

**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)	JOINT PROPOSED ORDER
Total Environmental Solutions, Inc., Post)	APPROVING STIPULATION,
Office Box 14056, Baton Rouge,)	APPROVING BOND,
Louisiana 70898, for Authority to Transfer)	APPROVING TRANSFER AND
the Lake Royale Subdivision Water and)	RATES, AND REQUIRING
Wastewater Utility Systems and Public)	CUSTOMER NOTICE
Utility Franchise in Franklin and Nash)	
Counties, North Carolina, and for)	
Approval of Rates)	

HEARD: Monday, September 25, 2023, at 7:00 p.m. at the Judge Hamilton H. Hobgood Courthouse Annex, 113 South Main Street, Louisburg, North Carolina 27549; and

Tuesday, October 24, 2022, at 12:00 p.m. in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, 27603

BEFORE: Commissioner Karen M. Kemerait, Presiding, and Commissioner Jeffrey A. Hughes

APPEARANCES:

For Red Bird Utility Operating Company, LLC:

Daniel C. Higgins, Burns, Day & Presnell, P.A., PO Box 10867,
Raleigh, NC 27605

For Total Environmental Solutions, Inc.

Edward S. Finley, Jr., Edward S. Finley, Jr., PLLC, 2024 White Oak
Road Raleigh, NC 27608

For Lake Royale Property Owners Association, Inc.

David Drooz, Fox Rothschild, LLP, 434 Fayetteville Street, Suite
2800 Raleigh, North Carolina 27601

For the Using and Consuming Public:

Megan Jost, Public Staff - North Carolina Utilities Commission,
4326 Mail Service Center, Raleigh, North Carolina 27699-432

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 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, and August 18, 2023.

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 Company's Application and the supplemental and additional materials filed by Red Bird in support of the Application.

On July 11, 2023, the Commission issued its Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice (Scheduling Order) setting this matter for a public witness hearing on September 25, 2023, and an expert witness hearing on October 23, 2023. The Notice to Customers attached to the Scheduling Order as Appendix A stated that the public witness hearing was

subject to cancellation if no significant customer protests were received by September 11, 2023.

On July 18, 2023, Edward S. Finley, Jr. filed a notice of appearance on behalf of TESI.

On July 26, 2023, 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 Scheduling Order.

On July 31, 2023, the Commission issued a Notice of Complete Application in these dockets.

On August 25, 2023, Red Bird filed a Motion for Extension of Time to file its direct testimony. By Order issued August 28, 2023, that motion was allowed.

On August 30, 2023, Red Bird filed the direct testimony of Josiah Cox, President of Red Bird and CSWR, LLC (CSWR), a Missouri limited liability company formed to provide managerial, technical, and financial support to its utility operating affiliates, including Red Bird. The Cox direct testimony included four exhibits: an updated listing of CSWR senior management; a letter from the Missouri Department of Natural Resources, a letter from the Mississippi State Department of Health, and a schedule showing the due diligences expenses Red Bird contends it incurred as of the date the Cox direct testimony was filed.

On August 30, 2023, Red Bird filed objections to certain of the Public Staffs 13th Set of Data Requests. On September 1, 2023, Public Staff filed a Motion to Compel as to those data requests that were the subject of Red Bird's objections.

By Order issued September 7, 2023, the Commission granted Public Staff's Motion to Compel.

On September 8, 2023, Red Bird filed a Motion for Clarification or, Alternatively, for Reconsideration as to the Commission's ruling on the Public Staff Motion to Compel.

The Public Staff opposed Red Bird's Motion, and by Order issued September 12, 2023, the Commission denied Red Bird's Motion.

On September 11, 2023, the Lake Royale Property Owners Association, Inc. (POA) filed a petition to intervene.

By Order issued September 12, 2023, the POA was allowed to intervene.

