

INFORMATION SHEET

PRESIDING: Commissioner Duffley, Presiding; and Commissioners Brown-Bland, Hughes, McKissick, and Kemerait

PLACE: Dobbs Building, Raleigh, NC

DATE: Thursday, March 9, 2023

TIME: 9:30 a.m. – 10:45 a.m.

DOCKET NOS.: A-41, Sub 22

COMPANY: Bald Head Island Transportation, Inc., and Bald Head Island Transportation, LLC

DESCRIPTION: Joint Application of Bald Head Island Transportation, Inc., and Bald Head Island Transportation, LLC, for Approval of Transfer of Common Carrier Certificate to Bald Head Island Ferry Transportation, LLC, and Permission to Pledge Assets.

VOLUME NUMBER: 7

APPEARANCES

(See attached)

WITNESSES

(See attached)

EXHIBITS

(See attached)

-----  
DISTRIBUTE CONFIDENTIAL COPIES TO:

REPORTED BY: Tonja Vines

DATE FILED: April 13, 2023

TRANSCRIPT PAGES: 81

PREFILED PAGES: 37

TOTAL PAGES: 118

1 PLACE: Dobbs Building, Raleigh, North Carolina  
2 DATE: Friday, March 10, 2023  
3 TIME: 9:30 a.m. - 10:45 a.m.  
4 DOCKET NO: A-41, Sub 22  
5 BEFORE: Commissioner Kimberly W. Duffley, Presiding  
6 Chair Charlotte A. Mitchell  
7 Commissioner ToNola D. Brown-Bland  
8 Commissioner Daniel G. Clodfelter  
9 Commissioner Jeffrey A. Hughes  
10 Commissioner Floyd B. McKissick, Jr.  
11 Commissioner Karen M. Kemerait

12  
13  
14 IN THE MATTER OF:  
15 Joint Application of  
16 Bald Head Island Transportation, Inc., and  
17 Bald Head Island Ferry Transportation, LLC, for  
18 Approval of Transfer of Common Carrier Certificate to  
19 Bald Head Island Ferry Transportation, LLC, and  
20 Permission to Pledge Assets

21  
22 Volume 7  
23  
24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

A P P E A R A N C E S:  
VILLAGE OF BALD HEAD ISLAND:  
Marcus Trathen, Esq.  
Craig D. Schauer, Esq.  
Amanda Hawkins, Esq.  
Brooks Pierce McLendon Humphrey & Leonard, LLP  
Wells Fargo Capitol Center  
150 Fayetteville Street, Suite 1700  
Raleigh, North Carolina 27601  
  
Jo Anne Sanford, Esq.  
Sanford Law Office  
721 North Bloodworth Street  
Raleigh, North Carolina 27604  
  
FOR BALD HEAD ISLAND TRANSPORTATION, INC. and  
BALD HEAD ISLAND FERRY TRANSPORTATION, LLC:  
M. Gray Styers, Jr., Esq.  
Bradley M. Risinger, Esq.  
Elizabeth Sims Hedrick, Esq.  
Fox Rothschild LLP  
434 Fayetteville Street, Suite 2800  
Raleigh, North Carolina 27601

OFFICIAL COPY  
Apr 17 2023

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

A P P E A R A N C E S   Cont'd.:  
FOR SHARPVUE CAPITAL, LLC:  
David Ferrell, Esq.  
Nexsen Pruet, PLLC  
4141 Parklake Avenue, Suite 200  
Raleigh, North Carolina 27612  
  
FOR BALD HEAD ISLAND CLUB:  
Daniel C. Higgins, Esq.  
Burns, Day & Presnell, P.A.  
Post Office Box 10867  
Raleigh, North Carolina 27608

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

A P P E A R A N C E S Cont'd.:  
FOR THE USING AND CONSUMING PUBLIC:  
Gina C. Holt, Esq.  
William E.H. Creech, Esq.  
Public Staff - North Carolina Utilities Commission  
4326 Mail Service Center  
Raleigh, North Carolina 27699-4300

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

T A B L E O F C O N T E N T S  
E X A M I N A T I O N S

	PAGE
PANEL OF	
MICHELLE A. BOSWELL, JOHN R. HINTON,	
AND KRISHNA K. RAJEEV	
Further Examination By Mr. Ferrell .....	10
Further Examination By Mr. Schauer .....	12
Further Examination By Mr. Higgins .....	32
Further Examination By Mr. Creech .....	34
Examination By Commissioner Duffley .....	38
Examination By Chair Mitchell .....	41
Examination By Commissioner Duffley .....	42
Examination By Commissioner McKissick .....	43
Examination By Commissioner Clodfelter .....	48
Examination By Mr. Styers .....	54
Examination By Mr. Schauer .....	56
Examination By Mr. Creech .....	59
Examination By Commissioner Hughes .....	65

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

T A B L E O F C O N T E N T S

E X A M I N A T I O N (C O N T ' D)

JOHN D. TAYLOR

Direct Examination By Mr. Styers .....	71
Prefiled Direct Testimony of John Taylor .....	74
Summary of John Taylor .....	110
Cross Examination By Mr. Schauer .....	114

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

E X H I B I T S

Identified / Admitted

Confidential Village Public Staff ..... Cross Exhibit 1	14/69
Village Public Staff Cross Exhibit 2	23/69
Public Staff Joint Panel Exhibit 1	--/68
Public Staff Joint Amended and Supplemental Joint Testimony Exhibit 1	--/68
BHIT Public Staff Cross Examination Exhibits 1 and 2	--/68
JDT-1R Rebuttal Exhibit	73/--



**NORTH CAROLINA UTILITIES COMMISSION  
APPEARANCE SLIP**

**DATE:** 3-7-23 **DOCKET NO.:** A-41, Sub 22

**ATTORNEY NAME and TITLE:** Marcus W. Trathen

**FIRM NAME:** Brooks Pierce McLendon Humphrey & Leonard, LLP

**ADDRESS:** 1700 Wells Fargo Capitol Center, 150 Fayetteville St.

**CITY:** Raleigh **STATE:** NC **ZIP CODE:** 27601

**APPEARANCE ON BEHALF OF:** Village of Bald Head Island

**APPLICANT:** \_\_\_ **COMPLAINANT:** \_\_\_ **INTERVENOR:** X

**PROTESTANT:** \_\_\_ **RESPONDENT:** \_\_\_ **DEFENDANT:** \_\_\_

**Non-confidential transcripts are located on the Commission's website.** To view and/or print transcripts, go to <https://www.ncuc.net/>, hover over the Dockets tab and select Docket Search, enter the docket number and click search, select the highlighted docket number and select Documents for a list of all documents filed.

To receive an electronic **CONFIDENTIAL** transcript, please complete the following:

**Yes, I have signed the Confidentiality Agreement.**

**Email:** mtrathen@brookspierce.com

**SIGNATURE:** /s/ Marcus Trathen

(Required for distribution of CONFIDENTIAL transcript)

**NORTH CAROLINA UTILITIES COMMISSION  
APPEARANCE SLIP**

OFFICIAL COPY

Apr 17 2023

**DATE:** 3-7-23 **DOCKET NO.:** A-41, Sub 22

**ATTORNEY NAME and TITLE:** Craig D. Schauer

**FIRM NAME:** Brooks Pierce McLendon Humphrey & Leonard, LLP

**ADDRESS:** 1700 Wells Fargo Capitol Center, 150 Fayetteville St.

**CITY:** Raleigh **STATE:** NC **ZIP CODE:** 27601

**APPEARANCE ON BEHALF OF:** Village of Bald Head Island

**APPLICANT:** \_\_\_ **COMPLAINANT:** \_\_\_ **INTERVENOR:** X

**PROTESTANT:** \_\_\_ **RESPONDENT:** \_\_\_ **DEFENDANT:** \_\_\_

**Non-confidential transcripts are located on the Commission's website.** To view and/or print transcripts, go to <https://www.ncuc.net/>, hover over the Dockets tab and select Docket Search, enter the docket number and click search, select the highlighted docket number and select Documents for a list of all documents filed.

To receive an electronic **CONFIDENTIAL** transcript, please complete the following:

**Yes, I have signed the Confidentiality Agreement.**

**Email:** cschauer@brookspierce.com

**SIGNATURE:** 

(Required for distribution of CONFIDENTIAL transcript)

**NORTH CAROLINA UTILITIES COMMISSION  
APPEARANCE SLIP**

**OFFICIAL COPY**

**Apr 17 2023**

**DATE:** 3-7-23 **DOCKET NO.:** A-41, Sub 22

**ATTORNEY NAME and TITLE:** Amanda S. Hawkins

**FIRM NAME:** Brooks Pierce McLendon Humphrey & Leonard, LLP

**ADDRESS:** 1700 Wells Fargo Capitol Center, 150 Fayetteville St.

**CITY:** Raleigh **STATE:** NC **ZIP CODE:** 27601

**APPEARANCE ON BEHALF OF:** Village of Bald Head Island

**APPLICANT:** \_\_\_ **COMPLAINANT:** \_\_\_ **INTERVENOR:** X

**PROTESTANT:** \_\_\_ **RESPONDENT:** \_\_\_ **DEFENDANT:** \_\_\_

**Non-confidential transcripts are located on the Commission's website.** To view and/or print transcripts, go to <https://www.ncuc.net/>, hover over the Dockets tab and select Docket Search, enter the docket number and click search, select the highlighted docket number and select Documents for a list of all documents filed.

