

**NORTH CAROLINA UTILITIES COMMISSION**  
**MINUTES OF REGULAR COMMISSION STAFF CONFERENCE**

**December 13, 2021**

The Regular Commission Staff Conference of the North Carolina Utilities Commission was held on Monday, December 13, 2021, at 10:00 a.m., with Chair Mitchell presiding.

The following were present:

**COMMISSIONERS**

Commissioner Brown-Bland  
Commissioner Gray  
Commissioner Clodfelter  
Commissioner Duffley  
Commissioner Hughes  
Commissioner McKissick

**COMMISSION STAFF:** Mr. Watson, Ms. Fennell, Ms. Jarvis, Ms. Duffy, Ms. Swenson, Ms. Hilburn, Mr. Hardy, Mr. McCoy

**PUBLIC STAFF:** Mr. Ayers, Ms. Culpepper, Mr. Grantmyre, Ms. Nuhr, Ms. Coxton, Mr. McLawhorn, Mr. Floyd, Mr. Nader, Mr. Pappas, Ms. Casselberry, Ms. Proffitt, Mr. Franklin, Ms. Darden

**ATTORNEY GENERAL:**

**COURT REPORTER:** Ms. Mitchell

**C. COMMUNICATIONS****P1. FILING OF INTERCONNECTION AGREEMENT BY WINDSTREAM AND AMENDMENT BY AT&T**

The following interconnection agreement and amendment were filed for Commission approval on October 1, 2021 and October 12, 2021:

**Windstream North Carolina, LLC, Windstream Concord Telephone, LLC, and Windstream Lexcom Communications, LLC**

Docket Nos. P-118, Sub 209, P-16, Sub 273, P-31, Sub 178 – Agreement with Dish Wireless, LLC, filed on October 1, 2021.

**BellSouth Telecommunications, LLC, d/b/a AT&T North Carolina (AT&T)**

Docket No. P-55, Sub 1826 – Amendment, filed October 12, 2021, to the interconnection agreement with Granite Telecommunications, LLC (Granite), approved on January 25, 2011. The existing agreement replaced the agreement approved by the Commission on September 9, 2005, in Docket No. P-55, Sub 1564. The amendment modifies certain provisions related to Operations Support Systems and/or Data Connection Security Requirements.

These filings were made in compliance with Commission Rule R17-4(d) and Sections 252(e) and 252(i) of the Telecommunications Act of 1996. The Act provides for the filing of such agreements and amendments with the state commission and approval or rejection by the state commission within 90 days after filing. On June 18, 1996, the Commission issued an Order in Docket No. P-100, Sub 133, allowing interim operation under negotiated agreements filed as public records prior to Commission approval of the agreements.

The Public Staff has reviewed the filings and recommends Commission approval.

The Public Staff recommended that orders be issued approving the agreement and amendment effective on the date they were filed. The Public Staff has provided copies of the proposed orders to the Commission's Legal Staff.

It was moved and passed that the Public Staff's recommendation be adopted.

**D. ELECTRIC****P1. DOCKET NO. E-22, SUB 608 – DOMINION ENERGY NORTH CAROLINA – APPLICATION FOR APPROVAL OF RESIDENTIAL INCOME AND AGE QUALIFYING PROGRAM**

On September 30, 2021, Dominion Energy North Carolina (DENC) filed an application seeking approval of the Residential Income and Age Qualifying Program (RIAQ Program) as a new energy efficiency (EE) program under N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-68. The RIAQ Program is intended to replace the Residential Income and Age Qualifying Home Improvement Program (2015 Program) that was originally approved on October 6, 2015, in Docket No. E-22, Sub 523.

On April 13, 2021, the Commission granted a request from DENC to close the 2015 Program. The Company requested closure of the program, which operated on a system basis in both North Carolina and Virginia, following the May 10, 2018 order issued by the Virginia State Corporation Commission (VSCC) closing the 2015 Program effective June 30, 2021.

On November 1, 2021, DENC filed a Corrected Application for the proposed RIAQ Program that corrected the program name, updated certain cost information, and clarified the measures offered through the RIAQ Program.

The RIAQ Program is designed to provide EE measures to residential customers who meet certain income and age qualifications and live in single family and multifamily dwellings. Similar to the 2015 Program, the RIAQ Program will provide for the direct installation of certain measures consisting of: LED bulbs, showerheads, faucet aerators, pipe wrap, and attic insulation. The RIAQ Program will also include new measures consisting of heat pump and air conditioning tune-ups, duct sealing, water heater wraps, refrigerator replacement, and floor insulation. For some dwellings, the RIAQ Program will fund a more comprehensive energy assessment by weatherization assistance providers that may include blower door testing, as well as certain health and safety measures related to the structure. The health and safety measures are intended to repair items that will allow for the installation of certain EE measures that would otherwise not be appropriate to install without the health and safety measures.