On September 19, 2023, the Public Staff filed the testimony of Evan M. Houser, Public Utilities Engineer with the Public Staff's Water, Sewer, and Telephone Division, the testimony and exhibits of Lynn Feasel, Public Utilities Regulatory Manager of the Water, Sewer, and Telecommunications Sections with the Public Staff's Accounting Division, and the testimony and exhibit of John R. Hinton, Director of the Public Staff's Economic Research Division.

The public witness hearing was held as scheduled on September 25, 2023.

On September 26, 2023, the Public Staff filed the corrected testimony of Evan M. Houser.

On October 3, 2023, Red Bird filed the rebuttal testimony of Todd Thomas, Senior Vice President of CSWR, which included three exhibits, and the rebuttal testimony of Caitlin O'Reilly, Regulatory Accounting Manager for CSWR.

On October 9, 2023, Red Bird and TESI filed their respective Verified Reports regarding issues raised at the public witness hearing.

On October 12, 2023, Red Bird filed a Motion for Substitution of Witness and Adoption of Testimony by which it sought to have Todd Thomas adopt the prefiled direct testimony of Josiah Cox.

On October 13, 2023, the Public Staff filed its Objections to Red Bird's Motion for Substitution of Witness and Adoption of Testimony.

On October 13, 2023, the Commission issued its Order Delaying Hearing and Denying Motion for Substitution of Witness and Adoption of Testimony.

On October 20, 2023, Red Bird filed a Motion for Substitution of Witness and Adoption of Testimony, for Rescheduling of Expert Witness Hearing, and to Excuse One Witness. In its motion, Red Bird requested that the Commission reschedule the expert witness hearing to begin at 12:00 p.m. on October 24, 2023, that Red Bird witness Cox be substituted for Red Bird witness Thomas and be allowed to adopt witness Thomas' prefiled rebuttal testimony, and that Red Bird witness O'Reilly be excused from attending the expert witness hearing. Red Bird's motion was allowed by 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.

On October 23, 2023, the Public Staff filed its Response to the customer hearing reports.

On October 23, 2023, the Public Staff filed the joint settlement testimony and exhibit of Public Staff witnesses Feasel and Houser.

On October 23, 2023, Red Bird filed the supplemental testimony and exhibit of witness Cox.

On October 24, 2023, the expert witness hearing was held as previously rescheduled by the Commission.

Based upon the foregoing, including the Application, the testimony, exhibits, and affidavits of the expert witnesses received into evidence, the Stipulation, prior dockets regarding TESI, and the entire record in this proceeding, the Commission makes the following:

FINDINGS OF FACT

1. Red Bird presently holds three utility franchises in North Carolina. On December 8, 2021, in Docket No. W-1328, Sub 7, the Commission issued an order granting Red Bird a wastewater utility franchise for the Ocean Terrace and Pine Knoll Townes I, II, and III townhome communities in Carteret County, North Carolina. On February 7, 2023, in Docket Nos. W-1328, Sub 4, and W-1040, Sub 10, the Commission issued an Order approving the transfer of the Bear Den Acres Development water system and issuing a franchise to Red Bird for that system. On August 29, 2023, in Docket Nos. W-1328, Sub 9, and W-992, Sub 8 the Commission issued an order approving the transfer of the Crosby Utilities, Inc. systems and issuing a franchise to Red Bird for those systems.

In addition to the three systems for which Red Bird has been granted franchises in North Carolina, Red Bird's indirect corporate parent, CSWR, through

separate state affiliates, has acquired and currently operates more than 800 water or wastewater utility systems in Missouri, Arkansas, Kentucky, Louisiana, Texas, Tennessee, Mississippi, Arizona, Florida, and South Carolina, providing utility service to more than 219,000 wastewater customers and over 145,000 water customers.

2. TESI's service area is the Lake Royale residential development, located in Franklin and Nash Counties. TESI provides water service to approximately 2,276 residential customers and sewer service to two commercial customers.