To receive an electronic **CONFIDENTIAL** transcript, please complete the following:

**Yes, I have signed the Confidentiality Agreement.**

**Email:** ahawkins@brookspierce.com

**SIGNATURE:** 

(Required for distribution of **CONFIDENTIAL** transcript)

**NORTH CAROLINA UTILITIES COMMISSION  
APPEARANCE SLIP**

OFFICIAL COPY

Apr 17 2023

**DATE:** 3-7-23 **DOCKET NO.:** A-41 Sub 22

**ATTORNEY NAME and TITLE:** Jo Anne Sanford

**FIRM NAME:** Sanford Law Office

**ADDRESS:** 721 North Bloodworth Street

**CITY:** Raleigh **STATE:** NC **ZIP CODE:** 27604

**APPEARANCE ON BEHALF OF:** Village of Bald Head Island

**APPLICANT:** \_\_\_ **COMPLAINANT:** x **INTERVENOR:** \_\_\_

**PROTESTANT:** \_\_\_ **RESPONDENT:** \_\_\_ **DEFENDANT:** \_\_\_

**Non-confidential transcripts are located on the Commission's website.** To view and/or print transcripts, go to <https://www.ncuc.net/>, hover over the Dockets tab, select Docket Search, enter the docket number, and click search, select the highlighted docket number and select Documents for a list of all documents filed.

**ONLY** fill out this portion if you have signed an NDA to receive **CONFIDENTIAL** transcripts and/or exhibits:

**Yes, I have signed the Confidentiality Agreement.**

**Email:** sanford@sanfordlawoffice.com

**SIGNATURE:** /s/ Jo Anne Sanford

**(Signature Required for distribution of CONFIDENTIAL information)**

NORTH CAROLINA UTILITIES COMMISSION  
APPEARANCE SLIP

DATE: 3-7-23 DOCKET NO.: A-41 Sub 22

ATTORNEY NAME and TITLE: M. Gray Styers, Jr. + Elizabeth Hedrick

FIRM NAME: Fox Rothschild

ADDRESS: 434 Fayetteville Street, Suite 2800

CITY: Raleigh STATE: NC ZIP CODE: 27601

APPEARANCE ON BEHALF OF: Bald Head Island Limited; and Bald Head Island Transportation

APPLICANT: \_\_\_ COMPLAINANT: \_\_\_ INTERVENOR: \_\_\_

PROTESTANT: \_\_\_ RESPONDENT: x DEFENDANT: \_\_\_

Non-confidential transcripts are located on the Commission's website. To view and/or print transcripts, go to <https://www.ncuc.net/>, hover over the Dockets tab, select Docket Search, enter the docket number, and click search, select the highlighted docket number and select Documents for a list of all documents filed.

**ONLY** fill out this portion if you have signed an NDA to receive **CONFIDENTIAL** transcripts and/or exhibits:

Yes, I have signed the Confidentiality Agreement.

Email: gstyers@foxrothschild.com

SIGNATURE: M. Gray Styers 1/3/Elizabeth Hedrick

(Signature Required for distribution of **CONFIDENTIAL** information)

**NORTH CAROLINA UTILITIES COMMISSION  
APPEARANCE SLIP**

OFFICIAL COPY

Apr 17 2023

**DATE:** 3-7-23 **DOCKET NO.:** A-41 Sub 22

**ATTORNEY NAME and TITLE:** David Ferrell, Attorney

**FIRM NAME:** Nexsen Pruet PLLC

**ADDRESS:** 4141 Parklake Ave., Suite 200

**CITY:** Raleigh **STATE:** NC **ZIP CODE:** 27612

**APPEARANCE ON BEHALF OF:** Respondent SharpVue Capital, LLC

**APPLICANT:** \_\_\_ **COMPLAINANT:** \_\_\_ **INTERVENOR:** \_\_\_

**PROTESTANT:** \_\_\_ **RESPONDENT:** x **DEFENDANT:** \_\_\_

**Non-confidential transcripts are located on the Commission's website.** To view and/or print transcripts, go to <https://www.ncuc.net/>, hover over the Dockets tab, select Docket Search, enter the docket number, and click search, select the highlighted docket number and select Documents for a list of all documents filed.

**ONLY** fill out this portion if you have signed an NDA to receive **CONFIDENTIAL** transcripts and/or exhibits:

**Yes, I have signed the Confidentiality Agreement.**

**Email:** dferrell@nexsenpruet.com

**SIGNATURE:** 

**(Signature Required for distribution of CONFIDENTIAL information)**

**NORTH CAROLINA UTILITIES COMMISSION  
APPEARANCE SLIP**

OFFICIAL COPY

Apr 17 2023

**DATE:** 3-7-23 **DOCKET NO.:** A-41 Sub 22

**ATTORNEY NAME and TITLE:** Daniel Higgins

**FIRM NAME:** Burns, Day & Presnell, PA

**ADDRESS:** PO Box 10867

**CITY:** Raleigh **STATE:** NC **ZIP CODE:** 27608

**APPEARANCE ON BEHALF OF:** Bald Head Island Club

**APPLICANT:** \_\_\_ **COMPLAINANT:** \_\_\_ **INTERVENOR:** x

**PROTESTANT:** \_\_\_ **RESPONDENT:** \_\_\_ **DEFENDANT:** \_\_\_

**Non-confidential transcripts are located on the Commission's website.** To view and/or print transcripts, go to <https://www.ncuc.net/>, hover over the Dockets tab, select Docket Search, enter the docket number, and click search, select the highlighted docket number and select Documents for a list of all documents filed.

**ONLY** fill out this portion if you have signed an NDA to receive **CONFIDENTIAL** transcripts and/or exhibits:

**Yes, I have signed the Confidentiality Agreement.**

**Email:** dhiggins@dppa.com

**SIGNATURE:** 

(Signature Required for distribution of **CONFIDENTIAL** information)

**NORTH CAROLINA UTILITIES COMMISSION**  
**PUBLIC STAFF - APPEARANCE SLIP**

DATE: March 7, 2023

DOCKET #: A-41, Sub 22

PUBLIC STAFF ATTORNEYS: Gina C. Holt and William E. H. Creech

TO REQUEST A **CONFIDENTIAL** TRANSCRIPT, PLEASE PROVIDE YOUR EMAIL ADDRESS BELOW:

ACCOUNTING \_\_\_\_\_  
CONSUMER SERVICES \_\_\_\_\_  
COMMUNICATIONS \_\_\_\_\_  
ENERGY \_\_\_\_\_  
ECONOMICS \_\_\_\_\_  
LEGAL: gina.holt@psncuc.nc.gov;  
zeke.creech@psncuc.nc.gov  
TRANSPORTATION \_\_\_\_\_  
WATER \_\_\_\_\_

Non-confidential transcripts are located on the Commission's website. To view and/or print, please access <https://ncuc.net>.

COUNSEL/MEMBER(S) REQUESTING A **CONFIDENTIAL** TRANSCRIPT WHO HAS SIGNED A CONFIDENTIALITY AGREEMENT WILL NEED TO SIGN BELOW.

/s/ Gina C. Holt

  
/s/ William E. H. Creech



**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. G-40, SUB 136

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Joint Application of Frontier Natural Gas ) ORDER JOINING NECESSARY  
Company and FR Bison Holdings, Inc., for ) PARTY AND REQUIRING  
Approval of Acquisition of Stock of Gas ) ADDITIONAL VERIFIED  
Natural, Inc. ) INFORMATION

HEARD: May 8, 2017, 2:00 p.m., Commission Hearing Room 2115, Dobbs Building,  
430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner ToNola D. Brown-Bland, Presiding; Chairman Edward S.  
Finley, Jr.; and Commissioners Bryan E. Beatty, Don M. Bailey, Jerry C.  
Dockham, James G. Patterson, and Lyons Gray

APPEARANCES:

For Frontier Natural Gas Company and Gas Natural, Inc.:

M. Gray Styers, Jr., Smith Moore Leatherwood, 434 Fayetteville Street,  
Suite 2800, Raleigh, North Carolina 27601

For FR Bison Holdings, Inc., and First Reserve Corporation:

James H. Jeffries IV, Moore & Van Allen PLLC, 100 N. Tryon Street, Suite  
4700, Charlotte, North Carolina 28202

For the Using and Consuming Public:

Elizabeth D. Culpepper, Staff Attorney, Public Staff – North Carolina Utilities  
Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-  
4300

BY THE COMMISSION: This matter is now before the Commission for decision on  
the issue of whether the Commission is in position to or should determine that the  
proposed merger between Frontier Natural Gas Company and FR Bison Holdings, Inc.  
satisfies the public convenience and necessity requirement based on the current record  
of evidence, without BlackRock, Inc.'s appearance and submission of evidence, given  
that BlackRock would be the ultimate owner of Frontier Natural Gas Company's parent  
company, Gas Natural, Inc., if the pending application for merger is approved.

