



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

September 26, 2023

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket Nos. W-1146, Sub 13 and W-1328, Sub 10 – Application by Red Bird Utility Operating Company, LLC, for Authority to Transfer the Lake Royale Subdivision Water and Wastewater Utility Systems and Public Utility Franchise in Franklin and Nash Counties, North Carolina, and for Approval of Rates

Dear Ms. Dunston,

Attached for filing on behalf of the Public Staff in the above-referenced dockets is the redacted (public) version of the Corrected Testimony of Evan M. Houser. The corrections appear on page 21, Lines 9-11.

By copy of this letter, I am forwarding a copy of the redacted version to all parties of record by electronic delivery.

Sincerely,

Electronically submitted
s/ Megan Jost
Staff Attorney
megan.jost@psncuc.nc.gov

cc: Parties of Record

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CERTIFICATE OF SERVICE

I certify that a copy of this Public Staff testimony and exhibits have been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 26th day of September, 2023.

Electronically submitted
/s/Megan Jost
Staff Attorney

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1146, SUB 13

DOCKET NO. W-1328, SUB 10

In the Matter of
Application by Red Bird Utility Operating)
Company, LLC, 1650 Des Peres Road,)
Suite 303, St. Louis, Missouri 63131 and)
Total Environmental Solutions, Inc., Post)
Office Box 14056, Baton Rouge, Louisiana)
70898, for Authority to Transfer the Lake)
Royale Subdivision Water and Wastewater)
Utility Systems and Public Utility Franchise)
in Franklin and Nash Counties, North)
Carolina, and for Approval of Rates)

**CORRECTED
TESTIMONY OF
EVAN M. HOUSER
PUBLIC STAFF – NORTH
CAROLINA UTILITIES
COMMISSION**

September 26, 2023

1 **Q. Please state your name, business address, and present**
2 **position.**

3 A. My name is Evan M. Houser. My business address is 430 North
4 Salisbury Street, Dobbs Building, Raleigh, North Carolina. I am a
5 Public Utilities Engineer with the Water, Sewer, and Telephone
6 Division of the Public Staff – North Carolina Utilities Commission
7 (Public Staff).

8 **Q. Briefly state your qualifications and duties.**

9 A. My qualifications and duties are included in Appendix A.

10 **Q. What is the purpose of your testimony?**

11 A. The purpose of my testimony is to provide the North Carolina Utilities
12 Commission (Commission) with the results of my investigation of the
13 application filed on June 7, 2021, by Total Environmental Solutions,
14 Inc. (TESI), and Red Bird Utility Operating Company, LLC (Red Bird),
15 for authority to transfer the water and wastewater systems and public
16 utility franchise serving Lake Royale Subdivision (Lake Royale) in
17 Franklin and Nash Counties from TESI to Red Bird and approval of
18 rates (Joint Application)¹ and my recommendation regarding whether
19 the transfer is in the best interest of the using and consuming public.

¹ Red Bird filed with the Commission supplemental and additional materials in support of the Joint Application on June 8, 2021, and on January 24, August 2, and September 8, 2022.

1 The specific areas of my investigation include customer complaints,
2 Notices of Violation (NOVs) and Notices of Deficiency (NODs) issued
3 by the North Carolina Department of Environmental Quality (DEQ),
4 and assisting the Public Staff Accounting Division in reviewing
5 expenses and plant in service.

6 **Q. Please describe the TESI service area and water and wastewater**
7 **utility systems.**

8 A. The TESI service area is located in Franklin and Nash Counties and
9 is comprised of the Lake Royale Subdivision (Lake Royale) water
10 and wastewater systems serving approximately 2,276 water
11 customers and 2 wastewater customers. The water system consists
12 of an interconnection with Franklin County, a 200,000-gallon
13 elevated storage tank, and a distribution system with approximately
14 70 miles of various diameter piping and associated appurtenances.
15 Finished water is purchased from Franklin County and pumped into
16 the elevated storage tank using a booster pump which is owned and
17 operated by Franklin County. The DEQ Public Water Supply
18 Identification number for the Lake Royale water system is
19 NC0235108.

20 **[BEGIN CONFIDENTIAL]** [REDACTED]
21 [REDACTED]
22 [REDACTED]

1 [REDACTED] [END
2 **CONFIDENTIAL]**

3 The wastewater system consists of an extended aeration wastewater
4 treatment plant (WWTP), a collection system with eight-inch gravity
5 mains, and two lift stations. The treatment plant consists of a single-
6 train aeration system, duplex clarifiers, a tertiary sand filter, and
7 chlorination and dechlorination for disinfection prior to discharge.
8 The DEQ permit number for the Lake Royale Wastewater system is
9 NC0042510.

10 The system serves two commercial customers consisting of a
11 comfort station and a community center clubhouse. Each customer
12 has a septic tank and grinder pump to convey waste to the collection
13 system. The wastewater collection system is deemed permitted.

