

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-938, SUB 6
DOCKET NO. W-1328, SUB 8

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Joint Application by Red Bird Utility)	
Operating Company, LLC, 1650 Des Peres)	
Road, Suite 303, St. Louis, Missouri 63131,)	RED BIRD UTILITY OPERATING
and Baytree Waterfront Properties, Inc., 4)	COMPANY, LLC AND THE PUBLIC
Stanley Drive, Thomasville, North Carolina)	STAFF'S JOINT MOTION TO
27360, for Authority to Transfer the)	EXCUSE WITNESSES FROM
Windemere Point Subdivision Wastewater)	APPEARANCE AT HEARING
Utility System and Public Utility Franchise in)	
Montgomery County, North Carolina, and for)	
Approval of Rates)	

NOW COME Red Bird Utility Operating Company, LLC (Red Bird or the Company) and the Public Staff – North Carolina Utilities Commission (Public Staff) pursuant to North Carolina Utilities Commission (Commission) Rule R1-5, and respectfully move that all witnesses be excused from testifying at the December 13, 2023 evidentiary hearing in the above-captioned matter.

In support of this motion, Red Bird and the Public Staff show the following:

1. On October 9, 2020, Red Bird and Baytree Waterfront Properties, Inc. (Baytree), 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 Windemere Pointe Subdivision in Montgomery County, North Carolina, from Baytree 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 21, 2020, June 2, 2021, December 12, 2022, and August 2, 2023.
2. On September 13, 2023, the Commission issued its Order Scheduling Hearings, Establishing Discovery Guidelines, and Requiring Customer Notice. On October 11, 2023, an order was issued Amending Discovery Guidelines, Filing Dates for Prefiled Testimony and Witness List, and Requiring Report. On November 6, 2023, an order was issued Granting Leave to File Corrected Rebuttal Testimony and Rescheduling Expert Witness Hearing. (collectively, the Scheduling Orders).
 3. On September 20, 2023, 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 October 18, 2023, and that the Commission may decide the matter without a public witness hearing if no significant protests are received by October 11, 2023.
 4. On September 29, 2023, 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.
 5. On October 12, 2023, the Commission issued its Order Canceling Public Witness Hearing as no significant protests were received from customers.
 6. On October 9, 2023, 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 four exhibits, one of which was a

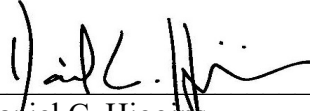
spreadsheet showing the due diligence expenses incurred by Red Bird as of the date the Cox direct testimony was filed.

7. On October 23, 2023, 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 Hemanth Meda, 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.
8. On October 30, 2023, Red Bird filed the Rebuttal Testimony and exhibits of Josiah Cox and Caitlin O'Reilly.
9. On November 1, 2023, Red Bird filed the agreed upon Witness List and Estimated Cross-Examination Times.
10. On November 6, 2023, Red Bird filed the Revised Rebuttal Testimony and Exhibits of Josiah Cox.
11. On November 8, 2023, at the expert witness hearing, the Commission rescheduled the expert witness hearing to begin on December 13, 2023, and continue to December 14, 2023.
12. On December 6, 2023, the parties filed their Settlement Agreement and Stipulation (Stipulation) resolving all issues between the Public Staff and Red Bird (the Stipulating Parties) in these dockets.
13. By December 8, 2023, Red Bird intends to file the Settlement Testimony of Josiah Cox and the Public Staff intends to file the Joint Settlement Testimony of Hemanth Meda and D. Michael Franklin, in support of the Stipulation.

14. The Stipulation provides that the Stipulating Parties agree that all pre-filed testimony and exhibits of the Stipulating Parties may be received in evidence without objection, and that each Stipulating Party waives all right to cross examine all of the Stipulating Parties' witnesses with respect to pre-filed testimony and exhibits.
15. The Stipulating Parties respectfully move that Red Bird witnesses Cox and O'Reilly and Public Staff witnesses Hinton, Franklin and Meda be excused from attending the evidentiary hearing in this docket.
16. Red Bird further moves that all pre-filed testimony of witnesses Cox and O'Reilly be entered into the record as if given orally from the stand, and that all the exhibits of these witnesses be admitted into evidence.
17. The Public Staff further moves that all pre-filed testimony of witnesses Hinton, Franklin, and Meda be entered into the record as if given orally from the stand, and that all the exhibits of these witnesses be admitted into evidence.
18. Red Bird further moves that the Application filed in this docket, along with the supplemental and additional materials filed in support of the Application on October 21, 2020, June 2, 2021, December 12, 2022, and August 2, 2023, be admitted into evidence.
19. Red Bird and the Public Staff further move that the Stipulation be admitted into evidence.
20. There is are no other party to these dockets, other than Baytree, and Red Bird has confirmed that Baytree has no objection to the filing of this Motion.

Respectfully submitted this the 7th day of December, 2023.

BURNS, DAY & PRESNELL, P.A.



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/s/ James Bernier, Jr.

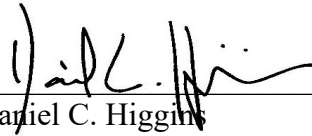
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Joint Motion to Excuse Witnesses from Appearance at Hearing on behalf of Red Bird Utility Operating Company, LLC and the Public Staff – North Carolina Utilities Commission was served electronically or by depositing a copy of the same in the United States Mail, first class postage prepaid, at the addresses contained in the official service list in this proceeding.

This the 7th day of December, 2023.

BURNS, DAY & PRESNELL, P.A.



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