

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-938, SUB 6  
DOCKET NO. W-1328, SUB 8

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Joint Application by Red Bird Utility ) ORDER EXCUSING WITNESSES,  
Operating Company, LLC d/b/a Red Bird ) ACCEPTING TESTIMONY,  
Water and Baytree Waterfront Properties, ) CANCELING EXPERT WITNESS  
Inc. for Transfer of Public Utility Franchise ) HEARING, AND REQUIRING  
and for Approval of Rates ) PROPOSED ORDERS

BY THE PRESIDING COMMISSIONER: On October 9, 2020, Red Bird Utility Operating Company, LLC d/b/a Red Bird Water (Red Bird) and Baytree Waterfront Properties, Inc. (Baytree) filed 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 Windemere Pointe Subdivision in Montgomery County, North Carolina from Baytree to Red Bird and for approval of rates. Red Bird filed supplemental and additional materials in support of the Application on October 21, 2020, June 2, 2021, December 12, 2022, and August 2, 2023.

On September 13, 2023, the Commission issued an Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice, which among other things, scheduled a hearing for the purpose of receiving expert witness testimony on the Application (Expert Witness Hearing) to begin on November 6, 2023. On November 6, 2023, the Commission issued an Order Granting Leave to File Corrected Rebuttal Testimony and Rescheduling Expert Witness Hearing, which rescheduled the Expert Witness Hearing to commence on November 8, 2023. The November 8, 2023 Expert Witness Hearing was recessed and scheduled to reconvene on Wednesday, December 13, 2023.

On October 9, 2023, Red Bird filed the direct testimony and exhibits of Josiah Cox, President of Red Bird, Central States Water Resources, Inc., and CSWR, LLC (CSWR).

On October 23, 2023, the Public Staff filed the direct testimony and exhibits of John R. Hinton, Director of the Public Staff's Economic Research Division; the direct testimony and exhibits of Hemanth Meda, Public Utility Regulatory Analyst with the Public Staff's Accounting Division; and the direct testimony and exhibits of D. Michael Franklin, Public Utilities Engineer in the Public Staff's Water, Sewer, and Telephone Division.

On October 30, 2023, Red Bird filed the rebuttal testimony and exhibits of Josiah Cox and the rebuttal testimony of Caitlin O'Reilly, Regulatory Accounting Manager at CSWR.

On November 1, 2023, Red Bird filed the agreed upon witness list and estimated cross examination times.

On November 6, 2023, Red Bird filed the revised rebuttal testimony and exhibits of Josiah Cox.

On December 6, 2023, Red Bird and the Public Staff (collectively, the Stipulating Parties) filed the Settlement Agreement and Stipulation (Stipulation) resolving all issues between them.

On December 7, 2023, in support of the Stipulation, the Public Staff filed the joint settlement testimony and exhibits of Hemanth Meda and D. Michael Franklin and Red Bird filed the settlement testimony of Josiah Cox.

Also on December 7, 2023, the Stipulating Parties filed a joint motion to excuse witnesses from appearing at the hearing. The motion states that the Stipulating Parties agree that all prefiled testimony and exhibits of the Stipulating Parties may be received in evidence without objection and that each Stipulating Party waives all right to cross examine all of the Stipulating Parties' witnesses with respect to prefiled testimony and exhibits. Further, the Stipulating Parties request that Red Bird witnesses Cox and O'Reilly and Public Staff witnesses Hinton, Meda, and Franklin be excused from attending the Expert Witness Hearing in these dockets. The Stipulating Parties request that all prefiled testimony and exhibits of these witnesses be admitted into evidence. In addition, Red Bird moves that the Application, along with the supplemental and additional materials filed in support of the Application on October 21, 2020, June 2, 2021, December 12, 2022, and August 2, 2023, be admitted into evidence. The Stipulating Parties further move that the Stipulation be admitted into evidence. Finally, the Stipulating Parties state that Red Bird has confirmed that Baytree has no objection to the filing of the motion.

Based on the foregoing and the record, the Presiding Commissioner finds good cause to excuse witnesses Cox, O'Reilly, Hinton, Meda, and Franklin from appearing and testifying at the Expert Witness Hearing and, further, to receive into record the prefiled testimony and exhibits of these witnesses, Red Bird's Application and supplemental and additional materials filed in these dockets, and the Stipulation.

The Presiding Commissioner also finds good cause to cancel the Expert Witness Hearing and to require that Red Bird and the Public Staff file proposed orders, or a joint proposed order, on or before January 12, 2024.


IT IS, THEREFORE, SO ORDERED as follows:

1. That all expert witnesses are excused from appearing and testifying at the hearing on December 13, 2023, their testimony and exhibits are hereby accepted into evidence, and the Expert Witness Hearing is hereby canceled;
2. That the Application and supplemental and additional materials, as well as the Settlement Agreement and Stipulation are hereby accepted into evidence; and
3. That on or before Friday, January 12, 2024, Red Bird and the Public Staff shall file proposed orders or a joint proposed order.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of December, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "A. Shonta Dunston". The signature is written in black ink and is positioned above the printed name of the signatory.

A. Shonta Dunston, Chief Clerk