14 **Q. Have you conducted a site visit of the TESI water and**
15 **wastewater systems and, if so, what were your observations?**

16 A. Yes. On August 23, 2023, I inspected the water and wastewater
17 systems. I was accompanied by D. Michael Franklin of the Public
18 Staff's Water, Sewer, and Telephone Division, Lynn Feasel of the
19 Public Staff's Accounting Division, Davia Newell of the Public Staff's
20 Legal Division, Emily Lester of the DEQ Public Water Supply Section,
21 Dana Hill, Director of contract operator ClearWater Solutions, LLC
22 (ClearWater), and Jack Gibbons, the system operator employed by

1 ClearWater. The water and wastewater systems appear to be in a
2 condition commensurate of their age.

3 The water system's elevated storage tank has a single riser, which
4 is accessible through a manway at the base. The exterior of the
5 elevated storage tank has visible corrosion and deterioration of the
6 coating. The interior of the riser contained visible corrosion, as well
7 as a sump containing some water which may have been condensate
8 from the pipes or water that dripped from the tank. The interior of the
9 tank was not inspected. Mr. Gibbons estimated that the tank was
10 recoated approximately ten years ago, and at that time the interior
11 coating of the tank was determined to be in satisfactory condition.

12 Mr. Gibbons indicated that the building that houses the
13 interconnection to Franklin County's water system is owned and
14 operated by Franklin County. The interconnect building contains a
15 meter, a backflow prevention valve, and a valve that can be remotely
16 opened and closed to fill the elevated storage tank with the pressure
17 from Franklin County's system.

18 Both active wastewater lift stations showed visible corrosion but
19 appeared to be functional.

20 The WWTP exterior appeared to be in acceptable condition. Exterior
21 piping, which appeared to primarily be part of the aeration system,
22 showed small amounts of corrosion. Grates covering the aerations

1 basins and clarifiers appeared to be in good condition. Both sand
2 filters contained dead vegetation that obscured inspection of the
3 sand filter media. The WWTP effluent discharge pipe was not visible
4 and is presumed to be located under a small embankment.

5 **Q. Briefly describe the results of your investigation of DEQ NOVs**
6 **and Civil Penalties issued to the Lake Royale water system.**

7 A. Between July 1, 2020, and July 1, 2023, the Lake Royale water
8 system was issued three NOVs by DEQ.

9 DEQ issued reporting violations on December 16, 2022, and January
10 18, 2023, for failure to submit total coliform sample results in the
11 October 2022 and November 2022 monitoring periods. All five of the
12 required samples were collected during the monitoring periods in
13 which the reporting violations were issued and the sample results
14 were eventually reported.

15 DEQ issued a monitoring violation on June 29, 2022, for failure to
16 collect a Total Haloacetic Acid (HAA5) sample during the second
17 quarter monitoring period of 2022. TESI collected one of the two
18 required HAA5 samples during the monitoring period for which the
19 violation was issued.

20 DEQ confirmed that each of these three violations has been returned
21 to compliance.

1 DEQ stated that three other violations were issued by DEQ for failure
2 to report chlorine residual between July 1, 2020, and July 1, 2023.
3 Each of the three violations was rescinded by DEQ because the
4 required information was provided, and the violations are no longer
5 valid.

6 No civil penalties from DEQ were identified for the Lake Royale water
7 system between July 1, 2020, and July 1, 2023.

8 The most recent water system inspection by DEQ's Public Water
9 Supply Section was conducted on May 18, 2023, at which time DEQ
10 did not identify any deficiencies. After the May 2023 inspection, DEQ
11 recommended installation of an anti-siphon device on the elevated
12 tank and evaluation of the [BEGIN CONFIDENTIAL] [REDACTED]
13 [REDACTED]
14 [REDACTED] [END CONFIDENTIAL].

15 **Q. Briefly describe the results of your investigation of the DEQ**
16 **NOVs and Civil Penalties issued to the Lake Royale wastewater**
17 **system.**

18 A. Between July 1, 2020, and July 1, 2023, the Lake Royale wastewater
19 system was issued one NOV, three Notices of Violation and Intent to
20 Assess Civil Penalty (NOVIs), and one Assessment of Civil Penalty
21 (Civil Penalty).

1 An NOV and an NOVI were issued by DEQ on November 5, 2021,
2 and March 14, 2023, respectively, for exceeding the daily
3 Biochemical Oxygen Demand (BOD) limit. The limit was exceeded
4 in August 2021 and January 2023.

5 Another NOVI was issued by DEQ on October 19, 2020, for failing to
6 meet the permit conditions requiring outfall information to be
7 recorded on the July Discharge Monitoring Report (DMR). In its
8 October 26, 2020 response to DEQ, TESI explained that its new
9 permit became effective on July 1, 2020, and that the Company had
10 not received a copy in the mail. TESI noticed the new fields in its
11 online DMR submission on August 25, 2020, at which time it was too
12 late to collect outfall samples for the July 2020 monitoring period.

13 The final NOVI was issued by DEQ on June 8, 2023, for failing to
14 monitor total nitrogen and phosphorus in the April DMR.

15 On August 24, 2020, DEQ issued one Civil Penalty in the amount of
16 \$285.01 for failing to meet the monthly average ammonia limit in April
17 2020.

18 The most recent wastewater system inspection was a compliance
19 sampling inspection conducted by DEQ on October 22, 2019. The
20 inspection report identified areas of concern, primarily related to
21 record keeping, proper sample collection procedure, and submission
22 of information. DEQ determined that the system was non-compliant.

