

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,	)	
Total Environmental Solutions, Inc., Post	)	RED BIRD'S OBJECTIONS
Office Box 14056, Baton Rouge, Louisiana	)	AND RESPONSES TO PUBLIC STAFF'S
70898, for Authority to Transfer the Lake	)	15 <sup>TH</sup> SET OF DATA REQUESTS
Royale Subdivision Water and Wastewater	)	
Utility Systems and Public Utility Franchise	)	
in Franklin and Nash Counties, North Carolina,	)	
and for Approval of Rates	)	

NOW COMES Red Bird Utility Operating Company, LLC ("Red Bird"), pursuant to the Order Scheduling Hearings, Establish Discovery Guidelines, And Requiring Notice issued July 11, 2023 in these dockets ("Scheduling Order"), and objects to certain items included in Public Staff's 15<sup>th</sup> Set of Data Requests in these dockets served at 4:20 p.m. on September 6, 2023, on the grounds set forth below.

Request 1. **Acquisition Adjustment:** Beginning on page 27, line 16 of Red Bird witness Josiah Cox's direct testimony, witness Cox describes the acquisition adjustment Red Bird requests approval of. Please provide the following information:

- a. Any analyses Red Bird has done, along with supporting documentation used to determine the purchase price of \$307,363.
- b. Please indicate whether Red Bird has invoices or other supporting documentation for all the TESI assets to be acquired.
- c. If Red Bird does not have invoices to document the cost of all the TESI assets to be acquired, please provide an explanation and justification for the purchase price.
- d. A workpaper quantifying the impact on rates paid by customers of the acquired and acquiring utilities, respectively, if the \$35,861 acquisition adjustment requested by the Company is approved.

**Objections and Response: Red Bird objects to DR 15-1 on the basis that it seeks production of information that is neither relevant to any issues that are or may be involved in these dockets, nor reasonably calculated to lead to the discovery of admissible evidence.**

**Red Bird further and specifically objects to DR 15-1d. based on North Carolina Session Law 2023-67, entitled “An Act to Expedite Transfer of Water or Wastewater Public Utilities,” which limits the issues to be decided by the Commission in these dockets, which concern only the proposed transfer of the TESI system to Red Bird and adoption by Red Bird of TESI’s existing approved rates, to the following:**

**[Whether] the proposed grant or transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or certificate of public convenience and necessity has the technical, managerial, and financial capabilities necessary to provide public utility service to the public.**

**Under that statute the analysis relating to rates in a transfer proceeding such as this is limited to the proposed adoption of existing or proposed rates. Here, Red Bird proposes to adopt TESI’s existing rates as approved by the Commission in 2002 and adjusted in 2010 to pass through Franklin County’s bulk water rate increase. The request for production of information as to the potential impact on future rates is beyond the scope of the matters to be determined by the Commission in a system transfer proceeding. Thus, this request seeks to require Red Bird to not only prepare materials and information that it does not currently possess, but it seeks production of materials and information that are neither relevant to any issues involved in these dockets, nor is the request reasonably calculated to lead to the discovery of admissible evidence.**

**As a final and practical basis for objection to DR 15-1.d, it is not possible for anyone to produce an accurate and reliable estimate of the future impact on rates of the elements that must be determined to set new rates for the TESI system at some point after Red Bird has acquired that system – including the potential impact on future rates of an acquisition adjustment in the amount of \$35,861 on the acquired and acquiring utilities. No one can accurately predict at this time how all relevant costs would be treated for ratemaking purposes, or what rate design would be approved to recover such costs, and no reliable estimate of future rates for TESI customers can be made at this time.**

**Subject to and without waiving its objections, Red Bird responds as follows:**

**a. When evaluating a system for possible acquisition, Central States Water Resources routinely consults publicly available documents (such as information available from health and environmental regulators) and conducts site visits to gauge for itself the plant configuration and the condition of equipment. However, a final purchase price is determined based on arms-length negotiations between the parties, with Central States Water Resources’ objective being to pay the least amount a utility/seller will accept.**

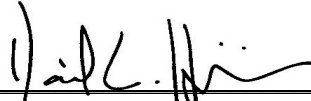
**b. Red Bird does not have supporting invoices or other documentation for the TESI assets it proposes to acquire.**

**c. Please refer to Red Bird's response to subpart a.**

**d. Red Bird has not completed an analysis of the impact of the requested acquisition adjustment on future customer rates.**

Respectfully submitted, this the 9<sup>th</sup> day of September, 2023.

BURNS, DAY & PRESNELL, P.A.



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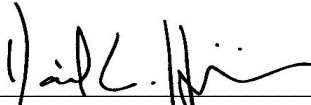
Attorneys for Red Bird

**CERTIFICATE OF SERVICE**

I certify that I have served a true and exact copy of the foregoing document on counsel of record for all parties to these dockets in accordance with Commission Rule R1-39, by United States mail, first class postage prepaid; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 9<sup>th</sup> day of September, 2023.

BURNS, DAY & PRESNELL, P.A.

By:   
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