



**NORTH CAROLINA  
PUBLIC STAFF  
UTILITIES COMMISSION**

March 12, 2024

Ms. A. Shonta Dunston, Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

Re: Docket Nos. W-1259, Sub 5 and W-1328, Sub 6 – Application for  
Transfer of Public Utility Franchise from Meadowlands Development,  
LLC, to Red Bird Water and for Approval of Rates

Dear Ms. Dunston,

On behalf of the Public Staff and Red Bird Utility Operating Company, LLC  
(Red Bird), we herewith provide for filing in the above referenced docket the  
Settlement Agreement and Stipulation entered into by the Public Staff and Red  
Bird.

By copy of this letter, we are forwarding a copy to all parties of record by  
electronic delivery.

Sincerely,

Electronically submitted  
/s/ James Bernier, Jr.  
Staff Attorney  
[james.bernier@psncuc.nc.gov](mailto:james.bernier@psncuc.nc.gov)

/s/Megan Jost  
Staff Attorney  
[megan.jost@psncuc.nc.gov](mailto:megan.jost@psncuc.nc.gov)

cc: Parties of Record

Executive Director  
(919) 733-2435

Accounting  
(919) 733-4279

Consumer Services  
(919) 733-9277

Economic Research  
(919) 733-2267

Energy  
(919) 733-2267

Legal  
(919) 733-6110

Transportation  
(919) 733-7766

Water/Telephone  
(919) 733-5610

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, by United States Mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 12th day of March, 2024.

Electronically submitted  
/s/ Megan Jost  
Staff Attorney

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1259, SUB 5  
DOCKET NO. W-1328, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Meadowlands Development,	)	
LLC, and Red Bird Utility Operating	)	
Company, LLC, d/b/a Red Bird Water for	)	<b>SETTLEMENT AGREEMENT</b>
Transfer of Public Utility Franchise in	)	<b>AND STIPULATION</b>
Meadowlands Subdivision in Davidson	)	
County, North Carolina, and for Approval of	)	
Rates	)	

Red Bird Utility Operating Company, LLC, d/b/a Red Bird Water (Red Bird or the Company), and the Public Staff – North Carolina Utilities Commission (Public Staff) (collectively, the Stipulating Parties), through counsel and pursuant to N.C. Gen. Stat. § 62-69 and Rule R1-24(c) of the Rules and Regulations of the North Carolina Utilities Commission (Commission), respectfully submit the following Settlement Agreement and Stipulation (Stipulation) for consideration by the Commission in this proceeding. The Stipulating Parties hereby stipulate and agree as follows:

**I. BACKGROUND**

A. On October 9, 2020, as amended on October 21, 2020, and March 12, 2024, Red Bird and Meadowlands Development, LLC, filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the wastewater utility system and public utility franchise serving the Meadowlands Subdivision

(Meadowlands) in Davidson County, North Carolina, from Meadowlands Development, LLC, to Red Bird and approval of rates. Red Bird filed supplemental materials in support of the Application on July 12 and August 2, 2021; December 7, 2022; and June 15, August 7, August 17, and December 15, 2023.

B. On October 18, 2023, Kiran H. Mehta, Molly M. Jagannathan, and Holly R. Ingram of the law firm Troutman Pepper Hamilton Sanders LLP filed a Notice of Appearance on behalf of Red Bird.

C. On October 31, 2023, Daniel C. Higgins filed a motion requesting that he and the law firm Burns Day & Presnell, P.A., be permitted to withdraw as counsel for Red Bird. That motion was granted by order of the Commission issued November 1, 2023. Also on November 1, 2023, Mindy L. McGrath of the law firm Troutman Pepper Hamilton Sanders LLP filed a Notice of Appearance on behalf of Red Bird.

D. On January 2, 2024, the Commission issued its Order Finding Application Complete and Requiring the Public Staff to File Specific Application Data. The Public Staff filed the requested data on January 9, 2024.

E. On January 22, 2024, the Commission issued its Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice (Scheduling Order). On January 30, 2024, the Commission issued an Errata Order correcting the deadline for intervention contained in the Scheduling Order.