1 The DEQ inspection report identified three concerns related to
2 system performance. The first concern was that the meter box was
3 old and would need replacement in the future. The second concern
4 was that the backup generator could not provide power to the entire
5 WWTP simultaneously and had to be connected to different locations
6 to provide power to different components of the plant. The third
7 concern was that the effluent discharge pipe was buried and needed
8 to be exposed in case it needed to be accessed.

9 TESI responded on February 24, 2020, and addressed each issue
10 identified by DEQ. TESI stated that it had requested an estimate from
11 and would work with a contractor to make the necessary change to
12 the backup power system. TESI also provided a photo showing that
13 the effluent discharge pipe had been exposed.

14 **Q. Do you agree with Red Bird witness Josiah Cox’s statement that**
15 **the system has been out of compliance for the last 12 quarters?**

16 **A.** No. Witness Cox stated in his pre-filed direct testimony that the EPA
17 ECHO database shows the wastewater system has been out of
18 compliance for the last 12 quarters. While the EPA ECHO database
19 shows that the system has had “Reportable Noncompliance” for the
20 last nine quarters, there are no enforcement actions for these
21 quarters other than those described above.

1 **Q. Do you agree with witness Cox's statement that the systems**
2 **have continuing compliance issues?**

3 A. I believe witness Cox's statement requires clarification. The Lake
4 Royale water system has had no health-based compliance issues in
5 the past three years. The water system violations are limited to
6 reporting violations and one monitoring violation. I would not
7 consider these violations to constitute "continuing compliance
8 issues."

9 Although the wastewater system was previously issued a number of
10 violations, it was only issued two limit violations in the past three
11 years. Both violations were issued for exceeding the daily BOD limit
12 and did not result in monthly average limit exceedances. The facility
13 achieved a 98.7% days-in-compliance metric over the three-year
14 period discussed previously.

15 **Q. Did Red Bird provide Notice to Customers of the proposed**
16 **transfer?**

17 A. Yes. On July 11, 2023, the Commission issued the Order Scheduling
18 Hearings, Establishing Discovery Guidelines, and Requiring
19 Customer Notice (Scheduling Order). The Scheduling Order directed
20 Red Bird to provide the Notice to Customers no later than 10 days
21 after the date of the Order and submit a signed and notarized
22 certificate of service not later than 20 days after the date of the Order.

1 On July 26, 2023, Red Bird filed a Certificate of Service stating the
2 Notice to Customers was mailed or hand delivered as of July 24,
3 2023.

4 **Q. Has the Public Staff received any customer complaints?**

5 A. Between July 1, 2020, and June 30, 2023, the Public Staff Consumer
6 Services Division (Consumer Services) received 28 customer
7 complaints. Twelve customer complaints were related to TESI's
8 service quality, including ten related to water outages, one was
9 related to water quality, and one was related to water pressure.

10 Of the ten complaints related to water outages, one complaint was
11 received in March 2022, seven complaints were received in April
12 2022, and the final two complaints were received in May 2022. The
13 customers with water outage complaints generally reported having
14 multiple water outages over a few weeks coupled with boil water
15 advisories. TESI responded to a number of customer complaints,
16 stating that it believed the issues were related to a valve on Franklin
17 County's side of the interconnect.

18 The customer complaint regarding water service quality was
19 received in May 2022, and dealt with water pressure and quality. The
20 consumer stated that they had been experiencing issues with their
21 water pressure and receiving boil water advisories constantly. TESI
22 responded to the customer stating that system had recently had a

1 number of leaks which TESI believed were related to a malfunction
2 of the valve, connecting the Lake Royale and Franklin County
3 systems, that allowed excess pressure into the Lake Royale system.

4 The complaint related to water quality was received in March 2021,
5 and concerned poor water quality, the need to boil water, and not
6 being notified in a timely manner of a boil water advisory. In its
7 response, TESI stated that it had dropped water pressure for a
8 significant amount of time in late February to repair a large main
9 break. TESI stated that the service area was placed on a
10 precautionary boil water advisory, which remained in effect until the
11 following week when results from bacteriological samples could be
12 received.

13 **Q. Please briefly discuss the Public Staff's participation in the**
14 **Customer Hearing Scheduled for September 25, 2023.**

15 A. The public witness hearing on this transfer application is scheduled
16 for 7:00 p.m. on Monday, September 25, 2023. A Public Staff Utilities
17 Engineer will attend the public hearing and will be available to answer
18 questions before and afterwards. A Public Staff Attorney will
19 participate in the public hearing by sponsoring customers who wish
20 to testify as witnesses.

21 TESI and Red Bird are required to file separate, verified reports
22 addressing all customer service and service quality complaints

1 expressed during the customer hearing within 14 days of the
2 conclusion of the hearing. The Public Staff will review the testimony
3 and reports and file a verified response and comments on the
4 reports.

5 **Q. Is TESI providing safe and reliable service?**

6 A. Based on my review of the customer complaints and the limited
7 number of NOVs related to water quality issued by DEQ, I believe
8 TESI is providing safe, albeit intermittently unreliable, service to its
9 customers in the Lake Royale water and wastewater systems. I
10 characterize the service as “intermittently unreliable” due to issues
11 related to water outages, which TESI appears to have tried to resolve
12 in a timely fashion.