3. Fifteen TESI customers and one former customer testified at the public witness hearing. The witnesses expressed concerns about water leaks and the length of time TESI took to repair them, issues with communications from TESI regarding System Pressure, poor water quality, and problems with road repairs. The Public Staff also received 28 complaints from TESI customers between July 1, 2020, and June 30, 2023, including 10 complaints regarding water service outages between March and May 2022, one regarding water quality, and one regarding water pressure.

4. Red Bird seeks Commission approval to acquire the TESI water and wastewater utility systems. TESI applied to acquire the water and sewer utility systems serving the Lake Royale development in Docket No. W-1146, Sub 0, which the Commission approved by Order issued February 2, 2001.

5. TESI operates its water system as North Carolina Department of Environmental Quality (NCDEQ), Division of Water Resources Water System No.

NC0235108 and TESI's wastewater system is operated under NCDEQ permit No. NC0042510.

6. A Red Bird affiliate, Central States Water Resources, Inc. (Central States), entered into an Agreement for Sale of Utility System with TESI dated February 4, 2021 (Purchase Agreement). According to the Purchase Agreement, the closing of the sale will occur after regulatory approval is obtained. Central States subsequently assigned the Purchase Agreement to its affiliate, Red Bird. The unredacted Purchase Agreement is a confidential attachment to the Application.

7. Upon acquisition of the TESI systems, Red Bird plans to make capital improvements. At this point, based on its consulting engineer's 2021 projections, Red Bird estimates that the cost of necessary improvements to the TESI systems will be approximately \$457,900 for work on the wastewater system and approximately \$235,000 for the work on the water system.

8. TESI purchases bulk water from Franklin County. On November 6, 2023, the Commission issued its Order Approving Tariff Revision and Requiring Customer Notice in Docket W-1146, Sub 15 (Pass Through Approval Order), whereby it approved TESI's request to revise its rates in order to pass through the increased cost of purchased water from Franklin County. Per the Pass Through Approval Order, TESI's presently approved monthly rates, which Red Bird proposes to adopt and are uncontested by the Public Staff, are as follows:

<u>Monthly Metered Residential Water Service:</u>	<u>Present and Proposed</u>
Base Charge, zero usage	\$33.49
Usage Charge, per 1,000 gallons	\$8.08

Monthly Metered Sewer Utility Service (based on metered water utility service):

Base charge, per water meter size:

Less than 1"	\$164.50
1"	\$246.75
2"	\$411.25

Usage Charge, per 1,000 gallons \$49.03

Water Availability Rate: \$22.95 per yearConnection Charge:

Water	\$300.00
Sewer	Actual cost of connection

Reconnection Charge:

If water service is cut off by utility for good cause \$14.35

If water service is discontinued at customer's request \$14.35

If sewer service is cut off by utility for good cause
by disconnecting water NoneIf sewer service is cut off by utility for good cause
by any method other than above Actual CostFinance Charge for Late Payment: 1% per month

9. As supplemented, Red Bird has filed all required exhibits with its Application.

10. Red Bird is a North Carolina limited liability company in good standing. Red Bird is a wholly-owned subsidiary of its sole member, Red Bird Utility Holding Company, LLC (RBUH), which is also a North Carolina limited liability company in good standing. RBUH is a wholly-owned subsidiary of its sole member, North Carolina Central States Water Resources, LLC, which is also a North Carolina limited liability company in good standing and a wholly-owned subsidiary of CSWR. U.S.

Water Systems, LLC (U.S. Water), is a Delaware limited liability company and the sole owner/member of CSWR. U.S. Water was formed by independent investment firm Sciens Capital Management, LLC, to oversee water sector investments using investor dollars held by Sciens Water Opportunities Fund.

11. The Stipulation filed by the Stipulating Parties in these dockets resolves all contested issues related to the transfer of the TESI systems to Red Bird. The terms of the Stipulation are as follows:

A. The transfer of the TESI systems to Red Bird should be approved.

B. Prior to closing and pursuant to future order by the Commission, Red Bird shall post a bond in the amount of \$100,000 in a form acceptable to the Commission for the TESI systems.

