

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. A-41, SUB 22

In the Matter of	)	
Joint Application of Bald Head Island	)	
Transportation, Inc., and Bald Head	)	<b>REPLY IN SUPPORT OF</b>
Island Ferry Transportation, LLC, for	)	<b>SECOND AND THIRD</b>
Approval of Transfer of Common Carrier	)	<b>MOTIONS TO COMPEL</b>
Certificate to Bald Head Island Ferry	)	<b>RESPONSES OF</b>
Transportation, LLC, and Permission to	)	<b>SHARPVUE CAPITAL, LLC</b>
Pledge Assets	)	

The Village of Bald Head Island (the “Village”), by and through counsel and pursuant to the Order Scheduling Hearing, Establishing Procedural Deadlines, and Requiring Public Notice, submits this Reply in support of its Second and Third Motions to Compel SharpVue Capital, LLC (“SharpVue”) to provide its full and unredacted discovery responses.

**INTRODUCTION**

SharpVue is attempting to create a “shadow proceeding” where it funnels information supporting its transfer application to the Public Staff and the Commission but not to other parties to the proceeding and under color of claim of “trade secret” protection. This effort is so grossly inappropriate, if countenanced, it will corrupt the integrity of the proceeding itself: it will violate the due process rights of the other parties to the proceeding, including the Village; it will potentially constitute improper *ex parte* communications with the Commission; and it will be corruptive of a process which should be open to the public.

The information in question is not trivial, incidental or collateral to the proceeding—nor does it involve information which is subject to privilege. Rather it

involves information which is central to the core issues in the proceeding relating to the identity of the buying entity, the management and control of the proposed certificated entity, and the financial ability and qualifications of the buyer—and SharpVue does not contend otherwise.

The information withheld is extensive. The Second and Third Motions to Compel involves at least 53 pages of documents and 11 separate data requests. Attached hereto for the convenience of the Commission is an Issues Matrix summarizing all of the requests in dispute. *See* Exhibit 1. And more requests are coming: since the filing of the Second and Third Motions to Compel, the Village has received an additional data response which is similarly littered with redactions and which will, regrettably, be the subject of an additional motion to compel.<sup>1</sup>

SharpVue seeks to justify its shadow docket litigation strategy by claiming the Village—a municipal government—is somehow a competitor of a private equity firm and that the information in question constitutes “trade secret” information. However, SharpVue fails to provide any proper evidentiary foundation for its claims and, likewise, makes no effort to explain what prejudice it would suffer by disclosing the information—likely because it cannot make such a showing. Regardless, the information is subject to production under the confidentiality agreement negotiated between the parties to facilitate the exchange of confidential information—an agreement that includes the option of attorneys-eyes-only designations for added confidentiality protections.

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<sup>1</sup> The Village regrets being forced to file these repetitive motions. It would much prefer to work through these issues cooperatively. Nonetheless, filing motions to compel is the only remedy available by which it can preserve its rights. *See* Order Scheduling Hearing, Establishing Procedural Deadlines, and Requiring Public Notice, Docket No. A-41, Sub 22, at 2 para 6 (Aug. 24, 2022).

The Village, on the other hand, will suffer significant prejudice if it is not allowed access to the information in question. Beyond the *ex parte* concerns with allowing SharpVue to communicate privately with the Commission about materials which are material to its application, there are obvious due process concerns with the Village forced to litigate this matter half blind, without documents that even SharpVue agrees are relevant and which it intends that the Commission rely upon.

SharpVue's position is not supported by North Carolina law or Commission practice. The Village's motions to compel should therefore be granted.

This dispute should send warning signals to the Commission and the public about the qualifications and fitness of this buyer to serve as a public utility. Service as a public utility necessarily entails disclosure of certain key information and participating in public processes to ensure that operations are accountable to the public. It is understandable a private equity firm is not accustomed to conducting its business affairs with this sort of public scrutiny, but a public utility must be accountable to the public and it must be willing to comply with Commission practice and procedures designed to facilitate meaningful participation by intervenors in contested proceedings.

