

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**STAFF CONFERENCE AGENDA  
December 6, 2021**

**COMMISSION STAFF**

NO AGENDA ITEMS

**PUBLIC STAFF**

**D. ELECTRIC**

- P1. [APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT SOLAR FACILITIES](#)

**E. WATER**

- P-1. [DOCKET NO. W-1328, SUB 7 – ORDER ACCEPTING AND APPROVING BOND, GRANTING FRANCHISE, APPROVING RATES, AND REQUIRING CUSTOMER NOTICE EXHIBIT NO. P-1](#)

TO: Agenda – Commission Conference – December 6, 2021

FROM: PUBLIC STAFF – North Carolina Utilities Commission

## **D. ELECTRIC**

### **P1. APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT SOLAR FACILITIES**

EXPLANATION: The following applications regard certificates of public convenience and necessity for construction of solar photovoltaic generating facilities, pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-64.

#### Duke Energy Progress, LLC:

- Docket No. SP-4920, Sub 0 – Application of Cedar Grove Solar, LLC, for renewal and amendment of a certificate of public convenience and necessity to construct a 4.998-MW solar PV facility in Robeson County, North Carolina. An amendment is requested to update the facility's E911 address. The applicant informed the Public Staff that construction of the facility is expected to begin in the first or second quarter of 2023 (registration statement accepted previously).
- Docket No. SP-7776, Sub 0 – Application of Country Club Solar, LLC, for renewal of a certificate of public convenience and necessity to construct a 4.999-MW solar PV facility in Duplin County, North Carolina. The applicant indicates that construction of the facility is expected to begin in the fourth quarter of 2022 (registration statement accepted previously).
- Docket No. SP-8116, Sub 0 – Application of Slender Branch Solar, LLC, for renewal of a certificate of public convenience and necessity to construct an 80-MW solar PV facility in Bladen County, North Carolina. The applicant informed the Public Staff that construction of the facility is expected to begin on October 1, 2023 (registration statement accepted previously).

The Public Staff has reviewed the applications and determined that they comply with the requirements of N.C.G.S. § 62-110.1 and Commission Rule R8-64.

RECOMMENDATION: (Saillor) That the Commission issue orders approving the applications and issuing the requested certificates. The Public Staff has provided proposed orders to the Commission Staff.

[Back to Agenda](#)

## **E. WATER**

### **P-1. DOCKET NO. W-1328, SUB 7 – ORDER ACCEPTING AND APPROVING BOND, GRANTING FRANCHISE, APPROVING RATES, AND REQUIRING CUSTOMER NOTICE**

EXPLANATION: On November 5, 2020, Red Bird Utility Operating Company, LLC (Red Bird), filed with the Commission an Application for a Certificate of Public Convenience and Necessity (CPCN) and for Approval of Rates (Application) to provide wastewater utility service to the Ocean Terrace, Pine Knoll Townes I, Pine Knoll Townes II, and Pine Knoll Townes III townhome communities in Carteret County, North Carolina. Each of the four townhome communities has its own wastewater utility system owned by its homeowner's association. Red Bird filed with the Commission supplemental and additional documentation in support of its Application on February 19, February 22, and May 13, 2021.

On July 27, 2021, the Commission issued its Order Requiring Customer Notice, specifying that the matter may be determined without public hearing if no significant protests are received subsequent to customer notice. By its certificate of service dated July 29, 2021, and filed with the Commission on August 2, 2021, Red Bird stated that the Notice to Customers was mailed or hand delivered to the four respective homeowner's associations. As of November 29, 2021, no customer protests had been received by the Public Staff.

Upon acquisition, Red Bird proposes charging monthly flat rates of \$60 per residence, or a total of \$1,920, to the Ocean Terrace homeowner's association, \$40 per residence, or a total of \$1,840, to the Pine Knoll Townes II homeowner's association, and \$20 per residence, or a total of \$920, to each of the Pine Knoll Townes I and III homeowner's associations. The Public Staff believes the proposed rates to be just and reasonable.

The Public Staff recommended that the Commission require posting a \$300,000 bond for the Ocean Terrace and Pine Knoll Townes I, II, and III service areas. Red Bird posted the required bond amount and filed the appropriate bond documents in the above captioned docket on November 19, 2021. All filing requirements for a bond secured by a commercial surety have been met.