F. Also on January 30, 2024, the Commission issued its Order Approving Notice to Customers (Notice Order). The Commission attached as Appendix A to its Notice Order a Notice to Customers stating that a public witness hearing is scheduled for February 26, 2024, and that the Commission may decide the matter without a public witness hearing if no significant protests are received through the submission of consumer statements on or before February 16, 2024.

G. On February 7, 2024, Red Bird filed a certificate of service stating that the Notice to Customers was mailed or hand delivered to all affected customers by the date specified in the Notice Order.

H. On February 20, 2024, the Commission issued its Order Canceling Public Witness Hearing as no significant protests were received from customers.

I. Subsequent to the filing of Red Bird's Application in this docket, the Public Staff engaged in substantial discovery of Red Bird regarding the matters addressed by the Application and the supplemental materials filed with the Commission in support of the Application.

J. On February 8, 2024, Red Bird filed the direct testimony of Josiah Cox, President of Red Bird and CSWR, LLC, a Missouri limited liability company formed to provide managerial, technical, and financial support to its utility operating affiliates, including Red Bird. The Cox testimony included five exhibits.

K. On February 28, 2024, the Public Staff filed a motion requesting that the Commission extend the deadline for the filing of the Public Staff's direct

testimony and exhibits and the deadline for the filing of Red Bird's rebuttal testimony and exhibits to provide the Stipulating Parties with additional time to attempt to resolve certain issues in dispute in this matter. The Public Staff's motion was granted by order of the Commission issued February 28, 2024.

L. On March 1, 2024, the Stipulating Parties notified the Commission that they had agreed in principle to a settlement and filed their Joint Motion for Leave to File Stipulation and Settlement Testimony in Lieu of Direct and Rebuttal Testimony. On March 4, 2024, the Commission issued an order granting the Stipulating Parties' request to file by March 12, 2024, a stipulation and settlement agreement with supporting testimony and exhibits in lieu of prefiled direct and rebuttal testimony.

M. After settlement negotiations, in which concessions from their litigation positions were made by both Red Bird and the Public Staff, the Stipulating Parties were ultimately able to arrive at a settlement; the terms of which are reflected in the following sections of this Stipulation and supported by the settlement testimony of Red Bird witness Cox and joint settlement testimony of Public Staff witnesses Charles A. Akpom, Shashi M. Bhatta, and John R. Hinton.

## **II. STIPULATION AND AGREEMENT OF THE STIPULATING PARTIES**

The Stipulating Parties agree and stipulate as follows:

A. Red Bird should be granted a Certificate of Public Convenience and Necessity (CPCN) and a public utility franchise to provide wastewater utility service to the Meadowlands service area.

B. Subject to Commission approval, at closing, Red Bird will adopt the proposed tariffs and rates currently in effect for Meadowlands. The present and proposed rates are as follows:

Monthly Wastewater Utility Service:

Residential Flat Rate	\$ 45.31
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Reconnection Charge:

If sewer service cut off by utility for good cause	\$ 14.10
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If sewer service discontinued at customer request	\$ 14.10
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<u>Returned Check Charge:</u>	\$ 23.50
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<u>Bills Due:</u>	On billing date
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<u>Bills Past Due:</u>	15 days after billing date
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<u>Billing Frequency:</u>	Shall be monthly for service in arrears
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<u>Finance Charge for Late Payment:</u>	1% per month will be applied to the unpaid balance of all bills still past due 25 days after the billing date.
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C. Red Bird will adopt at closing Meadowlands' accounting records, provide the detailed accounting records received from Meadowlands to the Public Staff, and not adjust or make changes to those records without Commission approval.

D. The Stipulating Parties agree that the appropriate plant in service is \$0. No plant additions through the date of the closing of the sale of the Meadowlands wastewater system to Red Bird will be included in this or any future proceedings.

E. The Stipulating Parties agree that Red Bird may request recovery of the following costs associated with the transfer of the Meadowlands wastewater system to Red Bird:

- (i) \$84,078.06 for engineering due diligence work supported by invoices provided in response to PS DR 6 and listed in Cox Direct Exhibit 5 in the next general rate case relating to the Meadowlands wastewater system, provided that the work results in reasonable and prudent capital investments to improve the wastewater system; and
- (ii) \$30,542.61 for legal (transactional and regulatory) costs related to the acquisition of the Meadowlands wastewater system, which is supported by invoices provided in response to PS DRs 6 and 8 and listed in Cox Direct Exhibit 5 in the next general rate case relating to the Meadowlands wastewater system.