C. At closing, Red Bird will adopt the tariffs and rates currently in effect for TESI's water and wastewater customers, including any approved pass through approved pursuant to N.C. Gen. Stat. § 62-133.11.

D. Red Bird will adopt at closing TESI's accounting records, provide the detailed accounting records received from TESI to the Public Staff, and will not adjust or make changes to those records without Commission approval.

E. The Stipulating Parties agree that the net book value of the TESI assets Red Bird is acquiring is \$186,541 as calculated in Public Staff Settlement Exhibit 1. This amount is based on plant additions through December 31, 2022, as provided by the Company, and includes depreciation and amortization calculated through December 31, 2023. The parties reserve the right to seek a determination by the Commission of whether all of the utility assets acquired by Red Bird were

used and useful during the applicable test period in Red Bird's initial rate case. Any assets determined by the Commission not to have been used and useful during the applicable test period will be removed from rate base.

F. The Stipulating Parties agree that the correct gross amount of contributions in aid of construction (CIAC) to be recorded by Red Bird at closing is \$21,900. By amortizing the CIAC over 15 years, the net CIAC balance is \$19,710 as of December 31, 2023.

G. Red Bird may request recovery of the following costs associated with the transfer of the Lake Royale systems to Red Bird:

(i) Up to \$40,801.23 for engineering due diligence work listed in Cox Exhibit 4 in the next general rate case relating to the Lake Royale water system, provided that the work results in reasonable and prudent capital investments to improve the water system.

(ii) Up to \$22,450.50 for engineering due diligence work listed in Cox Exhibit 4 in the next general rate case relating to the Lake Royale wastewater system, provided that the work results in reasonable and prudent capital investments to improve the wastewater system.

(iii) Up to \$10,000 for legal costs related to the acquisition of the TESI systems in the next general rate case relating to the Lake Royale water and sewer systems.

H. Red Bird agrees not to pursue rate recovery of any additional costs associated with the transfer, including due diligence, transactional, and regulatory

costs, other than those listed in Paragraphs II.G. (i), (ii), and (iii) above and further detailed in Public Staff Settlement Exhibit 2.

I. Red Bird agrees not to pursue an acquisition adjustment related to the TESI systems in this or any future proceeding.

J. Until the earlier of the conclusion of Red Bird's first rate case or a Commission order modifying this requirement, Red Bird shall apply for funding from the North Carolina Department of Environmental Quality, Division of Water Infrastructure in the funding cycle preceding planned water system investment of more than \$100,000 in the TESI water system.

K. Beginning one year after the effective date of the Commission's order approving this Stipulation, and continuing annually, Red Bird and key leadership from CSWR will meet 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.

L. Red Bird President Josiah Cox shall file settlement testimony, some of which may be confidential, addressing the following:

- (i) The relationship between Sciens Water and/or Sciens Capital Management, LLC, and US Water Systems, LLC;
- (ii) The ultimate source of the funding received by Red Bird and an explanation of how that funding is allocated among the affiliates of CSWR, LLC;
- (iii) Any limitations and/or conditions placed on the future funding of Red Bird by any of Red Bird's upstream owners; and

- (iv) Attach as an exhibit a revised version of the “Explanation of Corporate Structure,” filed as a late filed exhibit in Docket No. W-1328, Sub 4, which reflects U.S. Water Systems, LLC’s position in the corporate structure.

12. The Stipulation is the product of give-and-take in settlement negotiations between the Public Staff and Red Bird, is material evidence in this proceeding, and is entitled to be given appropriate weight in this case, along with other evidence from the Company and the Public Staff.