Red Bird has filed all exhibits required with the Application.

The Public Staff is of the opinion that Red Bird has the technical, managerial, and financial capacity to provide wastewater utility service in Ocean Terrace and Pine Knoll Townes I, II, and III service areas. The Public Staff recommends that the bond be accepted and approved, the CPCN to provide wastewater utility service be granted to Red Bird effective upon the closing of the sale of the Ocean Terrace and Pine Knoll Townes I, II, and III wastewater utility system assets to Red Bird, and approval of rates. Further, the Public Staff recommends that Red Bird be required to provide notice to customers.

EXHIBIT: A proposed order is attached as [Exhibit No. P-1](#)

RECOMMENDATION: (Franklin/Morgan/Jost) That the Commission issue the proposed order accepting and approving bond, granting franchise, approving rates, and requiring customer notice.

[Back to Agenda](#)

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1328, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Red Bird Utility Operating	)
Company, LLC, 1650 Des Peres Road, Suite	)
303, St. Louis, Missouri 63131, for a Certificate	)
of Public Convenience and Necessity to	)
Provide Wastewater Utility Service in the	)
Ocean Terrace and Pine Knoll Townes I, II, and	)
III Service Areas in Carteret County, North	)
Carolina, and for Approval of Rates	)
	ORDER ACCEPTING AND
	APPROVING BOND,
	GRANTING FRANCHISE,
	APPROVING RATES, AND
	REQUIRING CUSTOMER
	NOTICE

BY THE COMMISSION: On November 5, 2020, Red Bird Utility Operating Company, LLC (Red Bird), filed with the Commission an Application for a Certificate of Public Convenience and Necessity and for Approval of Rates (Application) to provide wastewater utility service to the Ocean Terrace, Pine Knoll Townes I, Pine Knoll Townes II, and Pine Knoll Townes III townhome communities in Carteret County, North Carolina. Each of the four townhome communities has its own wastewater utility system owned by its homeowner's association. Red Bird filed with the Commission supplemental and additional documentation in support of its Application on February 19, February 22, and May 13, 2021.

On July 27, 2021, the Commission issued its Order Requiring Customer Notice, specifying that the matter may be determined without public hearing if no significant protests are received subsequent to customer notice. By its certificate of service dated July 29, 2021, and filed with the Commission on August 2, 2021, Red Bird stated that the Notice to Customers was mailed or hand delivered to the four respective homeowner's associations. As of November 29, 2021, no customer protests had been received by the Public Staff – North Carolina Utilities Commission (Public Staff).

On the basis of the information provided in the application, the recommendations of the Public Staff, and the entire record in this matter, the Commission makes the following:

## FINDINGS OF FACT

1. Red Bird presently does not hold any water or wastewater utility franchises in North Carolina. In documents filed with the Application, Red Bird's parent company, Central States Water Resources, Inc., states it has purchased and currently operates 58 public water and wastewater utility systems in Missouri, Arkansas, Kentucky, and Louisiana providing utility service to approximately 38,365 connections.

2. Each of Ocean Terrace and Pine Knoll Townes I, II, and III has a separate wastewater utility system owned by its homeowner's association. The Ocean Terrace wastewater utility system serves 32 residences and the Pine Knoll Townes I, II, and III wastewater utility systems serve 46 residences each, for a combined total of 170 residences. Presently, these wastewater systems are exempt from Commission regulation.

3. The homeowner's association for each of these properties voted to sell its respective wastewater systems to Red Bird. Red Bird plans to purchase the four wastewater utility systems and to bill the Ocean Terrace and Pine Knoll Townes I, II, and III homeowner's associations for the cost of wastewater utility service.

4. Red Bird entered into an Agreement for Sale of Utility System with Ocean Terrace in July 2020.<sup>1</sup> Central States Water Resources, Inc., entered into a similar Agreement for Sale of Utility System on September 4, 2020, with Pine Knoll Townes I, on September 8, 2020, with Pine Knoll Townes II, and on July 31, 2020, with Pine Knoll Townes III. According to the sale agreements, each homeowner's association's wastewater utility system assets will be purchased for one dollar and the closing of each sale will occur after regulatory approval is obtained.

