



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

March 18, 2022

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket Nos. W-1040, Sub 10 and W-1328, Sub 4 – Proposed Transfer of Bear Den Acres Development, Inc., to Red Bird Utility Operating Company, LLC, d/b/a Red Bird Water, and for Approval of Rates

Dear Ms. Dunston:

Attached for filing in the above-referenced docket is the settlement testimony of D. Michael Franklin, Public Utilities Engineer, Water, Sewer, and Telephone Division of the Public Staff.

By copy of this letter, I am forwarding a copy to all parties of record by electronic delivery.

Sincerely,

Electronically submitted
/s/ Megan Jost
Staff Attorney
megan.jost@psncuc.nc.gov

Attachment

Executive Director
(919) 733-2435

Accounting
(919) 733-4279

Consumer Services
(919) 733-9277

Economic Research
(919) 733-2267

Energy
(919) 733-2267

Legal
(919) 733-6110

Transportation
(919) 733-7766

Water/Telephone
(919) 733-5610

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

In the Matter of
Application by Red Bird Utility Operating)
Company, LLC, 1650 Des Peres Road,)
Suite 303, St. Louis, Missouri 63131,)
and Bear Den Acres Development, Inc.,)
600 Bear Den Mountain Road, Spruce)
Pine, North Carolina 28777, for)
Authority to Transfer the Bear Den)
Acres Development Water System and)
Public Utility Franchise in McDowell)
County, North Carolina, and for)
Approval of Rates)

SETTLEMENT
TESTIMONY OF
D. MICHAEL FRANKLIN
PUBLIC STAFF – NORTH
CAROLINA UTILITIES
COMMISSION

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

**SETTLEMENT TESTIMONY OF
D. MICHAEL FRANKLIN**

**ON BEHALF OF THE PUBLIC STAFF -
NORTH CAROLINA UTILITIES COMMISSION**

MARCH 18, 2022

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND**
2 **PRESENT POSITION.**

3 A. My name is D. Michael Franklin. My business address is 430 North
4 Salisbury Street, Dobbs Building, Raleigh, North Carolina. I am a
5 Public Utilities Engineer with the Water, Sewer, and Telephone
6 Division of the Public Staff – North Carolina Utilities Commission
7 (Public Staff).

8 **Q. BRIEFLY STATE YOUR QUALIFICATIONS AND DUTIES.**

9 A. My qualifications and duties are included in Appendix A.

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A. The purpose of my testimony is to provide support for the Settlement
12 Agreement and Stipulation (Stipulation) between the Public Staff and
13 Red Bird Utility Operating Company, LLC (Red Bird) (together, the
14 Stipulating Parties), filed on March 2, 2022, based on the results of

1 my investigation of the application for transfer of public utility
2 franchise and for approval of rates filed on December 4, 2020, by
3 Red Bird Utility Operating Company, LLC (Red Bird) in Docket No.
4 W-1328, Sub 4 and Bear Den Acres Development, Inc. (Bear Den)
5 in Docket No. W-1040, Sub 10 (Joint Application).

6 **Q. PLEASE DESCRIBE THE BEAR DEN ACRES SERVICE AREA**
7 **AND WATER UTILITY SYSTEM.**

8 A. The Bear Den Acres water utility system was installed in the early
9 1990s and serves approximately 50 residential customers in the Bear
10 Den Acres development located approximately seven miles northeast
11 of the Town of Spruce Pine, in McDowell County. The Bear Den Acres
12 water utility system consists of two wells, two well houses, a 17,150-
13 gallon storage tank, chemical addition equipment, water meters, and
14 required mains and service lines. Well #1 and Well #2 share a common
15 header where supply water is chemically treated before entering the
16 distribution system.

17 **Q. HAVE YOU INSPECTED THE BEAR DEN ACRES WATER UTILITY**
18 **SYSTEM AND, IF SO, WHAT WERE YOUR OBSERVATIONS?**

19 A. Yes, I visually inspected the facilities on July 14, 2021, accompanied
20 by Joel Kohn, Environmental Engineer with the North Carolina
21 Department of Environmental Quality – Public Water Supply Section. I

1 found the equipment I inspected to be adequately operated and
2 maintained.

