

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1146, SUB 13  
DOCKET NO. W-1328, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of )  
Application by Red Bird Utility Operating )  
Company, LLC, 1650 Des Peres Road, )  
Suite 303, St. Louis, Missouri 63131, and )  
Total Environmental Solutions, Inc., Post )  
Office Box 14056, Baton Rouge, Louisiana )  
70898, for Authority to Transfer the Lake )  
Royale Subdivision Water and Wastewater )  
Utility Systems and Public Utility Franchise )  
in Franklin and Nash Counties, North Carolina, )  
and for Approval of Rates )

**SUPPLEMENTAL TESTIMONY OF JOSIAH COX  
ON BEHALF OF RED BIRD UTILITY OPERATING COMPANY, LLC**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Josiah Cox. My business address is 1650 Des Peres Road, Suite 303, St.  
3 Louis, Missouri, 63131.

4 **Q. WHAT IS YOUR POSITION WITH RED BIRD UTILITY OPERATING**  
5 **COMPANY, LLC (“RED BIRD” OR “COMPANY”)?**

6 A. I am President of Red Bird Utility Operating Company, LLC (“Red Bird”). I also am  
7 President of CSWR, LLC, (“CSWR”), the corporate parent of Red Bird.

8 **Q. DID YOU PREVIOUSLY FILE TESTIMONY IN THIS DOCKET?**

9 A. Yes, my direct testimony on behalf of Red Bird was filed in these dockets on August  
10 30, 2023.

11 **Q. WHAT IS THE PURPOSE OF THE TESTIMONY YOU ARE NOW FILING?**

1 A. My supplemental testimony is provided on behalf of Red Bird to support the  
2 Commission's approval and adoption of the Settlement Agreement and Stipulation  
3 ("Stipulation") entered into by the Public Staff and Red Bird and filed with the Commission  
4 on October 23, 2023.

5 **Q. DID THE STIPULATION RESOLVE ALL DISPUTED ISSUES BETWEEN**  
6 **RED BIRD AND THE PUBLIC STAFF?**

7 A. Yes, it resolved all contested issues remaining between the Company and Public Staff.

8 **Q. WHAT WERE THE UNRESOLVED ISSUES?**

9 A. The disputed issues related to the rate base in the utility assets Red Bird proposes to  
10 acquire from Total Environmentl Solutions, Inc. ("TESI"), the extent of Red Bird's due  
11 diligence and acquisitions costs to potentially be recovered in the first general rate case  
12 relating to the TESI system serving the Lake Royale development, and Red Bird's request  
13 for an acquisition adjustment in connection with the acquisition of the TESI systems.

14 **Q. HOW DOES THE STIPULATION RESOLVE ALL OF THOSE ISSUES?**

15 A. The Stipulation reflects Red Bird's agreement to not pursue an acquisition adjustment  
16 in these dockets, establishes the net book value of the TESI water and wastewater system  
17 assets to be acquired by Red Bird, and provides for Red Bird's recovery of a meaningful  
18 portion of its due diligence cost and transactional costs relating to this acquisition in a  
19 future rate case.

20 **Q. DID RED BIRD MAKE SIGNIFICANT CONCESSIONS IN REACHING THE**  
21 **AGREEMENT ON THE STIPULATION?**

22 A. Yes, we did. That being said, the Stipulation is a product of the arms-length  
23 negotiations of the parties that yielded a result that both parties could accept. Commission

1 approval of the Stipulation will also provide us with certainty moving forward as to the  
2 TESI system.

3 The Stipulation is the product of the give-and-take in settlement negotiations between Red  
4 Bird and the Public Staff. There are provisions of the Stipulation that are more important  
5 to Red Bird, and, likewise, there are provisions that are more important to the Public Staff.  
6 Nonetheless, working from different starting points and different perspectives, these parties  
7 were able to find common ground and achieve a settlement. We also anticipate that the  
8 Stipulation will facilitate an earlier closing of this acquisition, and thereby allow Red Bird  
9 to begin operating this system and bringing the benefits of its ownership of this system to  
10 TESI customers earlier than would otherwise be possible.

11 **Q. DID OTHER REASONS SUPPORT RED BIRD'S WILLINGNESS TO SETTLE**  
12 **THESE FINAL ISSUES WITH THE PUBLIC STAFF?**

13 A. Yes. Red Bird has other transfer applications pending before the Commission, and we  
14 look forward to adding TESI to the portfolio of systems the Company seeks to build in  
15 North Carolina. As we move forward with our business model and plans here, we will  
16 continue to work to replicate in North Carolina the record of success our affiliate group has  
17 achieved elsewhere.

18 As shown in my direct testimony, Red Bird has the financial, technical, and managerial  
19 ability to acquire, own, and operate TESI's water and wastewater systems in a manner that  
20 fully complies with applicable health, safety, and environmental protection laws and  
21 regulations, and to provide reliable, safe, and adequate service to customers. Red Bird is  
22 part of an affiliate group that currently owns and operates wastewater systems serving  
23 approximately 219,000 wastewater customers and drinking water systems serving

1 approximately 145,000 customers in Missouri, Arkansas, Kentucky, Louisiana, Texas,  
2 Tennessee, Mississippi, Florida, South Carolina, North Carolina, and Arizona.

3 **Q. DID PUBLIC STAFF REQUEST THAT RED BIRD ADDRESS CERTAIN**  
4 **ISSUES IN THIS SUPPLEMENTAL TESTIMONY?**

5 A. Yes; those issues are addressed in the next few questions and answers.

6 **Q. PLEASE DESCRIBE THE RELATIONSHIP BETWEEN SCIENS WATER**  
7 **AND/OR SCIENS CAPITAL MANAGEMENT, LLC, AND US WATER SYSTEMS,**  
8 **LLC.**

9 A. Sciens Capital Management, LLC, is an independent investment firm that provides  
10 various investment opportunities to both private and institutional clients. In 2018 it  
11 launched the Sciens Water Opportunities Fund, an entity that holds investor dollars to be  
12 distributed to make investments in the United States water sector. U. S. Water Systems,  
13 LLC (“US Water”) is a Delaware limited liability company formed by Sciens Capital  
14 Management, LLC to oversee those water sector investments, including investments in  
15 CSWR.