5. On July 23, 2020, Ocean Terrace entered into an Operations Agreement with Red Bird to install and operate a temporary wastewater treatment plant to replace the Ocean Terrace wastewater treatment plant (WWTP) that was significantly damaged by a fire in 2020. The North Carolina Department of Health and Human Services (NCDHHS) issued a letter on November 19, 2020, approving the plans and specifications for the temporary WWTP.

6. The Ocean Terrace and Pine Knoll Townes I, II, and III wastewater utility systems are regulated and permitted by the Carteret County Health Department. The Wastewater Collection, Treatment and Subsurface Disposal System Operation Permit for the Ocean Terrace temporary WWTP, permit number VI-07-21, was issued on April 15, 2021. The Ocean Terrace wastewater utility system has not been inspected since issuance of the permit for the temporary WWTP.

---

<sup>1</sup> The specific date of the Agreement for Sale of Utility System was not indicated.

7. On January 26, 2021, the Carteret County Environmental Health Division performed inspections of the Pine Knoll Townes I and III septic tanks and drain fields. The inspections concluded the overall condition of the wastewater treatment and disposal systems were good and that there were no signs of failure and no improvements needed.

8. On March 10, 2021, the Carteret County Environmental Health Division performed an inspection of the Pine Knoll Townes II wastewater treatment plant and low pressure drain fields. The inspection concluded that there were no signs of failure of the wastewater treatment plant or the drain fields. However, the inspection identified many areas of the wastewater treatment plant that show signs of corrosion that need to be addressed and requested engineered plans for replacement and/or repair be submitted for review and approval. The major concern being if the corrosion issues are not addressed and corrosion and structural integrity become progressively worse, safety for the wastewater system operator becomes a major concern. Due to these previously identified and unresolved issues, the operation permit for the Pine Knolls Townes II wastewater system expired in September 2018, and the county will not reissue the permit until the corrosion issues are addressed.

9. Upon acquisition, Red Bird proposes charging monthly flat rates of \$60 per residence, or a total of \$1,920, to the Ocean Terrace homeowner's association, \$40 per residence, or a total of \$1,840, to the Pine Knoll Townes II homeowner's association, and \$20 per residence, or a total of \$920, to each of the Pine Knoll Townes I and III homeowner's associations. The Public Staff found the proposed rates to be just and reasonable, generating \$67,200 in annual revenues for wastewater utility service.

10. On July 27, 2021, the Commission issued its Order Requiring Customer Notice, specifying the matter may be determined without public hearing if no significant protests are received subsequent to customer notice. By its certificate of service dated July 29, 2021, and filed with the Commission on August 2, 2021, Red Bird stated that the Notice to Customers was mailed or hand delivered to the four respective homeowner's associations. As of November 29, 2021, no customer protests had been received by the Public Staff.

11. Red Bird has filed all exhibits required with the Application.

12. Red Bird has the technical, managerial, and financial capacity to provide wastewater utility service to the Ocean Terrace and Pine Knoll Townes I, II, and III service areas.

13. The Public Staff recommended that Red Bird be required to post a bond in the total amount of \$300,000 for the Ocean Terrace and Pine Knoll Townes I, II, and III service areas. On November 19, 2021, Red Bird posted the required bond amount and filed the appropriate bond

documents. All filing requirements for a bond secured by a commercial surety have been met.

### **CONCLUSIONS**

Based on the foregoing and the recommendation of the Public Staff, the Commission concludes that the \$300,000 bond posted by Red Bird for the Ocean Terrace and Pine Knoll Townes I, II, and III service areas should be accepted and approved; that the rates proposed by Red Bird should be approved; that Red Bird should provide written notification to the Commission within 30 days from the date of this Order that closing of the sale of the Ocean Terrace and Pine Knoll Townes I, II, and III wastewater utility systems has been completed; that upon receipt of such written notification, Red Bird should be granted a Certificate of Public Convenience and Necessity to provide wastewater utility service to the Ocean Terrace and Pine Knoll Townes I, II, and III service areas; and that Red Bird should provide notice to customers that the franchise has been granted and of the approved rates.

IT IS, THEREFORE, ORDERED as follows:

1. That the \$300,000 bond and commercial surety from RLI Insurance Company is hereby accepted and approved for Red Bird, in compliance with N.C. Gen. Stat. § 62-110.3;
2. That Red Bird is granted a Certificate of Public Convenience and Necessity to provide wastewater utility service to the Ocean Terrace and Pine Knoll Townes I, II, and III service areas located in Carteret County, North Carolina, effective upon the closing of the sale of the Ocean Terrace and Pine Knoll Townes I, II, and III wastewater utility system assets to Red Bird. Appendix A, attached hereto, constitutes the Certificate of Public Convenience and Necessity;
3. That the Schedule of Rates, attached hereto as Appendix B, is hereby approved and deemed filed with the Commission pursuant to N.C.G.S. § 62-138. This Schedule of Rates shall become effective upon the closing of the sale of the Ocean Terrace and Pine Knoll Townes I, II, and III wastewater utility system assets to Red Bird;
4. That Red Bird, shall provide notification to the Commission within 30 days from the date of this Order, that closing of the sale of the wastewater utility systems serving the Ocean Terrace and Pine Knoll Townes I, II and III homeowner's associations has been completed;
5. That within 30 days from the closing of the sale of the Ocean Terrace and Pine Knoll Townes I, II and III wastewater utility systems, Red Bird shall file in this docket



the warranty deeds showing Red Bird's ownership of the required easements and all interests in land it has obtained in connection with the operation and maintenance of the wastewater utility systems; and

6. That a copy of this Order shall be mailed with sufficient postage or hand delivered by Red Bird, to the Ocean Terrace and Pine Knoll Townes I, II, and III homeowner's associations no later than 7 days after the date of this Order, and that Red Bird shall submit to the Commission the attached Certificate of Service properly signed and notarized not later than 30 days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_\_\_ day of December, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1328, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

RED BIRD UTILITY OPERATING COMPANY, LLC

is granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide sewer utility service

to

OCEAN TERRACE HOMEOWNER'S ASSOCIATION  
PINE KNOLL TOWNES I HOMEOWNER'S ASSOCIATION  
PINE KNOLL TOWNES II HOMEOWNER'S ASSOCIATION  
PINE KNOLL TOWNES III HOMEOWNER'S ASSOCIATION

Carteret County, North Carolina

subject to any orders, rules, regulations  
and conditions now or hereafter lawfully made  
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_\_\_ day of December, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

SCHEDULE OF RATES

for

RED BIRD UTILITY OPERATING COMPANY, LLC

for providing sewer utility service

to

OCEAN TERRACE HOMEOWNER'S ASSOCIATION  
PINE KNOLL TOWNES I HOMEOWNER'S ASSOCIATION  
PINE KNOLL TOWNES II HOMEOWNER'S ASSOCIATION  
PINE KNOLL TOWNES III HOMEOWNER'S ASSOCIATION

Carteret County, North Carolina

Monthly Wastewater Flat Rate for Each Homeowner's Association:

Ocean Terrace	\$1,920.00
Pine Knoll Townes I	\$ 920.00
Pine Knoll Townes II	\$1,840.00
Pine Knoll Townes III	\$ 920.00
<u>Reconnection Charge:</u>	\$ 14.99
<u>Bills Due:</u>	On billing date
<u>Bills Past Due:</u>	20 days after billing date
<u>Return Check Fee:</u>	\$ 25.00
<u>Billing Frequency:</u>	Shall be monthly for service in arrears

Charge for Late Payment:

1% per month will be applied to the unpaid balance of all bills still past due 25 days after the billing date.

CERTIFICATE OF SERVICE

I, \_\_\_\_\_, mailed with sufficient postage or hand delivered to all affected customers a copy of the Order Accepting and Approving Bond, Granting Franchise, Approving Rates, and Requiring Customer Notice issued by the North Carolina Utilities Commission in Docket No. W-1328, Sub 7, and such Order was mailed or hand delivered by the date specified in the Order.

This the \_\_\_\_ day of \_\_\_\_\_ 2021.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Utility Company

The above named Applicant, \_\_\_\_\_, personally appeared before me this day and, being first duly sworn, says that the required copy of the Commission Order was mailed or hand delivered to all affected customers, as required by the Commission Order dated \_\_\_\_\_ in Docket No. W-1328, Sub 7.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Address

(SEAL) My Commission Expires:

\_\_\_\_\_  
Date

[Back to Agenda](#)