



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

October 23, 2023

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

Re: Docket Nos. W-1146, Sub 13 and W-1328, Sub 10 – Application by Red Bird Utility Operating Company, LLC, 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

Dear Ms. Dunston,

Attached for filing on behalf of the Public Staff in the above-referenced dockets is the Verified Response of the Public Staff to Verified Reports on Customer Comments from Public Hearing by Red Bird Utility Operating Company, LLC, and Total Environmental Solutions, Inc.

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

Sincerely,

Electronically submitted
/s/ Megan Jost
Staff Attorney
megan.jost@psncuc.nc.gov

cc: Parties of Record

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**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 14059, 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) **VERIFIED RESPONSE OF THE PUBLIC STAFF TO VERIFIED REPORTS ON CUSTOMER COMMENTS FROM PUBLIC HEARING BY RED BIRD UTILITY OPERATING COMPANY, LLC, AND TOTAL ENVIRONMENTAL SOLUTIONS, INC.**

NOW COMES the Public Staff – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and files this verified response to the verified reports filed on October 9, 2023, by Red Bird Utility Operating Company, LLC (Red Bird), and Total Environmental Solutions, Inc. (TESI). The reports address testimony provided by customers at the public hearing held on September 25, 2023, in connection with the joint application filed by Red Bird and TESI seeking authority to transfer the water and wastewater systems and public utility franchise serving Lake Royale Subdivision (Lake Royale) in Franklin and Nash Counties from TESI to Red Bird and approval or rates.

PURPOSE OF RESPONSE

The purpose of the Public Staff’s response is to provide the results of the Public Staff’s review of Red Bird’s and TESI’s reports regarding the public hearing,

and the Public Staff's opinion on whether the responses adequately address the customers' concerns.

SUMMARY OF REPORTS AND PUBLIC STAFF RESPONSE

Sixteen witnesses testified during the public hearing. All customers who testified were either full-time or part-time residents of Lake Royale. Several customers who testified represented the Lake Royale Property Owners Association (POA). One witness who testified at the public witness hearing was a former customer who drilled their own well following a water outage sometime around 2000.

Rates

Ten customers testified that they were concerned about water utility rates increasing after Red Bird's acquisition of the Lake Royale water utility system. The Notice to Customers attached to the Commission's Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice issued on July 11, 2023, states that the anticipated post-acquisition increase is subject to Commission approval, and any future change in rates proposed by Red Bird would require Red Bird to file a general rate case application with the Commission pursuant to N.C. Gen. Stat. § 62-134.

Red Bird's report adequately addresses this customer concern by confirming that, at the time it acquires the Lake Royale water and wastewater utility systems, Red Bird will adopt the rates currently approved. Red Bird's report further states that, if Red Bird files a rate case with the Commission, customers will have the opportunity to provide input, the Public Staff will participate in the proceeding,

and the Commission will decide the extent of any rate increase. The Public Staff shared the customers' concerns about rate impacts associated with the transfer as detailed in the direct testimony filed by Public Staff witnesses Lynn Feasel and Evan M. Houser on September 19, 2023. However, the Public Staff believes the Settlement Agreement and Stipulation entered into by the Public Staff and Red Bird, including Red Bird's agreement not to seek an acquisition adjustment and the limitations on the amount of due diligence and legal costs Red Bird can recover, will minimize the magnitude of future rate increases and provide other protections for customers.

TESI does not address the concerns regarding rates raised by customers during the hearings in its report.

Leaks

Approximately one-half of the customers who testified at the public witness hearing expressed concerns about water leaks which, in some cases, went unrepaired for extended periods of time or led to the erosion of roadside ditches.

Red Bird does not directly address customers' concerns regarding leaks in its report, but states that it is aware of various leaks and is working to repair them. Since August 1, 2023, Red Bird has operated and managed the Lake Royale water and wastewater systems as contract operator for TESI.

In its report, TESI acknowledges that there have been leaks that have been present, and that repairs have not been timely. TESI states that staffing shortages contributed to the issue, and that workload has increased due to the increase in

building activity experienced in Lake Royale. TESI also states that hiring outside contractors has also been an issue due to the increased activity in surrounding areas as well as in Lake Royale. TESI states that, since Red Bird took over, an additional full-time employee was added to the staff, and two additional contractors were engaged to repair leaks. TESI reports that all previously-identified leaks have been repaired, and requests that customers contact Red Bird if they are aware of any current leaks.

Communications

Several customers identified concerns with communications from TESI regarding System Pressure Advisories (referred to as Boil Water Advisories), sampling violations, and water outages, as well as some customers not receiving information from Red Bird.

In its report, Red Bird states that it is aware of the customer concerns regarding communications and transparency and is dedicated to effectively providing both, and that it utilizes several means of alerting customers of Boil Water Advisories including emails, a pilot text program, signs, and website and social media posts. Red Bird notes that it is aware its notices may have been sent using outdated customer contact information, and that it will work to gather the correct customer data prior to future communications. Red Bird further states that its contact information is available on its website and is included in all written materials sent to customers.