### **ARGUMENT**

#### **I. The Commission Requires Parties to Produce Relevant and Non-Privileged Information, Even When Confidential.**

As SharpVue acknowledges, “[t]he North Carolina Rules of Civil Procedure provide that parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . . .” Resp. at 6. And SharpVue also agrees that the documents are relevant. As SharpVue explains, they can be “used . . . to review and determine the pending certificate transfer application.” *Id.* at 2.

Thus, because the documents are not privileged and are relevant to this case, they are discoverable and must be produced to the Village, in their full form.

SharpVue objects to the production of discoverable information on the grounds that the information is confidential “trade secrets.” This is not a valid basis for withholding the information. The Commission routinely addresses such concerns by requiring the parties to enter into a confidentiality agreement—such as the confidentiality agreement already in place between SharpVue and the Village—to protect against improper disclosure of protected information.

The Commission has ordered parties to enter into confidentiality agreements specifically to avoid this kind of situation. *See In the Matter of Orion Renewable Res. LLC*, Docket No. SP-13695, 2021 WL 2384363, at \*1 (June 4, 2021) (granting motion to compel, and stating that “the Parties are hereby directed to enter into a comprehensive confidentiality agreement for the totality of this proceeding so that the issue of confidentiality does not further impede progress toward a resolution.”). As one pertinent example, in a rate case proceeding the Commission ordered Duke Energy to provide certain pricing information available to intervening municipalities notwithstanding Duke’s claims that the information in question was “trade secret” information. *See In the Matter of Application of Duke Energy Carolinas, LLC, for Adjustment of Rates & Charges Applicable to Elec. Util. Serv. in N. Carolina*, Docket No. E-7, 2014 WL 2810488, at \*17 (June 18, 2014). In so holding, the Commission agreed with the Public Staff’s position that (1) “municipal parties to a general rate case who sign a confidentiality agreement with DEC are entitled to receive trade secret information” and (2) “making pricing information

available solely to the Public Staff is not a substitute for providing the information to other parties who have a legitimate need for it.” *Id.*

Despite the Commission’s consistent treatment of confidential information, SharpVue nevertheless argues that the Village is not allowed to receive the information at issue. SharpVue defiance is unjustified for at least three reasons: (1) the Village is not SharpVue’s competitor; (2) SharpVue has not provided an evidentiary basis for concluding that the information in question satisfies the “trade secrets” definition; and (3) SharpVue has not shown that it would suffer any prejudice by disclosing the information.

**a. SharpVue and the Village are not competitors.**

SharpVue’s claim that the Village is a “competitor” to it is nonsensical. The Village is a municipal government; it does not engage in private equity activities such as the business of attracting capital and making investments to generate return for its investors. Indeed, to do so would go beyond the Village’s legislatively authorized municipal authority.

Perhaps recognizing this reality, SharpVue attempts to construct a competition argument by contending that the Village is a “competing prospective purchaser” and that disclosing the information being withheld runs the risk that the Village will use the information in question to compete with SharpVue, presumably in the purchase of the assets which SharpVue is seeking to acquire. Resp. at 5.

The Village disagrees that it is a competitor of SharpVue,<sup>2</sup> but even if it were, it would not matter because SharpVue can shield sensitive information from the Village by

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<sup>2</sup> Out of nowhere, and relevant to nothing here, SharpVue repeats the mantra introduced by Limited that the Village “interfered with and ultimately derailed the BHIT Transportation Authority’s . . . attempt to buy the assets.” Resp. at 3. Consider: (1) SharpVue was not involved

disclosing it as “Attorneys Eyes Only.” To the extent that the information is appropriately designated as “Attorneys Eyes Only” the Village itself would not receive the information—only the Village’s attorneys would have access to it. As SharpVue acknowledges, the parties have a confidentiality agreement “to protect information that a party produces or discloses”—the exact situation it faces here. Resp. at 18. The Village’s attorneys, bound by the rules of professional conduct and their legal obligations under the confidentiality agreement, could not disclose the information to their clients. Indeed, “[t]he disclosure of confidential information on an attorneys’ eyes only basis is a routine feature of civil litigation involving trade secrets.” *Addison Whitney, LLC v. Cashion*, No. 17 CVS 1956, 2020 WL 3096793, at \*12 (N.C. Super. June 10, 2020) (quoting *Paycom Payroll, LLC v. Richison*, 758 F.3d 1198, 1202 (10th Cir. 2014)).