13. Red Bird has the technical, managerial, and financial capacity to own and operate the TESI water and wastewater systems.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

This finding is based on the Commission’s records in Docket No. W-1328, Sub 7 and in the Commission’s Order Accepting and Approving Bond, Granting Franchise, Approving Rates, and Requiring Customer Notice issued in that docket. This finding is also based on the Commission’s records in Docket Nos. W-1328, Sub 4, and W-1040, Sub 10, and the Order Approving Stipulation, Approving Bond, Approving Transfer and Rates, and Requiring Customer Notice as to the transfer of the Bear Den Acres Development system to Red Bird. This finding is also based on the Commission’s records in Docket Nos. W-1328, Sub 9, and W-992, Sub 8, and the Order Approving Stipulation, Approving Bond, Approving Transfer and Rates, and Requiring Customer Notice as to the transfer of the Crosby Utilities, Inc., systems to Red Bird.

This finding is also based on the direct testimony of Red Bird witness Cox that CSWR’s operating subsidiaries have acquired and operate over 800 water

and/or wastewater utility systems in Missouri, Arkansas, Kentucky, Louisiana, Texas, Tennessee, Mississippi, North Carolina, and Arizona, Florida, South Carolina and, at this time, the systems addressed in Docket Nos. W-1328, Sub 7; W-1328, Sub 4; W-1040, Sub 10; W-1328, Sub 9; and W-992, Sub 8. Tr. vol. 2, 22.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

This finding is based on the Commission's records in these dockets and the testimony of Red Bird witness Cox and Public Staff witness Houser. *Id.* at 21, 37, 157.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

This finding is based on public witness testimony at the public hearing regarding frequent interruptions in TESI's water service, slow repair of water main breaks, and other water quality issues, as summarized in the verified reports filed by TESI and Red Bird and the verified response filed by the Public Staff.

This finding is also based on the testimony of Public Staff witness Houser regarding complaints from TESI customers received by the Public Staff's Consumer Services Division. *Id.* at 165.

Red Bird will need to take reasonable and prudent actions to address the issues with the TESI water system identified by witnesses at the public hearing and in complaints, including quality of service and the condition of the system.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

This finding is based on the Application in these dockets and the Commission's records in Docket No. W-1146, Sub 0, wherein the Commission

issued a CPCN to TESI for its water and wastewater utility systems serving the Lake Royale development and is uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

This finding is based on the testimony of Public Staff witness Houser and the Commission's records in these and other dockets relating to TESI and is uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

This finding is based on filings in these dockets, including the Agreement for Sale of Utility System with TESI dated February 4, 2021, and the Assignment of Contract Rights document dated April 15, 2022, whereby Central States Water Resources, Inc. assigned its rights under the Agreement for Sale of Utility System to Red Bird as the buyer.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence for this finding is found in the Application and supplemental supporting materials filed by Red Bird as well as the direct testimony of Red Bird witness Cox, the testimony of Public Staff witness Houser, and the rebuttal testimony of Red Bird witness Todd Thomas. Witness Cox testified regarding the deficiencies and need for improvements in the TESI systems identified by McGill Associates, Red Bird's North Carolina consulting engineers. *Id.* at 41. Witness Cox further testified that in order to address operational and/or compliance issues in TESI's water and wastewater treatment systems, McGill recommended that the following work be done:

- (a) For the water system:

Rehabilitation of the elevated tank for continued use as part of the distribution system (short term)

Removal of elevated tank from service (long term)

If Franklin County has capacity, installation of booster pumps to maintain pressure

If Franklin does not have capacity, construction of a ground storage tank that meets state storage requirements

(b) For the wastewater system:

For Lift Station No. 1

Replace existing simplex pump with duplex pumps

Provide connection for portable power source

Provide telemetry system for remote monitoring

Rehabilitate wet well

Exercise Air Release Valves and replace as needed

For Lift Station No. 9

Demolish and replace existing wetwell, pump, piping, and valves

Demolish existing holding tank and reroute sewer lines to new wetwell as needed

For the treatment plant

Rehabilitate two aeration chambers. Replace piping and diffusers to aeration chambers

Rehabilitate two settling tanks

Rehabilitate digester and replace piping and diffusers

Replace sand media in tertiary filters

Replace and reroute plant piping to remove from service chambers not being rehabilitated

Replace both blowers with 100 CFM blowers and motors

Provide new permanent backup generator with automatic transfer switch

Id. at 42.

