

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

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

In the Matter of  
Application by Red Bird Utility Operating )  
Company, LLC, 1650 Des Peres Road, Suite 303, )  
St. Louis, Missouri 63131, and Bear Den Acres )  
Development, Inc., 600 Bear Den Mountain Road, )  
Spruce Pine, North Carolina 28777, for Authority to )  
Transfer the Bear Den Acres Development Water )  
System and Public Utility Franchise in McDowell )  
County, North Carolina, and for Approval of Rates )

**RED BIRD FILING PURSUANT TO ORDER SCHEDULING HEARING**

The Order Scheduling Hearing, Establishing Discovery Guidelines, And Requiring Customer Notice issued in these dockets on January 5, 2022 (“Scheduling Order”), directed Red Bird Utility Operating Company, LLC (“Red Bird”) to “consult with all other parties and file, no later than Monday, March 21, 2022, a list of witnesses to be called at the hearing, the order of witnesses, and the estimated time for cross-examination.” (Scheduling Order ¶ 6).

Pursuant to the Scheduling Order, on February 11 Red Bird filed the Direct Testimony of its President, Josiah Cox.

On March 2, 2022, Red Bird and the Public Staff filed a Settlement Agreement and Stipulation resolving the contested issues in these dockets.

On March 18, 2022, Public Staff filed the Settlement Testimony of D. Michael Franklin and Red Bird filed the Supplemental Testimony of Josiah Cox.

On March 21, 2022, Public Staff and Red Bird filed a Joint Motion for Order Cancelling Hearing, Approving Stipulation, Approving Bond, And Approving Transfer And Rates (“Joint Motion”) in these dockets. Those parties also filed a Joint Proposed Order granting the relief requested in the Joint Motion.

The two witnesses that have filed testimony in these dockets who would testify if there was a hearing would be:

Josiah Cox on behalf of Red Bird

D. Michael Franklin on behalf of Public Staff

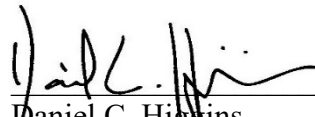
The Settlement Agreement and Stipulation entered into by the Public Staff and Red Bird provides, in pertinent part, as follows:

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 all of the Stipulating Parties’ witnesses with respect to pre-filed testimony and exhibits.

As a result, unless the Commission chooses to hold a hearing in these dockets and has questions for these witnesses, there will be no cross examination of either witness.

Respectfully submitted, this the 21<sup>st</sup> day of March, 2022.

BURNS, DAY & PRESNELL, P.A.



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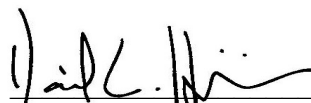
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Attorneys for Red Bird

## CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served on all parties in these dockets and the Public Staff, by either depositing same in a depository of the United States Postal Service, first-class postage prepaid and mailed by the means specified below, or by electronic delivery.

This the 21<sup>st</sup> day of March, 2022.

BURNS, DAY & PRESNELL, P.A.



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Daniel C. Higgins  
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Raleigh, NC 27605