Nonetheless, SharpVue frets that even an attorneys-eyes-only designation is insufficient because the Village’s counsel will be unable to “‘forget’ this information when he and his partners are also advising the Village on how to best kill SharpVue’s purchase.” Resp. at 19. Accusing the Village’s counsel of not being able to “forget” the information is a tacit assault on the integrity of the Village’s attorneys—it is accusing the attorneys of being unable to comply with their ethical obligation to maintain the confidentiality of information. Not only is such an accusation as offensive as it is baseless, but it also flies in the face of the legal profession, which is built upon the assumption that an attorney can and

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in negotiations with the Authority or the Local Government Commission so has no direct knowledge of these events; and (2) it was demonstrated in the Sub 21 proceeding that the LGC’s refusal to act on the BHITA’s financing application was due to Limited’s inability to substantiate the purchase price it was demanding. The proceedings before the LGC have nothing to do with the issues presented here.

will retain confidences. *See, e.g.*, N.C. Rule Prof. Conduct, Rule 1.6 (confidentiality of information).

The Village is entitled to exercise its legal rights in this proceeding and otherwise, including by fully participating in this proceeding. And the Village's ability to fully participate in this proceeding requires that it have equal access to all discovery responses.

**b. It is doubtful that the information in question falls within the definition of "trade secret" information—but, regardless, the information must be produced.**

It is not necessary to resolve this motion that the Commission determine whether the information in question falls within the definition of "trade secret."<sup>3</sup> The Village, for purposes of this motion, and with reservation of rights, is willing to accept SharpVue's categorization so long as the information is produced.

However, the law is clear that the party seeking protection bears the burden of showing that its information is a trade secret. *See Krawiec v. Manly*, 370 N.C. 602, 611, 811 S.E.2d 542, 549 (2018); *see also Sheets v. Caliber Home Loans, Inc.*, No. 3:15-CV-72 (GROH), 2015 WL 7756156, at \*5 (N.D.W. Va. Dec. 1, 2015) (interpreting analogous federal rule and explaining "if a party claims that the information at issue qualifies for protection, then that party bears the burden of showing good cause why the protective order should be granted. . . . [the party seeking protection must] present a particular and specific demonstration of fact as to why a protective order should issue. . . . Broad allegations of

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<sup>3</sup> As defined by North Carolina law, a "trade secret" is: "[B]usiness or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that: (a.) Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and (b.) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." N.C. Gen. Stat. § 66-152(3).

harm, unsubstantiated by specific examples or articulated reasoning, do not support a good cause showing.”).

And, here, SharpVue has provided no evidence that would support a finding from an evidentiary perspective that the information satisfies the statutory requirements. For example, SharpVue did not file an affidavit attesting to the ways in which it attempts to maintain the secrecy of these documents, or the commercial value of this information. Instead, SharpVue asks the Commission to accept its pithy, unverified statements by its lawyer as providing an evidentiary basis for factual conclusions.