On November 23, 2016, Frontier Natural Gas Company (Frontier) and FR Bison  
Holdings, Inc. (FR Bison) (collectively, Applicants), filed an application pursuant to G.S.

62-111(a) for: (1) authorization for First Reserve Corporation to acquire one hundred percent (100%) of the stock of Gas Natural, Inc. (GNI), the parent company of Frontier, pursuant to an Agreement and Plan of Merger among Gas Natural, Inc., FR Bison Holdings, Inc., and FR Bison Merger Sub, Inc. (Merger Agreement), which was filed as Exhibit C to the Application, and (2) authorization and/or waiver as necessary and appropriate to effect the proposed transaction. The Application also included a cost-benefit analysis, and charts showing both GNI's current corporate organization and the new corporate organization following the proposed transaction. In support of the Application, the Applicants also filed the testimony of James E. Sprague, Chief Financial Officer of GNI; Fred A. Steele, President/General Manager of Frontier; Kevin J. Degenstein, Chief Operating Officer and Chief Compliance Officer of GNI; and Ryan Shockley, Managing Director of First Reserve Corporation.

On January 30, 2017, the Commission issued an order that, among other things, set the application for hearing on May 8, 2017. On February 6, 2017, the Commission issued an Order Granting Waiver of Market Power Analyses Requirement on the request of the Applicant and recommendation of the Public Staff. The Applicants and the Public Staff are the only parties in the docket.

On February 14, 2017, the Applicants filed an amended application and the revised direct testimony of Applicants' witness Shockley. In the amended application (amended Application or Application), the reference to First Reserve Corporation was revised to refer to FR Bison, and the name First Reserve was used to reference First Reserve Energy Infrastructure GP II, Limited. The references to First Reserve throughout the remainder of this Order are to First Reserve Energy Infrastructure GP II, Limited.

Applicants stated that the amended Application was the result of two events that first became known to First Reserve after the filing of the original Application. First, Applicants realized that GNI could become a U.S. Real Property Holding Company for federal income tax purposes, which could potentially violate covenants in First Reserve's agreements with investors in its infrastructure funds. In order to eliminate this possibility, First Reserve changed the identity of the immediate parent of FR Bison from First Reserve Energy Infrastructure Fund II, L.P., to another First Reserve affiliate, FREIF II Echo AIV, L.P. (FREIF). Second, First Reserve Partners L.P., First Reserve Management, L.P. (collectively, FR Sellers) and BlackRock, Inc. (BlackRock) had entered into an agreement pursuant to which the FR Sellers agreed to sell their energy infrastructure business to BlackRock (BlackRock Transaction). According to the Applicants, the BlackRock Transaction, upon closing, would result in a change in the ultimate parent of GNI from First Reserve to BlackRock, but would not otherwise impact GNI, Frontier, Frontier's customers, or the merger. The amended Application and the amended testimony of Ryan Shockley, reflecting the changes made as a result of these two events, requested approval of the merger, with the additional component of the BlackRock Transaction.

On May 2, 2017, the Public Staff filed the joint testimony of its witnesses and attached to the Public Staff testimony was a set of proposed regulatory conditions that had been agreed to by the Public Staff, the Applicants, and certain other entities (Regulatory Conditions). Subject to the agreed upon Regulatory Conditions, the Public

Staff testimony supported approval of the Merger as being consistent with the Commission's requirements under G.S. 62-111(a).

On May 4, 2017, the Applicants filed the Rebuttal Testimony of Ryan Shockley and the Joint Rebuttal Testimony of Fred A. Steele, Kevin J. Degenstein, and James E. Sprague. This testimony acknowledged the Applicants' support of, and agreement with, the Regulatory Conditions and urged approval of the proposed merger as justified by the public convenience and necessity. Also on May 4, 2017, First Reserve and First Reserve Energy Infrastructure Fund II, L.P filed a statement with the Commission consenting to the Regulatory Conditions proposed by the Public Staff.. Further, they stated that their consent to the Regulatory Conditions "does not constitute a general consent to expansion of the North Carolina Utilities Commission's jurisdiction over [them] beyond that established by Chapter 62 of the North Carolina General Statutes."

On May 8, 2017, BlackRock filed a confidential statement with the Commission, but did not intervene or file testimony in the proceeding.

The matter came on for hearing before the Commission on May 8, 2017, as scheduled. No public witnesses testified regarding this matter. The prefiled testimony and exhibits of the Applicants were admitted into the record and received into evidence without objection. In addition, the Amended Application and exhibits thereto were entered into the record without objection. Witnesses Shockley, Steele, Degenstein and Sprague also testified at the hearing on behalf of the Applicants and answered the Commission's questions under oath. The Applicants requested that the Commission take judicial notice of letters filed by First Reserve and BlackRock in this proceeding on May 4 and May 8, 2017, respectively. With respect to the BlackRock Transaction, the Applicants requested that the merger be approved regardless of the pendency of that transaction, on the basis that the merger satisfies the public convenience and necessity either with First Reserve as the ultimate parent of GNI, or with BlackRock as the ultimate parent of GNI. (T, at pp. 164-165). The prefiled testimony and exhibits of the Public Staff were also admitted and received in to evidence without objection and the Public Staff witnesses also testified at the hearing. However, BlackRock, as a non-party, did not appear at the hearing or otherwise provide any evidence for the Commission's consideration.

On June 8, 2017, the Applicants filed notice with the Commission of the closing of the BlackRock Transaction, which, according to Applicants made "BlackRock the ultimate corporate parent of the First Reserve fund seeking authorization to acquire Gas Natural, Inc. in this docket."

On June 15, 2017, the Applicants and Public Staff filed a Joint Proposed Order and a Supplemental Brief on Specified Issues, including the issue addressed herein, *i.e.*, whether the Commission is able to or should determine that the proposed merger satisfies the public convenience and necessity requirement without BlackRock's appearance and submission of evidence given that BlackRock would be the ultimate owner of GNI if the pending application for merger is approved.

#### Discussion and Decision

In order for the Commission to approve the pending merger whereby First Reserve would acquire ownership of GNI, Frontier's parent company, the Commission must find the transaction justified by the public convenience and necessity.

No franchise now existing or hereafter issued under the provisions of this Chapter other than a franchise for motor carriers of passengers shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any public utility be made through acquisition of control by stock purchase or otherwise, except after application to and written approval by the Commission, which approval shall be given if justified by the public convenience and necessity.

G.S. 62-111(a). Through this public convenience and necessity requirement, the Commission is given clear authority to decide who owns and controls the public utilities that the Commission regulates.

The testimony and the June 8, 2017, letter notifying the Commission of the completion of the BlackRock Transaction make it clear that BlackRock will be the ultimate owner and entity in control of GNI, and, by extension, Frontier, if the application for approval of acquisition and resulting merger is approved by the Commission. While First Reserve provided evidence of its plans regarding its ownership, control and governance of GNI and regarding how it would make capital allocation decisions with respect to Frontier, the closing of the BlackRock Transaction means that First Reserve's testimony can only be considered by the Commission as that of the penultimate owner of GNI. First Reserve could not and did not provide testimony regarding the plans of BlackRock with respect to its ultimate ownership, control, governance and capital financing of GNI and/or Frontier. Moreover, there is nothing in the record that is binding upon BlackRock with respect to the testimony and commitments of First Reserve. Therefore, the Commission determines and concludes that it cannot approve the pending application without receiving evidence on the record of BlackRock's plans with respect to GNI and Frontier. The Commission further concludes that, as BlackRock would obtain the ultimate ownership or control of Frontier, BlackRock is a necessary party to this proceeding. See North Carolina Rules of Civil Procedure, Rule 19(b).

In their post-hearing Brief, the Applicants and Public Staff (parties) argue that the Commission can approve the pending application of acquisition because: (1) since the participants in the BlackRock Transaction were not under the jurisdiction of the Commission at the time of the BlackRock Transaction, the participants were not required to obtain the Commission's approval; and (2) the BlackRock Transaction does not alter the material facts underlying the approval sought by the Applicants from the Commission for consummation of the merger.

With regard to the parties' first argument, the Commission agrees. On the date of the BlackRock Transaction, June 2, 2017, the participants were not public utilities nor were they transferring or acquiring a public utility that was subject to the jurisdiction of the

Commission. As a result, the participants did not need the Commission's approval to enter into the BlackRock Transaction. Still, as the Applicants have acknowledged in seeking approval of the First Reserve acquisition of GNI pursuant to G.S. 62-111(a), the Commission must determine whether a change in ownership and control of a public utility subject to its regulation is justified by the public convenience and necessity. The Commission cannot reach a well-informed decision on the pending application when it now knows that approval of the application would lead to yet another change in the ultimate ownership and control of GNI and Frontier and that the new ultimate owner has not presented itself to the Commission or made its intentions or future plans respecting GNI and Frontier known. Just as the Commission's approval was required for First Reserve to assume the position of ultimate owner of GNI and Frontier, it is consistent with G.S. 62-111(a) that the Commission must approve BlackRock as the ultimate owner of GNI and Frontier—a change in ownership that will not happen except on the approval of the pending application.