The Public Staff has reviewed both the original and corrected applications with respect to: (a) N.C.G.S. § 62-133.9; (b) Commission Rule R8-68; and (c) the currently approved Cost Recovery and Incentive Mechanism for Demand-Side Management and Energy Efficiency Programs (Mechanism), filed in Docket No. E-22, Sub 464, approved on April 22, 2017.

The Public Staff's review involved an assessment of the differences between the 2015 Program and the RIAQ Program. All participants will receive a basic energy assessment to determine the type of basic measures to be installed. However, with the RIAQ Program, some participants would receive additional EE measures like the heat pump tune-ups,

reducing air leakage, and building insulation. Those measures are intended to provide a higher level of efficiency and improve the comfort level for customers.

The Public Staff notes two distinct differences from the 2015 Program. First, more than 60% of the potential savings are expected from non-lighting and non-water measures. Also, DENC will attempt to address structural deficiencies of the dwellings, installing additional insulation where it is found to be inadequate or non-existent, and where a blower door test suggests excessive air leakage.

Information provided by DENC indicates that like the 2015 Program, the RIAQ Program is not cost-effective under the Total Resource Cost test and Utility Cost test (0.03 each) or the Ratepayer Impact Method test (0.02). For purposes of determining cost effectiveness, the Company utilized a winter coincident peak for the modeling of the RIAQ Program. This approach is consistent with the forecast modeling utilized during the recently filed DSM/EE rider proceeding and the Company's 2021 Integrated Resource Plan.

The RIAQ Program is intended to provide EE measures for a sector of customers that would not likely participate in an EE program, particularly one where the more costly measures provide much greater potential for energy savings.

DENC did not include a specific evaluation, measurement, and verification (EM&V) plan for the RIAQ Program. However, DENC plans to use an independent third-party consultant to implement its EM&V plan for the RIAQ Program, and include details of the EM&V plan for the RIAQ Program in its 2022 EM&V annual report.

The Public Staff believes that the application contains the information required by Commission Rule R8-68(c), is consistent with N.C.G.S. § 62-133.9, Commission Rule R8-68(c), and the Mechanism; has the potential to encourage EE; is in the public interest; and should be approved as a "new" EE program pursuant to Commission Rule R8-68. The Public Staff further notes that recovery of program costs and net lost revenues should be allowed pursuant to the Mechanism, as appropriate and as determined in the Company's annual DSM/EE Rider proceedings.

The Public Staff recommended that the Commission issue the proposed order approving DENC's proposed Residential Income and Age Qualifying Program as filed.

It was moved and passed that the Public Staff's recommendation be adopted.

**E. WATER****P1. DOCKET NO. W-1300, SUB 67 – OLD NORTH STATE WATER COMPANY, LLC – NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN CONTIGUOUS SERVICE AREA**

On June 2, 2020, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Bella Terra subdivision in Wake County, North Carolina (Bella Terra). On August 21, 2020, ONSWC filed an amendment to the Notification. Bella Terra is contiguous to ONSWC's Bella Vista service area (Bella Vista). On November 19, 2020, ONSWC filed additional required exhibits. ONSWC proposes to charge the rates currently approved for Bella Vista.

ONSWC presently serves 4 residential water customers in Bella Terra. ONSWC expects to eventually serve 16 and 82 residential water customers in Bella Terra and Bella Vista, respectively. The service area is shown on plans filed with the Notification.

The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued a plan approval letter for Bella Terra, part of Water System No. NC4092128. The plans for Bella Terra are approved under serial number 19-00329, by letter dated June 1, 2019.

ONSWC has entered into an Agreement dated July 31, 2019, with Bella Terra Development, Inc. and Bella Vista Development, LLC (Developers), under which the Developers are installing the water utility system. On June 30, 2021, ONSWC filed an amendment dated June 21, 2021 to the Agreement. ONSWC is requesting a meter installation fee of \$70 and a connection fee of \$500 per single family equivalent unit (SFRE) for water service, to be paid one time by the builder or person first requesting service to a particular lot. ONSWC is purchasing the water system from the Developers for \$1,000 per residential equivalent unit (REU), payable quarterly based upon the number of water service meters installed during the previous quarter.

ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

ONSWC has filed all exhibits required with the Notification.

