

1 PLACE: Dobbs Building, Raleigh, North Carolina
2 DATE: Thursday, August 4, 2022
3 DOCKET NO.: W-1040, Sub 10
4 W-1328, Sub 4
5 TIME: 1:30 p.m. - 3:01 p.m.
6 BEFORE: Commissioner ToNola D. Brown-Bland, Presiding
7 Commissioner Jeffrey A. Hughes
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11 IN THE MATTER OF:
12 Application by Red Bird Utility Operating Company,
13 LLC, 1650 Des Peres Road, Suite 303, St. Louis,
14 Missouri 63131, and Bear Den Acres Development,
15 Inc., 600 Bear Den Mountain Road, Spruce Pine, North
16 Carolina 28777, for Authority to Transfer the Bear
17 Den Acres Development Water System and Public
18 Utility Franchise in McDowell County, North
19 Carolina, and for Approval of Rates
20

21 VOLUME 3
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NORTH CAROLINA UTILITIES COMMISSION

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A P P E A R A N C E S:
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IDENTIFIED/ADMITTED

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1 P R O C E E D I N G S

2 COMMISSIONER BROWN-BLAND: Good afternoon.

3 Let's come to order and go on the record. I am
4 Commissioner ToNola D. Brown-Bland of the North
5 Carolina Utilities Commission, the presiding
6 Commissioner for this hearing, and with me this
7 afternoon is Commissioner Jeffrey A. Hughes.

8 I now call for hearing Docket Numbers
9 W-1328, Sub 4 and W-1040, Sub 10, In The Matter of
10 Application for Transfer of Public Utility Franchise
11 of Bear Den Acres Development, Inc., to Red Bird
12 Utility Operating Company, LLC, d/b/a Red Bird
13 Water filed pursuant to North Carolina General
14 Statute § 62-111 and Commission Rule R7-37.

15 On December 3rd, 2020, Bear Den Acres
16 Development, Inc., hereafter Bear Den, filed an
17 Application with the Commission seeking authority to
18 transfer to Red Bird Water its public utility
19 franchise and seeking approval of rates for water
20 utility service to Bear Den Acres Development.

21 On January 5th, 2022, the Commission
22 issued an Order Scheduling Hearing, Establishing
23 Discovery Guidelines and Requiring Customer Notice.

24 On March 2nd, 2022, the Public Staff and

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1 Red Bird filed a Settlement Agreement and
2 Stipulation purported to resolve all contested
3 issues in this docket.

4 On March 18th, 2022, the Public Staff
5 filed the testimony of D. Michael Franklin in
6 support of the Stipulation.

7 And on March 18th, 2022, Red Bird Utility
8 filed supplemental testimony of Josiah Cox in
9 support of the Stipulation.

10 On March 21st, 2022, Red Bird and the
11 Public Staff filed a Joint Motion requesting the
12 Commission to issue an Order canceling the
13 evidentiary hearing, approving the Stipulation,
14 approving bond and approving transfer and rates.

15 On March 24th, 2022, the Commission issued
16 an Order Denying the Joint Motion. The Commission
17 held the expert witness hearing on March 28th, 2022,
18 as scheduled.

19 Sometime in May, after the evidentiary
20 hearing, the Commission learned that nine additional
21 consumer protests regarding this matter had been
22 timely filed, bringing the total number of consumer
23 protests to 11. And on May 19th, the Public Staff
24 filed a request for a public hearing asserting that

1 11 customers out of about 50 served by the Bear Den
2 system represents a significant number of protests.

3 On July 1st, 2022, the Commission issued
4 an Order scheduling this public hearing to be held
5 by remote means in two sessions, beginning at 1:30
6 and 6:30 p.m. today, respectively.

7 The Commission ordered that the Notice of
8 public hearing to customers be mailed to both the
9 billing address and service address of all affected
10 customers, hand delivered to all occupied campground
11 lots, and posted to all physical communication
12 boards and restroom doors of Bear Den Campground
13 within 10 days of the date of the Order.

14 In compliance with the requirements of the
15 State Government Ethics Act, I remind all members of
16 the Commission of our duty to avoid conflicts of
17 interest, and I inquire at this time as to whether
18 any Commissioner has a known conflict of interest
19 with respect to this docket?

20 (No response)

21 Let the record reflect that Commissioners
22 participating in this hearing both indicate they
23 have no such conflicts.

24 I now call upon counsel for the parties to

1 announce their appearances for the record, beginning
2 with the Applicant.

3 MR. HIGGINS: Good afternoon,
4 Commissioners. Dan Higgins with Burns, Day &
5 Presnell appearing on behalf of Red Bird Utility
6 Operating Company.

7 COMMISSIONER BROWN-BLAND: Good afternoon,
8 Mr. Higgins.

9 MR. HIGGINS: Good afternoon.

10 MS. JOST: This is Megan Jost with the
11 Public Staff appearing on behalf of The Using and
12 Consuming Public.

13 COMMISSIONER BROWN-BLAND: Good afternoon,
14 Ms. Jost.

15 MS. JOST: Good afternoon.

16 COMMISSIONER BROWN-BLAND: Do either of
17 the parties have any preliminary matters before we
18 start? Anything to bring to the Commission's
19 attention?

20 MR. HIGGINS: None that I'm aware of.

21 MS. JOST: I'm sorry. Mr. Higgins, you
22 can go ahead.

23 MR. HIGGINS: I was saying simply that I
24 wasn't aware of anything.

1 COMMISSIONER BROWN-BLAND: Ms. Jost.

2 MS. JOST: Yes. We -- in the docket today
3 there were three statements filed by customers who I
4 believe are going to be providing testimony today.
5 I was wondering whether the Commission would like us
6 to offer those into evidence in lieu of the
7 customers' reading those statements.

8 COMMISSIONER BROWN-BLAND: If they wish to
9 give the statement that will be fine and then it
10 will be in the record through their actual
11 testimony.

12 MS. JOST: Okay, thank you.

13 COMMISSIONER BROWN-BLAND: But if we need
14 to enter into evidence for some reason, that will be
15 appropriate as well. We'll just see how it
16 develops.

17 MS. JOST: Thank you.

18 COMMISSIONER BROWN-BLAND: Thank you,
19 Ms. Jost. And I'll just point out for the record, I
20 believe, Ms. Jost, that's three persons we had not
21 previously heard from?

22 MS. JOST: In the sense that they hadn't
23 filed statements previously?

24 COMMISSIONER BROWN-BLAND: Correct, that's

1 what that means. I'm sorry. Yes.

2 MS. JOST: I believe so.

3 COMMISSIONER BROWN-BLAND: And so that
4 would --

5 MR. HIGGINS: Actually, not really. I
6 think some of these folks had filed earlier in the
7 docket, Commissioner Brown-Bland.

8 COMMISSIONER BROWN-BLAND: I just want to
9 correct the count and say I believe we would now
10 have 14 statements but perhaps we -- perhaps we
11 don't, but that will be clear in the filed record.
12 I was just going to state it officially, but that
13 will be clear in the filed record. All of the
14 consumer statements that have come in and been filed
15 will remain and be a part of this file. So,
16 everyone will be heard in that regard.

17 Thank you. So that brings us to this
18 hearing. The purpose of today's hearing is to hear
19 from the Company's customers regarding their
20 concerns about Bear Den's request to transfer the
21 franchise to Red Bird Water or regarding the rates
22 to be charged by Red Bird following the transfer.
23 And let me discuss the procedures that we'll follow
24 for this hearing today. I urge each of the

1 witnesses who plans to testimony to listen carefully
2 so that you will be able to follow these procedures.

3 First, the public witnesses will be
4 appearing by audio connection only. Commissioners
5 and the attorneys will be appearing by video and
6 audio connection. Any public witnesses or members
7 of the public who wish to follow the live proceeding
8 or the live video of this proceeding may access it
9 on their electronic devices or their computers by
10 way of YouTube which is linked from the Commission's
11 homepage. If anyone is not aware, that homepage is
12 www.ncuc.net. And should you choose to follow the
13 proceeding on YouTube, be sure that any public
14 witnesses mutes their electronic device when they
15 are called on to testify in order to avoid any
16 feedback and interference with the audio on the
17 Webex internet feed.

18 This hearing is being transcribed by a
19 court reporter, and it is critical that we have
20 no interference with her ability to hear and
21 transcribe word-for-word all that is being said.
22 So, unless you are providing testimony or speaking
23 for the record, please stay on mute and be advised
24 that our Webex administrator will mute you if you

1 inadvertently unmute and we start to have
2 interference or background noises. So that means
3 you might not be aware that you were muted, and just
4 be aware of that if you begin to speak.