With regard to the parties' second argument, they contend that "BlackRock is an upstream ownership entity many layers removed from Frontier and will not be directly involved in Frontier's delivery of utility services to its customers . . . . The closing of the BlackRock Transaction does not alter the accuracy or substantive validity of the Amended Application or the testimony presented to the Commission at the hearing of this matter. " Supplemental Brief on Specified Issues, at p. 5.

The Commission disagrees that the BlackRock Transaction does not alter the material facts underlying the approval sought. The Commission is not persuaded that BlackRock will not be directly involved in Frontier's delivery of utility services. More importantly, contrary to the parties' assertion in their Brief, the testimony provided by the Applicants does not provide the Commission with sufficient evidence to determine the role BlackRock will play in Frontier's delivery of utility services. That role and its effects on Frontier cannot be understood without some information regarding BlackRock's plan for GNI and Frontier. For example, witness Shockley testified that First Reserve had not decided who would be on the GNI board, but that First Reserve would control the GNI board and have a majority of members on it. (T, at p. 159) The Commission has no evidence from BlackRock as to how Blackrock will handle its control of GNI's board. If, for example, BlackRock were to take the same approach as that planned by First Reserve, BlackRock would exercise a substantial amount of control over Frontier through its appointment of the GNI board members.

Further, witness Shockley described the decision-making process that First Reserve would follow in deciding whether to allocate capital to Frontier. In short, he stated that Frontier would make recommendations for capital deployment to GNI, then GNI would make recommendations to the First Reserve board of directors. The First Reserve board would consider such recommendations on an annual basis, as part of its budgeting decisions, except for special projects requiring funding. With respect to special projects, First Reserve's board of directors could call a special meeting to address the capital needs of special projects. Again, the Commission has no evidence from BlackRock as to how Blackrock will handle allocations of capital to Frontier. If BlackRock were to take the same approach as that planned by First Reserve, it would exercise a substantial amount

of control over Frontier through its decisions about when to infuse capital into Frontier, how much capital to allocate to Frontier, and on what terms.

Finally, in their post-hearing Brief the parties rely on the Commission's Order Approving Acquisition of Stock and Requiring Customer Notice, Docket No. W-1000, Sub 14 (December 7, 2012). In that docket, the Commission considered the application of Corix Utilities (Illinois) LLC (Corix), a Delaware limited liability company, to acquire ownership and control of Utilities, Inc. (UI) UI was a utility holding company with six North Carolina regulated water utilities as its subsidiaries. UI was a wholly owned subsidiary of Hydro Star Holding Corp., which was a wholly owned subsidiary of Hydro Star, LLC. British Columbia Management Corporation (BCMC), a Canadian investment management company, was the principal investor in Corix Infrastructure, Inc. (CII). CII owned 100% of Corix, the Applicant. Corix sought Commission approval to acquire 100% of the outstanding membership interests of Hydro Star, LLC. The Commission approved the acquisition of 100% of the membership interests in Hydro Star by Corix. As noted by the parties, the Commission did not require BCMC or CII, the upstream owners of Corix, to become parties to the docket or submit testimony. In their Brief, the parties contend that the proposed merger in this docket is virtually identical to the Corix transaction.

The Commission is not persuaded. The facts in the present docket are distinguishable from those of the Corix transaction. In particular, the upstream ownership of Corix was established at the time of Corix's application to acquire Hydro Star, and, during the pendency of Corix's application and the Commission's decision, there was no change in the upstream ownership of Corix. Thus, Corix already had knowledge of its working relationship with its upstream owner and could testify as to its plans for UI and Hydro Star knowing the relationship and customary business practices between it and its upstream owner. When the Public Staff conducted its investigation of the Corix application, the Public Staff was able to explore the upstream ownership relationships to make its due diligence determinations. It could also be reasonably inferred from the pre-existing parent relationship, that the upstream owner had knowledge of and/or had given permission or approval of the subsidiary's application for merger prior to its being filed with the Commission. When the Commission approved the Corix application, G.S. 62-3(23)(c) provided the Commission assurance of its jurisdiction over upstream parties in place at that time authorized to exercise control over North Carolina operating affiliates to the extent necessary. There is no evidence in the record suggesting that First Reserve had knowledge that BlackRock's ownership and control would not result in changes affecting GNI and Frontier.

The Commission strives to do all that it can to maintain the stability of the public utilities that the Commission regulates. To that end, the Commission needs to know who is in control of the operations of each utility. Further, the Commission needs to ensure as much as possible that each utility has stability in its management and in the people who are making the operations decisions. One situation the Commission wants to avoid is having the control of a utility passed to a new parent company on a frequent basis merely because an opportunity for selling the utility comes along. Witness Shockley testified that First Reserve intended to hold GNI and Frontier as "long term" investments, which he defined as 12 to 15 years, or more. Yet, even before First Reserve acquired ownership

of Frontier, it entered into an agreement that would forego its potential ultimate ownership of GNI and Frontier and give that privilege of ownership to BlackRock. To say the least, this has not given the Commission any comfort about the future stability of Frontier's ownership if the Commission should give its approval for Frontier to be owned by an equity investor.

The Commission does note its awareness of the unverified confidential statement filed by BlackRock on May 8, 2017, but the statement is not competent evidence of record upon which the Commission can base a decision that the public convenience and necessity will be served by approving the pending application. In addition, the statement was not subject to cross-examination or the questions of the Commission. See G.S. 62-65.

### Conclusion

The Commission concludes that before it can enter a final order on the proposed merger, BlackRock must be joined as a necessary party to this proceeding. In addition, the Commission needs competent evidence of record from BlackRock on the following:

1. BlackRock's plans for appointing members to serve on GNI's board of directors;
2. The process by which BlackRock will decide when to infuse capital into Frontier, how much capital to allocate to Frontier, and on what terms.
3. BlackRock's intent with regard to its length of ownership of GNI and Frontier.

If BlackRock is in agreement with the testimony provided by the Applicants, it can file a verified statement or affidavit stating its agreement and that First Reserve will be allowed to exercise ownership and control of GNI and Frontier without interference in exactly the way that witness Shockley testified to the Commission. In addition, the statement should also indicate whether BlackRock accepts and agrees to the Regulatory Conditions. If BlackRock is not in agreement with the testimony of witness Shockley and/or there is any appreciable distinction or difference in the manner GNI and Frontier will be governed, operated, owned and controlled with BlackRock as the ultimate owner, BlackRock must make its position known to the Commission by filing either an affidavit or sworn testimony addressing the three subjects enumerated above. In addition, BlackRock should indicate its position regarding the proposed Regulatory Conditions that have been agreed to by the Applicants and Public Staff. The Public Staff will be afforded an opportunity to respond to any BlackRock filing unless the parties determine that a joint filing or stipulation is in order or unless the Public Staff makes a filing stating that it does not plan to file any response.

IT IS, THEREFORE, ORDERED as follows:

1. That BlackRock shall be, and is hereby, joined as a necessary party to this proceeding;

2. That BlackRock shall file a verified statement or affidavit or testimony in accordance with this Order, and specifically addressing the three items of information enumerated above and the proposed Regulatory Conditions;

3. That within ten days from the date of BlackRock's filing of its statement, affidavit or testimony, the Public Staff shall, as it deems appropriate, file responsive comments, an affidavit or testimony, or a statement that it does not plan to make any responsive filing. If the Public Staff desires to cross-examine on BlackRock's filings, it may request a hearing in any responsive filing it makes; and

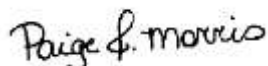
4. That the Chief Clerk shall mail a copy of this Order to BlackRock, Inc., by certified mail addressed to:

BlackRock, Inc.  
Attention: Mr. David O'Brien, Managing Director  
40 East 52<sup>nd</sup> Street  
New York, New York 10022

ISSUED BY ORDER OF THE COMMISSION.

This the 11<sup>th</sup> day of July, 2017.

NORTH CAROLINA UTILITIES COMMISSION



Paige J. Morris, Deputy Clerk

Commissioner Don M. Bailey did not participate in this decision.



**DOCKET NO. A-41, SUB 22**

**REGULATORY CONDITIONS**

These Regulatory Conditions set forth requirements imposed upon Holdings and BHIFT, as a condition of approval of the application by BHIT and BHIFT pursuant to N.C. Gen. Stat. § 62-111 and Commission Rule R2-8.1 for authority to transfer BHIT's Common Carrier Certificate to operate the passenger ferry transportation services to and from Bald Head Island and the tram services on the island to BHIFT (Transfer).

These Regulatory Conditions, which become effective only upon closing of the Transfer, shall apply jointly and severally to SharpVue, Partners, Holdings, BHIFT, and other entities owned or controlled by SharpVue or its principals Lee Robert and Douglas Vaughn, being **[BEGIN CONFIDENTIAL]** [REDACTED]

**[END CONFIDENTIAL]** (as well as any successor entities), and shall be interpreted in the manner that ensures BHIFT's customers (a) are protected from any known adverse effects from the Transfer, (b) are protected as much as possible from potential costs and risks resulting from the Transfer, and (c) receive

sufficient known and expected benefits to offset any potential costs and risks resulting from the Transfer.

