

**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) ORDER SCHEDULING HEARINGS,
Environmental Solutions, Inc., Post Office Box) ESTABLISHING DISCOVERY
14056, Baton Rouge, Louisiana 70898, for) GUIDELINES, AND REQUIRING
Authority to Transfer the Lake Royale) CUSTOMER NOTICE
Subdivision Water and Wastewater Utility)
Systems and Public Utility Franchise in)
Franklin and Nash Counties, North Carolina,)
and for Approval of Rates)

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.

TESI currently serves 1,650 residential and 15 commercial water utility customers in Lake Royale. TESI also serves two commercial water and wastewater utility customers in Lake Royale. Upon acquisition, Red Bird plans to make water utility system capital improvements, including demolishing the existing elevated water storage tank and installing a new booster pump station with a backup power generator. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the Lake Royale water utility system, the approximate annual revenue requirement associated with the water utility system capital expenditures is \$68,962, or \$3.48 per customer per month for 25 years, subject to true-up.

Red Bird also plans to make wastewater utility system capital improvements, including replacing internal equipment in two lift stations, replacing the force main's air release valves, and refurbishing the wastewater treatment plant. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the Lake Royale wastewater utility system, the approximate annual revenue requirement

associated with the wastewater utility system capital expenditures is \$80,143, or \$3,339 for each of the two customers per month for 25 years, subject to true-up.

The present rates for TESI were approved in Docket Nos. W-1146, Sub 11 and M-100, Sub 138, and have been in effect since January 1, 2017. Upon acquisition of the system, Red Bird proposes to charge the current Commission-approved rates for Lake Royale. The present and proposed rates are as follows:

<u>Monthly Metered Water Service:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 29.03	\$ 29.03
Usage Charge, per 1,000 gallons	\$ 6.02	\$ 6.02

Monthly Metered Wastewater Rates (Commercial):

Base Charge, zero usage		
<1" meter	\$164.50	\$164.50
1" meter	\$246.75	\$246.75
2" meter	\$411.25	\$411.25
Usage Charge, per 1,000 gallons	\$ 49.03	\$ 49.03

Based on these rates, a residential customer who uses 2,300 gallons of water per month would be billed \$42.88 per month for water utility service. Also based on these rates, a commercial customer with a one-inch meter with wastewater usage of 12,200 gallons per month would be billed \$844.92 per month for wastewater utility service.

Upon acquisition, Red Bird plans to make capital improvements and implement changes to operations that will increase annual operating costs above current levels. Non-Confidential Attachment K.1 to the Application states that Red Bird plans to request a rate increase approximately 14 months post-acquisition, subject to Commission approval.¹ Depending on the number of systems which it has been able to acquire by the time it files a rate case relating to the TESI systems, Red Bird may seek approval of uniform rates across all its North Carolina systems, including Lake Royale.

If the full amount of the projected rate increase, including the request for uniform rates, were approved by the Commission in the timeframe proposed by Red Bird, the average monthly bill charged to each customer for water and wastewater utility service would be as follows:

¹ Any future change in rates proposed by Red Bird would require filing a general rate case application pursuant to N.C. Gen. Stat. § 62-134 and approval by the Commission. Future rates are subject to change and could be less or more than the projected \$73.44 per customer.

<u>Timeframe</u>	<u>Monthly Water Utility Bill</u>	<u>Monthly Wastewater Bill</u>
Present ²	\$ 42.88	\$844.92
Year 1	\$ 42.88	\$844.92
Year 2 ³	\$ 68.35	\$844.92
Years 3 through 5	\$ 73.44	\$844.92

The Public Staff presented this matter at the Commission’s Staff Conference on June 19, 2023. The Public Staff recommended that the matter be scheduled for a customer hearing for the sole purpose of receiving testimony from customers; that the matter should also be scheduled for an expert witness hearing for the sole purpose of receiving expert witness testimony from Red Bird, the Public Staff, and other intervenors, if any; and that Red Bird should be required to provide notice to all affected customers of the Application, including the applied for rates and the scheduled hearings.

Based on the foregoing and the recommendation of the Public Staff, the Commission hereby establishes the procedural schedule, including filing requirements of Red Bird, the Public Staff, and other intervenors, and requires that Red Bird provide public notice to all customers affected by the Application, including the applied for rates and the scheduled hearings.

The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition shall be taken before the deadline for the filing of the Public Staff and other intervenor testimony. Notice of deposition and all other discovery notices, requests and motions shall be served on the appropriate parties by hand delivery or facsimile, or by electronic delivery if the receiving party has agreed to receipt by electronic delivery.

2. Any motion for subpoena of a witness to appear at the expert witness hearing shall be filed with the Commission before the deadline for the filing of the Public Staff and other intervenor testimony, shall be served by hand delivery or facsimile to the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. See N.C. Gen. Stat. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena within 2 business days of the filing of such motion.

² The timeframe of the present through the first two months of Year 2 assumes an average monthly usage of 2,300 gallons per water utility service customer and 12,200 gallons per wastewater utility service customer.

³ Values are based on two months at Year 1 rates and ten months at the higher estimated uniform statewide rate of \$73.44 per customer for water utility service and no change in rates projected for wastewater utility service.

3. Formal discovery requests related to the Application and Red Bird's prefiled direct and any supplemental testimony shall be served on Red Bird by hand delivery, facsimile, or electronic delivery with Red Bird's agreement, no later than 14 calendar days prior to the filing of Public Staff and other intervenor testimony. Red Bird shall have up to ten calendar days to file with the Commission objections to discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten calendar days prior to the deadline for the filing of Public Staff and other intervenor testimony.

4. Formal discovery requests related to the prefiled direct testimony of the Public Staff and other intervenors shall be served by hand delivery, facsimile, or electronic delivery with the agreement of the receiving party no later than three business days after the filing of that party's testimony. The party served shall have up to five business days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than nine calendar days after the filing of that party's testimony.

5. Formal discovery requests related to prefiled rebuttal testimony shall be served by hand delivery, facsimile, or electronic delivery with Red Bird's agreement, no later than two business days after the filing of such testimony. The party served shall have up to two business days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than three business days after the filing of such rebuttal testimony. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery.

6. Discovery requests need not be filed with the Commission when served; however, objections shall be filed with the Commission, and the objecting party shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed, shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two business days to file with the Commission a motion to compel, and the party objecting to discovery shall have one business day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party by hand delivery, facsimile, or electronic delivery with the agreement of the receiving party, at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery due to that party's late intervention or other delay in initiating discovery.

The Commission urges all parties to work in a cooperative manner and to try to accommodate discovery within the time available. The Commission recognizes that in the past, most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement and that such has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery

or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside these guidelines.

Further, the Commission finds good cause to require all parties who file exhibits and workpapers that include tables of numbers and calculations to provide the Commission Staff, the Public Staff, and any other party upon request from such party an electronic version of all such exhibits and workpapers, with formulas intact.

IT IS, THEREFORE, ORDERED as follows:

1. That the Application is scheduled for a customer hearing beginning at 7:00 p.m. on Monday, September 25, 2023, at the Franklin County Courthouse, Courtroom 100, 102 South Main Street, Louisburg, North Carolina 27549. *This hearing may be canceled if no significant protests are received on or before Monday, September 11, 2023;*

2. That the customer hearing will be conducted solely for the purpose of receiving the testimony of customers in accordance with Commission Rule R1-21(g). The Commission reserves the right to limit testimony at the customer hearing pursuant to Commission Rule R1-21(g)(5);

3. That TESI and Red Bird are required to file separate, verified reports addressing all customer service and service quality complaints expressed during the customer hearing held on Monday, September 25, 2023, within 14 days of the conclusion of the customer hearing. The Public Staff shall and other intervenors may file a verified response and any comments to TESI's and Red Bird's reports on or before Monday, October 23, 2023;

4. That the Application is scheduled for an expert witness hearing beginning at 2:00 p.m., on Monday, October 23, 2023, and continuing as necessary until its conclusion. The hearing will be held in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27603;

5. That the parties shall comply with the discovery guidelines established herein and shall work in a cooperative manner as to discovery;

6. That on or before Monday, September 11, 2023, any persons having an interest in this matter may file petitions to intervene in this proceeding pursuant to Commission Rules R1-5, R1-7, and R1-19;

7. That Red Bird is required to prefile all testimony on which it will rely at the expert witness hearing on or before August 24, 2023, which is 60 days prior to the expert witness hearing. The Public Staff and intervenors, if any, shall file their testimony on or before Wednesday, September 13, 2023, which is 40 days prior to the expert witness hearing, and Red Bird shall file its rebuttal testimony, if any, on or before Tuesday, October 3, 2023, which is 20 days prior to the expert witness hearing;

8. That Red Bird shall consult with all other parties and file, no later than Thursday, October 12, 2023, a list of witnesses to be called at the expert witness hearing, the order of witnesses, and each party's estimated time for cross-examination. If the parties cannot agree, the remaining parties shall, no later than Monday, October 16, 2023, make a filing indicating their points of disagreement with Red Bird's filing;

9. That an officer or representative of Red Bird is required to appear before the Commission at the time and place of the expert witness hearing to testify concerning any of the information contained in the Application;

10. That all parties filing supporting exhibits in Excel format shall provide the Commission Staff electronic versions of the exhibits filed in native Excel format, including all of the supporting tabs and formulas, within three days of the filing of such exhibits and that the Applicant and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party upon request an electronic version of all such exhibits and workpapers, with formulas intact;

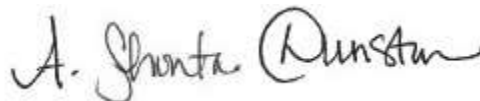
11. That all parties filing supporting exhibits in PDF format shall provide to the Commission Staff electronic versions of the exhibits filed in native Excel format via email at NCUCexhibits@ncuc.net, where applicable, including all of the supporting tabs and formulas, within three days of the filing of such exhibits; and that Red Bird and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party upon request an electronic version of all such exhibits and workpapers, with formulas intact; and

12. That the Notice to Customers, attached hereto as Appendix A, shall be mailed with sufficient postage or hand delivered by Red Bird to all affected customers no later than ten days after the date of this Order and that Red Bird shall submit to the Commission the attached Certificate of Service, properly signed and notarized, not later than 20 days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of July, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "A. Shonta Dunston". The signature is written in a cursive, flowing style.

A. Shonta Dunston, Chief Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

**NOTICE TO CUSTOMERS
DOCKET NO. W-1146, SUB 13
DOCKET NO. W-1328, SUB 10**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Notice is hereby given that Red Bird Utility Operating Company, LLC (Red Bird), 1650 Des Peres Road, Suite 303, St. Louis, Missouri 63131, and Total Environmental Solutions, Inc. (TESI), Post Office Box 14056, Baton Rouge, Louisiana 70898, filed an Application with the North Carolina Utilities Commission (Commission) 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.

Upon acquisition, Red Bird plans to make water utility system capital improvements including demolishing the existing elevated water storage tank and installing a new booster pump station with a backup power generator. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the Lake Royale water utility system, the approximate annual revenue requirement associated with the capital expenditures is \$68,962, or \$3.48 per customer per month of 25 years, subject to true-up.

Red Bird also plans to make wastewater utility system capital improvements, including replacing internal equipment in two lift stations, replacing the force main's air release valves, and refurbishing the wastewater treatment plant. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the Lake Royale wastewater utility system, the approximate annual revenue requirement associated with the wastewater utility capital expenditures is \$80,143, or \$3,339 for each of the two customers per month for 25 years, subject to true-up.

When Red Bird files a general rate case application with the Commission, Red Bird intends to include the costs of purchasing the Lake Royale water and wastewater utility systems and its investment in the system in rate base, which would allow Red Bird to recover in rates the reasonable depreciation expense and allow Red Bird the opportunity to earn a return, approved by the Commission, on its post-closing investment. Depending on the number of systems which it has been able to acquire by the time it files a rate case relating to the TESI systems, Red Bird may seek approval of uniform rates across all its North Carolina systems, including Lake Royale.

EFFECT OF RATES:

The present rates for TESI were approved in Docket Nos. W-1146, Sub 11 and M-100, Sub 138, and have been in effect since January 1, 2017. Upon acquisition of the system, Red Bird proposes to charge the current Commission approved rates for Lake Royale. The present and proposed rates are as follows:

<u>Monthly Metered Water Service:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 29.03	\$ 29.03
Usage Charge, per 1,000 gallons	\$ 6.02	\$ 6.02

Monthly Metered Wastewater Rates (Commercial):

Base Charge, zero usage		
<1" meter	\$164.50	\$164.50
1" meter	\$246.75	\$246.75
2" meter	\$411.25	\$411.25
Usage Charge, per 1,000 gallons	\$ 49.03	\$ 49.03

Based on these rates, a residential customer who uses 2,300 gallons of water per month would be billed \$42.88 per month for water utility service. Also based on these rates, a commercial customer with a one-inch meter with wastewater usage of 12,200 gallons per month would be billed \$844.92 per month for wastewater utility service.

Red Bird plans to request a rate increase and uniform statewide rates approximately 14 months post-acquisition, subject to Commission approval.¹ If the full amount of the projected rate increase, including the request for uniform rates, is granted, the average monthly statewide bill amount could be as much as the rates shown below.

Subject to Commission approval, the present and projected average monthly bill charged to each customer for water and wastewater utility service as proposed by Red Bird are as follows:

¹ Any future change in rates proposed by Red Bird would require filing a general rate case application pursuant to N.C. Gen. Stat. § 62-134 and approval by the Commission. Future rates are subject to change and could be less or more than the projected \$73.44 per customer.

<u>Timeframe</u>	<u>Monthly Water Utility Bill</u>	<u>Monthly Wastewater Bill</u>
Present ²	\$ 42.88	\$844.92
Year 1	\$ 42.88	\$844.92
Year 2 ³	\$ 68.35	\$844.92
Years 3 through 5	\$ 73.44	\$844.92

PROCEDURES FOR PUBLIC HEARINGS:

The Commission has scheduled the following hearings on the Application:

Customer hearing beginning at 7:00 p.m., on Monday, September 25, 2023, to be held at the Franklin County Courthouse, Courtroom 100, 102 South Main Street, Louisburg, North Carolina. *This hearing may be cancelled if no significant protests are received on or before Monday, September 11, 2023.*

The customer hearing on Monday, September 25, 2023, will be solely for the purpose of receiving the testimony of customers in accordance with Commission Rule R1-21(g). The Commission reserves the right to limit testimony at the customer hearing.

Expert witness hearing beginning at 2:00 p.m., on Monday, October 23, 2023, and continuing as necessary until its conclusion. The hearing will be held in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. The hearing scheduled for Monday, October 23, 2023, shall be conducted solely for the purpose of receiving testimony of Red Bird, the Public Staff, and any other parties of record.

The Public Staff is authorized by statute to represent consumers in proceedings before the Commission. Consumer statements to the Public Staff should include the customer’s name, contact information, and any information that the writer wishes to be considered by the Public Staff in its investigation of the matter, and such statements should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300. Consumer statements may also be faxed to (919) 715-6704.

² The timeframe of the present through the first two months of Year 2 assumes an average monthly usage of 2,300 gallons per water utility service customer and 12,200 gallons per wastewater utility service customer.

³ Bill amounts for water utility service are based on two months at Year 1 rates and ten months at the higher estimated uniform statewide rate of \$73.44 per customer and no change in rates projected for wastewater utility service.

Consumer statements may be submitted to the Commission via the web form at <https://www.ncuc.net/contactus.html>. Consumer statements are not evidence unless those persons appear at a customer hearing and testify concerning the information contained in their consumer statements.

The Attorney General is also authorized by statute to represent the consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, c/o Utilities Section, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001. Written statements may also be e-mailed to utilityAGO@ncdoj.gov.

Persons desiring to intervene in this proceeding as formal parties of record should file a petition to intervene pursuant to Commission Rules R1-5, R1-7, and R1-19, on or before Monday, September 11, 2023. Such petitions should be filed with the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300. The direct testimony and exhibits of expert witnesses to be presented by intervenors should also be filed with the Commission on or before September 11, 2023. Information regarding this proceeding can also be accessed from the Commission's website at www.ncuc.net under Docket Number "W-1328 Sub 10."

This the 11th day of July, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "A. Shonta Dunston". The signature is written in a cursive style with a large, stylized "D" at the end.

A. Shonta Dunston, Chief Clerk

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 _____ 2023.

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 _____ 2023.

Notary Public

Address

(SEAL) My Commission Expires: _____
Date