5 I'm just trying to recall something but I
6 can't do it right now. So public witnesses will be
7 called on to testify in the order that you called
8 in. And we would like to be able to call you in the
9 order that you registered but the technology we use
10 is not conducive, so it will be the order that you
11 called in. When it's your turn to speak, you will
12 be unmuted and you should hear two beeps indicating
13 that you have been unmuted. After that, once I am
14 aware of who is on the phone line, I'm required to
15 have you affirm that the testimony you provide will
16 be the truth, and then the attorney for the Public
17 Staff will take it from there and get your
18 information for the record and help us get your
19 testimony or your statement on the record. After
20 your testimony is complete, the Public Staff
21 attorney, or the attorney for the Company, and the
22 Commissioners may have questions for you to help us
23 understand your testimony and be sure that it is
24 clear and to make sure that we have heard what it is

1 that you want to tell the Commission. If there are
2 no questions, you should not read anything into that
3 other than we think we have understood your
4 testimony and we don't have any follow up.

5 This hearing session will end no later
6 than 4:30 this afternoon or earlier if we've heard
7 from all the witnesses appearing before then.

8 Ordinarily, we would give the witnesses
9 three minutes to testify, but given the number that
10 we have and the time that we have set aside, should
11 you run over somewhat I will allow up to five
12 minutes, too, for you to give your testimony. And,
13 with that, we will be ready to begin.

14 So, Mr. Webex administrator, if you will
15 unmute the first witness.

16 Do we have a witness on the line?

17 SPEAKER: Yes, ma'am.

18 CLAUDIA JEAN BROOKS;

19 having been duly affirmed,

20 testified as follows:

21 COMMISSIONER BROWN-BLAND: Ms. Jost will
22 get your name and address and information, et
23 cetera. Ms. Jost.

24 MS. JOST: Thank you.

1 DIRECT EXAMINATION BY MS. JOST:

2 Q Good afternoon. Could you please state your
3 name and address for the record?

4 A Claudia Jean Brooks, 152 Bear Wallow Drive,
5 Spruce Pine, North Carolina 28777, and that's
6 Lot 39 in Phase 1 of Bear Den Acres.

7 Q Thank you. Ms. Brooks, do you have a statement
8 you would like to make?

9 A Yes, ma'am, I do.

10 Q Please proceed.

11 (WHEREUPON, the Court
12 Reporter requested the
13 witness to mute the second
14 line to prevent audio
15 feedback.)

16 COMMISSIONER BROWN-BLAND: Ms. Brooks, you
17 may begin.

18 THE WITNESS: Well, let me ask you --
19 nevermind. My husband is sitting hear with his
20 phone on. He can take it outside to --

21 COMMISSIONER BROWN-BLAND: If he can turn
22 the volume down.

23 THE WITNESS: (Speaking to husband) Turn
24 the volume all the way down.

1 Okay. Is it fine now?

2 COMMISSIONER BROWN-BLAND: Yes, thank you.

3 THE WITNESS: First of all, it seems to me
4 that the proposed rate increase has purposely been
5 hidden from the water customers by both Bear Den
6 Water Association and Red Bird Utility. The notice
7 given by the North Carolina Utilities Commission was
8 dated July 1st, 2022. The water customers that
9 received this notice received it on July 18th, 2022,
10 from Red Bird Utility. Given mail situation these
11 days as well as the fact that this is the height of
12 the vacation season, this hardly gave time for
13 customers to register to testify by the deadline of
14 5:00 p.m. on July 21st, 2022.

15 I will also bring to your attention that
16 all of the present Bear Den water customers have
17 never been notified at all. Instead, the notices
18 were sent to previous owners. Those customers that
19 bought property in the past year or two and have
20 been paying their water bill haven't been notified
21 either by Bear Den or Red Bird. Bear Den certainly
22 has these names and addresses or they wouldn't be
23 supplying water to these folks.

24 Regarding the proposed rate increase, my

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1 opinion is the proposed rate increase is ludicrous.
2 The present owner of the Bear Den water system
3 didn't want it from the beginning. The present
4 owner acquired the water system when he bought Bear
5 Den Campground. The Bear Den Acres Water
6 Development Division customers should not be paying
7 for upgrading and improving a system that has been
8 let go in disrepair for years. We should not pay
9 for Red Bird purchasing this system.

10 Bear Den Campground has a water system
11 that may or may not be tied to the Bear Den Acres
12 well and system, depending on who you talk to. Is
13 Bear Den selling the Bear Den Campground Water
14 System to Red Bird? If not, who is managing the
15 water quality for the campground? Does the North
16 Carolina Utilities Commission have any authority
17 over that system if it is indeed separate? Are the
18 customers of the Bear Den Water Division sharing in
19 the cost of the campground water?

20 Several of the property owners in Bear
21 Den, such as my husband Ray Clarke and I, only use
22 our homes here seasonally due to the inclement
23 weather on the mountain during the winter months.
24 Many owners are still working in other cities so are

1 only able to use their home at Bear Den
2 occasionally. For those of us that have main homes
3 in other places, it will be extremely hard to have
4 our water bills at Bear Den double in price while
5 having to maintain two homes.

6 We love these North Carolina mountains. I
7 bought our property here in 1982, built our cabin in
8 1988, and I have lived here at Bear Den Acres for
9 six months out of every year for the past 34 years,
10 since 1988.

11 Regarding the water quality. Our water
12 quality has been poor practically ever since the
13 well was drilled for the present system. Our water
14 often has sediment and it often looks like urine.
15 When we complain to the Bear Den owner, we're told
16 he has someone monitoring the water, that I should
17 call him. This man, Phillip Pittman, supposedly
18 flushes the lines once a week. I have spoken to
19 this man on several occasions. I live at the end of
20 a dead-end road where the valve is located to flush
21 the lines on our road. I rarely saw Mr. Pittman all
22 of last year, 2021, and I have not seen Mr. Pittman
23 at all since we arrived back here in April.

24 I have recently been informed that Red

1 Bird is already managing the Bear Den water system
2 and that our next bill will be from Red Bird.
3 Perhaps that is the reason no one cares about our
4 water quality.

5 I am attaching two pictures. I must say I
6 did not attach them last night. I had a problem
7 with my computer and internet. I did attach them
8 this morning. Unfortunately, both the pictures came
9 out the same. I do have one that looks even worse
10 than the two pictures that you got. But anyway, the
11 first one was taken on April 25th, the other one was
12 taken on April 26th of this year. The water --

13 COMMISSIONER BROWN-BLAND: Ms. Brooks.

14 THE WITNESS: Yes.

15 COMMISSIONER BROWN-BLAND: And you were
16 the one who -- the person who took the two pictures?

17 THE WITNESS: Yes, ma'am.

18 COMMISSIONER BROWN-BLAND: Ms. Jost, I
19 believe she's indicating two pictures were received
20 by the Commission; is that correct?

21 MS. JOST: I can confirm that there are
22 two pictures on -- in the docket system.

23 COMMISSIONER BROWN-BLAND: And then,
24 Ms. Brooks, are you saying you had two more that

1 weren't?

2 THE WITNESS: No. No, ma'am. No, ma'am.
3 What I'm saying is that for some odd reason with my
4 computer and this internet, both the pictures I sent
5 are actually the same picture when one of them was
6 supposed to be from the 25th, but that, I can't
7 explain why. I do have one that I could send from
8 my phone that I took the pictures and it's even
9 darker and looks worse than the two pictures you
10 received. In other words, both the pictures you
11 received are the same dang picture. (Laughs)

12 COMMISSIONER BROWN-BLAND: So one picture
13 has not been received. There are two different
14 pictures.

15 Ms. Jost, after the hearing has concluded,
16 will you contact or -- and, Ms. Brooks, you make
17 yourself available for contact from Ms. Jost so that
18 she can assist you in getting the correct pictures
19 in.

20 THE WITNESS: Yes, ma'am.

21 COMMISSIONER BROWN-BLAND: Once they're
22 in, let's be sure that Mr. Higgins has access and he
23 sees them. Those two pictures are going to be
24 received into evidence and they will be marked as

1 Brooks Number 1 and 2. The earlier date will be
2 Number 1 and the second date will be Number 2.
3 Brooks Exhibit 1 and 2, those will be received into
4 evidence, assuming -- we'll give Mr. Higgins a
5 chance to review them and if he has objections he
6 can lodge them. Hearing no objections, those will
7 be received.

8 (WHEREUPON, Brooks Exhibits
9 1 and 2 are received into
10 evidence.)

11 COMMISSIONER BROWN-BLAND: Ms. Brooks, you
12 may continue, and I'm sorry for the interruption.

13 THE WITNESS: No, that's fine. Thank you
14 very much.

15 Okay. This water wasn't even fit to put
16 into my Brita filter pitcher after already going
17 through our whole house filter. In other words,
18 these pictures were taken after the water has gone
19 through our whole house filter. I complained to the
20 Bear Den Campground owner who told me to talk to his
21 campground manager, Mike Miller. We complained to
22 him but got no result. We had to run our water for
23 hours every day for over two weeks before it was
24 suitable to put into my Brita filter, using water --

1 wasting water that we're paying for. There are
2 other neighbors who have taken pictures of water in
3 their tub that is more disgusting than these.

4 When we're having this much trouble
5 getting results from people who are actually here, I
6 dread to think what will happen to our water quality
7 with a company from Missouri in charge. From what
8 we've seen on the internet, the parent company of
9 Red Bird Central States Water Resources is not
10 accredited with the Better Business Bureau and has a
11 C- rating. There is no mention of Red Bird with the
12 Better Business Bureau.