More generally, the nature of the information in issue is not the sort of business information that “has actual or potential commercial value from not being general known” and is “subject of efforts to maintain secrecy.” SharpVue makes no evidentiary showing, for example, concerning the value of this information to the business, the amount of effort expended in developing this organization and management structure, or its efforts to protect such information from disclosure. To the contrary, the information in issue here is basic corporate information: the identity of SharpVue’s lender, information relating to corporate structure and owners, the identity of investors,<sup>4</sup> and the amount of investments. While such

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<sup>4</sup> Although SharpVue claims it has confidentiality obligations to its investors, it has presented no evidentiary basis for this assertion and, in any event, the Commission has made clear that it is not bound by such commitments. See *In the Matter of Application of Duke Energy Carolinas, LLC, for Adjustment of Rates & Charges Applicable to Elec. Util. Serv. in N. Carolina*, Docket No. E-7, 2014 WL 2810488, at \*17 (June 18, 2014) (“The Commission will not allow DEC to hide behind an agreement with vendors that prevents DEC from fulfilling its obligation to disclose its cost of service and energy consumption data to DEC's ratepayers.”). This position is in accord with North Carolina law: a tribunal is not bound to the parties’ designation of materials as confidential. See *Taylor ex rel. Cempra, Inc. v. Fernandes*, No. 16 CVS 1578, 2018 WL 493002, at \*2 (N.C. Super. Jan. 18, 2018) (“[A party] cannot, by contract, circumvent established public policy—the qualified public right of access to civil court proceedings.”).



information might not be readily available to the public, it is common corporate information that does not warrant the heightened protection of being a “trade secret.”

**c. SharpVue will not suffer prejudice if the information is disclosed.**

In addition to failing to show that any of the categories of documents are trade secrets as defined by law, SharpVue has not articulated any prejudice relating to the disclosure of any purported trade secret. For example, although it claims that its lender has an “expectation of privacy,” it does not explain what, if any, harm SharpVue or its lender would suffer from the disclosure of the lender’s identity. Resp. at 12. SharpVue makes even less effort to show prejudice with regards to its claims about information concerning LLCs; it only expresses indignation that it would “be required to share” such details. *Id.* at 17.

At most, regarding the identity of its investors, SharpVue claims that any investors living or owning property on Bald Head have a “legitimate concern of harassment and retaliation by those opposing approval of the transaction.” Resp. at 16. But parties are frequently called on to produce much more sensitive information in litigation, such as medical records or bank statements, or to reveal unflattering information. A party’s discomfort with disclosing information is not a basis for withholding it. Moreover, given the confidentiality agreement in this case, the investors should not have any concern over their identities being revealed. And, as an added layer of protection, SharpVue can produce the identities as Attorneys’ Eyes Only.

Significantly, SharpVue produced the documents and information to the Public Staff, belying its claim that complete confidentiality is necessary.

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A municipal government is not a competitor to a private equity firm, and SharpVue's argument that the Village should be denied access to these documents is without merit. Further, other than SharpVue's conclusory claim that the information at issue is a trade secret, SharpVue offers nothing for the Commission to evaluate whether that claim is accurate as a matter of law. SharpVue has failed to show that this information and documents are subject to trade secret protection or that it will suffer any harm if the information is disclosed, and its full responses should be compelled for these reasons.

**II. SharpVue Does Not Cite, and the Village Is Not Aware of, any Case in Which a Party Withheld Documents from Some Parties but Not Others.**

SharpVue candidly explains that the information in question is intended "to be used by the Public Staff and/or the Commission to review and determine the pending certificate transfer application." Resp. at 2. The Village is not aware of any case allowing a party to disclose documents to some parties but not others, and SharpVue cites none. SharpVue primarily relies on *Wachovia Capital Partners, LLC v. Frank Harvey Investment Family Limited Partnership*, No. 05 CVS 20568, 2007 WL 2570838 (N.C. Super. Ct. Mar. 5, 2007). But *Wachovia Capital*—a non-binding North Carolina Business Court case—has no relevance here.