13 The Public Staff investigated the water outages that occurred
14 between March 2022 and May 2022, and found that the outages
15 were generally caused by main breaks. The timing and severity of
16 main breaks are generally not within the control of the utility. The
17 response to Public Staff Data Request No. 12 indicated that Boil
18 Water Advisories were appropriately issued for main breaks that
19 were not repaired immediately. While the response identified the
20 advisories as Boil Water Advisories, they are commonly referred to
21 as System Pressure Advisories when due to low system pressure,
22 and similarly recommend boiling water prior to consumption.

1 **Q. What are the existing and proposed water and wastewater utility**
 2 **service rates?**

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

8 Monthly Metered Water Rates:

	<u>Present</u>	<u>Proposed</u>
9		
10	\$ 29.03	\$ 29.03
11	\$ 6.02	\$ 6.02

12 Monthly Metered Sewer Rates (Based upon metered water usage):

13	Base Charge, zero usage	
14	<1" meter	\$164.50 \$164.50
15	1" meter	\$246.75 \$246.75
16	2" meter	\$411.25 \$411.25
17	Usage Charge, per 1,000 gallons	\$ 49.03 \$ 49.03
18	<u>Water Availability Rate:</u> ^{1/}	\$ 22.95 \$ 22.95

19 Connection Charge:

20	Water	\$300.00	\$300.00
21	Sewer	Actual ^{2/}	Actual ^{2/}

1		<u>Present</u>	<u>Proposed</u>
2	<u>Reconnection Charges:</u>		
3	If water service cut off by		
4	utility for good cause ^{3/}	\$ 14.35	\$ 14.35
5	If water service is discontinued		
6	at customer's request ^{3/}	\$ 14.35	\$ 14.35
7	If sewer service is disconnected by		
8	Utility for good cause by disconnecting		
9	Water ^{4/}	None	None
10			
11	If wastewater service cut off by		
12	utility for good cause by any		
13	method other than above ^{4/}	Actual Cost	Actual Cost
14	Furthermore, Red Bird proposes no changes to the existing TESI		
15	additional charges and fees approved by the Commission in Docket		
16	Nos. W-1146, Sub 11 and M-100, Sub 138 and shown below.		
17	<u>Bills Due:</u>	On billing date	
18	<u>Bills Past Due</u>	25 days after billing date	
19	<u>Billing Frequency:</u>		
20	Water and Sewer Rates	Shall be monthly for	
21		service in arrears	
22	Availability Rates	Shall be annually	
23	<u>Finance Charge for Late Payment:</u>	1% per month will be	
24		applied to the unpaid	
25		balance of all bills still past	
26		due 25 days after billing	
27		date	

1 ^{1/} All availability charges accrued to a lot with no service
2 connection after January 1, 2001, will be satisfied before an
3 application for service to the lot will be accepted by Total
4 Environmental Solutions, Inc. Regardless of customer status, a lot
5 with no service connection will accrue the applicable annual fee for
6 availability of service.

7 ^{2/} Including all materials, labor, site and roadway restoration,
8 and inspection costs.

9 ^{3/} Customers who ask to be reconnected within nine months of
10 disconnection will be charged \$18.37 per month for the service
11 periods they were disconnected.

12 ^{4/} If service is disconnected at the customer's request and
13 reinstated less than nine months from the date of disconnection, the
14 customer will be responsible for all monthly customer base charges
15 that have been applicable during that period. Those charges,
16 including any disconnect and reconnect fees, are due and payable
17 before service is restored.

18 **Q. What is your recommendation regarding the requested**
19 **approval of rates?**

20 A. The recommended rates are the same as the current Commission-
21 approved rates for TESI and are just and reasonable.

1 **Q. Does the pending passthrough filing in Docket No. W-1146, Sub**
2 **14 have the potential to impact the rates requested in this**
3 **proceeding?**

4 A. Yes, if the Commission approves a tariff revision in Docket No. W-
5 1146, Sub 14 prior to the conclusion of the transfer proceeding, the
6 rates approved by the tariff revision would be just and reasonable
7 and should be approved for Red Bird if the transfer is approved.

8 **Q. Based on your investigation, what is your opinion of Red Bird's**
9 **ability to own and operate the Lake Royale water and**
10 **wastewater systems?**

11 A. Public Staff witness John R. Hinton addresses Red Bird's financial
12 ability to own and operate the Lake Royale systems. Based on my
13 investigation, I believe Red Bird has the technical and managerial
14 capabilities necessary to provide public utility service to the Lake
15 Royale water and wastewater systems. Therefore, I recommend the
16 Commission approve the transfer of the Lake Royale water and
17 wastewater systems from TESI to Red Bird, subject to certain
18 conditions described below.

19 **Q. Do you agree with the prefiled direct testimony of Red Bird**
20 **witness Cox that the TESI utility system is troubled?**

21 A. Based on the recent performance history of both the water and
22 wastewater systems, including a lack of health-based state

1 regulatory issues, I do not consider the water system or the
2 wastewater system to be troubled.

3 **Q. What adjustments have you made to plant additions since the**
4 **last rate case?**

5 A. In response to Public Staff Data Request Nos. 1 and 6, TESI
6 provided plant additions since its last rate case, which concluded in
7 2002, and some supporting invoices. My adjustments include
8 reducing the estimated service lives of the sewer plant timer and
9 starter on blowers from 20 years to 5 years, wastewater pump motors
10 from 20 years to 7 years, control panel and float switches from 20
11 years to 10 years, air release valves from 20 years to 10 years, a
12 wastewater pump from 20 years to 7 years, and wastewater flow
13 meter from 20 years to 10 years. My adjustments to estimated
14 service lives, and the corresponding changes in depreciation rates,
15 are based on previous Public Staff recommendations and commonly
16 available information.

17 In addition to the foregoing adjustments, I made adjustments to
18 remove pumps and pump repair at Lift Station Nos. 2, 4, and 5, pump
19 station rehabilitation items at Lift Station Nos. 4 and 5, and a control
20 panel and duplex control at Lift Station 5. I made these adjustments
21 because Lift Station Nos. 2, 4, and 5 are not in service.

1 On March 13, 2002, the Recommended Order Granting Partial Rate
2 Increase (Sub 1 Order) was issued in Docket No. W-1146, Sub 1,
3 and subsequently became final on March 26, 2002. According to the
4 Sub 1 Order, Public Staff witness Fernald testified that, due to lack
5 of proper record keeping by the prior owner, the costs associated
6 with making connections since the last rate case were not included
7 in the plant in service amount. Therefore, witness Fernald did not
8 include the tap fees associated with those connection costs. Witness
9 Fernald subsequently included in contributions in aid of construction
10 (CIAC) the connection fees for 1993 through 1995 based on the
11 previous rate case.

12 Consistent with witness Fernald's adjustments in the most recent
13 rate case, and due to the lack of documentation supporting CIAC, I
14 imputed \$21,900 in connection charges for 73 water service line
15 installations which occurred in 2022 and are supported by invoices
16 provided in response to Data Request No. 6.

17 **Q. What assets are being acquired pursuant to the asset purchase**
18 **agreement?**

19 A. The Agreement for Sale of Utility System was filed as Attachment
20 F.1 to the Joint Application and states in Section 1.B that "All of
21 Seller's water and sewer service facilities and their component parts
22 permanently attached to the water and sewer system including but

1 not limited to lines, plant, pipes, manholes and appurtenances;”
2 would be acquired by the purchaser.

3 Attachment I to the Joint Application states that each wastewater
4 customer has a septic tank and grinder pump which conveys
5 wastewater to the collection system. It is not abundantly clear if the
6 septic tanks are owned and operated by TESI, or the customer.

7 The Public Staff recommends that Red Bird and TESI provide
8 documentation showing ownership by another party of the septic
9 tank and grinder pump at each location, or documentation showing
10 ownership by TESI and that the tanks and pumps will be transferred
11 pursuant to the purchase agreement.

12 During the site visit on August 23, 2023, the Public Staff observed
13 that Lift Station 5 was secured by a lock which ClearWater staff were
14 unable to open. In response to a discovery request asking if Lift
15 Station 5 would be transferred, Red Bird responded as follows:

16 Based on discussion with operations/former TESI staff,
17 Red Bird understands that this lift station was turned
18 back over to the Lake Royale POA when the
19 bathhouse that contributed flow to this lift station was
20 connected to a septic system instead. We don't know,
21 however, whether this lift station was officially
22 abandoned, i.e., disconnected from the sewer system,
23 etc., but it allegedly receives no flow to it because it
24 was only ever serving the one bathhouse that is now
25 on septic. That is also the reason Red Bird does not
26 have access to this lift station site.

1 The Public Staff recommends that Red Bird and TESI provide
2 documentation showing that out-of-service lift stations are owned by
3 other parties and are no longer connected to the wastewater system
4 or are connected and will be transferred pursuant to the purchase
5 agreement. Out-of-service lift stations are a liability and should be
6 properly decommissioned.

7 **Q. What are the rate impacts of Red Bird's proposed acquisition**
8 **adjustment?**

9 A. All other things remaining equal, inclusion of the proposed
10 acquisition adjustment as calculated by the Public Staff of [BEGIN
11 **CONFIDENTIAL** ██████████ **[END CONFIDENTIAL]** in rate
12 base and allocated as proposed by Red Bird could result in a \$0.39
13 per month increase in water rates and a \$404.25 per month increase
14 in sewer rates, based on the acquisition adjustment's annual
15 revenue requirement calculated by Public Staff witness Feasel. This
16 is equivalent to a 0.8% increase in the average monthly water bill
17 based on 3,000 gallons of usage and a 48% increase in in the
18 average monthly wastewater bill based 12,200 gallons of usage at
19 currently-approved rates.