13 There is also the question of who Clear
14 Water Solutions is and what part they are going to
15 be playing in this scenario. I personally spoke
16 with a meter reader that works for Clear Water
17 Solutions last week. She had driven up here from
18 Alabama to read our meters. Who will we contact
19 with water problems: Central States, Red Bird, or
20 Clear Water Solutions or some other entity? No
21 wonder they want such exorbitant water rates. Thank
22 you for listening. Claudia Jean Brooks, Lot 39,
23 Phase 1, Bear Den Acres, 952 Bear Wallow Drive,
24 Spruce Pine, North Carolina.

1 COMMISSIONER BROWN-BLAND: All right,
2 Ms. Brooks.

3 Ms. Jost, do you have follow-up questions
4 for this witness?

5 MS. JOST: Thank you.

6 BY MS. JOST:

7 Q Ms. Brooks, are you aware that before the water
8 rate can be increased, the Utility has to file
9 an Application for a General Rate Case, which
10 customers will receive notice of and which will
11 be investigated by the Public Staff, and that
12 the increase has to be approved by the
13 Commission?

14 A Yes, ma'am, I have read all of that
15 information, however, it's a little confusing
16 about the timeline. And I'm wondering are we
17 going to have to go through this again every
18 time they want a rate increase. And from what
19 I had read, it looks to me like they can ask
20 for another rate increase at any time.

21 Q Let me just say that if you have questions
22 about the documentation, about the rates that
23 are listed there, you are welcome to contact
24 Mike Franklin with the Public Staff's Water,

1 Sewer and Telephone Division, and his number is
2 (919) 715-2666.

3 MR. CLARKE (Ms. Brook's Husband): What's
4 his name again?

5 THE WITNESS: What's his name again?

6 MS. JOST: Mike Franklin.

7 COMMISSIONER BROWN-BLAND: Ms. Jost, will
8 you repeat the number once more?

9 MS. JOST: Yes. (919) 715-2666.

10 THE WITNESS: Thank you.

11 MR. CLARKE (Ms. Brook's Husband): Spell
12 the last name.

13 MS. JOST: F-R-A-N-K-L-I-N.

14 THE WITNESS: Thank you.

15 MS. JOST: Those are all my questions.

16 COMMISSIONER BROWN-BLAND: Mr. Higgins, do
17 you have any questions.

18 MR. HIGGINS: A couple. Thank you, ma'am.

19 CROSS EXAMINATION BY MR. HIGGINS:

20 Q Ms. Brooks, this is Dan Higgins. Did you also
21 file comments or a protest in this docket on
22 March 7th by an email under the name of --

23 A I certainly --

24 Q -- Jean Brooks Clarke?

1 A Yes, sir.

2 Q That's you. Are you married to Mr. Ray Clarke?

3 A Yes, sir.

4 Q Okay. And just to follow up on Ms. Jost's
5 question, do you understand that Red Bird is
6 not proposing rates at this time, but that any
7 rate increase will have to be approved by the
8 Utilities Commission in the future?

9 A The way I read it and understood it, Red Bird
10 is asking for permission to go ahead with these
11 proposed rate increases now, not to implement
12 them now, but to get approval now for their
13 future rate increases.

14 Q Well, I'll encourage you to speak with
15 Mr. Franklin at the number that Ms. Jost
16 provided you with. He can confirm that this
17 proceeding does not involve approval of any
18 rate increase for the Bear Den customers.

19 MR. HIGGINS: That's all the questions I
20 have, Commissioner.

21 EXAMINATION BY COMMISSIONER BROWN-BLAND:

22 Q Ms. Brooks, I wonder if you can provide some
23 more detail around what you tell us regarding
24 service of customers. How do you know that --

1 at one point in your testimony you said all
2 customers were not served. How do you know who
3 was not served with notice of this hearing?

4 A Because after we got ours I called around to
5 several of our neighbors and friends and they
6 said they had not gotten it. Because one of
7 the former owners called me and said, "do you
8 realize what's going on? We got a letter
9 stating that Red Bird so going to be taking
10 over or wanting to purchase the Bear Den water
11 system". This is a good friend of mine that
12 sold their place last year. They got the
13 notice and so I talked to the lady that bought
14 their home and she did not get a notice.
15 That's how I know. As well as two other people
16 that bought in the last year to two years also
17 told me they did not get a notice.

18 Q And who -- what's the entity whose name is
19 listed on the water bill that you receive?

20 A Claudia Jean Brooks.

21 Q No, I mean the Utility or whoever, whatever
22 company is sending you that bill. What's the
23 name of the company on your water bill?

24 A Bear Den Acres Water Division. Bear Den -- I

1 have to look at my bill. Bear Den Development,
2 Inc. - Water Division is the entity that sends
3 me the bill.

4 Q Could you provide us a copy of that bill when
5 you are speaking with Ms. Jost?

6 A Sure I can. Absolutely.

7 COMMISSIONER BROWN-BLAND: Madam Court
8 Reporter, and to the parties here, Ms. Brooks is
9 going to provide us a copy of her water bill.

10 THE WITNESS: Now, my water bill's name is
11 in Jean Brooks. Instead of Claudia Jean Brooks,
12 it's just Jean Brooks.

13 COMMISSIONER BROWN-BLAND: Thank you,
14 Ms. Brooks. And when that is received, assuming
15 there is no objection, both counsel will be able to
16 see it when it's received, assuming there's no
17 objection that will be received into evidence as
18 Brooks Exhibit 3.

19 (WHEREUPON, Brooks Exhibit 3
20 is received into evidence.)

21 BY COMMISSIONER BROWN-BLAND:

22 Q Ms. Brooks, you spoke to us about attempts to
23 be in touch with various personnel associated
24 with the water provider and you gave some names

1 such as Phillip Pittman.

2 A Yes.

3 Q With regard to those contacts, are you able to
4 specify any time periods when you had -- when
5 you can recall that you had definite contact?

6 A No, ma'am.

7 Q And what were the items, if you don't mind
8 repeating, that you complained about or brought
9 to the Company's attention?

10 A Muddy water; water that looks like urine; water
11 not fit to drink.

12 MR. CLARKE (Ms. Brook's Husband): Here to
13 flush the line.

14 A And they each time told me that they flushed
15 the lines and that they would come up and flush
16 the lines. Now, in -- on April the 25th, when
17 I contacted them about the water, that I did
18 send a picture of and will send the other one,
19 and told them that it looks like urine and I
20 can't drink it. No one has ever come up here
21 to see our water, test our water, or flush the
22 lines or do anything; nobody did a thing. We
23 had to waste water for nearly two weeks,
24 several times a day for several hours a day,

1 trying to get clean water up here. I'm
2 thoroughly disgusted.

3 Q Ms. Brooks, did you have contact with any
4 health department or the Department of
5 Environmental Quality?

6 A No, ma'am. I certainly should have. That was
7 my mistake.

8 Q I'm just inquiring for the record so we can
9 understand.

10 A Yes, ma'am.

11 Q Now, you mentioned about the campground, can
12 you shed a little light for me, because I'm not
13 as familiar with the area, where the campground
14 is in relationship to your property and what
15 you know about the campground and cabins like
16 yours, how they are related?

17 A Well, there's 80 something lots up here
18 altogether in Bear Den Acres that have
19 private -- that are privately owned. And a lot
20 have cabins. A lot of them have RVs or RV park
21 models on them. We all have to come through
22 the campground in order to get back to our
23 property. The campground water lines are
24 right -- I don't know -- it's hard to tell

1 whether they're connected or they're not
2 connected. It all sort of runs together.
3 There is supposed to be a separate well for the
4 campground. I'm not sure of that. I don't
5 know that. We do have a well for the Acres
6 with a storage tank and they do have a storage
7 tank in the campground.

8 Q That's a separate storage tank?

9 A Yes. It's a large campground with four
10 sections to it.

11 Q What is or what do you know about Bear Den
12 Water Association?

13 A I don't know that there is an association
14 anymore. There used to be 30 years ago when we
15 came, a separate water association. But
16 there's -- we have no water association. We
17 haven't had a water association as such up here
18 in many, many years, since the first time Bear
19 Den came before the public Utilities
20 Commission. And I did not look that up. I
21 don't know what year that was. I was there
22 along with a lot of other property owners in
23 Raleigh at that first hearing when Bear Den
24 became a public utility. They had been running

1 our water out of springs before that. It's
2 been a mess up here for a whole lot of years.