*Wachovia Capital* is not a trade secrets case. Rather, the *Wachovia Capital* court analyzed whether the discovery dispute fell under the scope of Rule 26. *Id.* at \*10. The court concluded that the documents sought were not within the scope of Rule 26 because they had only a "tenuous" connection to the claims. *Id.* at \*12. In contrast here, SharpVue has admitted that the documents are directly relevant to this case, and thus within the scope of Rule 26, because it admits that the documents can be used "to review and determine the pending certificate transfer application." Resp. at 2. Second, the *Wachovia Capital*

requests raised significant privilege and work product concerns, which are absent here. *See* 2007 WL 2570838, at \*12. Finally, the *Wachovia Capital* court noted that the parties were actual market competitors, with one competitor having previously attempted to obtain the requested information for competitive gain; therefore, the court recognized a heightened need for caution. *See id.*, at \*11. In contrast here, no member of the Village council, much less the Village itself, competes with SharpVue in the private-equity market, and there is no evidence of the Village having tried to obtain this information for its own gain.

Selectively disclosing the information raises due process and, potentially, *ex parte* concerns given SharpVue's stated intention that the information be used by the "Public Staff and/or Commission." Not only are *ex parte* communications expressly barred by law, *see* N.C. Gen. Stat. § 62-70, but "a fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Matter of Duvall*, 268 N.C. App. 14, 19, 834 S.E.2d 177, 181 (2019) (internal quotation omitted). SharpVue cannot exclude the Village from parts of this transfer proceeding by having *ex parte* communications with the Commission, albeit indirectly through the Public Staff, about SharpVue's investors, structure, and financing.<sup>5</sup> Excluding the Village from such communications thwarts the Village's right to be meaningfully heard on those issues.

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<sup>5</sup> SharpVue also seeks to justify its secrecy by arguing that the Public Staff can "verify the accuracy of SharpVue's statements." Resp. at 16. SharpVue's request puts the Public Staff in the inappropriate position of mediating the other parties' receipt of information and, in essence, advocating on SharpVue's behalf. This is not the function of the Public Staff, and has been rejected by the Commission as a substitute for disclosure. *See In the Matter of Application of Duke Energy Carolinas, LLC, for Adjustment of Rates & Charges Applicable to Elec. Util. Serv. in N. Carolina*, Docket No. E-7, 2014 WL 2810488, at \*17 (June 18, 2014) ("making pricing information available solely to the Public Staff is not a substitute for providing the information to other parties who have a legitimate need for it").

## CONCLUSION

SharpVue claims that it has been “forthcoming” in its discovery responses. The Village respectfully disagrees. SharpVue’s responses to the Village’s data requests have been sparse, curt, and seemingly designed to provide as little information as possible. *See generally* Village’s First Motion to Compel (describing deficiencies with SharpVue’s responses). The information is relevant—and SharpVue does not say otherwise. Moreover, the information sought is necessary to make sense of SharpVue’s otherwise opaque responses. Therefore, the Village requests that the Court grant its Second and Third Motions to Compel, and compel the production of SharpVue’s unredacted documents and any withheld documents.

This 1<sup>st</sup> day of December, 2022.

By: /s/ Marcus Trathen  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing REPLY TO RESPONSE TO SECOND AND THIRD MOTIONS TO COMPEL has been served this day upon all parties of record in this proceeding, or their legal counsel, by electronic mail or by delivery to the United States Post Office, first-class postage pre-paid.

This the 1<sup>st</sup> day of December, 2022.