16 **Q: WHO IS THE ULTIMATE SOURCE OF THE FUNDING USED BY RED BIRD**  
17 **TO ACQUIRE SYSTEMS, TO MAKE THE INVESTMENTS NECESSARY TO**  
18 **ADDRESS ISSUES WITH SYSTEMS THAT ARE ACQUIRED, AND TO FUND**  
19 **RED BIRD’S OPERATIONS?**

20 A. US Water is the source of equity capital that CSWR invests in its utility affiliates,  
21 including Red Bird although, as stated in my previous answer, US Water’s funds are  
22 provided by capital raised by Sciens Capital Management, LLC. Those affiliates use the  
23 equity provided by CSWR to acquire small, oftentimes distressed water and wastewater  
24 systems, make capital investments necessary to bring those systems into compliance with  
25 applicable laws and regulations to ensure they provide safe and reliable service, and  
26 provide working capital required to financially sustain the utility affiliates until they can  
27 obtain fully compensatory rates from state regulators. Red Bird currently is using equity

1 provided by CSWR for the purposes I just described for the Ocean Terrace/Pine Knoll  
2 Townes, Bear Den, and Crosby Utilities acquisitions the Commission previously  
3 authorized.

4 **Q: PLEASE EXPLAIN HOW FUNDING PROVIDED TO CSWR BY US WATER**  
5 **IS ALLOCATED AMONG THE CSWR AFFILIATES.**

6 A. Funding is provided to the various CSWR utility affiliates based upon their respective  
7 capital needs. Funds are allocated based on assessments of need, with consideration for  
8 health, safety and compliance being prioritized. Those needs include the costs of acquiring  
9 the systems (including the purchase price paid for assets, due diligence costs, and  
10 acquisition costs), the costs of capital investments necessary to upgrade and improve  
11 systems to ensure compliance with applicable health, safety, and operating laws and  
12 regulations, and the working capital necessary to sustain them until they can establish fully  
13 compensatory rates. Funding from US Water is approved and pulled down to CSWR three  
14 times per year.

15 **Q: ARE THERE ANY LIMITATIONS AND/OR CONDITIONS PLACED ON THE**  
16 **FUTURE FUNDING OF RED BIRD BY ANY OF RED BIRD'S UP STREAM**  
17 **OWNERS?**

18 A. No.

19 **Q: CAN YOU PROVIDE AN UPDATED VERSION OF THE EXPLANATION OF**  
20 **CORPORATE STRUCTURE AS A LATE FILED EXHIBIT IN THIS DOCKET?**

21 A: Yes, attached as Cox Supplemental Exhibit 1 is an updated explanation of corporate  
22 structure provided pursuant to the request by the Public Staff.

23 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL TESTIMONY?**

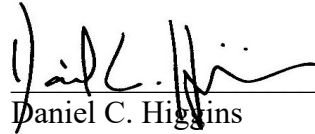
24 A. Yes.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing document has been served on all counsel of record for all parties in this docket, if any, and the Public Staff, by either depositing same in a depository of the United States Postal Service, first-class postage prepaid and mailed by the means specified below, or by electronic delivery.

This the 23<sup>rd</sup> day of October, 2023.

BURNS, DAY & PRESNELL, P.A.



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## **Updated Explanation of Corporate Structure**

The entity/corporate structure in place in North Carolina for Red Bird Utility Operating Company, LLC's affiliate group – consisting of the utility operating company, an intermediate holding company, and a state holding company – is a legacy structure that predates the acquisition of CSWR, LLC (“CSWR”), by U.S. Water Systems, LLC (“US Water”), in late 2018. Prior to that acquisition, affiliates operating in Missouri and Arkansas – which were the affiliated group's only operations at that time – utilized an identical three-tiered structure. That legacy structure has continued to be replicated in each new state the affiliate group entered.

By virtue of U.S. Water's acquisition of CSWR, US Water is the sole owner/member of CSWR, and it provides equity capital to CSWR which CSWR uses to make equity investments in its affiliated utility operating companies, including Red Bird.

In North Carolina, Red Bird Utility Operating Company, LLC, holds (or will hold) all acquired utility assets and will operate as a regulated utility. Red Bird Utility Holding Company, LLC, the intermediate holding company, is the sole member of Red Bird Utility Operating Company, LLC and North Carolina Central States Water Resources, LLC, the state holding company, is the sole member of Red Bird Utility Holding Company, LLC. Neither the intermediate or state holding companies have assets or employees, so their existence adds no operating or administrative costs to the utility operating company.

CSWR, LLC (“CSWR”) is the sole member of North Carolina Central States Water Resources. CSWR employs all administrative, professional, and other personnel providing affiliated services to Red Bird Utility Operating Company, LLC and all its various state utility operating company affiliates. Costs incurred by CSWR are either direct charged to an affiliate or are allocated using the Massachusetts allocation methodology. CSWR also provides its utility operating affiliates equity capital necessary to make acquisitions and to fund required capital improvements, and provides working capital to fund day-to-day operations until compensatory rates can be established.

Central States Water Resources, Inc., is the designated manager of all affiliated limited liability companies both inside and outside North Carolina, and exists solely for that purpose. Central States Water Resources, Inc. has no assets or paid employees, and performs its managerial responsibilities using CSWR personnel.