20 **Q. What is your recommendation concerning an acquisition**
21 **adjustment?**

1 A. The Public Staff does not support Red Bird receiving an acquisition
2 adjustment in this proceeding.

3 As a general proposition, when a public utility buys assets that have
4 previously been dedicated to public service as utility property, the
5 acquiring utility is entitled to include in rate base the lesser of the
6 purchase price or the net original cost of the acquired facilities owned
7 by the seller at the time of the transfer. See Order Approving Transfer
8 and Denying Acquisition Adjustment, *Petition of Utilities, Inc. for*
9 *Transfer of the Certificate of Public Convenience and Necessity for*
10 *Providing Sewer Utility Service on North Topsail Island and Adjacent*
11 *Mainland Areas in Onslow County from North Topsail Water and*
12 *Sewer, Inc. and for Temporary Operating Authority*, Docket No. W-
13 1000, Sub 5 (N.C.U.C. January 6, 2000) (W-1000, Sub 5 Order).

14 The Commission has indicated "a strong general policy against the
15 inclusion of acquisition adjustments in rate base subject to
16 exceptions in appropriate instances." *Id.* at 24. In the W-1000, Sub 5
17 Order, the Commission discussed the circumstances when the rate
18 base treatment of acquisition adjustments is proper. The
19 Commission stated the following:

20 As should be apparent from an analysis of the
21 Commission's previous Orders concerning this subject,
22 a wide range of factors have been considered relevant
23 in attempting to resolve this question, including the
24 prudence of the purchase price paid by the acquiring

1 utility; the extent to which the size of the acquisition
2 adjustment resulted from an arm's length transaction;
3 the extent to which the selling utility is financially or
4 operationally "troubled;" the extent to which the
5 purchase will facilitate system improvements; the size
6 of the acquisition adjustment; the impact of including
7 the acquisition adjustment in rate base on the rates
8 paid by customers of the acquired and acquiring
9 utilities; the desirability of transferring small systems to
10 professional operators; and a wide range of other
11 factors, none of which have been deemed universally
12 dispositive. Although the number of relevant
13 considerations seems virtually unlimited, all of them
14 apparently relate to the question of whether the
15 acquiring utility paid too much for the acquired utility
16 and whether the customers of both the acquired and
17 acquiring utilities are better off after the transfer than
18 they were before that time. This method of analysis is
19 consistent with sound regulatory policy since it focuses
20 on the two truly relevant questions which ought to be
21 considered in any analysis of acquisition adjustment
22 issues. It is also consistent with the construction of G.S.
23 62-111 (a) adopted in State ex rel. Utilities Commission
24 v. Village of Pinehurst. 99 N.C App. 224,393 S.E.2d
25 111 (1990), affd 331 N.C. 278,415 S.E.2d 199 (1992),
26 which seems to indicate that all relevant factors must
27 be considered in analyzing the appropriateness of
28 utility transfer applications. As a result, . . . the
29 Commission should refrain from allowing rate base
30 treatment of an acquisition adjustment unless the
31 purchasing utility establishes, by the greater weight of
32 the evidence, that the price the purchaser agreed to
33 pay for the acquired utility was prudent and that both
34 the existing customers of the acquiring utility and the
35 customers of the acquired utility would be better off [or
36 at least no worse off] with the proposed transfer,
37 including rate base treatment of any acquisition
38 adjustment, than would otherwise be the case. *Id.* at
39 27.

40 The prefiled direct testimony of witness Cox demonstrates that he
41 understands that the customers of the acquired utility would need to
42 be better off or at least no worse off as a result of the proposed

1 transfer, including rate base treatment of any acquisition adjustment.
2 Witness Cox identifies improved customer service, asset
3 management via Utility Cloud software, professional operations, and
4 access to capital as benefits that come with Red Bird's ownership
5 and support an acquisition adjustment.

6 Witness Cox fails to acknowledge that customer service and
7 professional operation can both be contracted to a third party by any
8 current or acquiring utility. Red Bird has stated that it intends to use
9 both third-party customer service and contract operators for its
10 systems in North Carolina. TESI's systems are currently being
11 operated by ClearWater, a contract operator. Witness Cox also
12 outlined the benefits associated with Utility Cloud, a non-affiliated
13 company, which TESI or a different purchaser could pursue a
14 contract with. There is no evidence to suggest that Lake Royale
15 customers would be better off under Red Bird ownership with Red
16 Bird hiring a contract operator, third-party customer service firm, or
17 obtaining a contract with Utility Cloud, as compared to TESI or a
18 different purchaser doing the same.

19 Witness Cox stated in his prefiled direct testimony that a benefit of
20 ownership by Red Bird is access to the capital necessary to repair
21 and upgrade the TESI systems. An additional option for capital
22 financing, which is available to Red Bird, a different purchaser, and

1 TESI, is funding through DEQ's Division of Water Infrastructure
2 (DWI). Loans obtained through DWI have significantly lower interest
3 rates than market rates and have the potential for principal
4 forgiveness. The Drinking Water State Revolving Fund (DWSRF)
5 website states that it can provide loans at one-half of market interest
6 rates, and that it has a limited amount of principal forgiveness loans.
7 Regardless of ownership, some level of access to low or no-cost
8 financing for capital projects may be available and should be
9 pursued. Customers would be measurably worse off if capital
10 projects that could be funded through DWSRF loans or grants were
11 instead funded using traditional financing.