Public Staff witness Houser expressed concern about the extent of the investment estimated by Red Bird to address needs in the TESI wastewater plant, which only serves two customers. As he noted, all investment will be subject to a determination of whether utility property is used and useful during a future rate case. *Id.* at 183. Additionally, all investment made by Red Bird in the TESI system

will be reviewed subject to the reasonable and prudent standard in future rate cases.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

As reflected in the Application, the direct testimony of Red Bird witness Cox, and the testimony of Public Staff witness Houser, Red Bird proposes to adopt TESI's existing rates and is not seeking a rate increase in connection with the request for approval of the transfer of the TESI systems. *Id.* at 70, 168. Therefore, this finding is based on the Application and the Commission's records in prior TESI dockets, including the Pass Through Approval Order issued in Docket W-1146, Sub 15, and is.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

This finding is procedural, is uncontested, and is based on the record in these dockets and is reflected in the Commission's Notice of Complete Application issued July 31, 2023, in these dockets.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

This finding is based on the direct and supplemental testimonies of Red Bird witness Cox and Cox Supplemental Exhibit 1. *Id.* at 22-23, 90-91. It is also based on the supplemental filings made by Red Bird in these dockets on August 2, 2022, consisting of Certificates of Good Standing from the North Carolina Secretary of State as to Red Bird; as to its sole member, Red Bird Utility Holding Company, LLC; and as to that entity's sole member, North Carolina Central States Water Resources, LLC.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 11 AND 12

These findings are based on the Stipulation entered into by the Stipulating Parties and filed with the Commission on October 23, 2023, in these dockets. These findings are also based on the joint settlement testimony filed by Public Staff witnesses Houser and Feasel and the supplemental testimony filed by Red Bird witness Cox.

Based upon the entire record herein, the Commission finds that the Joint Stipulation represents a negotiated settlement of all issues in this proceeding and that the provisions agreed to by the Stipulating Parties are reasonable and appropriate for the purpose of this proceeding. In making this finding, the Commission gives substantial weight to the testimony of Public Staff witness Houser and Red Bird witnesses Cox and Thomas, and recognizes that the Stipulation is a product of arm's length negotiations, involving give and take, and notes that as part of the Stipulating Parties' agreement, Red Bird agrees not to seek recovery of any additional costs associated with the transfer, including due diligence, transactional, and regulatory costs, other than those listed in Paragraphs II.G. (i), (ii), and (iii) of the Stipulation.

The Commission finds that, based on the record as a whole, the terms of the Stipulation are just and reasonable to both Red Bird and its future customers on the TESI systems. In addition, the Commission finds that the provisions of the Stipulation are just and reasonable to all parties to this proceeding and serve the public interest, and that it is appropriate to approve the Stipulation in its entirety.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence supporting this finding of fact is found in Red Bird's Application, Red Bird's supplemental filings, the testimony of Red Bird witnesses Cox and Thomas, and Public Staff witness Houser, the Stipulation, and the entire record in this proceeding.

Public Staff witness Houser testified that "Red Bird has the technical and managerial capabilities necessary to provide public utility service to the Lake Royale water and wastewater systems," and recommended that the Commission approve the transfer of the TESI systems to Red Bird. *Id.* at 171. This finding is also supported by the testimony of Public Staff witness Hinton that Red Bird has "the financial capacity to acquire, own, and operate the TESI systems. *Id.* at 216.