For purposes of these Regulatory Conditions, "SharpVue Affiliates" shall be comprised of Partners, **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

**[END CONFIDENTIAL]**

SharpVue and SharpVue Affiliates and any successor entities must acknowledge and consent to these Regulatory Conditions imposed upon Holdings and BHIFT. SharpVue and SharpVue Affiliates are further required not to cause any Subsidiary Entities to violate such Regulatory Conditions, nor to prevent Holdings and BHIFT from taking action to comply with the Regulatory Conditions, for so long as such Regulatory Conditions remain in effect and applicable to Holdings and BHIFT. The consent and acknowledgment of SharpVue and SharpVue Affiliates set forth above does not constitute a general consent to expansion of the North Carolina Utilities Commission's jurisdiction over SharpVue and SharpVue Affiliates beyond that established by Chapter 62 of the North Carolina General Statutes.

The Commission retains the right to impose future limitations on BHIFT that the public interest requires.

For purposes of these Regulatory Conditions, the North Carolina Utilities Commission is referred to as “the Commission,” and the Public Staff – North Carolina Utilities Commission is referred to as “the Public Staff.”

- 1. Transfer-related Direct Costs and Expenses.** Direct costs and expenses associated with the Transfer will be excluded from the regulated expenses of BHIFT for Commission financial reporting and ratemaking purposes. Direct Transfer expenses are change-in-control payments made to terminated executives, Transfer-related bonuses, severance payments, regulatory process costs, and transaction fees (such as, but not limited to, acquisition, architectural, broker, environmental, financing, investment banker, and legal fees for due diligence, transaction structuring, financial market analysis, and fairness opinions based on formal agreements with investment bankers). BHIFT will file a summary report of its final accounting for Direct Transfer and Transfer-related -expenses within 120 days after the close of the Transfer, and supplemental reports within 60 days after each quarter until such expenses cease.
- 2. Non-Consummation of Transfer.** If the Transfer is not consummated, neither the cost nor the receipt of any termination payment shall be allocated to BHIT or included in regulated expenses of BHIT for

Commission financial reporting and ratemaking purposes. BHIT's customers shall not otherwise bear any direct expenses or costs associated with a non-consummated Transfer.

3. **Acquisition Adjustments.** SharpVue, SharpVue Affiliates, Holdings, and BHIFT shall neither pursue or recover an acquisition adjustment in any future rate case.
4. **Parking Services of Holdings and BHIFT.** Holdings and BHIFT will continue to provide for the availability of adequate and reasonably priced parking.
5. **Inclusion of Imputed Parking Revenue in Future Rate Proceedings.** For purposes of future general rate case proceedings for BHIFT, the Public Staff shall not be limited to or constrained by the provisions of these Regulatory Conditions in asserting or sustaining arguments regarding the proper treatment of imputed revenue associated with the parking facilities in setting just and reasonable rates for BHIFT. An appropriate level of parking revenue shall be imputed in the setting of just and reasonable rates for BHIFT on a level that is consistent with the prior general rate case.
6. **Hold Harmless Commitment.** The Transfer shall be effectuated in a manner designed to prevent harm to BHIFT's ratepayers. Notwithstanding

this, SharpVue, SharpVue Affiliates, Holdings, and BHIFT (as well as any successor entities directly or indirectly owning or controlling BHIFT or its employees) shall take all such actions as may be reasonably necessary and appropriate to hold BHIFT's customers harmless from the effects of the Transfer.

- 7. Distributions to SharpVue, SharpVue Affiliates, and Holdings.** BHIFT shall not pay to SharpVue, SharpVue Affiliates, Holdings, or their Members or Managers any distribution exceeding 80% of BHIFT's net income calculated on a two-year-rolling average basis. In addition, BHIFT shall limit cumulative distributions paid to SharpVue, SharpVue Affiliates, and Holdings subsequent to closure of the Transfer to (i) the amount of its retained earnings on the day prior to the closure of the Transfer, plus (ii) any future earnings recorded by BHIFT subsequent to closure of the Transfer.
- 8. Common Equity Capital.** Until a final order is issued in BHIFT's next (first) general rate case, BHIFT shall maintain common equity capital at levels equal to or greater than 40% of total adjusted capital (including common equity, preferred stock, long-term debt, and long-term capital leases). No equity distributions, whether by dividend or other form, such as the management fees of SharpVue, may be made that would result in equity

capital of BHIFT falling below this minimum 40% level without prior approval of the Commission. Notwithstanding the foregoing, BHIFT shall maintain the right to petition the Commission for an exception to this Regulatory Condition.

- 9. Notice of Certain Investments.** Whenever SharpVue, SharpVue Affiliates, or Holdings makes any new or increased direct or indirect investment in a business entity where: (a) such investment appears or will appear on the books of BHIFT, or will otherwise have an effect on the books, costs, rates, revenues, charges, obligations, services, capitalization, or indebtedness of BHIFT, and (b) the amount of such investment is equal to 10% or more of BHIFT's book capitalization, the investing entity shall file or cause to be filed, as soon as practicable following Board or other approval of the subject transaction and any public announcement thereof (if one is made), a notice of the investment with the Commission. The notice shall include a full description of the investment and an explanation of how it will be accounted for in the investing entity's books and records.
- 10. Notice of Default or Bankruptcy.** If SharpVue or SharpVue Affiliates experiences a default on an obligation or files for bankruptcy, Holdings and BHIFT shall notify the Commission of the event in advance, if possible, or, if not, as soon as possible but not later than ten days after such event.

- 11. Non-attribution or Forgiveness of Intercompany “Loan.”** To the extent that closing of the Transfer memorializes any intercompany “loan” between BHIL and BHIT (see \$19,808,223 of Related Party Loan(s) as reported in BHIT’s Financial Report of December 31, 2021), SharpVue, SharpVue Affiliates, Holdings, and BHIFT must disclaim any such “loan” and any such “loan” or indebtedness shall not be binding upon Holdings and BHIFT and shall not be presented for Commission consideration whatsoever, whether for rate base purposes or otherwise. This requirement applies to all existing or subsequent indebtedness of BHIL or BHIT through closing.
- 12. Post-Closing Financial Information.** Holdings and BHIFT shall file pre- and post-Transfer closing balance sheets and the associated closing journal entries, including relevant descriptions and disclosures for the transactions recorded as soon as practicable but not later than the end of the second full quarter following the close of the Transfer, and shall provide to the Public Staff closing documents for the consummation of the Proposed Transaction, including closing statements for Holdings and BHIFT.
- 13. Meetings with Public Staff.** the Public Staff to discuss Holdings’ financial condition, BHIFT’s financial condition and results, service quality metrics

and maintenance initiatives and results, and the ferry and tram transportation services, parking services, and any changes and potential improvements and new tariffs.

14. **Access to Books and Records.** In accordance with and to the extent provided by North Carolina law, the Commission and the Public Staff shall continue to have access to the books and records of Holdings and BHIFT.
15. **Management.** SharpVue, SharpVue Affiliates, Holdings, and BHIFT have indicated that they intend to maintain current management comprised of existing key BHIL and BHIT employees Chad Paul, Shirley Mayfield, and Captain Bion Stewart. Holdings and BHIFT shall notify the Commission at least 30 days prior to any termination of agreements with or resignation by these key personnel.
16. **Regulatory Reporting Requirements.** BHIFT shall comply with all regulatory reporting requirements, including Annual Report, Quarterly Report, and Quarterly Financial Report of monthly information.
17. **Regulatory Staffing.** Holdings and BHIFT shall maintain sufficient, adequately trained personnel to ensure that regulatory reporting



requirements are complied with in a timely and accurate manner. BHIFT shall notify the Public Staff when there is any change in regulatory or operational personnel at the supervisor level.

- 18. Overall Service Quality and On-Time Performance.** Upon consummation of the Transfer, SharpVue, SharpVue Affiliates, Holdings, and BHIFT shall continue to provide safe and reliable ferry and tram services consistent with current practices. Holdings and BHIFT shall have a goal of on-time ferry departures of 90%. BHIFT shall evaluate service delivery and related components and make needed changes to improve overall ridership experience.
- 19. Affiliated Agreements.** Holdings and BHIFT shall file with the Commission agreements pursuant to N.C.G.S. § 62-153. All such agreements that involve payment of fees or other compensation by Holdings or BHIFT shall require acceptance and authorization by the Commission and shall be subject to any other Commission action required or authorized by North Carolina law and the Rules and orders of the Commission. Prior to making any changes to existing agreements, Holdings and BHIFT shall file such changes with the Commission. SharpVue, SharpVue Affiliates, Holdings, and BHIFT shall file with the Commission any proposed amendments to,

assignment of, or transfer of management rights under the Management Agreement (referred to by BHIFT as an “Investment Management Agreement”) among SharpVue, Partners, and Holdings as well as any event in which SharpVue Managing Partners Lee Roberts and Douglas Vaughn will no longer be leading the provision of management services under the Management Agreement.