3 COMMISSIONER BROWN-BLAND: Thank you,
4 Ms. Brooks.

5 Commissioner Hughes, do you have any
6 questions for Ms. Brooks?

7 (Silence)

8 Is that a no? You're still muted.

9 COMMISSIONER HUGHES: No questions. Thank
10 you.

11 COMMISSIONER BROWN-BLAND: Are there
12 questions on Commission's questions?

13 MS. JOST: Not from the Public Staff.
14 Thank you.

15 MR. HIGGINS: None for Red Bird.

16 COMMISSIONER BROWN-BLAND: Thank you,
17 Ms. Brooks, you may be excused.

18 THE WITNESS: Thank you.

19 COMMISSIONER BROWN-BLAND: Please unmute
20 the next witness.

21 (Silence)

22 Hello.

23 SPEAKER: Hello.

24 ANTHONY DRABNIS;

NORTH CAROLINA UTILITIES COMMISSION

1 having been duly affirmed,

2 testified as follows:

3 COMMISSIONER BROWN-BLAND: Thank you.

4 Ms. Jost.

5 DIRECT EXAMINATION BY MS. JOST:

6 Q Good afternoon. Please state your name and
7 address for the record.

8 A My name is Anthony J. Drabnis. That's D as in
9 David, R-A-B as in boy, N-I-S, Drabnis. My
10 address here is 512 Bear Cub Drive, Spruce
11 Pine, South Carolina -- North Carolina 28777,
12 Lot Number 21 in the Phase, what they call,
13 Phase 2.

14 Q Thank you, Mr. Drabnis. Do you have a
15 statement you would like to provide to the
16 Commission?

17 A I would have to agree with just about
18 everything Ms. Brooks just said. I reiterate a
19 lot of those things, primarily the water
20 quality. The water quality was so bad here at
21 one point we actually had to get the Berkey
22 Company filter in here to -- and we still use
23 it -- just to make sure the water is clean and
24 pure to drink. We use it for cooking and for

1 water, for our water drinking, and cooking, and
2 we make our coffee with it. And I clean those
3 filters, there are four filters in the unit, I
4 clean about every month to six weeks. In the
5 top section of that, there is always sediment
6 that has to be cleaned out.

7 Q All right. Is there --

8 A So, it's like, too, as far as the fees are
9 concerned, I have to agree that \$73.44 a month
10 is exorbitant as we, too, are only here six
11 months out of the year. And our primary income
12 is Social Security and it's draining on our
13 resources, and it's a fact, too. That -- is
14 there any guarantee that after five years
15 they're not going to go for another rate
16 increase? Otherwise, I have nothing more to
17 add.

18 COMMISSIONER BROWN-BLAND: Mr. Drabnis,
19 does that conclude your testimony?

20 THE WITNESS: Yes, thank you.

21 COMMISSIONER BROWN-BLAND: Any further
22 questions from counsel?

23 MS. JOST: Thank you.

24 BY MS. JOST:

1 Q Mr. Drabnis, does your filter take care of the
2 water quality issues or is it still discolored
3 just by using that filter?

4 A It does take care of it. Absolutely. That's
5 why we bought the filter. It was quite an
6 expensive unit to get in here. It was over --
7 close to \$250 to bring that unit in, but it
8 does do the job for us. Gosh, replacement
9 filters are about \$50 each and there is four of
10 them in that unit.

11 Q Okay, thank you.

12 MS. JOST: Those are all my questions.

13 Thank you.

14 THE WITNESS: Thank you.

15 MR. HIGGINS: I don't have any questions
16 for this gentleman.

17 EXAMINATION BY COMMISSIONER BROWN-BLAND:

18 Q Mr. Drabnis, how long do you reside in your
19 cabin every year?

20 A It's about six months. We come up here in May
21 and we leave in October, near the end of
22 October. We're from South Carolina.

23 Q Is your -- do you receive your water bill from
24 the same entity that Ms. Brooks told us?

1 A Yes, we do.

2 COMMISSIONER BROWN-BLAND: Any questions
3 on Commission's questions? Commissioner Hughes?

4 Excuse me. Commissioner Hughes, you may --

5 COMMISSIONER HUGHES: Just a quick
6 clarification.

7 EXAMINATION BY COMMISSIONER HUGHES:

8 Q Sir, did you say how long those filters tend to
9 last? Have you had to replace them yet?

10 A I've replaced them once. About once a year we
11 have to replace the filters.

12 Q So that's about four filters being replaced
13 once a year?

14 A Yes.

15 Q Thank you.

16 FURTHER EXAMINATION BY COMMISSIONER BROWN-BLAND:

17 Q Mr. Drabnis, can you describe what the filters
18 look like when you remove them? Are they
19 mostly red or black or some other color?

20 A They are black but then there's a film on them
21 that has to be scrubbed off, but it's a
22 brownish color sediment on there.

23 COMMISSIONER BROWN-BLAND: Thank you. Any
24 questions on Commission's questions?

1 MS. JOST: No, thank you.

2 MR. HIGGINS: Actually, yes.

3 EXAMINATION BY MR. HIGGINS:

4 Q Just to be clear -- Mr. Drabnis, this is Dan
5 Higgins -- when you said you scrubbed the film
6 off the filters, is that -- did I hear you
7 right on that?

8 A Yes. I put them under water and scrub away
9 until the film is gone and replace the filters.

10 Q And then can you reuse that filter?

11 A Yes.

12 Q Okay, thanks.

13 A Periodically it must be replaced. After awhile
14 it does lose its ability to filter water.

15 Q Understood. Thank you, sir.

16 COMMISSIONER BROWN-BLAND: Thank you,
17 Mr. Drabnis. You may be excused.

18 THE WITNESS: Thank you.

19 COMMISSIONER BROWN-BLAND: Please unmute
20 the next witness.

21 (Silence)

22 Hello.

23 SPEAKER: Hello. This is Ray Clarke, also
24 known as Lesley Ray Clarke.

1 COMMISSIONER BROWN-BLAND: And you would
2 be Ms. Brooks' husband.

3 MR. CLARKE: I am.

4 COMMISSIONER BROWN-BLAND: Before we get
5 started.

6 LESLEY RAY CLARKE;
7 having been duly affirmed,
8 testified as follows:

9 COMMISSIONER BROWN-BLAND: Ms. Jost, he is
10 your witness.

11 MS. JOST: Thank you.

12 DIRECT EXAMINATION BY MS. JOST:

13 Q Mr. Clarke, could you please state your full
14 name and address for the record?

15 A Yes. Lesley Ray Clark, that's C-L-A-R-K-E, 152
16 Bear Wallow Drive, Spruce Pine, North Carolina
17 28777.

18 Q Thank you. Do you have a statement you would
19 like to provide?

20 A I do and it will repeat a lot of maybe what the
21 other witnesses have said, but I want to put a
22 little more emphasis on the Utility -- I mean
23 the water increases.

24 Thank you for the opportunity

1 to express my concerns about the sale of the
2 Bear Den water system to Red Bird. I feel
3 there has been a lack of transparency with the
4 residents of Bear Den Acres, from Bear Den
5 Campground and Red Bird. Written
6 communications regarding potential sale and
7 notification of this hearing were scheduled in
8 such a way, in my opinion, to reduce comments
9 from the customers. We were given only three
10 days from the date we received the letter to
11 respond to the Notice of the public hearing and
12 register to testify. In addition, I know
13 residents who purchased property in Bear Den
14 Acres recently, even during the last year, that
15 did not -- who did not get these letters. They
16 were mailed to the previous owners.

17 I have concerns about Red
18 Bird's management. They are a subsidiary of
19 Central States Water Resources of St. Louis,
20 Missouri, which has a BB, a Better Business
21 Bureau rating of C- minus. Why is this? The
22 parent company is buying small water systems
23 throughout the southeast and the southwest.
24 Everywhere they go, they create a mid-level

1 management company, such as Red Bird in North
2 Carolina. This can only add additional
3 administrative costs which are passed onto
4 customers. As a retired Certified Public
5 Manager with over 30 years of experience, I
6 think that larger is not necessarily better and
7 in my opinion is less efficient and less
8 responsive to customers.

9 How can sending a meter reader
10 from Alabama to Spruce Pine, North Carolina to
11 read 50 meters be cost-effective? This
12 actually happened last week. The reader was
13 driving a truck which had a sign on it, Clear
14 Water Solutions. She said she had been sent
15 from Alabama to read the meters. She made that
16 comment directly to my wife Jean. I don't know
17 if this company is affiliated with Red Bird but
18 if they are how many companies are probably
19 going to be supported. I am concerned about
20 response time to customer complaints and who
21 will be available locally to address any
22 complaints we have. And as you've noticed from
23 other testifiers, there are certainly
24 complaints about the water quality.

1 Another concern is that Bear
2 Den water system has only 50 or so customers --
3 50 or so users. I am aware of only nine
4 permanent residents who use the water
5 year-round. There are a few like myself, my
6 wife and myself, who live here six months
7 during the summer and winter elsewhere. When
8 we leave for the winter in November our water
9 meter is out-of-service and locked. However,
10 we continue to receive a water bill in the
11 amount of \$33.45 per month. We close our
12 electricity account when we leave and receive a
13 small bill for -- receive a small bill --
14 excuse me -- there is a small charge to reopen
15 our account in the spring.