3 **Q. BRIEFLY DESCRIBE THE RESULTS OF YOUR INVESTIGATION**
4 **OF DEQ NOTICES OF VIOLATION AND FINES.**

5 A. The only violation received by Bear Den in the past three years was a
6 reporting violation in October 2021 for failing to file the Consumer
7 Confidence Rule annual report. According to DEQ records, the report
8 has been submitted and the issue resolved.

9 **Q. IS BEAR DEN PROVIDING SAFE AND RELIABLE SERVICE?**

10 A. Yes. Based on my inspection, review of DEQ records, and customer
11 complaint data, Bear Den is providing its customers with acceptable
12 service.

13 I would also note that the Public Staff's Consumer Services Division
14 did not receive any complaints from Bear Den customers between
15 January 1, 2019, and February 3, 2022.

16 **Q. DID RED BIRD PROVIDE THE REQUIRED NOTICE TO**
17 **CUSTOMERS?**

18 A. Yes. On January 5, 2022, the Commission issued the Order
19 Scheduling Hearing, Establishing Discovery Guidelines, and Requiring
20 Customer Notice. Among other things, the Order directed Red Bird to

1 submit a signed and notarized certificate of service not later than 21
2 days after the date of the Order. On January 21, 2022, Red Bird filed
3 a Certificate of Service stating the Notice to Customers was mailed or
4 hand delivered by the date specified in the Order. On February 4, 2022,
5 Red Bird filed a Notice of Supplemental Service of Notice to
6 Customers, stating that the Notice to Customers was originally mailed
7 to the service addresses of Bear Den customers, rather than the billing
8 addresses. In an effort to ensure that all customers received notice,
9 Red Bird mailed the Notice to Customers to the Bear Den customers'
10 billing addresses on January 31, 2022.

11 **Q. HAS THE PUBLIC STAFF RECEIVED ANY CUSTOMER**
12 **STATEMENTS OF POSITION?**

13 A. Yes. On February 27, 2022, the Public Staff received a statement from
14 Lori Jackson via email. In her email, Ms. Jackson expressed concerns
15 over the rate increases planned by Red Bird in the Joint Application
16 and provided in the Notice to Customers. Ms. Jackson also expressed
17 concerns regarding Red Bird's desire to seek a rate increase 14-
18 months after the purchase is completed and Red Bird's ownership by
19 an out-of-state entity.

20 On March 3, 2022, a letter from Shelley Pierce dated February 15,
21 2022, was filed with the Commission. In her letter, Ms. Pierce states
22 her opposition to "the rate increase that would double [her] water bill

1 within 3 years.” Ms. Pierce also requests permission to intervene in
2 these proceedings pursuant to Commission Rules R1-5, R1-7, and R1-
3 19. On March 18, 2022, the Commission issued an order granting Ms.
4 Pierce’s request to intervene.

5 On March 7, 2022, the Public Staff received a joint statement from
6 Tammi Rushing and C J Wright via email. In the email, the customers
7 express concerns regarding the projected rate increases planned by
8 Red Bird in the Joint Application and provided in the Notice to
9 Customers. The customers also express concerns that a public
10 hearing is not scheduled.

11 I have considered the concerns raised in the statements discussed
12 above in formulating my recommendation.

13 **Q. WHAT ARE THE EXISTING AND PROPOSED WATER UTILITY**
14 **SERVICE RATES?**

15 A. Red Bird proposes to charge the current rates and connection charges
16 for Bear Den approved by the Commission in Docket Nos. W-1040,
17 Sub 8 and M-100, Sub 138. The present and Red Bird proposed water
18 utility service rates, which are uncontested by the Stipulating Parties,
19 are as follows:

20

1	<u>Monthly Metered Residential Water Service:</u>		
2		<u>Present</u>	<u>Proposed</u>
3	Base Charge, zero usage	\$ 33.40, minimum	\$ 33.40, minimum
4	Usage Charge,		
5	per 1,000 gallons	\$ 2.78	\$ 2.78
6	Meter Installation Fee:	\$175.00	\$175.00
7	Connection Fee:	\$600.00	\$600.00
8	<u>Reconnection Charges:</u>		
9	If water service cut off by utility		
10	for good cause	\$ 14.32	\$ 14.32
11	If water service discontinued at		
12	customer's request	\$ 14.32	\$ 14.32
13	Returned Check Charge	\$ 9.55	\$ 9.55
14	Finance Charge for		
15	Late Payment	1% per month	1% per month
16		past due	past due

