

**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, and Total Environmental Solutions, Inc., 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))))))))))	ORDER GRANTING MOTION FOR LEAVE TO FILE RESPONSE, ACCEPTING RESPONSE, AND ACCEPTING REPLY
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BY THE COMMISSION: On June 7, 2021, Red Bird Utility Operating Company, LLC (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 the Lake Royale Subdivision (Lake Royale) in Franklin and Nash Counties, North Carolina, from TESI to Red Bird and approval of rates.

On July 11, 2023, the Commission issued its Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice (Scheduling Order) scheduling, among other things, an expert witness hearing for October 23, 2023.

On September 11, 2023, the Lake Royale Property Owners Association, Inc. (LRPOA), filed a petition to intervene, and the Commission issued an order granting LRPOA's intervention on September 12, 2023.

On October 20, 2023, Red Bird filed a motion requesting, among other things, that the expert witness hearing begin at 12:00 p.m. on October 24, 2023. Red Bird's motion was granted by Commission order issued October 23, 2023.

On October 23, 2023, Red Bird and the Public Staff (collectively, the Stipulating Parties) filed a Settlement Agreement and Stipulation (Stipulation) setting forth their agreement on settlement. TESI and LRPOA did not join the Stipulation.

On October 24, 2023, the expert witness hearing was held as rescheduled. At the conclusion of the hearing, the Presiding Commissioner ordered that proposed orders and briefs be filed on November 22, 2023.

On November 22, 2023, LRPOA filed its Post-Hearing Brief (Brief), in which it requested that the Commission make its approval of the Application contingent upon two conditions: (1) TESI repairing, or paying for the repair of, all existing road damage due to water system leaks and from previous repair efforts and (2) reimbursing LRPOA in the amount of \$16,000.00 for repair costs incurred for road repairs caused by repeated water leaks from the TESI water system.

On November 30, 2023, TESI filed a Motion for Leave to File Response to Brief (Motion) and its accompanying Response (Response). In its Motion and Response, TESI noted that LRPOA did not include a statement describing the exact relief it sought when it filed its initial Motion to Intervene, as required by Commission Rule R1-19(a)(4). It also disputed LRPOA's claim on evidentiary grounds, citing a lack of documentary evidence in support of its proposed condition. Finally, TESI stated that the Commission lacks jurisdiction to award damages against a public utility.

On December 1, 2023, LRPOA filed its Reply to TESI's Motion and Response (Reply), in which it disputed TESI's assertion that insufficient documentary evidence existed to support its proposed condition. LRPOA also disputed TESI's assertion that the Commission is without jurisdiction to award damages against a public utility, stating that LRPOA's request is not proposed as an award of damages, but instead, as a proposed regulatory condition for the transfer of a franchise, distinguishing it from the cases cited by TESI.

Based on LRPOA's Brief, TESI's Motion and Response, LRPOA's Reply, and the record in this matter, the Presiding Commissioner finds good cause to grant TESI's Motion, and to accept for filing TESI's Response and LRPOA's Reply.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of December, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Tamika D. Conyers".

Tamika D. Conyers, Deputy Clerk