

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,	)	RED BIRD'S MOTION FOR
Suite 303, St. Louis, Missouri 63131, and	)	SUBSTITUTION OF WITNESS AND
Total Environmental Solutions, Inc., Post	)	ADOPTION OF TESTIMONY
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	)	

NOW COMES Red Bird Utility Operating Company, LLC (“Red Bird”) and respectfully moves the Commission to allow Todd Thomas, who prefiled rebuttal testimony on behalf of Red Bird in these dockets, to adopt the pre-filed direct testimony and exhibits of witness Josiah Cox. In support of this Motion, Red Bird respectfully shows the Commission as follows:

1. On June 7, 2021, Red Bird and Total Environmental Solutions, Inc. (“TESI”), filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (“Application”) seeking authority to transfer the water and wastewater utility systems and public utility franchise serving Lake Royale Subdivision (“Lake Royale”) in Franklin and Nash Counties, North Carolina, from TESI to Red Bird and approval of rates. Red Bird filed with the Commission supplemental and additional

materials in support of the Application on June 8, and August 6, 2021; and January 24, August 2, and September 8, 2022.

2. On July 11, 2023, the Commission issued its Order Scheduling Hearing, Establishing Procedural Deadlines, and Requiring Public Notice (“Scheduling Order”) setting dates for hearings and for the filing of direct testimony by the applicants, the Public Staff and other intervenors, and setting October 3, 2023, as the deadline for filing rebuttal testimony. The public hearing was held in these dockets on September 25 and the expert witness hearing is set for October 23, 2023.

3. On August 8, 2023, Red Bird filed a Motion for Extension of Time to file its direct testimony and to change the due date for filing of Public Staff testimony.

4. On August 28, 2023, the Commission issued its Order granting Red Bird’s Motion. Pursuant to that Order, on August 30, 2023, Red Bird filed the direct testimony and exhibits of Josiah Cox. Mr. Cox is President of Red Bird Utility Operating Company, LLC “Red Bird”). Red Bird is an affiliate of CSWR, LLC (“CSWR”) a Missouri limited liability company that provides managerial, technical, and financial support to its utility operating affiliates, such as Red Bird. Mr. Cox is also President of CSWR.

5. On September 19, 2023, Public Staff filed the testimony and exhibits of Lynn Feasel, Evan Houser and John R. Hinton.

6. On October 3, 2023, Red Bird filed the rebuttal testimony of Todd Thomas, Senior Vice President of CSWR and Caitlin O’Reilly.

7. Josiah Cox will not be available to testify at the expert witness hearing on October 23, 2023, because on that day he is to attend a meeting that cannot be rescheduled with Commissioners from the Louisiana Public Service Commission.

8. In light of Mr. Cox's inability to attend and testify at the expert witness hearing on October 23, 2023, Red Bird requests to substitute Mr. Todd Thomas as a witness in Mr. Cox's stead. Mr. Thomas has agreed to adopt Mr. Cox's direct testimony, as filed, for the purpose of the hearing in this matter and is prepared to answer cross-examination questions on that testimony. Mr. Thomas is an engineer and oversees the operation of CSWR's utility operating affiliates. He is second only to Mr. Cox in seniority at CSWR and has testified on behalf of other CSWR operating affiliates in connection with their acquisition of utilities in other states.

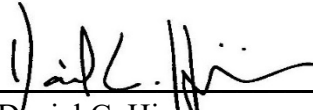
9. Given that Mr. Thomas would adopt testimony previously pre-filed in this docket, no party will be prejudiced by the relief requested in this Motion.

10. Red Bird has contacted counsel for the Public Staff, TESI and the Lake Royale POA and is authorized to represent that TESI and the Lake Royale POA do not object to the relief requested herein. The Public Staff objects to the substitution of Mr. Thomas for Mr. Cox because it has some concern about Mr. Thomas' ability to respond to questions about Mr. Cox's testimony and the Transfer Application. Red Bird expects and believes that Mr. Thomas can answer questions relating to the Cox direct testimony, the Application, or the issues relevant to the Commission's determination as to whether Red Bird has the technical, managerial, and financial ability to provide utility service in the TESI service area.

WHEREFORE, Red Bird respectfully requests that Mr. Thomas be substituted as a witness for Mr. Cox, be allowed to adopt Mr. Cox's direct testimony, and be permitted to testify in his place at the expert witness hearing in this docket.

Respectfully submitted, this the 12<sup>th</sup> day of October, 2023.

BURNS, DAY & PRESNELL, P.A.

A handwritten signature in black ink, appearing to read "Daniel C. Higgins", written over a horizontal line.

Daniel C. Higgins

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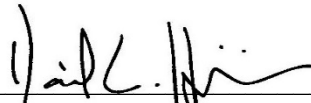
Attorneys for Red Bird

**CERTIFICATE OF SERVICE**

I certify that I have served a true and exact copy of the foregoing document on 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 12<sup>th</sup> day of October, 2023.

BURNS, DAY & PRESNELL, P.A.

By:  \_\_\_\_\_  
Daniel C. Higgins  
P.O. Box 10867  
Raleigh, North Carolina 27605