17 **Q. BASED ON YOUR INVESTIGATION, WHAT IS YOUR OPINION**
 18 **OF RED BIRD'S ABILITY TO OWN AND OPERATE THE BEAR**
 19 **DEN ACRES WATER UTILITY SYSTEM?**

20 A. I believe Red Bird, which is a subsidiary of Central States Water
 21 Resources, LLC, has the financial, technical, and managerial ability
 22 to own and operate the Bear Den Acres water utility system. Through
 23 its parent company, Red Bird is adequately capitalized and able to
 24 address repairs or capital improvements that may be required to
 25 ensure continued safe and reliable operation of the aging Bear Den
 26 Acres water utility system. Therefore, I recommend the Commission

1 approve the transfer of the Bear Den Acres water utility system from
2 Bear Den to Red Bird.

3 **Q. BRIEFLY DESCRIBE THE STIPULATION BETWEEN RED BIRD**
4 **AND THE PUBLIC STAFF.**

5 A. The Stipulation provides that rate base for the Bear Den Acres water
6 utility system should be \$3,153, plus up to \$5,000 for closing costs.
7 The actual amount of closing costs will be determined in Red Bird's
8 next general rate case. Closing costs up to \$5,000 are typical of
9 closing costs paid for transfers of public water utility systems in North
10 Carolina and are considered reasonable. The current net asset value
11 is \$3,153 including acquired plant additions and accumulated
12 depreciation through December 31, 2021, since the last rate case as
13 calculated by Public Staff Financial Analyst Lynn Feasel.

14 The Stipulation also provides that Red Bird may request recovery of
15 the remaining costs associated with the transfer of the Bear Den
16 Acres water utility system to Red Bird up to \$25,496 for engineering
17 due diligence work in its next general rate case, provided the
18 resulting work results in reasonable and prudent capital investments.
19 The \$25,496 figure was determined based on the Red Bird
20 Engineering ledger amounts provided in response to Public Staff
21 Data Request 12, and includes all charges from 21 Design Group
22 Inc. and McGill Associates, P.A. with the exception of a McGill

1 Associates, P.A. "Additional Services" fee of \$13,500. If the
2 maximum closing costs and due diligence costs, in addition to the
3 capital expenditure estimate of \$15,500 are added to rate base and
4 included in rates, the average monthly rate increase will be
5 approximately \$9.90.

6 Finally, pursuant to the Stipulation, Red Bird agrees to post a
7 \$75,000 bond for the Bear Den Acres service area and not to pursue
8 an acquisition adjustment related to the Bear Den Acres system in
9 the present proceeding or a future proceeding, and the parties agree
10 that the transfer of the Bear Den Acres system to Red Bird should be
11 approved.

12 **Q. DO YOU AGREE WITH THE AMOUNT OF THE BOND AGREED**
13 **TO BY THE STIPULATING PARTIES?**

14 A. Yes. If the Commission approves the transfer, it will be the first
15 certificate of public convenience and necessity to provide water utility
16 service granted to Red Bird by the Commission. In light of this, and the
17 anticipated capital expenses required for the Bear Den Acres water
18 utility system and Red Bird's limited operating experience in North
19 Carolina, I believe \$75,000 is an appropriate bond amount.

20 **Q. WHAT BENEFITS DOES THE STIPULATION PROVIDE FOR**
21 **RATEPAYERS?**

1 A. Red Bird's agreement pursuant to the Stipulation not to seek an
2 acquisition adjustment and the limitations on the amount of closing
3 and due diligence costs Red Bird can recover will minimize the
4 magnitude of future rate increases. In addition, the limitations on the
5 engineering due diligence costs Red Bird can recover will help
6 ensure that those costs are related to system improvements that help
7 to maintain or improve service quality and reliability.

8 Based on the foregoing, I recommend that the Commission approve
9 the Stipulation.

10 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

11 A. Yes, it does.

QUALIFICATIONS AND EXPERIENCE

D. MICHAEL FRANKLIN

I graduated from the University of South Carolina, earning a Bachelor of Science Degree in Engineering. I worked in the electric utility industry for 33 years prior to joining the Public Staff in June 2019. While employed by the Public Staff I have worked on utility rate case proceedings, new franchise and transfer applications, customer complaints, and other aspects of utility regulation.