Based on the foregoing, the Public Staff is of the opinion that ONSWC has the technical, managerial, and financial capacity to provide water utility service in this contiguous area and recommends that the contiguous extension be recognized. The Public Staff further recommends that the Commission require posting of a \$10,000 bond for the contiguous extension of Bella Terra. ONSWC currently has \$750,000 of bonds posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

The Public Staff recommended that the Commission issue the proposed order recognizing the contiguous extension and approving rates.

It was moved and passed that the Public Staff's recommendation be adopted.

**P2. DOCKET NO. W-1300, SUB 73 – OLD NORTH STATE WATER COMPANY, LLC – NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN CONTIGUOUS SERVICE AREA**

On April 1, 2021, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Phases 2A and 2B of Bailey Farms subdivision, in Franklin County, North Carolina. On April 26, 2021, ONSWC filed an additional required exhibit. Phases 2A and 2B of Bailey Farms are contiguous to ONSWC's Bailey Farms Phase 1 service area. ONSWC proposes to charge the rates currently approved for that service area.

ONSWC presently serves 24 and 23 residential customers in Phases 2A and 2B of the Bailey Farms, respectively. Bailey Farms has been approved for 72 connections in total across all three phases. The service area is shown on plans filed with the Notification.

The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued plan approval letters for Phases 2A and 2B of Bailey Farms subdivision, part of Water System No. NC4035019. The plans for Phases 2A and 2B are approved under serial numbers 19-00195, by letter dated April 3, 2019 and 19-00914, by letter dated December 13, 2019, respectively.

ONSWC has entered into an Agreement for the Installation, Conveyance, and Operation of the Bailey Farms Subdivision Water Utility System (Agreement), dated August 20, 2016, with Crosswind Development, Inc. (Developer), under which the Developer is installing the water utility system. On June 30, 2021, ONSWC filed an amendment dated June 16, 2021 to the Agreement. ONSWC is requesting a meter installation fee of \$70. No connection fee is requested. ONSWC is purchasing the water system for \$500 per residential equivalent unit (REU) from the Developer, payable quarterly based upon the number of water service meters installed during the previous quarter.

ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

ONSWC has filed all exhibits required with the Notification.

Based on the foregoing, the Public Staff is of the opinion that ONSWC has the technical, managerial, and financial capacity to provide water utility service in this contiguous area

and recommends that the contiguous extension be recognized. The Public Staff further recommends that the Commission require posting of a \$10,000 bond for the contiguous extension of Phases 2A and 2B of Bailey Farms subdivision. ONSWC currently has \$750,000 of bonds posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

The Public Staff recommended that the Commission issue the proposed order recognizing the contiguous extension and approving rates.

It was moved and passed that the Public Staff's recommendation be adopted.

**P3. DOCKET NO. W-1300, SUB 75 – OLD NORTH STATE WATER COMPANY, LLC – NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN CONTIGUOUS SERVICE AREA**

On April 1, 2021, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Phases 2 and 3 of Leone Landing subdivision, in Wake County, North Carolina. On April 26, 2021, ONSWC filed an additional required exhibit. Phases 2 and 3 of Leone Landing are contiguous to ONSWC's Leone Landing Phase 1 service area. ONSWC proposes to charge the rates currently approved for that service area.

ONSWC presently serves 28 residential water customers throughout the Leone Landing subdivision and expects to eventually serve a total of 37 residential water customers across all three phases. The total number of approved connections for the Leone Landing subdivision is 37 connections. The service area is shown on plans filed with the Notification.

The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued plan approval letters for Phases 2 and 3 of Leone Landing (referred to as Phase 4 on the approval letter), part of Water System No. NC4092127. The plans are approved under serial number 19-00393, dated June 26, 2019.

ONSWC has entered into an Agreement for Water Service dated September 2013, with Neal Morris Rowland (Developer), under which the Developer is installing the water utility system. On June 28, 2021, ONSWC filed an amendment dated June 16, 2021 to the Water Agreement. ONSWC is requesting a meter installation fee of \$70 and a connection fee of \$4,000 per single family equivalent unit (SFRE) for water service, to be paid on time by the builder or person first requesting service to that particular lot. ONSWC is purchasing the water system for \$4,500 per residential equivalent unit (REU) from Developer, payable within 30 days of connection.

ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

ONSWC has filed all exhibits required with the Notification.

Based on the foregoing, the Public Staff is of the opinion that ONSWC has the technical, managerial, and financial capacity to provide water utility service in this contiguous area and recommends that the contiguous extension be recognized. The Public Staff further recommends that the Commission require posting of a \$10,000 bond for the contiguous extension of Phases 2 and 3 of Leone Landing. ONSWC currently has \$750,000 of bonds posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

The Public Staff recommended that the Commission issue the proposed order recognizing the contiguous extension and approving rates.

It was moved and passed that the Public Staff's recommendation be adopted.

**P4. DOCKET NO. W-1338, SUB 0 – SIG MARSHVILLE, LLC – PETITION FOR DECLARATORY RULING**

On November 3, 2021, SIG Marshville, LLC (SIG), filed a petition requesting the Commission to issue a declaratory ruling that, by providing bulk wastewater treatment services to the Town of Marshville (Marshville) in Union County, North Carolina, SIG will not be "operating a public sewerage system for compensation" and should not be deemed a "utility" as defined in N.C. Gen. Stat. § 62-3(23)a.2 and Commission Rule R10-2(a). SIG is a Texas limited liability company authorized to do business in North Carolina with its principal place of business in Dallas, Texas.

According to the petition, Marshville owns, operates, and maintains its wastewater collection system. Wastewater collected by Marshville is currently treated by two different bulk service providers: Union County and Anson County. Marshville transmits up to approximately 300,000 gallons per day (GPD) of its wastewater to Union County for treatment and sends the remainder of its wastewater to Anson County for treatment.

Marshville's current bulk service arrangement with Union County is a product of extended litigation between those parties, and Union County currently provides bulk service to Marshville pursuant to a settlement agreement between them. Union County is either unable or unwilling to provide any additional wastewater treatment capacity to Marshville in the future, and as a result Marshville is unable to provide sewer service as necessary to accommodate future growth.



SIG is willing to provide Marshville with bulk wastewater treatment service and in order to do so it is prepared to build an advanced membrane bioreactor (MBR) wastewater treatment plant initially capable of treating 300,000 GPD of wastewater. The Town and SIG have agreed on the terms of a bulk service agreement under which SIG would provide wholesale bulk wastewater treatment service to Marshville, subject to certain conditions precedent, including SIG securing the ruling from the Commission requested herein. Marshville will continue to own and operate the system for collecting wastewater from Marshville's residents and delivering it to SIG for treatment. An unexecuted version of the parties' bulk service agreement was attached to the petition as Confidential Exhibit A.

On November 15, 2021, SIG filed with the Commission as Confidential Exhibit C, the executed Bulk Municipal Wastewater Treatment Agreement (Agreement), between SIG and Marshville. The Agreement specifies that SIG will construct, operate, and manage a membrane bioreactor wastewater treatment plant and provide bulk wastewater treatment services to only Marshville. SIG will bill Marshville on a monthly basis for bulk wastewater treatment at a negotiated rate pursuant to the Agreement, and Marshville will continue to service its customers in accordance with Marshville's established rules and regulations for the wastewater services provided by Marshville. SIG will treat Marshville's wastewater, initially up to 300,000 GPD, but will provide no direct service to Marshville residents.

Based on the foregoing, the Public Staff is of the opinion that based on the specific regulatory circumstances, SIG should not be considered a public utility.

The Public Staff recommended that the Commission issue the proposed order finding that SIG should not be considered a public utility.

It was moved and passed that the Public Staff's recommendation be adopted.

**P5. DOCKET NO. W-1207, SUB 2 – PFEIFFER UNIVERSITY – APPLICATION FOR TRANSFER OF PUBLIC UTILITY SYSTEM TO OWNER EXEMPT FROM REGULATION**

On October 27, 2021, Pfeiffer University (Pfeiffer), a North Carolina non-profit corporation, filed an application with the Commission seeking authority to transfer its wastewater utility system to Stanly County (County), which is exempt from Commission regulation. Pfeiffer provides wastewater utility service to 27 residential customers.

Pfeiffer's present wastewater utility rates, which were approved by the Commission effective October 5, 2010, in Docket No. W-1207, Sub 1, are as follows:

Monthly Metered Wastewater Utility Service	
Base charge (includes first 2,000 gallons)	\$21.90
Usage charge, per 1,000 gallons (> 2,000 gallons)	\$ 9.00

The County's present wastewater utility rates, effective July 1, 2021, are as follows:

Monthly Metered Wastewater Utility Service	
Minimum charge (includes the first 2,000 gallons)	\$18.25
Usage charge, per 1,000 gallons	\$ 9.13

The monthly wastewater bill would decrease from \$39.90 to \$36.51, based on 4,000 gallons per month.

On September 1, 2017, Pfeiffer entered into an Asset Purchase Agreement with the County. Pfeiffer's wastewater assets were transferred to the County at no cost. The County's connection fees were waived for existing customers. On September 1, 2017, the Assignment of Easements and Rights of Way for Sanitary Sewer Lines and Facilities was recorded with the Register of Deeds in Stanly County. The County has been billing customers since October 2017.

The Public Staff has reviewed the application and is of the opinion that the transfer is in the best interest of the 27 residential customers and recommends that the Commission approve the transfer of the wastewater utility system from Pfeiffer to the County without public hearing. In addition, the Public Staff recommends that the \$10,000 certificate of deposit posted with the Commission be released and the franchise granted to Pfeiffer, in Docket No. W-1207, Sub 0, be canceled.

The Public Staff recommended that the Commission issue the proposed order approving the transfer.

It was moved and passed that the Public Staff's recommendation be adopted.

**P6. DOCKET NOS. W-1040, SUB 10 AND W-1328, SUB 4 – ORDER SCHEDULING HEARING, ESTABLISHING DISCOVERY GUIDELINES, AND REQUIRING CUSTOMER NOTICE**

On December 4, 2020, Red Bird Utility Operating Company, LLC (Red Bird), and Bear Den Acres Development, Inc. (Bear Den), filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the water utility system and public utility franchise serving Bear Den Acres Development in McDowell County, North Carolina, from Bear Den to Red Bird and approval of rates. Red Bird filed with the Commission supplemental and additional materials in support of its Application on March 29, April 19, and April 20, 2021.

Bear Den currently serves 50 residential customers in Bear Den Acres Development. Upon acquisition, Red Bird plans to make capital improvements including replacement of the well pump at Well No. 1, existing piping in the well houses, and the sight gauge on the water tank. Based on Red Bird’s estimated costs for these improvements, due diligence costs, and the purchase price of the water utility system, the approximate annual revenue requirement associated with the capital expenditures is \$19,535 or \$32.56<sup>1</sup> per customer per month for 25 years.

The present rates for Bear Den were approved in Docket Nos. W-1040, Sub 8 and M-100, Sub 138, and have been in effect since December 6, 2016. Upon acquisition of the system, Red Bird proposes to charge the current Commission approved rates for Bear Den. The present and proposed rates are as follows:

<u>Monthly Metered Residential Water Service:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 33.40, minimum	\$ 33.40, minimum
Usage Charge, per 1,000 gallons	\$ 2.78	\$ 2.78

Based on an average usage of approximately 1,500 gallons per month, the monthly water utility bill is \$37.57.

Upon acquisition, Red Bird plans to make capital improvements and implement changes to operations that will increase annual operating costs above current levels. Non-confidential Attachment E.1 to the Application states Red Bird plans to request a rate increase approximately 14 months post-acquisition, subject to Commission approval. As part of that request, Red Bird also intends to seek uniform rates across all its North Carolina systems, including Bear Den. If the full amount of the projected rate increase, including the request for uniform rates, were approved by the Commission in the timeframe proposed by Red Bird, the average monthly bill charged to each customer for water utility service would be as follows:

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<sup>1</sup> The approximate annual revenue requirement is based on a revised estimated capital expenditure Red Bird provided in Confidential Attachment R filed with the Commission on October 6, 2021, which is nearly \$200,000 less than the capital expenditure estimate Red Bird provided in Attachment L.1 filed with the Commission on March 29, 2021.

<u>Timeframe</u>	<u>Monthly Water Utility Bill</u>
Present <sup>1</sup>	\$ 37.57
Year 1	\$ 37.57
Year 2 <sup>2</sup>	\$ 67.46
Years 3 through 5	\$ 73.44

The Public Staff recommends that the matter be decided without a public witness hearing if no significant protests are received subsequent to customer notice. The Public Staff further recommends that the matter be scheduled for an expert witness hearing for the sole purpose of receiving expert testimony from Red Bird, the Public Staff, and other intervenors, if any, and that Red Bird should be required to provide notice to all affected customers of the Application, including the applied for rates and the scheduled hearing.

The Public Staff recommended that the Commission issue the proposed order scheduling the expert witness hearing, establishing discovery guidelines, and requiring customer notice.

It was moved and passed that the Public Staff's recommendation be adopted.

Minutes of the Regular Commission Staff Conference of December 6, 2021, were approved.

Minutes prepared by Portia Barnes.

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<sup>1</sup> The timeframes of present through the first two months of Year 2 assumes an average monthly usage of 1,500 gallons per customer.

<sup>2</sup> Red Bird has indicated it intends to request approval of a rate increase approximately 14 months post-acquisition. Values are based on two months at Year 1 rates and ten months at the higher proposed rate of \$73.44 per customer, which is the projected average monthly bill amount for Red Bird customers statewide. Although Red Bird plans to request both a rate increase and uniform statewide rates, no rate change can be implemented until approved by the Commission.