F. Red Bird agrees not to pursue rate recovery of any additional costs associated with the acquisition, including due diligence, transactional, and regulatory costs, other than those listed in Paragraphs E(i) and (ii) and as further detailed in a Public Staff Settlement Exhibit 1.

G. Red Bird agrees not to request an acquisition adjustment related to the Meadowlands wastewater system in this or any future proceeding.



H. Prior to closing and pursuant to future order by the Commission, Red Bird shall post a bond in the amount of \$50,000 in a form acceptable to the Commission for the Meadowlands wastewater system.

I. Consistent with the Settlement Agreement and Stipulation in Docket No. W-1328, Sub 10, Red Bird and key leadership from CSWR will meet annually with the Public Staff and provide an update detailing all changes in Red Bird's facilities and operations since the last annual update and discuss the Company's financial condition.

### **III. AGREEMENT TO SUPPORT SETTLEMENT; NON-WAIVER**

A. The Stipulating Parties, and their agents, witnesses, and representatives, will act in good faith to support the reasonableness of this Stipulation in any hearing before the Commission and any proposed order or brief in this docket; provided, however, that the settlement of any issue pursuant to this Stipulation shall not be cited as precedent by any of the Stipulating Parties in any other proceeding or docket before this Commission or on appeal before the North Carolina Court of Appeals or North Carolina Supreme Court. The provisions of this Stipulation do not necessarily reflect any position asserted by any of the Stipulating Parties. Rather, they reflect settlement among the Stipulating Parties as to all issues and, notwithstanding the items agreed and stipulated to in Section II. A through I above, no Stipulating Party waives the right to assert any position on any issue in any future docket before the Commission. The Stipulating Parties further agree that this Stipulation is in the public interest because it reflects a give-and-take settlement of contested issues.

B. This Stipulation is a product of negotiation among the Stipulating Parties, and no provision of this Stipulation shall be strictly construed in favor of or against any Party.

#### **IV. INTRODUCTION OF TESTIMONY AND WAIVER OF CROSS-EXAMINATION**

The Stipulating Parties agree that all pre-filed testimony and exhibits of the Stipulating Parties, including any supplemental testimony filed in support of this Stipulation, may be received in evidence without objection, and each Stipulating Party waives all right to cross examine the Stipulating Parties' witnesses with respect to pre-filed testimony and exhibits. If, however, questions are asked by any Commissioner or non-Stipulating Party, then any Stipulating Party may respond to such questions by presenting testimony or exhibits and cross-examining any witness with respect to such testimony and exhibits; provided, however, that such testimony and/or exhibits shall not be inconsistent with this Stipulation.

#### **V. STIPULATION BINDING ONLY IF ACCEPTED IN ITS ENTIRETY**

This Stipulation is the product of negotiation and compromise of a complex set of issues, and no portion of this Stipulation is or will be binding on any of the Parties unless the entire Settlement Agreement and Stipulation is accepted by the Commission. If the Commission rejects any part of this Stipulation or approves this Stipulation subject to any change or condition, or if the Commission's approval of this Stipulation is rejected or conditioned by a reviewing court, the Stipulating Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they

are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, each Party retains the right to seek additional procedures before the Commission, including cross-examination of witnesses, with respect to issues addressed by the Stipulation and shall not be bound or prejudiced by the terms and conditions of the Stipulation.

## VI. COUNTERPARTS

This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. Execution by facsimile signature shall be deemed to be, and shall have the same effect as, execution by original signature.

The foregoing is agreed and stipulated to this the 12th day of March, 2024.

Public Staff — North Carolina Utilities Commission

By: /s/ Megan Jost  
Megan Jost  
Staff Attorney

/s/ James Bernier Jr.  
Staff Attorney

Troutman Pepper Hamilton Sanders LLP

By: /s/ Mindy L. McGrath  
Attorney for Red Bird Utility Operating Company, LLC

/s/ Molly M. Jagannathan  
Attorney for Red Bird Utility Operating Company, LLC