- 20. Intellectual Property.** Any and all intellectual property currently used in ferry and tram operations shall continue to be available for use by BHIFT at no additional charge. Specifically, to the extent that intellectual property of BHIL conveyed to Pelican IP, LLC, at closing is currently used in ferry and tram operations, BHIFT shall have the continued right to utilize such intellectual property and shall not be charged a licensing fee or any other sum associated with such use.
- 21. Consultation with constituents.** The Board of Managers of Holdings shall meet at least semi-annually in a noticed public meeting on Bald Head Island with island residents and other ferry and tram service constituents to receive input on all aspects of ferry and tram services.

- 22. Successors.** The respective successors and assigns of SharpVue, SharpVue Affiliates, Holdings and BHIFT shall be bound by these regulatory conditions, Commission rules, and Commission jurisdiction established by Chapter 62 of the North Carolina General Statutes.

ktm ~~CONFIDENTIAL~~

**EXHIBIT 1**

**DOCKET NO. A-41, SUB 22**

**REGULATORY CONDITIONS**

These Regulatory Conditions set forth requirements imposed upon Pelican Legacy Holdings, LLC (Holdings), Bald Head Island Ferry Transportation, LLC (BHIFT), a wholly owned subsidiary of Pelican Legacy Holdings, LLC (Holdings), SharpVue Capital, LLC (SharpVue), and other entities owned or controlled by SharpVue or its principals, Lee Robert and Douglas Vaughn, being "SharpVue Affiliates" comprised of SVC Pelican Partners, LLC (Partners), **[BEGIN CONFIDENTIAL]**

**[END CONFIDENTIAL]** (as well as any successor entities) as a condition of approval of the application by BHIL, BHIT, and BHIFT pursuant to N.C. Gen. Stat. § 62-111 and Commission Rule R2-8.1 for authority (1) to transfer BHIT's Common Carrier Certificate to BHIFT to operate the passenger ferry transportation services to and from Bald Head Island, the tram services on the island, and, the parking, barge, and tug operations (collectively, the Transportation Assets) (the Transfer), and for BHIFT or SharpVue to pledge assets and borrow or issue debt pursuant to N.C.G.S. §§ 62-160 and 62-161 secured by the Transportation Assets as may be necessary to finance the Transfer (the Pledging of Assets, and collectively with the Transfer, the Proposed Transaction).

These Regulatory Conditions, which become effective only upon closing of the Transfer, shall apply jointly and severally to Holdings, BHIFT, SharpVue, and SharpVue Affiliates, and shall be interpreted in the manner that ensures BHIFT's customers (a) are protected from any known adverse effects from the Transfer, (b) are protected as much as possible from potential costs and risks resulting from the Transfer, and (c) receive sufficient known and expected benefits to offset any potential costs and risks resulting from the Transfer.

For purposes of these Regulatory Conditions, the North Carolina Utilities Commission is referred to as "the Commission," and the Public Staff – North Carolina Utilities Commission is referred to as "the Public Staff." For purposes of these Regulatory Conditions, the term "affiliated" or "Affiliate" (other than previously defined SharpVue Affiliate) shall mean Holdings, BHIFT, and any business entity of which 10% or more is owned or controlled, directly or indirectly,

by Holdings and BHIFT, including but not limited to Pelican Real Property, LLC, Pelican Logistics, LLC, and Pelican IP, LLC.

Each entity bound by these Regulatory Conditions must acknowledge and consent to these Regulatory Conditions and is further required not to cause any subsidiary entities to violate such Regulatory Conditions, nor to prevent any bound entity from taking action to comply with the Regulatory Conditions, as long as the Regulatory Conditions remain in effect. The consent and acknowledgment as set forth above does not constitute a general consent to expansion of the Commission's jurisdiction over such entity(entities) beyond that established by Chapter 62 of the North Carolina General Statutes. Further, as long as SharpVue and its affiliates own or operate ferry, tram, parking, barge, and tug operations, SharpVue and the SharpVue Affiliates agree to submit to the Commission's regulation and oversight of those operations as set forth in the Regulatory Conditions herein and the Commission's December 30, 2021 Order in Docket No. A-41, Sub 21.

The Commission retains the right to impose future limitations on BHIFT that the public interest requires.

- 1. Transfer-related Direct Costs and Expenses.** Direct costs and expenses associated with the Transfer will be excluded from the regulated expenses of BHIFT for Commission financial reporting and ratemaking purposes. Direct Transfer expenses are change-in-control payments made to terminated executives, Transfer-related bonuses, severance payments, regulatory process costs, and transaction fees (such as, but not limited to, acquisition, architectural, broker, environmental, financing, investment banker, and legal fees for due diligence, transaction structuring, financial market analysis, and fairness opinions based on formal agreements with investment bankers). BHIFT will file a summary report of its final accounting for direct Transfer and Transfer-related -expenses within 120 days after the close of the Transfer, and supplemental reports within 60 days after each quarter until such expenses cease.
- 2. Non-Consummation of Transfer.** If the Transfer is not consummated, neither the cost nor the receipt of any termination payment shall be allocated to BHIL or BHIT or included in regulated expenses of BHIL or

BHIT for Commission financial reporting and ratemaking purposes. BHIL's and BHIT's customers shall not otherwise bear any direct expenses or costs associated with a non-consummated Transfer.

3. **Acquisition Adjustments.** SharpVue, SharpVue Affiliates, Holdings, and BHIFT shall neither pursue nor recover an acquisition adjustment in any future rate case.
4. **Parking, Barge, and Tug Operations of Holdings and BHIFT.** The current parking, barge, and tug rates and operation schedules (as provided in response to a Public Staff Data Request by BHIL and BHIT) are attached as an Addendum hereto, and shall be in effect unless modified by Commission order.
5. **Hold Harmless Commitment.** The Transfer shall be effectuated in a manner designed to prevent harm to BHIFT's ratepayers. Notwithstanding this, SharpVue, SharpVue Affiliates, Holdings, and BHIFT (as well as any successor entities directly or indirectly owning or controlling BHIFT assets, operations, or its employees) shall take all such actions as may be reasonably necessary and appropriate to hold BHIFT's customers harmless from the effects of the Transfer.
6. **Distributions to SharpVue, SharpVue Affiliates, and Holdings.** BHIFT shall not pay to SharpVue, SharpVue Affiliates, Holdings, or their members or managers any distribution exceeding 80% of BHIFT's net income calculated on a two-year-rolling average basis. In addition, BHIFT shall limit cumulative distributions paid to SharpVue, SharpVue Affiliates, and Holdings subsequent to closure of the Transfer to (i) the amount of its retained earnings on the day prior to the closure of the Transfer, plus (ii) any future earnings recorded by BHIFT subsequent to closure of the Transfer.
7. **Common Equity Capital.** Until a final order is issued in the next general rate case, BHIFT shall maintain common equity capital at levels equal to or greater than 40% of total adjusted capital (including common equity, preferred stock, long-term debt, and long-term capital leases). No equity distributions by dividend or other form, such as the management fees of SharpVue, may be made that would result in equity capital of BHIFT falling

below this minimum 40% level without prior approval of the Commission. Notwithstanding the foregoing, BHIFT may petition the Commission for an exception to this Regulatory Condition.

- 8. Notice of Certain Investments.** Whenever SharpVue, SharpVue Affiliates, or Holdings makes any new or increased direct or indirect investment in a business entity where: (a) such investment appears or will appear on the books of BHIFT, or will otherwise have an effect on the books, costs, rates, revenues, charges, obligations, services, capitalization, or indebtedness of BHIFT, and (b) the amount of such investment is equal to 10% or more of BHIFT's book capitalization, the investing entity shall file or cause to be filed, as soon as practicable following Board or other approval of the subject transaction and any public announcement thereof (if any), a notice of the investment with the Commission. The notice shall include a full description of the investment and an explanation of how it will be accounted for in the investing entity's books and records.
- 9. Notice of Default or Bankruptcy.** If SharpVue or SharpVue Affiliates experiences a default on an obligation or files for bankruptcy, Holdings and BHIFT shall notify the Commission of the event in advance, if possible, or, if not, as soon as possible but not later than ten days after such event.
- 10. Non-attribution or Forgiveness of Intercompany "Loan."** To the extent that closing of the Transfer memorializes any intercompany "loan" between BHIL and BHIT (see \$19,808,223 of Related Party Loan(s) as reported in BHIT's Financial Report of December 31, 2021), SharpVue, SharpVue Affiliates, Holdings, and BHIFT must disclaim any such "loan" and any such "loan" or indebtedness shall not be binding upon Holdings and BHIFT and shall not be presented for Commission consideration whatsoever, whether for rate base purposes or otherwise. This requirement applies to all existing or subsequent indebtedness of BHIL or BHIT through closing.
- 11. Post-Closing Financial Information.** Holdings and BHIFT shall file pre- and post-Transfer closing balance sheets and the associated closing journal entries, including relevant descriptions and disclosures for the transactions recorded as soon as practicable but not later than the end of the second full quarter following the close of the Transfer, and shall provide

to the Public Staff closing documents for the consummation of the Proposed Transaction, including closing statements for Holdings and BHIFT.

