

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1040, SUB 10
DOCKET NO. W-1328, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Red Bird Utility Operating) VERIFIED RESPONSE OF
Company, LLC, 1650 Des Peres Road, Suite) THE PUBLIC STAFF TO
303, St. Louis, Missouri 63131, and Bear Den) REPORTS ON CUSTOMER
Acres Development, Inc., 600 Bear Den) COMMENTS FROM PUBLIC
Mountain Road, Spruce Pine, North Carolina) HEARINGS BY RED BIRD
28777, for Authority to Transfer the Bear Den) UTILITY OPERATING
Acres Development Water System and Public) COMPANY, LLC, AND BEAR
Utility Franchise in McDowell County, North) DEN ACRES
Carolina, and for Approval of Rates) DEVELOPMENT, INC.

NOW COMES the Public Staff – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and files this response to the verified reports filed by Bear Den Acres Development, Inc. (Bear Den), and Red Bird Utility Operating Company, LLC (Red Bird), on customer comments from public hearings held on August 4, 2022. Bear Den filed a verified report on the public hearing testimony with the North Carolina Utilities Commission (Commission) on August 11, 2022. Red Bird filed a verified report and a corrected verified report with the Commission on August 15, 2022.

PURPOSE OF RESPONSE

The purpose of the Public Staff's response is to provide the results of the Public Staff's review of Red Bird's and Bear Den's verified reports regarding the two public hearings held on August 4, 2022, and whether Red Bird and Bear Den's responses adequately address the customers' concerns.

SUMMARY OF VERIFIED REPORTS AND PUBLIC STAFF RESPONSE

Fourteen customers testified over the course of the two public hearings, with eight customers testifying during the first session and six customers testifying during the second session. All customers who testified were either full-time or part-time residents of Bear Den Acres Development. No customers from Bear Den Campground participated in the public hearing.

Proposed Rates

Eleven customers testified about their concerns regarding the water utility rates Red Bird intends to implement after acquisition of the Bear Den water utility system. The Notice to Customers attached to the Commission Order Scheduling Public Hearing and Requiring Proposed Orders (Scheduling Order) issued on July 1, 2022, states that the anticipated post-acquisition increase is subject to Commission approval, and any future change in rates proposed by Red Bird would require Red Bird to file a general rate case application with the Commission pursuant to N.C. Gen. Stat. § 62-134. Red Bird's verified report adequately addresses this customer concern by confirming that, at the time it acquires the Bear Den water utility system, Red Bird will adopt the rates currently approved. Red Bird's verified report further states that, if Red Bird files a rate case with the Commission, customers will have the opportunity to provide their input, the Public Staff will participate in the proceeding, and the Commission will decide the extent of any rate increase.

Red Bird also states in its verified report that "individual residents can take appropriate measures to limit usage at their discretion which will result in lower

billing.” While this statement is correct, based on the current usage rate of \$2.78 per 1,000 gallons, if a customer decreased their usage by the monthly average usage amount of 1,500 gallons, the monthly water utility bill would only be reduced by \$4.17. The significance of the monthly billing impact from reduced usage for future rates is dependent on the monthly usage charge approved by the Commission in future rate cases for this water utility system.

Bear Den did not address the concerns regarding rates raised by customers during the hearings because they relate to Red Bird’s anticipated future rates.

Communications

Eight customers identified concerns with communications provided by the applicants to Bear Den water utility system customers. These concerns include a perceived lack of communication regarding the sale of the water utility system to Red Bird; the timing of the receipt of the Notice to Customers, which a number of customers testified they received just a few days before the public hearing registration deadline; and that not all Bear Den water utility system customers received the Customer Notice.

In its verified report, Red Bird states that it used the most recent address information provided by Bear Den when it mailed the Notice to Customers. In its verified report, Bear Den states the mailing list it used to contact customers was the same list provided to Red Bird on February 7, 2022. Bear Den further states that it was not asked by Red Bird for an updated mailing list, and that Bear Den failed to inform Red Bird of the “two or three” new customers that had been added since February 7, 2022.

The Scheduling Order required that the Notice to Customers be mailed with sufficient postage to both the billing address and the service address of all affected customers no later than ten days after the date of the Order, or July 11, 2022. On July 18, 2022, Red Bird filed with the Commission the required Certificate of Service signed and notarized on July 12, 2022, documenting compliance with the Scheduling Order.