By: /s/ Marcus Trathen

# EXHIBIT 1

Disputed Issues Matrix -- Second Motion to Compel  
A-41, Sub 22

Item	Request	Issue	VBHI Contention
PS DR 2-1	<p>Please provide a listing by name, address, and ownership interest (%) of the:</p> <ul style="list-style-type: none"> <li>a. Member(s),</li> <li>b. Manager(s),</li> <li>c. (if applicable) Officers, and</li> <li>d. (if applicable) Board Member(s)</li> </ul> <p>for Bald Head Island Ferry Transportation, LLC and any entity or person that will have a direct or indirect ownership interest in Bald Head Island Ferry Transportation, LLC (the entity proposed to hold the common carrier certificate), such as, but not limited to SharpVue Capital, LLC, SVC Pelican Partners, LLC, and Pelican Legacy Holdings, LLC.</p> <p>If the listing is anticipated to change between now and the anticipated transfer of the common carrier certificate to Bald Head Island Ferry Transportation, LLC in this proceeding, please describe the anticipated change, including the impact of any changes.</p>	SV provided document SharpVue 1014 to the Public Staff but refused to provide to VBHI. SV has not provided any description of the information in this document.	Information relating to the ownership and managerial authority of the certificate holder is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.
PS DR 2-3	If SharpVue Capital, LLC does not or will not at the time of anticipated transfer have a direct or indirect ownership interest in Bald Head Island Ferry Transportation, LLC, please provide any amendments to the organizational documents of SVC Pelican Partners, LLC that have been or anticipated to be executed (and provide anticipated date thereof).	SV provided documents SharpVue 1015 to 1052 to the Public Staff but has withheld from VBHI. In its response to DR 2-3, SV describes these documents as "a draft amended and restated operating agreement which has not been executed."	Information relating to the ownership and managerial authority of the certificate holder is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.
PS DR 2-4	For each entity identified in Item 1 above as having a direct or indirect ownership interest in the common carrier certificate to be held by Bald Head Island Ferry Transportation, LLC, please provide planned investment capital and the sources and levels of expected debt and equity capital.	<p>(1) SV provided document SharpVue 1014 to the Public Staff but refused to provide to VBHI. SV has not provided any description of the information in this document.</p> <p>(2) SV has redacted the name of its lender.</p> <p>(3) SV has redacted the identity of an unknown entity or person who "has also offered to provide a \$2.0 million revolving credit facility".</p>	Information relating to the planned investment capital and sources and levels of debt and equity of the certificate holder is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.



PS DR 2-5	<p>Also, if SharpVue Capital, LLC should cease to be a member of SVC Pelican Partners, LLC, please indicate:</p> <p>a. If the response to Item 4 above would change, and</p> <p>b. if the response to Item 6 of Public Staff Data Request No. 3, relating to SharpVue's commitment to ensuring that Bald Head Island Ferry Transportation, LLC has adequate capital resources to fund necessary capital requirements and fund its ongoing day-to-day operational needs, would change.</p>	<p>SV provided documents SharpVue 1015 to 1052 to the Public Staff but has withheld production of these same documents from VBHI. In its response to DR 2-3, SV describes these documents as "a draft amended and restated operating agreement which has not been executed."</p>	<p>Information relating to the ownership structure of the parent entity of the certificate holder (which holds 100% of the ownership interest and exercises managerial authority), including provision for withdrawal of members, is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.</p>
PS DR 2-6	<p>Assuming the transaction proceeds as planned, and if SharpVue Capital, LLC ceases to be a member of SVC Pelican Partners, LLC, please reconfirm that SVC Pelican Partners, LLC will be the ultimate parent company (Parent) of Bald Head Island Ferry Transportation, LLC. This response should include a brief discussion of the Parent's decision-making authority as it relates to the upstream payment of dividends and Bald Head Island Ferry Transportation, LLC's access to future capital.</p>	<p>SV has redacted information from its response. SV has not provided any description of the information its has redacted.</p>	<p>Information relating to the ownership structure of the parent entity of the certificate holder (which holds 100% of the ownership interest and exercises managerial authority), including provision for withdrawal of members, is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.</p>
PS DR 2-7	<p>Please provide a copy of – and a brief description of SharpVue's role under – the investment management agreement with Pelican Legacy Holdings, LLC</p> <p>a. Please describe:</p> <p>i. The rationale for such an agreement,</p> <p>ii. The nature of such management with respect to financial matters that could ultimately impact Bald Head Island Ferry Transportation, LLC, and</p> <p>iii. Benefits and safeguards accruing to ratepayers under such an arrangement.</p> <p>b. Would these services will be impacted if and/or when SharpVue ceases to be a member or manager of any entity with a direct or indirect ownership interest in Bald Head Island Ferry Transportation, LLC? If so, please describe how.</p>	<p>SV has produced documents SharpVue 1053 - 1059 to the Public Staff but has withheld production of these documents from VBHI. In its response to DR 2-7(a)(ii), SV states that these documents relate to "management services provided to Pelican Legacy Holdings, LLC"</p> <p>SV has redacted information from the response provided to the Public Staff. SV has not described the information which has been withheld.</p>	<p>Information relating to the management which could impact the certificate holder, especially as to financial matters, is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.</p> <p>Information relating to the management which could impact the certificate holder, including provision for changes in membership of the parent entity responsible for management, is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.</p>