The Stipulation also reflects the Public Staff's agreement that Red Bird has the technical, managerial, and financial capacity to provide water utility service in the TESI service area. The Commission has previously made that finding as to Red Bird in the Order granting Red Bird a wastewater utility franchise for the Ocean Terrace and Pine Knoll Townes I, II, and III townhome communities in Carteret County, North Carolina in Docket No. W-1328, Sub 7; in the Order approving the transfer of the Bear Den Acres Development water system and issuing a franchise to Red Bird for that system in Docket Nos. W-1328, Sub 4, and W-1040, Sub 10; and in the Order approving the transfer of the Crosby Utilities, Inc. systems and issuing a franchise to Red Bird for those systems in Docket Nos. W-1328, Sub 9, and W-992, Sub 8.

As established by the testimony of Red Bird witness Cox, affiliates of Central States have acquired and currently operate over 800 water and/or wastewater utility systems in ten other states and currently provides service to approximately 219,000 wastewater customers and over 145,000 water customers. *Id.* at 25. There is adequate and sufficient evidence that Red Bird has the technical, managerial, and financial capacity to run and operate the TESI systems.

CONCLUSIONS

Based on all of the evidence in the record, the provisions of the Stipulation are just and reasonable to the TESI customers and to all parties to this proceeding and serve the public interest. Therefore, the Stipulation should be approved in its entirety.

The Commission therefore approves the Stipulation; concludes that Red Bird's adoption of TESI's existing rates should be approved; that a \$100,000 bond shall be posted by Red Bird for the TESI service area prior to closing; that Red Bird should provide written notification to the Commission within 30 days from the date of this Order that closing of the sale of the TESI utility systems has been completed along with the bond; that upon receipt of such written notification and bond, Red Bird should be granted a Certificate of Public Convenience and Necessity to provide water and sewer utility service to the TESI service areas; and that Red Bird should provide notice to customers that the franchise has been granted and of the approved rates.

IT IS, THEREFORE, ORDERED as follows:

1. That TESI is authorized to transfer its water and wastewater systems

serving Lake Royale in Franklin and Nash Counties, North Carolina, to Red Bird;

2. That the Stipulation between the Public Staff and Red Bird is hereby approved in its entirety;

3. That Red Bird shall comply with all terms of the Stipulation filed in this docket;

4. That rate base for the TESI system assets shall be \$186,541. The gross amount of CIAC to be recorded by Red Bird at closing is \$21,900. By amortizing the CIAC over 15 years, the net CIAC balance is \$19,710 as of December 31, 2023. Red Bird may request recovery of the following costs associated with the transfer of the Lake Royale systems to Red Bird:

- (i) Up to \$40,801.23 for engineering due diligence work listed in Cox Exhibit 4 in the next general rate case relating to the Lake Royale water system, provided that the work results in reasonable and prudent capital investments to improve the water system.
- (ii) Up to \$22,450.50 for engineering due diligence work listed in Cox Exhibit 4 in the next general rate case relating to the Lake Royale wastewater system, provided that the work results in reasonable and prudent capital investments to improve the wastewater system.
- (iii) Up to \$10,000 for legal costs related to the acquisition of the TESI systems in the next general rate case relating to the Lake Royale water and sewer systems.

Any portion of these amounts associated with reasonable and prudent improvements should be included as utility plant in service in the Company's next

general rate case filed after the improvements become used and useful in providing service. Red Bird shall not seek recovery of any additional costs associated with the transfer, including due diligence, transactional, and regulatory costs, other than those listed above.

