

UTILITIES COMMISSION
RALEIGH

DOCKET NO. W-992, SUB 8
DOCKET NO. W-1328, SUB 9

In the Matter of
Application by Red Bird Utility Operating)
Company, LLC, 1650 Des Peres Road, Suite 303,)
St. Louis, Missouri 63131, and Crosby Utilities,)
Inc., 7536 NC Highway 39, Zebulon, North)
Carolina 27597, for Authority to Transfer the)
Baywood Forest Subdivision Water and Wastewater)
Utility Systems and the Cottonwood Subdivision)
Wastewater Utility System and Public Utility)
Franchise in Wake County, North Carolina, and for)
Approval of Rates

**RED BIRD’S OBJECTIONS TO CERTAIN REQUESTS CONTAINED IN
PUBLIC STAFF DATA REQUEST NUMBER 12**

NOW COMES Red Bird Utility Operating Company, LLC (“Red Bird”), pursuant to the Order Scheduling Hearings, Establishing Discovery Guidelines, And Requiring Customer Notice in these dockets, and objects to certain of the data requests included in Public Staff’s Data Request No. 12 served on Red Bird in these dockets.

By way of background, on the afternoon of Friday, March 17, 2023, Public Staff served its Data Requests Nos. 12 and 13 on Red Bird in these dockets, with responses to be due on Monday, March 20, 2023. For the reasons set forth below, Red Bird objects to Items 3, 5, 11 and 12 in Public Staff’s Data Request Number 12.

- 3. On page 7, lines 29 through 32 of Mr. Cox’s prefiled rebuttal testimony, Mr. Cox states that a site visit was conducted by CSWR engineers on March 9, 2023. Please provide the following associated with the March 9, 2023 site visit:
 - a. What prompted Red Bird to perform the site visit since McGill and Associates had previously inspected the systems and provided recommended improvements?
 - b. Copies of all notes, pictures, reports, memoranda, correspondence, emails, and other documents and materials relating to that visit (both before and

after the visit) that were prepared or reviewed by CSWR or its Red Bird affiliate.

- c. Identify each person who was present during CSWR's site visit to the Crosby water and wastewater systems including the time of arrival and departure of site visit participants. For each person so identified, provide the following information:
 - i. Employer at the time of the visit;
 - ii. Job title;
 - iii. Length of employment with the current employer;
 - iv. Whether they have ever designed, or been involved in the design of, or operated wastewater collection and/or treatment facilities? If the answer to the preceding question is "yes," (1) identify each such facility, (2) identify the utility or company for which the facility was designed, (3) describe the type(s) of facility(ies) involved, and (4) describe the person's role; and
 - v. Whether they have ever designed, or been involved in the design of, or operated water distribution and/or treatment facilities? If the answer to the preceding question is "yes," (1) identify each such facility, (2) identify the utility or company for which the facility was designed, (3) describe the type(s) of facility(ies) involved, and (4) describe the person's role.

Red Bird objects to the requests set forth in subparts c.(iv) and (v) of Item 3 on the grounds that they would impose an undue and unreasonable burden on Red Bird. The engineers involved in the inspections of the Crosby systems referenced in Mr. Cox's rebuttal testimony referred to in this data request have worked on numerous utility systems owned by Red Bird affiliates and identifying each system would be unduly and unreasonably burdensome, and would serve no useful purpose.

Without waiving its objections, Red Bird will provide a response that does not identify each water and wastewater facility the inspecting engineers worked on but will generally describe the types of design and construction projects that the engineers who conducted these inspections been involved in and will also provide an approximation of the number of systems on which each has worked.

5. On page 8, lines 5 through 8 of Mr. Cox’s prefiled rebuttal testimony, Mr. Cox states that there is a need to transfer the Crosby systems to a company like Red Bird that has the access to capital required for longer-term improvements and replacements. Please provide the following documents that support Central States’ access to capital:
 - a. The 2021 audited financial statement, including notes, for Red Bird’s ultimate parent company, Central States Water Resources, LLC;
 - b. The 2022 audited financial statement, including notes, for Red Bird’s ultimate parent company, Central States Water Resources, LLC, when completed.

Red Bird will provide a copy of the requested 2021 audited consolidated financial statements for CSWR, LLC, which is Red Bird’s ultimate parent company, marked “Confidential.”

Otherwise, Red Bird objects to this request to the extent that it seeks documents that do not exist. The entity for which financial statements are requested in Item 4 – Central States Water Resources, LLC – does not exist. A similarly named company, Central States Water Resources, Inc., does exist but has no assets, income, or employees and therefore it does not have financial statements.

The 2020 and 2019 audited consolidated financial statements for CSWR, LLC and its subsidiaries were filed with the Commission as Confidential Attachment J to the Transfer Application filed in Dockets W-1328, Sub 14 and W-1154, Sub 11 in October 2022.

The 2022 financial statement for CSWR, LLC is not yet available and likely won’t be available by the date of the hearing in these dockets. If available by then, Red Bird will provide a copy to Public Staff.

11. On page 28, lines 22 through 25 and page 29, line1, Mr. Cox states in his prefiled rebuttal testimony that based on CSWR’s experience of their affiliate group in states outside North Carolina, consolidated rates are an effective mechanism to

mitigate “rate shock”. Please provide in Excel format a list of the rates before and after consolidation of systems acquired by affiliate groups in states outside of North Carolina, including the following information:

- a. Name of the state the system is located;
- b. Name of the system;
- c. Number of customers at the time of acquisition;
- d. Base charge and usage charge before consolidation;
- e. Base charge and usage charge after consolidation;
- f. Average usage per customer; and
- g. Name of affiliate and rate division under which the system was consolidated.

Red Bird objects to this request on the grounds that it seeks production of irrelevant information that is not likely to lead to discoverable information, and compilation of the requested data would impose an undue and unreasonable burden on Red Bird to compile the requested information. Red Bird affiliates operate over one hundred water and/or sewer systems spread over ten states other than North Carolina. Compilation of the requested data for all such states and systems would impose an undue and unreasonable burden on Red Bird.

Without waiving its objections, Red Bird will provide available comparisons of consolidated versus stand-alone rates for affiliate-owned systems in Kentucky, Missouri, and Louisiana, as those are the only states where Red Bird affiliates have completed rate cases where the relevant state commission had an opportunity to rule on the affiliate’s request for consolidated rates. The appropriate comparison is consolidated rates versus stand-alone rates based on a future requested revenue requirement increase. A comparison of current rates versus post-rate case rates (consolidated or stand-alone) would be meaningless and would be irrelevant to point made in the referenced rebuttal testimony.

- 12.** On page 29, starting from line 1 of Mr. Cox’ prefiled rebuttal testimony, it states “Consolidated rates allow all customers within a state to share the benefits of

economies of scale our affiliated group is able to achieve.” Please provide any research conducted, workpapers, and any other documentation to quantify a comparison of rates to support the economies of scale. The supporting documentation should include the following information:

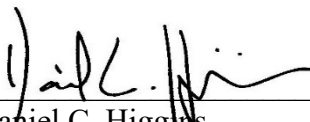
- a. The current rates for Red Bird existing customers and Crosby existing customers respectively, before consolidation; and
- b. Rates for combined Red Bird and Crosby customers, when systems are consolidated.

Red Bird objects to this request on the grounds that it would require the preparation of materials which do not yet exist, as no such analysis has yet been made. In addition, it would be impossible to compare Crosby’s current rates to potential future consolidated rates. Mr. Cox’s referenced testimony was a simple statement of a recognized regulatory policy that can be applied in ratemaking proceedings relating to water and/or sewer systems. At this point Red Bird doesn’t know which systems it will have been allowed to acquire by the time it requests approval of consolidated rates, which systems it would seek to consolidate rates for, or what such future consolidated rates might be. The relevant comparison is not Crosby’s current rates versus a future but presently uncalculatable consolidated rate but rather consolidated rates versus stand-alone rates based on a future, as yet unknowable revenue requirement.

For the foregoing reasons, Red Bird respectfully submits that its objections to the foregoing data requests should be sustained.

This the 20th day of March, 2023.

BURNS, DAY & PRESNELL, P.A.



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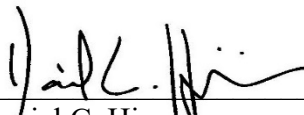
Attorneys for Red Bird

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served on counsel for 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 20th day of March, 2023.

BURNS, DAY & PRESNELL, P.A.



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