PS DR 2-9	<p>What entities and individuals will have operational and organizational control over:</p> <p>a. Bald Head Island Ferry Transportation, LLC (the entity proposed to hold the common carrier certificate)?</p> <p>b. The employees performing the work of the ferry and tram services at Bald Head Island pursuant to the common carrier certificate to be held by Bald Head Island Ferry Transportation, LLC?</p>	SV has redacted information from the response provided to the Public Staff. It appears that this information relates to the Board of Managers of Pelican Legacy Holdings, LLC.	Information relating to the operational and organizational control which could impact the certificate holder is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.
VBHI DR 3-8	Provide the Operating Agreement for SVC Pelican Partners, LLC, including all exhibits to the same. Identify the Manager and Members of SVC Pelican Partners, LLC and the identity and respective ownership percentages of all owners of the economic interest of SVC Pelican Partners, LLC.	<p>(1) SV identified documents SharpVue 1015-1052 as responsive to this request but refused to provide the same to VBHI.</p> <p>(2) SV objected to this response as calling for disclosure of "trade secret" information.</p>	<p>(1) Information related to the basic organization document governing the parent entity of the proposed certificate holder, with managerial authority over the certificate holder, and with complete responsibility for securing adequate funding, is directly relevant to core issues in this proceeding. SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.</p> <p>(2) SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.</p>
VBHI DR 3-9	<p>Refer to SharpVue's Response to Public Staff Data Request 3-2:</p> <p>a. Provide the analysis referenced in the third sentence of the response ("Using conservative underwriting assumptions, we project that operating cash flows and the availability of capital debt capital will allow the businesses to fund any needed capital expenditures post-closing.").</p> <p>b. With respect to the last sentence of the response, are post-closing capital calls mandatory or discretionary – i.e., can the investor decline to participate in post-closing capital calls? Provide a copy of the investor agreement specifying the terms and conditions of an investor's participation.</p>	SV objected to this request as calling for disclosure of "trade secret" information.	SV has failed to make an evidentiary showing sufficient to support a finding that the information in question benefits from "trade secret" protection. Moreover, SV should be required the information under the terms of the parties' negotiated Confidentiality Agreement.

Disputed Issues Matrix -- Third Motion to Compel  
A-41, Sub 22

Item	Request	Issue	VBHI Contention
PS DR 4-1	Please provide a personal financial statement (balance sheet) for each of the top five (5) investors (by membership interest) in Bald Head Island Ferry Transportation, LLC.	<p>(1) SV has redacted information from its response asserting that the information is "trade secret". SV has not provided any information on the nature of the information redacted.</p> <p>(2) SV has identified document SharpVue 1014 as relevant to this response but has refused to provide the same to VBHI.</p>	Information relating to the financial capabilities of the proposed buyer is always relevant in an assignment proceeding. If the buyer lacks the financial ability to fund utility operations ratepayers will likely be harmed as they buyer will be forced to borrow money at unattractive rates, impair service quality, or seek to exit the business. These issues are especially acute here given that the buyer is a new entity without any prior business operations, assets or experience that is reliant on a very small group of individual investors to fund operations.
PS DR 4-2	With respect to the leveraging of utility asset, please provide the expected debt financing terms associated with the acquisition, including, without limitation, loan term, interest rate, and other key provisions.	SV has redacted information from its response asserting that the information is "trade secret". SV has not provided any information on the nature of the information redacted but the context of the response suggests that the redacted information relates to the term of proposed debt financing, the interest rate, and other information relating to the terms of the loan.	SV has not presented any legally cognizable basis for refusing to provide the redacted information.