

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1049, SUB 25
DOCKET NO. W-1328, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Application of A&D Water Services, Inc.
and Red Bird Utility Operating Company,
LLC d/b/a Red Bird Water for Transfer of
Public Utility Franchise and for Approval of
Rates

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**JOINT MOTION TO EXCUSE
WITNESSES, WAIVE
CROSS-EXAMINATION, AND
ADMIT TESTIMONY**

NOW COME the Public Staff – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and Red Bird Utility Operating Company, LLC (Red Bird or the Company) (collectively, the Moving Parties) and respectfully move the North Carolina Utilities Commission (Commission) pursuant to North Carolina Utilities Commission (Commission) Rule R1-5 that all witnesses be excused from testifying at the April 1, 2024 evidentiary hearing. The Moving Parties further move to admit the verified Application as supplemented, the Moving Parties' pre-filed direct testimony and exhibits, the Settlement Agreement and Stipulation (Stipulation), and the Moving Parties' settlement testimony and exhibit into evidence in the above-captioned dockets. In support of this motion, the Moving Parties show the following:

A. On October 9, 2020, Red Bird and A&D Water Services, Inc. (A&D), filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer of the assets

of the water and/or wastewater utility systems serving the Buffalo Meadows, Camelot, Cinnamon Woods, High Vista, Hunters Glen, Kirk Glen, Mountain Valley, Rolling Oaks Estates, Sherwood Forest, Skyview Park, and White Oak Village subdivisions, in Ashe, Henderson, Buncombe, Transylvania, and Gaston Counties, North Carolina, from A&D to Red Bird and for approval of rates. Red Bird filed with the Commission supplemental and additional materials in support of the Application on October 20, 2020, July 2, October 8, October 11, 2021, December 15, 2022, December 12, 2023, and January 17, 2024.

B. On October 18, 2023, Kiran H. Mehta, Molly M. Jagannathan and Holly R. Ingram of the law firm of Troutman Pepper Hamilton Sanders LLP filed a Notice of Appearance.

C. On October 31, 2023, Daniel C. Higgins filed a Motion requesting that he and the firm of Burns Day & Presnell, P.A. be allowed to withdraw as counsel for Red Bird. By Order of November 1, 2023, the Commission granted the Motion.

D. On November 1, 2023, Mindy McGrath of the law firm Troutman Pepper Hamilton Sanders LLP filed a Notice of Appearance on behalf of Red Bird.

E. On January 23, 2024, the Commission issued its Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice (the Scheduling Order).

F. On February 5, 2024, the Commission issued its Order Approving Notice to Customers (Notice Order). The Commission attached as Appendix A to its Notice Order a Notice to Customers stating that a public witness hearing is scheduled for February 29, 2024, and that the Commission may decide the matter without a public witness hearing if no significant protests are received through the submission of consumer statements by February 19, 2024.

G. On February 28, 2024, Red Bird filed a certificate of service stating that the Notice to Customers was mailed or hand delivered to all affected customers by the date specified in the Scheduling Orders.

H. On February 23, 2024, the Commission issued its Order Canceling Public Witness Hearing as no significant protests were received from customers.

I. Subsequent to the filing of Red Bird's Application in this docket, the Public Staff engaged in substantial discovery of Red Bird regarding the matters addressed by the Company's Application and supplemental and additional materials filed with the Commission in support of the Application.

J. On February 7, 2024, Red Bird filed the direct testimony and exhibits of Josiah Cox, President of Red Bird and CSWR, LLC, a Missouri limited liability company formed to provide managerial, technical, and financial support to its utility operating affiliates, including Red Bird. The Cox testimony included six exhibits.

K. On March 6, 2024, the Public Staff filed the direct testimony and exhibits of John R. Hinton, Director of the Economic Research Division; the direct testimony and exhibits of Kuei Fen Sun, Public Utility Regulatory Analyst, Public

Staff Accounting Division; and the direct testimony and exhibits of D. Michael Franklin, Utilities Engineer, Water, Sewer, and Telephone Division.

L. On March 14, 2024, the Moving Parties notified the Commission that they had agreed in principle to a settlement.

M. On March 18, 2024, the Moving Parties filed their Joint Motion for Leave to File Stipulation and Settlement Testimony in Lieu of Rebuttal Testimony, which was granted on March 19, 2024.

N. On March 21, 2024, the Moving Parties filed the Stipulation resolving all issues between the Moving Parties in these dockets.

O. On March 21, 2024, the Public Staff filed its Joint Settlement Testimony of Kuei Fen Sun and D. Michael Franklin in support of the Stipulation. Also on March 21, 2024, Red Bird filed the Settlement Testimony of Josiah Cox.

P. Pursuant to the Stipulation, the Moving Parties agreed that all pre-filed testimony and exhibits of the Moving Parties may be received in evidence without objection, along with the verified Application and the Settlement Agreement and Stipulation. Each Party agreed to waive all right to cross examine any witnesses but reserves the right to examine witnesses as follow-up to any questions from the Commission or non-stipulating parties.

Q. The Moving Parties respectfully move that Red Bird witness Cox and Public Staff witnesses Hinton, Franklin, and Sun be excused from attending the evidentiary hearing in this docket.

R. The Moving Parties further move that all pre-filed testimony of witnesses Cox, Hinton, Franklin, and Sun be entered into the record as if given orally from the stand, and that all the exhibits of these witnesses be admitted into evidence.

S. The Moving Parties further move that the Application, along with all supplemental and additional materials filed in support of the Application, and the Stipulation filed in this docket be admitted into evidence.

Respectfully submitted, this the 22nd day of March, 2024.

Public Staff – North Carolina Utilities Commission

/s/ James Bernier, Jr.

James Bernier, Jr.

Staff Attorney

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