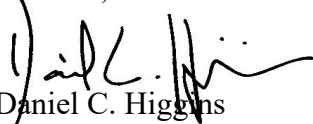
Item 3: While Red Bird's third-party engineering studies only cover improvements to these systems required during the initial five years of ownership, Red Bird's General Counsel has asked their in-house engineering personnel to supplement those studies with estimates of improvements required during years 6 through 10.

We will provide the additional information as to Items 2 and 3 described herein as soon as it is received.

With best regards, we remain

Sincerely yours,

BURNS, DAY & PRESNELL, P.A.



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