On August 5, 2022, the Public Staff received an email from a customer who testified during the public hearing providing a photograph of the envelope she received containing the Notice to Customers. The photograph shows Red Bird Utility Operating Company, LLC, as the sender and that the notice was mailed via United States Postal Service presorted first class mail. The consumer hand-wrote on the envelope the date the notice was received, July 18, 2022.

While it is unfortunate that some customers received the Notice to Customers just a few days before the deadline to register for the public hearings, it appears that Red Bird provided the notice to the majority of Bear Den water utility customers as required by the Scheduling Order. However, regarding the two or three new customers that were added after February 7, 2022, Red Bird and Bear Den should have communicated better and used up-to-date customer contact information to ensure all customers were notified.

Water Quality

Four customers testified that they experienced issues with the quality of the water provided by Bear Den. The water quality issues identified by customers who testified at the public hearings include water discoloration (i.e., muddy, and copper

or yellow-colored water) and odor. Customers testified that the water mains and the interior home water lines require flushing to resolve the issues. In its verified report, Red Bird identifies actions it will take to resolve these water quality issues, but recognizes that part-time residents may still need to flush their service lines and indoor plumbing to remove stagnant water.

In its verified report, Bear Den states that a deeper well should be installed to address the water quality issues, and that it has communicated this directly to Red Bird. The installation of a deeper well was not addressed by Red Bird's verified report or its list of identified improvements to be implemented in the first five years of ownership provided with the transfer application.

The Public Staff is of the opinion that the actions Red Bird has identified should improve water quality, although further investigation of the Bear Den water distribution system may be needed. The Public Staff agrees with Red Bird's assertion that, for seasonal residents, stagnant water can be present in service lines and indoor plumbing, and residents may need to flush the lines when they first return to their property in order to improve water quality.

Additional Concerns

Below is a summary of additional concerns identified during the public hearings:

Three customers testified to concerns regarding whether the Bear Den water utility system is serving the Bear Den Acres Campground and the quality of the water supplied to the campground. Red Bird and Bear Den both state in their verified reports, and the Public Staff agrees, that the Bear Den Acres Development

water utility system is separate from the Bear Den Acres Campground water utility system. In its verified report, Bear Den addresses Bear Den Acres Campground's water quality by stating that the campground water system has had no reported quality issues since it was acquired by Bear Den.

Two customers identified concerns that the Bear Den Acres Development water utility system was being purchased by a company based outside the State of North Carolina, and therefore any water utility system issues may not be addressed in a timely manner. Red Bird addresses this concern in its verified report, identifying the process for contracting operators and discussing the customer service system to be implemented post-acquisition. This concern is not addressed by Bear Den because it is specific to Red Bird.

Two customers testified to concerns regarding the Bear Den Water Association and that Bear Den Acres Development homeowners should have control over the water utility system. While neither Red Bird nor Bear Den addressed this concern in their verified reports, the Public Staff does not consider it relevant to this proceeding because the Bear Den Water Association has no ownership of the Bear Den Acres Development water utility system or of the property necessary to operate the system.

CONCLUSION

The Public Staff has reviewed the verified reports of Red Bird and Bear Den addressing the concerns testified to by customers during the August 4, 2022 public hearings. The Public Staff believes the responses adequately address the concerns.

VERIFICATION

STATE OF NORTH CAROLINA)
)
 COUNTY OF WAKE)

I, D. Michael Franklin , state and attest that this Verification is filed on behalf of Public Staff – North Carolina Utilities Commission, as required by the North Carolina Utilities Commission; that I have reviewed the attached response to the Red Bird Utility Operating Company, LLC's and Bear Den Acres Development, Inc.'s verified reports addressing the August 4, 2022 customer hearing held in Docket Nos. W-1040, Sub 10 and W-1328, Sub 4 and, in the exercise of due diligence, have made reasonable inquiry into the accuracy of the information provided therein and in any exhibits, documents, and statements thereto attached; and that, to the best of my knowledge, information, and belief, all of the information contained therein is accurate and true, and no material information or fact has been knowingly omitted or misstated therein.



D. Michael Franklin
 Signature of Person Making Verification

D. Michael Franklin
 Typed or Printed Name

August 22, 2022
 Date

Subscribed and sworn before me this the 22 day of August, 2022.

Jessica Heironimus
 Jessica Heironimus, Notary Public

My Commission Expires: 5/10/2023