12. **Meetings with Public Staff.** Holdings and BHIFT agree to meet annually with the Public Staff to discuss Holdings' financial condition, BHIFT's financial condition and results, service quality metrics and maintenance initiatives and results, the ferry, barge, tug, and tram transportation services, parking services, any changes and potential improvements, and new tariffs.
13. **Access to Books and Records.** In accordance with and to the extent provided by North Carolina law, the Commission and the Public Staff shall continue to have access to the books and records of Holdings and BHIFT.
14. **Management.** SharpVue, SharpVue Affiliates, Holdings, and BHIFT have indicated that they intend to maintain current management comprised of existing key BHIL and BHIT employees Chad Paul, Shirley Mayfield, and Captain Bion Stewart. Holdings and BHIFT shall notify the Commission at least 30 days prior to any termination of agreements with or resignation by these key personnel.
15. **Regulatory Reporting Requirements.** BHIFT shall comply with all regulatory reporting requirements, including Annual Report, Quarterly Report, and Quarterly Financial Report of monthly information.
16. **Regulatory Staffing.** Holdings and BHIFT shall maintain sufficient, adequately trained personnel to ensure that regulatory reporting requirements are complied with in a timely and accurate manner. BHIFT shall notify the Public Staff if there is any change in regulatory or operational personnel at the supervisor level.
17. **Overall Service Quality and On-Time Performance.** Upon consummation of the Transfer, SharpVue, SharpVue Affiliates, Holdings, and BHIFT shall continue to provide safe and reliable parking, ferry, barge, tug, and tram services consistent with current practices. Holdings and BHIFT shall have a goal of on-time ferry departures of 90%. BHIFT shall evaluate service delivery and related components and make needed changes to improve overall ridership experience.



18. **Affiliated Agreements.** Holdings and BHIFT shall file with the Commission agreements pursuant to N.C.G.S. § 62-153. All such agreements that involve payment of fees or other compensation by Holdings or BHIFT shall require acceptance and authorization by the Commission and shall be subject to any other Commission action required or authorized by North Carolina law and the Rules and orders of the Commission. Prior to making any changes to existing agreements, Holdings and BHIFT shall file such changes with the Commission. SharpVue, SharpVue Affiliates, Holdings, and BHIFT shall file with the Commission any proposed amendments to, assignment of, or transfer of management rights under the Management Agreement (referred to by BHIFT as an “Investment Management Agreement”) among SharpVue, Partners, and Holdings as well as any event in which SharpVue Managing Partners Lee Roberts and Douglas Vaughn will no longer be leading the provision of management services under the Management Agreement.
19. **Intellectual Property.** All intellectual property currently used in parking, ferry, barge, tug, and tram operations shall continue to be available for use by BHIFT at no additional charge. To the extent that intellectual property of BHIL conveyed to Pelican IP, LLC, at closing is currently used in parking, ferry, barge, tug, or tram operations, BHIFT shall have the continued right to utilize such intellectual property and shall not be charged a licensing fee or any other sum associated with such use.
20. **Consultation with constituents.** The Board of Managers of Holdings shall meet at least semi-annually in a noticed public meeting on Bald Head Island with island residents and other parking, ferry, barge, tug, and tram service constituents to receive input on all aspects of such services.
21. **Ferry Terminals, Barge, and Parking Access.** BHIFT shall continue to have the right to maintain the long-term lease for ferry terminal facilities on the mainland and island (Terminal Lease) and the right to secure and maintain a perpetual easement(s) or long-term lease(s) or otherwise ensure ownership or control for regulated parking and barge and tug operations at reasonable rates, with escalations not to exceed the rate of inflation for an annual 12-month period at a rate greater than the annual increase in the Consumer Price Index for Urban Consumers, CPI-U, as published by the

U.S. Bureau of Labor Statistics. In the event that any such easement or lease is terminated, expires, or is rendered inoperable, the grantor/lessor shall file written notice in this docket at least 90 days in advance and BHIFT shall be granted access (for example, by new easement or lease) to such facilities necessary for regulated operations at reasonable rates.

22. **Supplemental Assets.** The subsequent sale, assignment, lease, easement, or other transfer of any right or interest in and to supplemental assets (assets other than regulated assets) under the Asset Purchase Agreement (APA) for the Transfer shall not materially impact customers of regulated operations for the ferry, tram, parking, barge, or tug.
23. **Mergers and Acquisitions.** For any proposed merger or other business combination that would affect BHIFT, Holdings, SharpVue, or any SharpVue Affiliate, BHIFT and Holdings shall file an application for approval pursuant to N.C.G.S. § 62-111(a) at least 180 days before the proposed closing date for such merger or other business combination.
24. **Vessel Maintenance and Replacement.** Within six months of the closing of the Transfer, Holdings and BHIFT shall file a ten-year plan for the maintenance and replacement of any of BHIT's current ferry vessels, including the proposed financing of any capital expenditures related to the vessels.
25. **Transfer Pricing Between Affiliates.** For untariffed goods and services provided by Holdings, BHIFT, SharpVue, or Sharp Affiliates to a non-utility Affiliate, the transfer price paid shall be set at the higher of market value or Holdings', BHIFT's, SharpVue's, or SharpVue Affiliates' cost. For untariffed goods and services provided to Holdings, BHIFT, SharpVue, or SharpVue Affiliates by a non-utility Affiliate, the transfer price charged by a non-utility Affiliate to Holdings, BHIFT, SharpVue, or SharpVue Affiliates shall be set at the lower of market value or the non-utility Affiliate's cost. Services provided by Holdings, BHIFT, SharpVue, or SharpVue Affiliates to utility Affiliates or by utility Affiliates to Holdings, BHIFT, SharpVue, or SharpVue Affiliates shall be transferred at the supplier's cost, unless otherwise directed by order of the Commission.

26. **Rate Case.** BHIFT agrees not to seek an increase in rates for at least one year following the consummation of the Transfer.
27. **Successors.** The respective successors and assigns of Holdings, BHIFT, SharpVue, and SharpVue Affiliates shall be bound by these regulatory conditions, Commission rules, and Commission jurisdiction established by Chapter 62 of the North Carolina General Statutes. Any successor or assign shall file in this docket consent to submit to the Commission's jurisdiction for the limited purpose of allowing the Commission to oversee and enforce these regulatory conditions.

## Addendum

### Parking, Barge, Tug rates and operation schedules

#### **Deep Point Parking Lots**

- \$12.00 - Daily General Lot Rate (overnight lot and no limit on length of stay);
- \$10.00 - Daily Contractor Lot Rate (no overnight parking permitted);
- \$1,400 - Annual Premium Lot Rate (overnight lot and no limit on length of stay);
- \$1,150 - Annual General Lot Rate (overnight lot and no limit on length of stay);
- \$700 - Annual Contractor Lot Rate (no overnight parking permitted);
- \$650 - Annual Employee Lot Rate (no overnight parking permitted - we do allow overnight parking given special, case-by-case circumstances in this lot);
- QR Code Exit Passes - Parking pass afforded to accommodate primarily Island-based businesses with seasonal or short-term employee needs. QR Code Exit Passes are \$6.00 per use-swipe to get out of a daily ticketed lot only (General Lot and Contractor Lot). QR Code Exit Passes are the responsibility of the businesses purchasing them and they are responsible for keeping track of their balances. Each business is given a code to go online to our website and view their balances.
- \$20.00 - Oversized Vehicle – Barge Landing Overnight-Oversized Parking - We charge an oversize rate of \$20.00 per day (this rate is based on a customer's vehicle taking up the equivalent of two standard-sized parking stalls). Barge Vehicle-Oversized Vehicles are parked in designated parking stalls located behind the Shipping & Receiving facility. All customers receive a tag to show they have paid before parking. This is the only parking area that we require prepayment before parking the customer. These spots are on a first come, first serve basis.

Please note that on a case-by-case basis, BHIL provides accommodation in the Employee Lot for employees who may have to stay overnight on occasion. Examples include the Conservancy, The BHI Club Chefs who sometimes stay a few nights in a row, and employees of the Village who may need to stay on-island on occasion.

## Barge & Tug

### *Service Schedule*<sup>12</sup>

Since November 7, 2022, the barge has been operating on the following schedule:

- Departure from Deep Point Terminal: Monday-Friday: 8am, 10am, 12pm, 2pm;
- Departure from Bald Head Island Terminal: Monday-Friday: 9am, 11am, 1pm, 3pm;
- Barge Maintenance days 1<sup>st</sup> and 3<sup>rd</sup> Wednesday beginning October 5, 2022.

