

**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	)	MOTION FOR LEAVE TO FILE
Application by Red Bird Utility Operating	)	CORRECTED REBUTTAL TESTIMONY
Company, LLC, and Baytree Waterfront	)	AND REQUEST THAT EXPERT
Properties, Inc. for Transfer of Public Utility	)	WITNESS HEARING
Franchise and for Approval of Rates	)	BE RESCHEDULED

NOW COMES Red Bird Utility Operating Company, LLC (“Red Bird”), and moves the Commission to allow it to correct the rebuttal testimony of Josiah Cox filed on October 30, 2023, and to file Corrected Cox Rebuttal Testimony early next week, and to postpone the expert witness hearing in these dockets for a short time to allow Public Staff to review the corrected rebuttal testimony and serve discovery regarding same.

In support of its Petition Red Bird shows the Commission the following:

1. Red Bird filed the Rebuttal Testimony of Josiah Cox on Monday, October 30, 2023.
2. On Wednesday afternoon Public Staff alerted Red Bird to its belief that a portion of Mr. Cox’s rebuttal testimony referred to data relating to the Baytree Lakes wastewater system, which is different from the Baytree Waterfront wastewater system that is the subject of the transfer application pending in these dockets.
3. Because the data relating to Baytree Lakes should not have been included in Mr. Cox’s rebuttal testimony filed on October 30, and because that data is referred to on several occasions in the filed rebuttal testimony, Red Bird seeks to correct that testimony to remove references to the Baytree Lakes data and to discuss the Baytree Waterfront wastewater system.

4. Public Staff advises that it does not object to the filing of corrected rebuttal testimony but wants a date certain for the filing of same, and a delay in the current expert witness hearing date to provide it with an opportunity to serve discovery relating to the corrected rebuttal.
5. Pursuant to the waiver provision in Section 1.(b)2 of SL 2023-67, Red Bird agrees to a 30-day extension of the 180-day deadline of SL 2023-64 to support the requested delay in the current expert witness hearing.
6. With support of the Public Staff, Red Bird proposes (i) that it file corrected rebuttal testimony by Tuesday, November 7; (ii) that formal discovery requests related to prefiled corrected rebuttal testimony shall be served on Red Bird or Baytree, or both, not later than 3 business days after such testimony is filed; (iii) that the party served shall have up to 3 business days to file with the Commission objections to the discovery requests on an item-by-item basis; and (iv) that the Commission postpone the hearing from November 6 to an open date on the Commission's calendar. Public Staff identified four potentially open dates on the Commission's calendar in the next few weeks and Red Bird has confirmed that of those dates Red Bird's witnesses are available Monday, December 11 and Tuesday December 12.

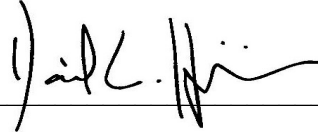
Wherefore, Red Bird prays the Commission that:

1. Red Bird be allowed to correct the rebuttal testimony of Josiah Cox filed on October 30, 2023, and to file Corrected Cox rebuttal testimony on or before November 7, 2023, and

2. That the expert witness hearing in these dockets be delayed for a short time, as will otherwise work with the Commission's schedule, to allow Public Staff to review the revised rebuttal testimony and serve discovery regarding same, as provided for herein.

Respectfully submitted, this the 3rd day of November, 2023.

BURNS, DAY & PRESNELL, P.A.

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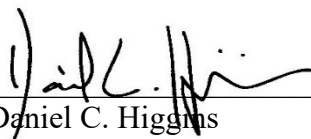
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## CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document, has been served on 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 3<sup>rd</sup> day of November, 2023.

BURNS, DAY & PRESNELL, P.A.

A handwritten signature in black ink, appearing to read "Daniel C. Higgins", is written over a horizontal line.

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