5. That prior to closing, Red Bird shall post a \$100,000 bond and commercial surety in a form acceptable to the Commission and in compliance with N.C.G.S. § 62-110.3 and that Red Bird shall file a copy of the same within 30 days from the date of this Order;

6. That TESI's surety bonds held by the Commission shall be released to Crosby upon receipt of written notification to the Commission that closing of the transfer of the TESI systems has been completed;

7. That Red Bird is granted a CPCN to provide water utility service to the TESI service area consisting of the Lake Royale Subdivision in Franklin and Nash Counties, North Carolina, effective upon the closing of the sale of the TESI water and sewer utility system assets to Red Bird. Appendix A, attached hereto, constitutes the Certificate of Public Convenience and Necessity;

8. That the CPCN granted to TESI in Docket No. W-1146, Sub 0 is cancelled effective on the date Red Bird files with the Commission written notification that closing of the transfer of the water and wastewater utility systems has been completed;

9. That the Schedule of Rates, attached hereto as Appendix B, is hereby approved and deemed filed with the Commission pursuant to N.C.G.S. § 62-138. This Schedule of Rates shall become effective upon the closing of the sale

of the TESI water and sewer utility system assets to Red Bird;

10. That Red Bird shall provide notification to the Commission within 30 days from the date of this Order that closing of the sale of the water and sewer utility systems serving the TESI service area has been completed;

11. That within 30 days from the closing of the sale of the TESI water and sewer utility systems, Red Bird shall file in these dockets the warranty deed showing Red Bird's ownership of the required easements and all interests in land it has obtained in connection with the operation and maintenance of the TESI water and sewer utility systems; and

12. That a copy of this Order and Appendix B shall be mailed with sufficient postage or hand delivered by Red Bird to TESI customers no later than seven days after the closing of the sale of the water utility system serving Lake Royale has been completed, and that Red Bird shall submit to the Commission the attached Certificate of Service properly signed and notarized not later than 15 days after the mailing or hand delivery of the Order and Appendix B.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

APPENDIX A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1040, SUB 10
DOCKET NO. W-1328, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

RED BIRD UTILITY OPERATING COMPANY, LLC

is granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water and/or sewer utility service

to

THE LAKE ROYALE SUBDIVISION

Franklin and Nash Counties, North Carolina

subject to any orders, rules, regulations
and conditions now or hereafter lawfully made
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

SCHEDULE OF RATES
for
RED BIRD UTILITY OPERATING COMPANY, LLC
for providing water and sewer utility service in
LAKE ROYALE SUBDIVISION
Franklin and Nash Counties, North Carolina

Monthly Metered Residential Water Service:

Base Charge, zero usage	\$33.49
Usage Charge, per 1,000 gallons	\$8.08

Monthly Metered Sewer Utility Service (based upon metered water utility service) Base
charge, per water meter size:

Less than 1"	\$164.50
1"	\$246.75
2"	\$411.25
Usage Charge, per 1,000 gallons	\$49.03

Water Availability Rate: \$22.95 per year

Connection Charge:

Water	\$300.00
Sewer	Actual cost of connection

Reconnection Charge:

If water service is cut off by utility for good cause	\$14.35
If water service is discontinued at customer's request	\$14.35
If sewer service is cut off by utility for good cause by disconnecting water	None
If sewer service is cut off by utility for good cause by any method other than above	Actual Cost

Finance Charge for Late Payment:

1% per month

Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket Nos. W-1146, Sub 13, and W-1328, Sub 10, on this the __ day of _____, 202__.

CERTIFICATE OF SERVICE

I, _____, mailed with sufficient postage or hand delivered to all affected customers copies of the attached Notice to Customers issued by the North Carolina Utilities Commission in Docket Nos. W-1146, Sub 13, and W-1328, Sub 10, and the Notice was mailed or hand delivered by the date specified in the Order.

This the ____ day of _____, 202__.

By: _____
Signature

Name of Utility Company

The above named Applicant, _____, personally appeared before me this day and, being first duly sworn, says that the required Notice to Customers was mailed or hand delivered to all affected customers, as required by the Commission Order dated _____ in Docket Nos. W-1146, Sub 13, and W-1328, Sub 10.

Witness my hand and notarial seal, this the ____ day of _____, 202__.

Notary Public

Address

Date

(SEAL) My Commission Expires:
