

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-933, SUB 12
DOCKET NO. W-1328, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Joint Application by Red Bird Utility Operating Company, LLC d/b/a Red Bird Water and Etowah Sewer Company, Inc. for Transfer of Public Utility Franchise and for Approval of Rates) ORDER SCHEDULING HEARINGS, ESTABLISHING DISCOVERY GUIDELINES, AND REQUIRING CUSTOMER NOTICE)

BY THE COMMISSION: On October 8, 2020, Red Bird Utility Operating Company, LLC d/b/a Red Bird Water (Red Bird), and Etowah Sewer Company, Inc. (Etowah) filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the wastewater utility system and public utility franchise serving the Etowah Community in Henderson County, North Carolina, from Etowah to Red Bird and approval of rates. Red Bird filed with the Commission supplemental and additional materials in support of the Application on October 19 and 22, 2020. Etowah currently serves approximately 455 residential wastewater customers in the Etowah Community.

Upon acquisition, Red Bird plans to make approximately \$470,400 in capital improvements to the wastewater utility system, including replacement of the disinfection system; grinder pumps; and walkways, handrails, stairs, and signs. Red Bird also plans to install a vertical screw screen and transfer switch for portable generator use, as well as other improvements to the system that, according to Red Bird, are necessary to ensure proper operation of the wastewater utility system and to provide safe and reliable service to customers.

The present rates for the Etowah community were approved in Docket No. W-933, Sub 10, and have been in effect since January 1, 2016. Upon acquisition of the system, Red Bird plans to adopt Etowah's current rates and charges which are as follows:

<u>Monthly Sewer Utility Service:</u>	<u>Present</u>	<u>Proposed</u>
Residential Flat Rate	\$26.33	\$26.33
Commercial Customers (metered rates)		
Base Charge, zero usage	\$26.33	\$26.33
Usage Charge, per 1,000 gallons	\$ 4.05	\$ 4.05

On December 22, 2020, the Public Staff filed a deficiency letter outlining information that was needed to complete the Application. On May 14, and

October 7, 2021; February 15, and August 18 and 23, 2022, Red Bird filed supplemental material to address deficiencies identified by the Public Staff. On June 14, 2023, Red Bird filed a letter indicating that it considered the Application to be complete.

On July 25, 2023, the Public Staff filed a second deficiency letter outlining additional, updated information needed to complete the Application and recommended that the Commission determine that the Application is incomplete. On July 28, 2023, the Commission issued an Order Finding Application Incomplete.

Pursuant to the Commission's Order, on August 15, 2023, Red Bird filed additional information to address the issues identified in the Public Staff's July 25, 2023, letter.

On August 22, 2023, the Public Staff filed a letter with the Commission indicating that this docket now includes all the information required for a complete Application.

On September 14, 2023, the Commission issued an Order Finding Application Complete and Requiring the Public Staff to Provide Specific Application Data. On September 21, 2023, the Public Staff provided information requested in the Commission's September 14, 2023, Order and notified the Commission that additional information would be provided upon Red Bird's response to Data Request No 9.

Based upon the foregoing, and the recommendation of the Public Staff, the Commission hereby establishes the procedural schedule set forth herein, including filing requirements of Red Bird, Etowah, the Public Staff, and other parties, and requires that Red Bird consult with the Public Staff to develop a public notice to provide to all affected customers of the Application, which includes the proposed rates and the scheduled hearings for approval by the Commission.

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

1. Any deposition which a party desires to take shall be taken before the deadline for filing of the Public Staff and intervenor testimony. Notice of deposition shall be served on all parties at least 7 days prior to the taking of the deposition. 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 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 24 hours after such motion is filed.

3. Formal discovery requests related to the Application and Red Bird and Etowah's prefiled direct testimony shall be served on Red Bird or Etowah, or both, not later than 14 calendar days prior to the deadline for filing of the Public Staff and intervenor testimony. The party served shall have up to 10 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 10 calendar days prior to the deadline for the filing of the Public Staff and intervenor testimony.

4. Formal discovery requests of the Public Staff or intervenors shall be served not later than 5 calendar days after such testimony is filed. 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, but in no event shall objections be filed later than 9 calendar days after that party's testimony is filed.

5. Formal discovery requests related to prefiled rebuttal testimony shall be served on Red Bird or Etowah, or both, not later than 3 business days after such testimony is filed. The party served shall have up to 3 calendar 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 3 business days after rebuttal testimony was filed. 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, any party filing objections 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 2 calendar days to file a motion to compel with the Commission, and the party objecting to discovery shall have 1 calendar day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected 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 because of that party's late intervention or other delay in initiating discovery.

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 the guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That a hearing for the purpose of receiving public witness testimony on the Application shall be, and is hereby scheduled to begin at 7:00 p.m. on Wednesday, November 1, 2023, in the Henderson County Courthouse, 200 N. Grove Street, Courtroom 2, Hendersonville, North Carolina 28792. *That the Commission may cancel the public witness hearing if no significant protests are received on or before Wednesday, October 25, 2023;*

2. That the public witness 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 public witness hearing pursuant to Commission Rule R1-21(g)(5);

3. That Etowah 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 Wednesday, November 1, 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 Etowah's and Red Bird's reports on or before Wednesday, November 29, 2023;

4. That a hearing for the purpose of receiving expert witness testimony on the Application is scheduled to begin at 11:00 a.m. on Monday, November 20, 2023, and continuing as necessary until 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 petitions to intervene in this proceeding shall be filed pursuant to Commission Rules R1-5 and R1-19 not later than Friday, October 20, 2023;

7. That Red Bird and Etowah's prefiled direct testimony and exhibits shall be filed on or before Tuesday, October 10, 2023;

8. That the Public Staff and other intervenors prefiled direct testimony and exhibits of shall be filed on or before Friday, October 20, 2023;

9. That Red Bird and Etowah's prefiled rebuttal testimony and exhibits, if any, shall be filed on or before Monday, November 6, 2023;

10. That an officer or representative from Red Bird and Etowah are required to appear before the Commission at the time and place of the expert witness hearings to testify concerning any of the information contained in the Application;

11. That any parties filing supporting exhibits in Excel format shall provide the Commission Staff electronic versions of the exhibits filed in native Excel format via email at NCUCexhibits@ncuc.net, including all of the supporting tabs and formulas, within three days of the filing of such exhibits (or within three days of the issuance of this Order if already filed with the Commission); and that any 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;

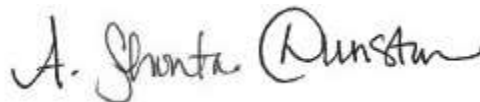
13. That Red Bird and Etowah shall consult with all other parties and file, no later than Wednesday, November 15, 2023, a list of witnesses to be called at the expert witness hearing, the order of witnesses, and each party's estimated time for cross-examination. If the parties cannot agree, the remaining parties shall, no later than noon on Friday, November 17, 2023, make a filing indicating their points of disagreement with Red Bird and Etowah's filing; and

14. That Etowah shall consult with the Public Staff to develop a Notice to Customers to be delivered to all affected customers and shall file the proposed Notice to Customers for approval by the Commission no later than 4 business days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of September, 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