12 On pages 26 and 32 of his prefiled direct testimony, Red Bird witness
13 Cox testifies that the capital estimates are preliminary and the
14 problems cannot be truly known until Red Bird has acquired and
15 begun to operate a system. This raises the question of whether the
16 capital investment is a tangible benefit due to its uncertainty. Red
17 Bird witness Cox testifies extensively that future rate impact can't be
18 known and shouldn't be a consideration in this proceeding. However,
19 on page 34 of his prefiled direct testimony, he states that "Red Bird
20 intends to propose consolidated, statewide rates, which means the
21 costs of acquiring the TESI assets would be mixed with similar cost
22 for all other systems Red Bird acquires in North Carolina" and then
23 implies a benefit of Red Bird ownership that "spreading costs over a

1 significantly larger customer base . . . can significantly reduce the per
2 customer impact of acquisition-related costs.” In addition, on page 6
3 of his prefiled direct testimony, Red Bird witness Cox testifies that
4 “many of the systems which Red Bird seeks to acquire in North
5 Carolina are either distressed or troubled systems, or they require
6 the infusion of capital investment” Witness Cox seems to want
7 the best of both worlds from his perspective, 1) indefinite benefits to
8 offset what he characterizes as unknowable costs and rate impacts
9 for the purposes of satisfying the regulatory standard and obtaining
10 approval of the transfer and 2) approval in the present proceeding of
11 recovery of those costs that he also believes should be considered
12 during a future rate case instead of the present proceeding.

13 Approval of the proposed acquisition adjustment is not in the public
14 interest because Red Bird has failed to meet its burden to show of
15 proof by the greater weight of the evidence that the benefits to
16 customers resulting from the allowance of rate base treatment of an
17 acquisition adjustment in this case would offset or exceed the
18 resulting burden or harm to customers associated therewith.

19 **Q. Briefly describe Red Bird’s plans for capital improvements.**

20 A. After completing the purchase of the Lake Royale water and
21 wastewater systems, Red Bird intends to make upgrades to the

1 water system, both lift stations, and the wastewater treatment
2 facilities identified in Attachment I to the Joint Application.

3 Improvements to the water system are intended to provide storage
4 capacity, system pressure, if Franklin County cannot provide it, and
5 to either demolish or rehabilitate the existing elevated storage tank.

6 The four possible projects to achieve those goals are demolishing
7 the existing elevated storage tank, rehabilitating and repairing the
8 existing tank, installing a new booster pump station and backup
9 generator, and installing a 200,000-gallon ground storage tank.

10 Red Bird proposes five possible scenarios, each consisting of one or
11 a combination of multiple projects:

- 12 1. Tank rehabilitation only;
- 13 2. Tank demolition with storage capacity provided from Franklin
14 County;
- 15 3. Tank demolition with a new ground storage tank;
- 16 4. Tank demolition with a new booster pump station and storage
17 capacity provided by Franklin County; and
- 18 5. Tank demolition with new booster pump station and new
19 ground storage tank.

1 The planned upgrades to Lift Station 1 include new duplex pumps, a
2 transfer switch for a portable generator, a portable generator, a
3 telemetry system, and rehabilitation of the wet well. Planned
4 upgrades to Lift Station 9 include demolishing the existing wet well
5 and its components, building a new wet well, and demolishing the
6 existing holding tank before rerouting the piping to the new wet well.

7 Planned improvements to the WWTP include rehabilitating two
8 aeration chambers, two settling tanks, and a digester; and replacing
9 sand media, plant piping, piping/diffusers in the aeration chambers
10 and digester. Red Bird also plans to install two new 100 cubic feet
11 per minute blowers, motors, and control panels as well as a new
12 permanent backup generator and automatic transfer switch.

13 Red Bird expects to **[BEGIN CONFIDENTIAL]** [REDACTED]
14 [REDACTED]

15 **[END CONFIDENTIAL]** Red Bird stated in response to Public Staff
16 Data Request 3 that the most likely scenario for the water system
17 includes **[BEGIN CONFIDENTIAL]** [REDACTED]

18 [REDACTED]

19 [REDACTED] **[END**
20 **CONFIDENTIAL]**

21 If necessary, the Public Staff will investigate, in a future proceeding,
22 the economical and efficient provision of wastewater service, and the

1 need for capital investment to rehabilitate a wastewater plant which
2 was designed for [BEGIN CONFIDENTIAL] [REDACTED]
3 [REDACTED]
4 [REDACTED] [END CONFIDENTIAL] Capital
5 investment in oversized plant, which is already generally in
6 compliance with environmental regulations, to serve two customers
7 will be subject to determination of whether utility property is used and
8 useful during a rate case, in relation to the applicable test period,
9 pursuant to N.C.G.S. § 62-133(b)(1).

10 **Q. What options does the Lake Royale Property Owner's**
11 **Association (POA) have regarding the proposed capital**
12 **investments?**

13 A. The POA filed numerous consumer statements from its members in
14 Docket Nos. W-1146, Sub 13 and W-1328, Sub 10 on September
15 11, 2023, as well as a Petition to Intervene, which was granted on
16 September 12, 2023. Several consumer statements raised concerns
17 regarding increased costs attributable to proposed capital
18 investments by Red Bird. One option for the POA to address the
19 concerns of its members reflected in consumer statements would be

20 [BEGIN CONFIDENTIAL] [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] [END CONFIDENTIAL] Should the POA not
6 be interested in paying for the capital investments proposed by Red
7 Bird, they could move forward with [BEGIN CONFIDENTIAL] [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED] [END
11 CONFIDENTIAL]

12 Unlike residential customers who may be unable to move or don't
13 have other options for wastewater service, the POA can decide to no
14 longer provide services to its members should they choose to not
15 pay for the capital improvements.

1 Q. Do you agree with Red Bird's estimated due diligence
2 expenses?

3 A. No. Red Bird witness Cox stated in his prefiled direct testimony that
4 Red Bird had incurred due diligence costs totaling \$187,601. Witness
5 Cox stated that Red Bird would not know the actual due diligence
6 and transactional costs associated with the transfer until the
7 purchase closes.

8 A review of Cox Direct Exhibit 4 in conjunction with the confidential
9 responses to Public Staff Data Request No. 14 shows that, of the
10 total due diligence costs identified by Red Bird, approximately
11 **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** has
12 been spent on engineering support and **[BEGIN CONFIDENTIAL]**
13 [REDACTED] **[END CONFIDENTIAL]** has been spent on legal
14 expenses. Two invoices were removed because the invoices
15 provided in response to Public Staff Data Request No. 14 did not
16 support the claimed costs. Two other invoices were identified to be
17 slightly more in Cox Direct Exhibit 4 than the actual invoices. In total,
18 the Public Staff removed **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
19 **CONFIDENTIAL]** based on its review.

20 These costs are significantly higher than due diligence costs
21 requested by many previous applicants, which have normally been
22 made up of the closing costs associated with the sale of the utility

1 system. Inclusion of the current due diligence expense of [BEGIN
2 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in rate base
3 and allocated as proposed by Red Bird could result in a \$0.98 per
4 month increase in residential water rates and a \$1.04 per month
5 increase in sewer rates, based on the annual revenue requirement
6 of the current due diligence expense calculated by Public Staff
7 witness Feasel. On page 33 of his prefiled direct testimony, Red Bird
8 witness Cox testifies that “some potential acquisitions[,] after proper
9 due diligence, are shown to be not in the best interests of CSWR or
10 its operating subsidiary’s ratepayers” and that due diligence
11 expenses are legitimate business expenses and this “opportunity
12 cost” should be shared with ratepayers, just as the benefits of
13 completed acquisitions are shared. The Public Staff’s position is that
14 the majority of these costs should be absorbed by Red Bird as a cost
15 of doing business and not be included in rate base.

16 The Public Staff recommends due diligence expenses of \$10,000 be
17 “shared with ratepayers” and included in rate base. This is consistent
18 with previous transfer applications, including those in Docket No. W-
19 354, Sub 396, where the Public Staff recommended due diligence
20 expenses of \$8,229 be included in rate base, and Docket No. W-218,
21 Sub 527, where the Public Staff recommended, and the Commission
22 approved, the inclusion of \$4,000 in attorney fees in rate base.

1 **Q. What is your recommendation concerning the bond for the**
2 **water and wastewater utility systems?**

3 A. If the Commission approves the transfer, it will be the fourth
4 certificate of public convenience and necessity granted to Red Bird
5 by the Commission. Considering this, and the anticipated capital
6 expenses required for the Lake Royale water and wastewater
7 system, combined with Red Bird's limited operating experience in
8 North Carolina, I recommend that a \$50,000 bond be posted by Red
9 Bird for the Lake Royale water system and that a \$50,000 bond
10 posted for the Lake Royale wastewater system, for a total bond
11 amount for Lake Royale of \$100,000.

12 **Q. What is your recommendation regarding the requested transfer**
13 **of the public utility franchise?**

14 A. The Public Staff supports the requested transfer contingent on the
15 Commission adopting the following conditions: 1) denial of an
16 acquisition adjustment; 2) establishment of plant in service as
17 **[BEGIN CONFIDENTIAL]** [REDACTED]
18 [REDACTED] **[END CONFIDENTIAL]** based
19 on the testimony of Public Staff witness Feasel; 3) limiting
20 recoverable due diligence expenses to \$10,000; and 4) requiring a
21 total bond of \$100,000.

- 1 Q. Does this conclude your testimony?
- 2 A. Yes, it does.

QUALIFICATIONS AND EXPERIENCE

Evan M. Houser

I graduated from North Carolina State University, earning a Bachelor of Science Degree in Environmental Engineering. I am a certified Engineering Intern in the state of North Carolina. I worked for the North Carolina Department of Environmental Quality (DEQ), Public Water Supply Section for approximately three years before joining the Public Staff in 2022. Prior to working for DEQ, I worked for the engineering consulting firm Highfill Infrastructure Engineering, P.C.

My duties with the Public Staff include monitoring the operations of regulated water and wastewater utilities with regards to rates and service. These duties involve conducting field investigations; reviewing, evaluating, and recommending changes in the design, construction, and operations of regulated water and wastewater utilities; presenting expert testimony in formal hearings; and presenting information, data, and recommendations to the Commission.