As of March 12, 2023, the barge is currently expected to operate on the following schedule:

- Departure from Deep Point Terminal: Monday, Tuesday, Thursday: 7am, 9am, 11am, 1pm, 3pm;
- Departure from Bald Head Island Terminal: Monday, Tuesday, Thursday: 8am, 10am, 12pm, 2pm, 4pm;
- Departure from Deep Point Terminal: Wednesday, Friday: 7am, 9am, 11am, 1pm;
- Departure from Bald Head Island Terminal: Wednesday, Friday: 8am, 10am, 12pm, 2pm;
- Barge Maintenance days 1<sup>st</sup> and 3<sup>rd</sup> Wednesday ending April 12, 2023.

### *Charges for Barge Transport*

Barge deck space ticket charges are currently \$60.00 each. Each ticketed deck space authorizes the holder to utilize six feet in one of three lanes aboard the barge for one round trip. Vehicle size determines the number of deck space tickets required. Lengths over an increment of six feet are rounded to the nearest six feet.

---

<sup>12</sup> The November – February schedule is the off-peak schedule, and the March – October schedule is the peak season schedule.

Line	Description	[A] Amount	[B] Note	[C]
<b>Comparison of Rate Base</b>				
1	Parking Facilities Net Operating Income	\$1,945,049	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1	
2	Regulated Rate of Return	8.33%	Source = Taylor Testimony Table 1 at page 10	
3	Inferred Rate Base	\$ 23,349,933	Line 1 / Line 2	
4	Purchase Price of Parking	\$ 22,901,938	Source = Exhibit KWO-6 Docket No. A-41 Sub 22 Page 6 of 6	
5	Delta	\$ 447,995	Line 3 - Line 4	
<b>Inferred Parking Revenue Requirement</b>				
6	Purchase Price of Parking	\$ 22,901,938	Source = Exhibit KWO-6 Docket No. A-41 Sub 22 Page 6 of 6	
7	Regulated Rate of Return	8.33%	Source = Taylor Testimony Table 1 at page 10	
8	Inferred Net Income	\$ 1,907,731	Line 6 x Line 7	
9	Less: Interest Expense	\$ 761,489	Line 6 x 50% x 6.65%	
10	Income Subject to Tax	\$ 1,146,242	Line 8 - Line 9	
11	Composite Income Tax Rate	22.98%	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1	
12	Income Taxes	\$ 341,901	(Line 10 / (1 - Line 11)) - Line 10	
13	2021 Operating Expenses Excluding Income Taxes	\$ 1,490,493	Source = Exhibit KWO-4 Docket No. A-41 Sub 22 Page 11 of 22	
14	Inferred Parking Revenue Requirement	\$ 3,740,125	Line 8 + Line 12 + Line 13	
<b>2021 Parking Revenues</b>				
15	2021 Parking Revenues	\$ 3,976,447	Source = Exhibit KWO-4 Docket No. A-41 Sub 22 Page 11 of 22	
16	SharpVue Purchase Price Inferred Rev. Req.	\$ 3,740,125	Line 14	
17	Difference	\$ (236,322)	Line 16 - Line 15	
18	Percent Difference	-5.94%	Line 17 / Line 16	
<b>Inferred Parking Revenues</b>				
19	Inferred Parking Revenue Requirement	\$ 3,740,125	Line 14	
20	Parking Exits	483,162	2021 Parking Exit Count provided by BHIL	
21	Average Revenue per Exit *	\$ 7.74	Line 19 / Line 20	
<b>2021 Parking Revenues</b>				
22	2021 Parking Revenues	\$ 3,976,447	Source = Exhibit KWO-4 Docket No. A-41 Sub 22 Page 11 of 22	
23	Parking Exits	483,162	2021 Parking Exit Count provided by BHIL	
24	Average Revenue per Exit *	\$ 8.23	Line 22 / Line 23	
<b>Original Cost to Mitchell Family Basis</b>				
25	Original Cost Rate Base	\$3,958,975	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1	
26	Regulated Rate of Return	8.33%	Source = Taylor Testimony Table 1 at page 10	
27	Inferred Net Income	\$ 329,783	Line 25 x Line 26	
28	Less: Interest Expense	\$ 131,636	Line 25 x 50% x 6.65%	
29	Income Subject to Tax	\$ 198,147	Line 27 - Line 28	
30	Composite Income Tax Rate	22.98%	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1	
31	Income Taxes	\$ 59,103	(Line 29 / (1 - Line 30)) - Line 29	
32	2021 Operating Expenses	\$ 1,490,493	Line 13	
33	Inferred Parking Revenue Requirement	\$ 1,879,379	Line 27 + Line 31 + Line 32	
34	Parking Exits	483,162	2021 Parking Exit Count provided by BHIL	
35	Avg. Revenue per Exit with Original Rate Base *	\$ 3.89	Line 33 / Line 34	
36	SharpVue Purchase Price Inferred Rev. Req.	\$ 3,740,125	Line 14	
37	2021 Parking Revenues	\$ 3,976,447	Line 15	
38	Original Cost to Mitchell Inferred Rev. Req.	\$ 1,879,379	Line 33	
39	Difference	\$ (2,097,068)	Line 38 - Line 37	
40	Percent Difference	-52.74%	Line 39 / Line 37	

\* Average revenue per exit cannot be equated to daily ticket price, as exits may span multiple days. It is used here as a rough measure for comparing the revenue impact of differing rate base valuations.

Line	Description	Amount	Note
	[A]	[B]	[C]
<b>Comparison of Rate Base</b>			
1	Barge Net Operating Income	\$642,864	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1
2	Regulated Rate of Return	8.33%	Source = Taylor Testimony Table 1 at page 10
3	Inferred Rate Base	\$ 7,717,457	Line 1 / Line 2
4	Purchase Price of Barge	\$ 8,358,150	Source = Exhibit KWO-6 Docket No. A-41 Sub 22 Page 6 of 6
5	Delta	\$ (640,693)	Line 3 - Line 4
<b>Inferred Barge Revenue Requirement</b>			
6	Purchase Price of Barge	\$ 8,358,150	Source = Exhibit KWO-6 Docket No. A-41 Sub 22 Page 6 of 6
7	Regulated Rate of Return	8.33%	Source = Taylor Testimony Table 1 at page 10
8	Inferred Net Income	\$ 696,234	Line 6 x Line 7
9	Less: Interest Expense	\$ 277,908	Line 6 x 50% x 6.65%
10	Income Subject to Tax	\$ 418,325	Line 8 - Line 9
11	Composite Income Tax Rate	22.98%	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1
12	Income Taxes	\$ 124,778	(Line 10 / (1 - Line 11)) - Line 10
13	2021 Operating Expenses Excluding Income Taxes	\$ 714,913	Source = Exhibit KWO-4 Docket No. A-41 Sub 22 Page 11 of 22
14	Inferred Barge Revenue Requirement	\$ 1,535,925	Line 8 + Line 12 + Line 13
<b>2021 Barge Revenues</b>			
15	2021 Barge Revenues	\$ 1,535,195	Source = Exhibit KWO-4 Docket No. A-41 Sub 22 Page 11 of 22
16	SharpVue Purchase Price Inferred Rev. Req.	\$ 1,535,925	Line 14
17	Difference	\$ 730	Line 16 - Line 15
18	Percent Difference	0.05%	Line 17 / Line 16
<b>Inferred Barge Revenues</b>			
19	Inferred Barge Revenue Requirement	\$ 1,535,925	Line 14
20	Count of Barge Fees @ \$60	25,587	Line 23
21	Average Revenue per Exit *	\$ 60.03	Line 19 / Line 20
<b>2021 Barge Revenues</b>			
22	2021 Barge Revenues	\$ 1,535,195	Source = Exhibit KWO-4 Docket No. A-41 Sub 22 Page 11 of 22
23	Count of Barge Fees @ \$60	25,587	Line 22 / \$60
24	Average Revenue per Barge Fee	\$ 60.00	Line 22 / Line 23
<b>Original Cost to Mitchell Family Basis</b>			
25	Original Cost Rate Base	\$1,445,434	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1
26	Regulated Rate of Return	8.33%	Source = Taylor Testimony Table 1 at page 10
27	Inferred Net Income	\$ 120,405	Line 25 x Line 26
28	Less: Interest Expense	\$ 48,061	Line 25 x 50% x 6.65%
29	Income Subject to Tax	\$ 72,344	Line 27 - Line 28
30	Composite Income Tax Rate	22.98%	Source = Exhibit KWO-3 Docket No. A-41 Sub 22 Page 1 of 1
31	Income Taxes	\$ 21,579	(Line 29 / (1 - Line 30)) - Line 29
32	2021 Operating Expenses	\$ 714,913	Line 13
33	Inferred Barge Revenue Requirement	\$ 856,896	Line 27 + Line 31 + Line 32
34	Count of Barge Fees @ \$60	30,704	Line 23
35	Avg. Barge Fees with Original Rate Base	\$ 27.91	Line 33 / Line 34
36	SharpVue Purchase Price Inferred Rev. Req.	\$ 1,535,925	Line 14
37	2021 Barge Revenues	\$ 1,535,195	Line 15
38	Original Cost to Mitchell Inferred Rev. Req.	\$ 856,896	Line 33
39	Difference	\$ (678,299)	Line 38 - Line 37
40	Percent Difference	-44.18%	Line 39 / Line 37