In its report, TESI states that advisory notices are issued at the time of outages and line breaks, never in a bill insert. TESI states that it sends violation

notices with bills as a cost saving measure. TESI also states that when an outage occurs or pressure drops below minimum levels, there is a risk of bacteria entering the system but that there is no proof of a health risk, and boil advisories are a reasonable precaution to protect public health. TESI further states that its most successful efforts to communicate the advisories occurred working in partnership with the POA staff to send emails and place notices on the POA's electronic sign in addition to TESI's website. TESI recognizes that customers want to know when service will be restored and advisories will be lifted but notes that operations personnel cannot always predict how long it will take to complete repairs, flushing, pressurization, and disinfection so that an advisory can be lifted. TESI states that it encourages Red Bird to work with the POA to find the best means of communicating with the Lake Royale community.

Both companies' reports reasonably address customer concerns related to timely and accurate communication from the system owner. Timely communication with customers should be a priority and coordination with the POA and using multiple methods of communication are encouraged. Finally, up-to-date customer contact information will be necessary to accomplish this.

Water Quality

Many customers testified that they experienced issues with the quality of the water provided by TESI at Lake Royale. The water quality issues were generally related to brown or black sediment in the water and customers generally attributed the issues to water outages or leaks.

In its report, Red Bird states that it had no knowledge of any past efforts to address water quality issues, but that CSWR and its subsidiaries had experience with this type of issue in other systems across 11 different states. Red Bird further states that it understands the elevated tank is in poor condition and that several possible issues tied to its deterioration could have contributed to the water quality issues the customers testified to. Red Bird states that it plans to replace the tank, which it believes will resolve the water quality issues reported by customers. Red Bird reports that, while it is aware of various leaks which it is working to repair, the mains are constructed of PVC, which indicates that the quality of the distribution system is overall good. Red Bird further states that based on Franklin County's capacity, the Company may install a booster pump station which could help prevent over-pressurization of the water system to avoid problems such as leaks and damage to equipment.

TESI's report states that the water for Lake Royale is provided by Franklin County Utilities. TESI further states that, prior to 2019, there were occasional issues with disinfection byproducts in the Lake Royale water, but that issue has not recurred since TESI worked with Franklin County Utilities to resolve the issue five years ago. TESI's report advises customers to run outdoor taps or indoor cold water taps following an outage or leak until water is clear to avoid getting sediment in household lines and water heaters. TESI notes that a few customers may experience black gel or specks in their water due to iron and manganese in the water reacting with galvanized individual water service lines or household fixtures.

Both companies' reports adequately address the concerns raised by customers related to water quality. While the water quality issues could be due to a combination of factors, Red Bird's planned improvements to the water tank and more timely repairs of main breaks and leaks may improve the issues.

Road Repairs

Four customers expressed concerns with roads that were either not repaired in a satisfactory manner, not repaired quickly, or not repaired at all. The General Manager of the POA noted that the POA had recently invoiced TESI for road repairs that the POA had to make.

In its report, TESI states that it has faced increasing demand for road repairs in recent years due to increased development and leak repairs. TESI notes that it has been using the same contractor the POA has used for many years to ensure repairs are completed in an acceptable manner.

In its report, Red Bird states that it is both willing and able to both repair the roads post improvement, and will work with customers to ensure that this is done to their liking.

Additional Concerns

Below is a summary of additional concerns identified during the public hearing:

Two customers testified to concerns about sewage discharges of partially-treated wastewater. In its report, TESI states in response to these concerns that it

has never discharged raw or untreated wastewater into the Tar River from its wastewater plant. According to TESI, a previous POA General Manager posted a sign indicating that TESI was contaminating the river with raw wastewater, which resulted in unnecessary anxiety among residents.

Red Bird states in its report that it has no knowledge of specific efforts to address sewer issues, but that it is working with various third-party engineers to come up with a plan to address wastewater issues. The Public Staff remains concerned about significant investment in an oversized wastewater plant that serves only two customers and is currently in compliance with environmental regulations.

Two customers expressed concerns about fire hydrants not working. In its report, TESI states that the “fire hydrants” at Lake Royale are flushers used to flush the pipes, not hydrants, and that the Lake Royale water system was not designed to provide fire flow. This is a common concern of residents in various water systems that have what appear to be fire hydrants, even though they do not provide fire flow. Hydrants that do not provide fire flow should be marked accordingly. Red Bird does not address fire hydrants in its report.

CONCLUSION

The Public Staff has reviewed the reports of Red Bird and TESI addressing the testimony of customers during the September 25, 2023, public hearing and believes the reports adequately address the concerns raised by customers.

VERIFICATION

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

I, Evan M. Houser, state and attest that this Verification is filed on behalf of Public Staff – North Carolina Utilities Commission, as required by the North Carolina Utilities Commission; that I have reviewed the attached response to the Red Bird Utility Operating Company, LLC's and Total Environmental Solutions, Inc.'s verified reports addressing the September 25, 2023 customer hearing held in Docket Nos. W-1146, Sub 13 and W-1328, Sub 10 and, in the exercise of due diligence, have made reasonable inquiry into the accuracy of the information provided therein and in any exhibits, documents, and statements thereto attached; and that, to the best of my knowledge, information, and belief, all of the information contained therein is accurate and true, and no material information or fact has been knowingly omitted or misstated therein.



Evan Houser
Signature of Person Making Verification
Evan M. Houser
Typed or Printed Name
October 23, 2023
Date

Subscribed and sworn before me this the 23 day of October, 2023.

Jessica Heironimus
Jessica Heironimus, Notary Public

My Commission Expires: June 4, 2028

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 23rd day October, 2023.

Electronically submitted
/s/ Megan Jost
Staff Attorney