16 I feel there should be some
17 kind of billing system based on the actual
18 water usage. A \$33.45 per month minimum cost
19 for water adds up to a water cost annually of
20 \$401.28 or \$66.88 a month while we're in
21 residence. Using -- I'm sorry I'm getting
22 ahead of myself here on my computer. Using
23 this same calculation, if the Utility
24 Commission permits Red Bird to raise the rates

1 to \$74.00 per month as proposed, our annual
2 water cost will be \$888.00 or \$148.00 per month
3 for the six months while we are residents at
4 Bear Den. This is a far cry from the \$27.00 to
5 \$41.00 for 5,000 gallons of water which is an
6 average monthly water cost for North Carolina
7 residents, based upon a 2018 report from the
8 UNC Environmental Finance Center.

9 Further, many owners at Bear
10 Den use their property only sporadically during
11 the summer and not at all during the winter. A
12 doubling of the current rates is even more
13 unrealistic for these users. The proposed rate
14 increase will make Bear Den Acres less
15 attractive financially. It will surely be a
16 negative factor when we have to sell our
17 properties. Future buyers will surely be
18 turned off by this unrealistic expense.

19 In addition, it is important to
20 note that these fees are for water-only,
21 whereas, most municipality systems charge an
22 even lower rate which may be -- they include
23 water, sewer, and the runoff charges. All we
24 ask of --

1 COMMISSIONER BROWN-BLAND: Mr. Clarke, are
2 you near the -- are you near the end, Mr. Clarke?

3 THE WITNESS: One more statement.

4 All we ask of the United -- of the North
5 Carolina Utilities Commission is that we get quality
6 water at a fair price which I think could be
7 provided best by a locally-owned operator. We
8 appreciate the Commission's oversight,
9 responsibility, and thank you for your services to
10 the citizens of the North Carolina. And thank you
11 again for the opportunity to testify.

12 COMMISSIONER BROWN-BLAND: Thank you
13 Mr. Clarke. Are there questions for this witness?

14 MS. JOST: Not from the Public Staff.
15 Thank you.

16 COMMISSIONER BROWN-BLAND: Mr. Higgins?

17 MR. HIGGINS: Yes, ma'am, just a couple.

18 CROSS EXAMINATION BY MR. HIGGINS:

19 Q Picking up on your last of the comment,
20 Mr. Clarke. Red Bird or rather your water
21 system is currently owned and operated by a
22 local owner; is that correct?

23 A Yes, it is, and they are not doing a very good
24 job. And we can understand why they are

1 wanting to get rid of it.

2 Q And again, the same sort of suggestion I made
3 to your wife, I urge you to contact
4 Mr. Franklin with the Public Staff so that he
5 can confirm to you that Red Bird is not
6 proposing to raise your rates at this time.
7 They have forecasted --

8 A I know that.

9 Q -- a future rate increase, and I just want to
10 be clear about that. And I urge you to contact
11 Mr. Franklin so that he can confirm that for
12 you.

13 A Well, the first paragraph of the notification
14 letter that we received, and I'll read it to
15 you, states -- I'll just read the whole
16 paragraph.

17 *Notice is hereby given that Red*
18 *Bird Utility Operating Company, LLC, (Red Bird)*
19 *1650 Des Peres Road, Suite 303, St. Louis,*
20 *Missouri 63131, and Bear Den Acres Development,*
21 *Inc., (Bear Den) 600 Mountain Road, Spruce*
22 *Pine, North Carolina 28777, filed an*
23 *Application with the Utilities Commission to*
24 *transfer the public utility franchise and for*

1 *approval of rates (Application) seeking*
2 *authority to transfer the water utility system*
3 *and public franchise serving Bear Den Acres*
4 *Development in McDowell County, North Carolina*
5 *from the Bear Den to Red Bird and approval of*
6 *rates.*

7 So it says right there, to me,
8 that they've applied for to transfer the
9 ownership as well as increase the rates.

10 Q Mr. Clarke, like I said, just contact
11 Mr. Franklin, because the rates that they've
12 requested that the Commission approved are the
13 existing Bear Den water rates.

14 A Right, we understand that.

15 Q Okay.

16 A Thank you very much.

17 COMMISSIONER BROWN-BLAND: Commissioner
18 Hughes?

19 EXAMINATION BY COMMISSIONER HUGHES:

20 Q I just wanted to make sure I understood the
21 metering situation. Sir, you were talking a
22 little bit about your bill and how much you
23 thought it would be on an annual basis --

24 A Right.

1 Q -- I believe it was for either the average or
2 the minimum.

3 A That's right. That did not include any excess
4 water charges.

5 Q Okay. So for the minimum, do you just roughly
6 have an estimate of the difference of how much
7 water you use when you're there? Obviously,
8 when you're not there you aren't using water.

9 A We're not using any. I have not analyzed that
10 completely, but I looked at it briefly last
11 night. Our water usage is usually much greater
12 for the period of time when we first get here
13 because we always have to flush the line for a
14 long time before we get usable water, and
15 that's not only here. I owned another site
16 here in Bear Den Acres for many years before
17 Jean and I married last year, and we had the
18 same problem. Every time we came here, even
19 sporadically, we had to flush the line often, I
20 mean whenever we first got here. I also lived
21 here year-round for three or four years. And
22 once the system was cleaned out it seemed to
23 function very well.

24 But the design of the system

1 probably contributes to the problem that we
2 have with water because there is no circulating
3 system. So whenever -- we live now at the end
4 of the road and when nobody is using the water
5 a sediment apparently backs up in the line here
6 and it takes a very long time to flush it out.
7 And that's what Mr. Pittman was supposed to do,
8 he was supposed to come up here weekly and
9 flush the lines out, but we haven't seen that
10 happen for some time.

11 Q Well, thank you. That's all.

12 EXAMINATION BY COMMISSIONER BROWN-BLAND:

13 Q Mr. Clarke, do you have of your own knowledge,
14 based on leg-work or phone calls you may have
15 made, contacts you may have had, any idea of
16 the number of current customers that may not
17 have received notice of this hearing?

18 A I'm not aware of a number; no, I'm not. But I
19 know that we had copies made as well as another
20 resident here had copies made and circulated
21 them because so many people did not get
22 notices.

23 Q So you provided notice to your neighbors?

24 A To our neighbors, we did. And there was

1 another gentleman who had already started doing
2 that, so we kind of cut that short because he
3 had already circulated some.

4 COMMISSIONER BROWN-BLAND: Any questions
5 on Commission's questions?

6 MS. JOST: Not from the Public Staff.
7 Thank you.

8 MR. HIGGINS: None from me. Thank you.

9 COMMISSIONER BROWN-BLAND: Thank you,
10 Mr. Clarke. You may be excused.

11 THE WITNESS: Thank you very much.

12 COMMISSIONER BROWN-BLAND: Please unmute
13 the next witness, please.

14 (Silence)

15 Good afternoon.

16 SPEAKER: Hello. Good afternoon. How are
17 you?

18 COMMISSIONER BROWN-BLAND: I'm doing well.

19 LAURA WALLACE;
20 having been duly affirmed,

21 testified as follows:

22 COMMISSIONER BROWN-BLAND: Ms. Jost.

23 MS. JOST: Thank you.

24 DIRECT EXAMINATION BY MS. JOST:

1 Q Could you please state your name and address
2 for the record?

3 A My name is Laura Wallace and I'm calling on
4 behalf of my husband David and I., and we live
5 in Florida. So do you want my Florida address
6 or do you want my address up in Bear Den?

7 Q The service address in Bear Den, please.

8 A The service address is Lot Number 22, which is
9 the emergency address of 849 Bear Den Mountain
10 Drive, Spruce Pine, North Carolina 28777. We
11 do not get mail up there though. We just have
12 the emergency address because we are very
13 part-timers.

14 Q Thank you. Do you have --

15 A So --

16 Q I'm sorry, I was going to ask whether you have
17 a statement you would like to provide.

18 A Yes, I would, I would. So we only come up
19 there approximately six weeks a year, sometimes
20 eight weeks. We are not fully retired yet.
21 We've had our property for 21 -- 25 years. I
22 apologize, the cabin has been built for 21
23 years. We've always been on the water system
24 through Bear Den as it even changed over. It's

1 always been costly for us. As a matter of
2 fact, for the last year our water bill was
3 \$421.53 total. Just to have water was \$401.40.
4 Our usage was only \$20.13.

5 Usually, we have to flush the
6 lines for a week if we can't get them to flush
7 the lines, meaning our -- we use the water and
8 it runs constantly. We cannot drink it. It's
9 coppery color or orange. I usually have to
10 call Mark at the office or text them and they
11 usually send someone to blow the lines. We are
12 the first lot as you go up in the Acres. So,
13 we've never dranken (sic) the water because it
14 is unsightly. However, after them blowing out
15 the lines or running it for approximately a
16 week, we do get, I wouldn't say clear water,
17 but like yellowish water. It doesn't have an
18 odor, it's just unsightly, so I don't even cook
19 with it. So we purchase all bottled water for
20 our usage. But once we get the lines clean
21 then it's time for us to go home.

22 I got the letter after I got a
23 phone call from Mark at Bear Den telling me
24 that the water rates are going to be going up

1 and that I need to call the Commission and
2 plead my case. I feel that it definitely is
3 going to be a hardship for us. I mean, for me
4 only using \$20.00 a year in water service is
5 kind of ridiculous. And my letter does state
6 that year two, as a matter of fact, it goes up
7 to seventy-something dollars for a base price,
8 and I circled it. It is year one, \$37.57; year
9 two, \$67.46; and years three through five,
10 \$73.44. But it also states in here that 25
11 years we are going to have to pay this extra
12 assessment of \$33.40, I believe.

13 I don't -- I'm concerned
14 because right now I call the Bear Den office --
15 we always have a water problem when we go up
16 there -- and it's always -- and so it takes
17 them a couple of days to get the water lines
18 blown out, but we're not up there enough. So
19 what am I up against and for us to pay almost
20 \$900.00 in water usage to only use \$20.00 a
21 year in water, I don't feel it's a good
22 assessment for us.

23 I kind of agree with everything
24 that everybody who has testified already. I

1 have spoken to some people while I was up
2 there. I did hear from a few people that I
3 don't really know well, I only know some of
4 their first names, but they said they are not
5 aware of what's going on. So, I am not quite
6 sure that everybody has the knowledge of this
7 situation either. But we are never up there in
8 the winter. Like I said, we only come up six
9 weeks, maybe eight weeks total a year to our
10 property.

11 COMMISSIONER BROWN-BLAND: Does that
12 conclude your statement?

13 THE WITNESS: Yes, it does.

14 COMMISSIONER BROWN-BLAND: Ms. Jost, do
15 you have any questions?

16 MS. JOST: Yes, just a couple.

17 BY MS. JOST:

18 Q Ms. Wallace, the Notice that you did receive,
19 did you receive that at your Florida address or
20 the address in North Carolina?

21 A No, my Florida address. We don't get any mail
22 up there. But I received it after I got
23 notification by a phone call from Mark Krauss,
24 I guess, the owner of Bear Den.

1 Q Okay. And you referred to the Notice and some
2 rates for, I believe, years two and three
3 through five. Do you understand that those are
4 projected and as has been mentioned already any
5 increase in rates must be approved by the
6 Commission after the Utility files an
7 application for the rate increase?

8 A I understand you're saying that, but it looks
9 like a good possibility that I'm going to have
10 a devil of a water bill just to have water,
11 access to any water that's not even good
12 quality water. It's very concerning to me. I
13 mean, we opted to stay on the Bear Den water
14 system when we purchased the property, when it
15 was owned by Rick Moody, the campground,
16 because we were so part-timers we thought we
17 would have more problems not running a well on
18 a consistent basis. And we were unhappy with
19 paying that \$35.00 or almost \$35.00 a month
20 just to have access to water. There's no
21 vacation hold or anything.

22 But like I said, the last year
23 is the most we stayed up there and my only
24 usage was \$20.13 of water. So we're paying

1 over \$400.00 just to have access to get \$20.00
2 worth of water and we still have to purchase
3 all of our drinking water, our cooking water,
4 you know, those kind of things up there. So we
5 spend quite a bit of money purchasing water
6 elsewhere, because we're not provided with
7 really clear water and it's always a problem.
8 You know, I just feel like it's going to be
9 very expensive for what we're getting.

10 Q Thank you for that response.

11 MS. JOST: Those are all my questions.

12 COMMISSIONER BROWN-BLAND: Mr. Higgins?

13 MR. HIGGINS: Yes, thank you.

14 CROSS EXAMINATION BY MR. HIGGINS:

15 Q Ms. Wallace -- Dan Higgins -- did you email
16 comments or a protest to the Utilities
17 Commission back on May the 6th? Are you
18 that Laura Wallace?

19 A Yes, I did. Yes, I am.

20 Q Thank you, ma'am.

21 A Yes.

22 MR. HIGGINS: No further questions.

23 COMMISSIONER BROWN-BLAND: Commissioner
24 Hughes?

1 COMMISSIONER HUGHES: Yes.

2 EXAMINATION BY COMMISSIONER HUGHES:

3 Q Just to be clear, you have mentioned that, if I
4 understood, you had a choice of just drilling
5 your own well or staying on the water system at
6 one time?

7 A Well, when we bought the property, the owner of
8 the campground who developed our lot for us,
9 you know, he wanted a lot, like \$10,000 to
10 drill a well, but tried to tell us all the
11 problems that we would have if we are only up
12 there for a period of time. And at the time,
13 both my husband and I -- he's retired now but I
14 am not and so that's why we can only come up
15 for two to three weeks at a time when we do
16 come. At the time, we had small children so we
17 only came up here for summer vacation. This
18 was planned on being a retirement home. So we
19 stayed on his water system because he could
20 take care of it and we weren't up there.

21 If you leave a well to run and
22 not run the water, and you're only up there
23 four weeks a year, every time we would be up
24 there we'd be calling Burleson. Which, just

1 recently, we paid almost \$800.00 to Burleson's
2 Plumbing to come and check out other items like
3 the water was so clayish we thought there was
4 something wrong with our water heater. We had
5 to run pipage through to make sure that our
6 sewage and everything was going, because we're
7 so part time. So, having the water system
8 available to us was probably a less problematic
9 situation than drilling a well when we're not
10 there. So --

11 Q Do you know if any of your -- I'm sorry. I was
12 going to ask if you knew --

13 A No, go ahead.

14 Q -- if any of your neighbors have drilled a
15 well?

16 A I -- you know what, I know there is some wells
17 up there from the original ownerships back in
18 the '80's, but I really don't know. Their
19 business is their business; mine is mine. So,
20 you know, I did what was available for our
21 family.

22 Q Okay. Thank you very much.

23 EXAMINATION BY COMMISSIONER BROWN-BLAND:

24 Q Ms. Wallace, just to clarify for the record,

1 because you mentioned several numbers, so you
2 say you use about -- and I understand you're
3 estimating, but you use about \$20.00 --

4 A No, I'm looking at the -- I'm looking at my
5 bills. I have bills in front of me. They
6 charged me \$33.45 for access rates - flat rate.

7 Q And that's every month?

8 A That's every month.

9 Q Okay.

10 A \$33.45. And then they charge me for usage. So
11 last year, the last four statements, so they
12 billed me quarterly, the last four billing
13 cycles comes to a total of forty -- \$421.53.
14 Out of that \$421.53, \$401.40 is just to the
15 access charge, which tells my water usage, if
16 you add it up, even the water usage is \$20.13
17 for the year.

18 Q Okay, thank you.

19 A And this is the most we've spent there and a
20 lot of that is running off the pumps for until
21 they can get the water to run clear, because
22 you can't just -- I mean, it's totally orange
23 in my sinks for until they get the well pumped
24 off or blown off and then we run the water for

1 a good couple of days. It's just -- so this
2 usage is really very minimum for -- I think we
3 should have like a vacation hold or some sort
4 of credit for the very, very part-timers. I
5 feel this is ridiculous.

6 Q And then you mentioned, you used a phrase, you
7 talked about being on the Bear Den water system
8 and you said this was even before it changed
9 over. What did you mean by "it changed over"?

10 A Well, the campground was sold to another
11 developer. Mark Krauss is -- all I know is his
12 name. I don't know much about the situation,
13 but it sold several years ago, so he took over
14 the water system. But I still get the bill
15 from Bear Den Acres Development Inc. - Water
16 Division. It comes exactly like it did before
17 but they just bill on a quarterly basis instead
18 of a monthly basis. But, you know, I keep all
19 of my bills. I know exactly what I spend and
20 it's \$33.45 for a flat rate and then your
21 usage.

22 And we were just up there for
23 six weeks at a time and my usage was a total of
24 \$6.53, and we actually not only ran the water

1 for approximately four or five steady days,
2 pretty much all day, we also had to rinse out
3 the ravine out of the front, and we don't have
4 well water and so had to use our regular water.
5 So I felt like this was the most usage we ever
6 had in one trip. So we don't really use that
7 much water, not for it to double our water
8 bill.

9 Q And one last question. You testified that
10 around the time when you first got the property
11 and the question came up about whether to drill
12 a well or not that you ended up receiving water
13 from whomever you were talking to. Was that --
14 were you at some point in time receiving water
15 from the campground?

16 A The same company, the Bear Den Acres
17 Development. That has never changed. We
18 bought our property back in 2000 and we had a
19 fifth-wheel camper put on there at the time and
20 then it developed in 2004 we put on a cabin.
21 We built it into a cabin. So nothing has
22 changed. The developer at the time which owned
23 the campground, he is the one that stated we
24 could get a well or we can go on the Bear Den

1 water system. And at that time period, we were
2 allowed to have it on vacation hold; not pay
3 for the winter. And then several years later
4 is when they opted on making it year-round so
5 at that time period it changed, our water bill
6 doubled just for the flat rate, and then the
7 new owner took over and he billed quarterly,
8 but it's never changed from the Bear Den Acres.
9 You know, it just made logistic sense since we
10 weren't up there that much to not drill a well
11 at the time.

12 COMMISSIONER BROWN-BLAND: Thank you,
13 Ms. Wallace.

14 Any questions on Commission's questions?

15 MS. JOST: Not from the Public Staff.

16 MR. HIGGINS: No, ma'am.

17 COMMISSIONER BROWN-BLAND: Ms. Wallace,
18 thank you for your testimony. You may be excused.

19 THE WITNESS: Thank you.

20 COMMISSIONER BROWN-BLAND: Will you unmute
21 the next witness?

22 SPEAKER: Hello.

23 COMMISSIONER BROWN-BLAND: Hello.

24 ROGER JAMES;

1 having been duly affirmed,

2 testified as follows:

3 COMMISSIONER BROWN-BLAND: Ms. Jost.

4 MS. JOST: Thank you.

5 DIRECT EXAMINATION BY MS. JOST:

6 Q Sir, could you please state your name and
7 address for the record?

8 A My name is Roger James, 172 Bear Wallow Drive,
9 Spruce Pine, North Carolina 28777, Lot 45 in
10 Phase 1.

11 Q Thank you. Do you have a statement you'd like
12 to provide to the Commission?

13 A Yes, ma'am.

14 Q Go right ahead.

15 A Okay. Well, it's in my opinion that the water
16 system needs to be kept local. It's been a
17 part of the Acres. And when we bought our lot
18 about 16 years ago, you know, that was the
19 agreement that we signed, that it was part of
20 the Acres and the Acres would take care of it.
21 Okay. Now they want to go public with it,
22 sounds like out of state, where all the repairs
23 is going to not be done in a timely manner.
24 The problems up there that you are already

1 aware of, no need to mention again, but I think
2 it needs to be handled by a local person or
3 company so the repairs and questions and
4 problems can be handled in a timely manner.

5 Okay. As far as the
6 notification, the last notification which only
7 gave about three days. When I heard of this
8 notification, a person that lives in Bear Den
9 contacted me and asked if I had heard about it.
10 I wasn't at home at the time and I hadn't heard
11 anything about it and it was only like two days
12 before you could respond. So, it seemed like
13 it was really close in letting people respond.
14 And some, like me, if I hadn't been notified I
15 would not have been able to respond in the
16 timely manner that was given to respond for
17 this testimony.

18 As far as the water goes, you
19 know, an example -- I've talked to residents of
20 Little Switzerland water and their cost is like
21 \$300.00 per year. That breaks down to \$25.00
22 per month and this includes all the water they
23 use. Another example, Upper Cleveland water
24 base rate is \$12.00 a month for a meter and

1 that also includes the first thousand gallons
2 of water. At present, we are charged for Bear
3 Den water, is \$33.45 per month for the meter
4 only and an additional charge for any water
5 used. This charge is higher than other
6 communities. And I know, according to the
7 letter, Red Bird is setting prices that will
8 continue to rise over the three to five years.
9 And why are they foreseeing such increases?
10 And I realize inflation has increased prices
11 but not at the rate of over 100 percent.
12 That -- this is what Red Bird Utility is trying
13 to ask of what we're paying now.

14 My present -- let's see, the
15 last -- they are making money because in the
16 last owner meeting of Bear Den Acres it was
17 said that the price charged for water was
18 keeping the books in the green. Now, I have no
19 figures but that was right at -- that's what we
20 was told (sic). I only ask that, you know, our
21 water be -- the prices be comparable to the
22 surrounding communities and that it's to where
23 we've got drinkable water, usable water, that
24 someone local, you know. And I think the Acres

1 should have say so of the control of the water,
2 because, you know, we had lack of notice of the
3 sale, you know, we didn't know none of this was
4 even being proposed until after it was already
5 set.

6 So, I appreciate your time that
7 you've given me and that's what I've got.
8 Thank you for very much.

9 COMMISSIONER BROWN-BLAND: Any questions
10 for Mr. James?

11 MS. JOST: Yes.

12 BY MS. JOST:

13 Q Mr. James, this is Megan Jost with the Public
14 Staff. Have you had any issues with the
15 quality of the water that you received at Bear
16 Den?

17 A Yes. We've had some smell issues. Now, I'm at
18 the very end, but yes, I -- we have had to run
19 up there and had to flush the water because of
20 smell issues, and it smelled bad. We do have a
21 water filter. It's on the tap that we use to
22 cook with and all of that. But the issue --
23 the main -- you know, some dinginess, but the
24 main complaint I would have would be the smell.

1 Q Thank you. And earlier, I don't know if you
2 were listening earlier, we provided the name
3 and number for an engineer with the Public
4 Staff's Water and Sewer, and Telephone
5 Division. He is available for any questions
6 you have. His number -- his name is Mike
7 Franklin and his telephone number is
8 919-715-2666.

9 A Okay.

10 MS. JOST: That's all I have. Thank you.

11 COMMISSIONER BROWN-BLAND: Mr. Higgins,
12 any questions?

13 MR. HIGGINS: No, ma'am. I don't have any
14 questions for this gentleman.

15 COMMISSIONER BROWN-BLAND: And
16 Commissioner Hughes is saying none. So thank you,
17 Mr. James. You may be excused.

18 THE WITNESS: Thank you.

19 COMMISSIONER BROWN-BLAND: Please unmute
20 our next witness.

21 SPEAKER: Hi.

22 COMMISSIONER BROWN-BLAND: Hello.

23 BEVERLY KAY JAMES;
24 having been duly affirmed,

1 testified as follows:

2 COMMISSIONER BROWN-BLAND: Ms. Jost.

3 DIRECT EXAMINATION BY MS. JOST:

4 Q Good afternoon. Could you please state your
5 full name and address for the record?

6 A Beverly Kay James, 172 Bear Wallow Drive,
7 Spruce Pine, North Carolina 28777, Lot 41 --
8 I'm sorry, Lot 45, Phase 1.

9 Q Thank you. And do you have a statement you'd
10 like to provide this afternoon?

11 A Yes. My concern is with the rising cost. My
12 husband and I have owned our residence at Bear
13 Den for 16 years and the cost has averaged the
14 \$33.45 monthly for meter only. This is not our
15 permanent home, this is our vacation home, and
16 this is a cost that we pay 12 months out of the
17 year even though we are only there a few weeks
18 in the summer.

19 Comparatively speaking, our
20 rate already exceeds the surrounding area
21 rates, such as Little Switzerland which is
22 \$25.00 monthly or \$300.00 yearly and includes
23 all the water that they use, and Upper
24 Cleveland which is \$12.00 monthly or \$144.00

1 yearly for the meter and a thousand gallons of
2 water.

3 Red Bird has projected rates
4 that will double what our cost is now within
5 the next five years. And I would ask that this
6 increase be evaluated and made more comparable
7 to the rates in surrounding areas.

8 COMMISSIONER BROWN-BLAND: Does that
9 conclude your statement?

10 THE WITNESS: Yes. Thank you.

11 COMMISSIONER BROWN-BLAND: Thank you.

12 Ms. Jost, do you have any questions for
13 Ms. James?

14 MS. JOST: I do not. Thank you.

15 COMMISSIONER BROWN-BLAND: Mr. Higgins.

16 MR. HIGGINS: I don't have any questions
17 for Ms. James.

18 COMMISSIONER BROWN-BLAND: And neither do
19 Commissioner Hughes and I. So, Ms. James, thank you
20 for your testimony. You may be excused.

21 THE WITNESS: Thank you.

22 COMMISSIONER BROWN-BLAND: Please unmute
23 our next witness.

24 SPEAKER: Hello.

1 COMMISSIONER BROWN-BLAND: Hello.

2 MICHAEL BRASWELL;

3 having been duly affirmed,

4 testified as follows:

5 COMMISSIONER BROWN-BLAND: Thank you.

6 Ms. Jost.

7 DIRECT EXAMINATION BY MS. JOST:

8 Q Good afternoon. Would you please state your
9 full name and address for the record?

10 A Michael C. Braswell, 21 Bear Cub Drive, Lot 19.

11 Q Thank you do you have a statement you would
12 like to provide?

13 A Just a comment or two. I did write -- send in
14 a statement. But basically, we're only there
15 four to six weeks, usually in the summer and
16 the fall, and we pay the minimum amount, and we
17 obviously think the increases that are
18 projected. I understand technically this
19 hearing isn't about raising rates but the truth
20 is there's not a lot of trust a lot of times
21 among projected rates and the reality, so we're
22 concerned about the proposed and projected
23 increases. And we're concerned about the
24 rating of the parent company of Red Bird as

1 well, in terms of the quality of services they
2 deliver. And basically, we just would like to
3 register a complaint about the proposed rates
4 and in terms of asking that things be done more
5 fairly. We don't mind -- we understand there's
6 got to be a minimum rate or minimum usage, but
7 we feel like the proposed rate increases are
8 unfair.

9 That concludes my statement.

10 COMMISSIONER BROWN-BLAND: Ms. Jost, do
11 you have questions for Mr. Braswell?

12 MS. JOST: Yes, just one.

13 BY MS. JOST:

14 Q Mr. Braswell, could you tell us if you have
15 experienced any issues with the quality of your
16 water at Bear Den?

17 A Actually, I think some of the issues around the
18 quality has to do with where the cabins are
19 located in terms of the lines. We have had
20 some discoloration when we've gotten there but
21 it doesn't take us as long to flush our system.
22 So, I don't have any real major complaints
23 around the water, you know, when you're not
24 there for awhile. We're usually there for a

1 week at the time in the summer or in the fall,
2 so I understand that you may have to flush the
3 lines or run the water a little bit. So we
4 haven't had as difficult a situation as some of
5 the others. But the problem, or the water
6 quality particularly, depending on where the
7 cabins are located, I do know that hearing from
8 other residents or other folks who have
9 property there, that's been a severe problem
10 for a number of people.

11 Q Thank you.

12 MS. JOST: Those are all my questions.

13 COMMISSIONER BROWN-BLAND: Mr. Higgins.

14 MR. HIGGINS: I don't have any questions
15 for this gentleman.

16 COMMISSIONER BROWN-BLAND: Commissioner
17 Hughes.

18 COMMISSIONER HUGHES: No questions.

19 COMMISSIONER BROWN-BLAND: Mr. Braswell,
20 we don't have any questions for -- any more
21 questions for you, so thank you for your testimony,
22 and you may be excused.

23 THE WITNESS: Thank you.

24 COMMISSIONER BROWN-BLAND: Let's unmute

1 our next witness, please.

2 SPEAKER: Hello, I'm David Johnson.

3 DAVID A. JOHNSON;

4 having been duly affirmed,

5 testified as follows:

6 COMMISSIONER BROWN-BLAND: Ms. Jost.

7 DIRECT EXAMINATION BY MS. JOST:

8 Q Mr. Johnson, could you just once more state
9 your full name and also your address for the
10 record?

11 A It's David A. Johnson. My address is 114 Old
12 Town Drive, Jonesborough, Tennessee. My Bear
13 Den residence is 41 Overlook Drive in Bear Den
14 Campground off the Bear Den Mountain Road.

15 Q Do you have a statement you'd like to provide
16 to the Commission?

17 A Yes, I do. One, I'd like to thank the members
18 of the North Carolina Utilities Commission for
19 serving the people of North Carolina. Thank
20 you for your time and efforts.

21 When I sent my email back on
22 July 21, I assumed that Red Bird would be
23 managing the water system for Bear Den Acres
24 and Bear Den Campground. I have since learned

1 that that's not the case. I talked to
2 Mr. Franklin earlier about this and he said
3 that it's only the Bear Den Acres. That
4 bothers me a bit because if it's such a good
5 deal for Bear Den Acres why is it not a good
6 deal for the guy that owned, that was supplying
7 our water, Mark Krauss, who runs Bear Den
8 Campground. So, I'm kind of concerned about
9 that as to whether or not we're getting a --
10 this is a good deal. Why weren't there other
11 companies that possibly bid for this service to
12 take over instead Red Bird. We have -- there's
13 been very little transparency in this process.
14 I don't -- I'm up there only a few weeks out of
15 the year. And having listened to the other
16 people testify, I feel very fortunate our water
17 has not been that bad. We do filter it through
18 a Brita filter and we have -- we put in a new
19 sink recently so we put a new inline filter on
20 that sink in the kitchen -- for the kitchen
21 water.

22 But, in Jonesborough, we pay
23 \$16.00 a month for 2000 gallons minimum. Then
24 we pay another four fifty per thousand gallons

1 above that. So, I think that -- I noticed that
2 Bear Den charges much less than that, the
3 proposed rates are going to be less per
4 thousand gallons. But I think it should be
5 based a little bit more on the usage and not so
6 much on the monthly charges, because we
7 probably have not been up there more than three
8 or four weeks in the last three years. We've
9 owned this property only three years and we've
10 been up there maybe three or four weeks each
11 summer and a couple of weekends in the fall and
12 things of that sort. We don't get there -- I
13 live very close so I come up there at odd
14 times, so we can do that. And I've been
15 working until I retired this past June and hope
16 to be up there more.

17 But please think about Red Bird
18 and whether or not -- I think they should be
19 managing the campground as well if they're such
20 a good management company. And I'm concerned
21 about the water quality for the campground as
22 well. I'm wondering who's checking that out to
23 make sure that those people get good water, and
24 everybody should have good clean water in the

1 mountains. I mean, the mountains are a
2 beautiful place. There's lots of great trout
3 streams, and we should have better water up
4 there. We get a -- Jonesborough gets its water
5 from the Nolichucky River. Thank you very much
6 and have a good day.

7 COMMISSIONER BROWN-BLAND: Before you
8 go --

9 THE WITNESS: Yes, ma'am.

10 COMMISSIONER CLODFELTER: Ms. Jost, do you
11 have any questions for Mr. Johnson?

12 MS. JOST: I do not.

13 COMMISSIONER BROWN-BLAND: Mr. Higgins.

14 MR. HIGGINS: No, ma'am.

15 EXAMINATION BY COMMISSIONER BROWN-BLAND:

16 Q Mr. Johnson, you indicated the address for your
17 Bear Den property and did not give a lot number
18 as the others did. Is there a reason?

19 A I can't remember what my lot number is. I
20 think it's 41 or 42, something like that. It's
21 in the Development 1 of Bear Den Acres. And
22 I'm up above Ms. Brooks and Mr. Clarke, so that
23 may be the reason my water has not been quite
24 as bad as theirs and, therefore, I feel

1 fortunate. But, you know, because I didn't
2 know anything about this water system until I
3 moved there, so. All right.

4 Q And how did you receive notice of this hearing
5 and when?

6 A It was mailed to my Jonesborough address.
7 That's why I gave my Jonesborough address.

8 Q And you received it how long ago?

9 A I think I got it like the 18th of July.

10 Q All right.

11 A Yes, I believe the 18th of July.

12 COMMISSIONER BROWN-BLAND: Any questions
13 on Commission's questions? Commissioner Hughes, did
14 I negligent to ask -- did you have questions?

15 EXAMINATION BY COMMISSION HUGHES:

16 Q Yeah, I just wanted to clarify your concern
17 over the campground system, which we're not
18 talking about today, was just one of a good
19 neighbor or is there in your mind a connection
20 to that system and the system that serves you?

21 A Well, yes. Well, they were run by the same
22 entity until recently. I mean, the Bear Den
23 Campground has been managing the water supply
24 for Bear Den Acres. And I can't understand why

1 they want to sell it to somebody else yet not
2 have them take over their own water supply.
3 They have hundreds of campsites there and they
4 use lots of water in the summer because there
5 are a lot of people in there. A lot of the
6 campsites have been modified to take in -- to
7 have trailers on them, you know, RVs. And
8 they're doing -- they used to be just sort of a
9 lot of tent camping but he's expanded a lot and
10 added a lot of RV sites, so there's going to be
11 a lot of water usage up there, and I think that
12 it should be the same. Why it's not being the
13 same I don't know. Why you would not want the
14 Red Bird Company to manage it. Were there
15 other companies that bid for this job to take
16 over this water system or somebody else to
17 manage it? We were certainly not consulted
18 about this as, you know, the users of it before
19 it was sold.

20 Q Okay. Thanks for clarifying that.

21 COMMISSIONER HUGHES: No further
22 questions.

23 THE WITNESS: Thank you.

24 COMMISSIONER BROWN-BLAND: Any questions

1 on Commission's questions?

2 MS. JOST: No questions.

3 MR. HIGGINS: No questions.

4 COMMISSIONER BROWN-BLAND: Thank you,
5 Mr. Johnson. You may be excused.

6 THE WITNESS: Thank you very much.

7 Bye-bye.

8 COMMISSIONER BROWN-BLAND: Bye-bye. And
9 can we unmute the next witness, please?

10 MR. McCOY: Commissioner, that is the last
11 one.

12 COMMISSIONER BROWN-BLAND: That's the last
13 one. All right. Anything else that needs to come
14 before the Commission before we adjourn this
15 session?

16 MS. JOST: If I may, I just wanted to
17 correct something that I had said earlier. You had
18 asked me whether the filings that showed up in the
19 docket today were new customers that had not
20 previously filed and I said I thought they were, but
21 I agree with Mr. Higgins that those customers
22 previously filed other statements.

23 COMMISSIONER BROWN-BLAND: So we still
24 have heard from 11 customers?

1 MS. JOST: That's my understanding.

2 COMMISSIONER BROWN-BLAND: Thank you for
3 that, Ms. Jost. That will make the record clearer.
4 Ms. Jost, you were going to recall your work with
5 Ms. Brooks to make sure we get the best three copies
6 of the exhibits in, which is two pictures and her
7 water bill, Exhibits 1, 2 and 3. And we'll make
8 sure Mr. Higgins is also aware of them and hearing
9 no objection from him after their filing, they will
10 be received into evidence.

11 If there is nothing else. We will adjourn
12 until 6:30.

13 (The proceedings were adjourned)

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C E R T I F I C A T E

I, KIM T. MITCHELL, DO HEREBY CERTIFY that
the Proceedings in the above-captioned matter were
taken before me, that I did report in stenographic
shorthand the Proceedings set forth herein, and the
foregoing pages are a true and correct transcription
to the best of my ability.

Kim T. Mitchell
Kim T. Mitchell