

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1049, SUB 25
DOCKET NO. W-1328, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of A&D Water Services, Inc. and) ORDER SCHEDULING HEARINGS,
Red Bird Utility Operating Company, LLC,) ESTABLISHING DISCOVERY
d/b/a Red Bird Water for Transfer of Public) GUIDELINES, AND REQUIRING
Utility Franchise and for Approval of Rates) CUSTOMER NOTICE

BY THE COMMISSION: On October 9, 2020, A&D Water Services, Inc. (A&D), and Red Bird Utility Operating Company, LLC d/b/a Red Bird Water (Red Bird) filed a joint application for approval of transfer of the assets of the water and/or wastewater utility systems serving the Buffalo Meadows, Camelot, Cinnamon Woods, High Vista, Hunters Glen, Kirk Glen, Mountain Valley, Rolling Oaks Estates, Sherwood Forest, Skyview Park, and White Oak Village subdivisions, in Ashe, Henderson, Buncombe, Transylvania and Gaston Counties, North Carolina from A&D to Red Bird and approval of rates (Application). A&D currently serves a total of 894 residential and commercial water and sewer customers. Following is a listing of the number and type of customers currently served by A&D, listed by subdivision:

Subdivision System	Total Customers	Customer Type
Buffalo Meadows WW	44	Residential
Buffalo Meadows W	42	Residential
Camelot	29	Residential
Cinnamon Woods	124	Residential
High Vista	170	Residential & Commercial
Hunters Glen	68	Residential & Commercial
Kirk Glen	34	Residential
Mountain Valley	65	Residential
Rolling Oaks	43	Residential & Commercial
Sherwood Forest	22	Residential & Commercial
Skyview	73	Residential
White Oak WW	90	Residential
White Oak W	90	Residential

Based on its July 2, 2021, filing made with the Commission and referenced as Attachments L.1 through L.13 to the Application, Red Bird indicates that, upon acquisition, it intends to make approximately \$1,235,000 in capital improvements to the water and wastewater systems across the A&D service area. The planned improvements and associated costs are listed by subdivision system in the attachments.

On October 8, and October 11, 2021, Red Bird filed with the Commission confidential, updated plans for capital improvements to be made upon acquisition of the water and wastewater systems. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the A&D water and wastewater systems, the approximate annual revenue requirement associated with each subdivision system's capital expenditures is listed below:

Subdivision System	Annual Revenue Requirement	Monthly Rate Impact
Buffalo Meadows (WW)	\$ 25,545.00	\$ 48.38
Buffalo Meadows (W)	\$ 12,918.00	\$ 25.63
Camelot (W)	\$ 73.00	\$ 0.21
Cinnamon Woods (WW)	\$ 3,035.00	\$ 2.04
High Vista (WW)	\$ 125,568.00	\$ 61.55
Hunters Glen (WW)	\$ 14,873.00	\$ 18.23
Kirk Glen (W)	\$ 0.00	\$ 0.00
Mountain Valley (WW)	\$ 12,141.00	\$ 15.57
Rolling Oaks (W)	\$ 1,214.00	\$ 2.35
Sherwood Forest (WW)	\$ 15,359.00	\$ 58.18
Skyview (W)	\$ 0.00	\$ 0.00
White Oak (WW)	\$ 3,157.00	\$ 2.92
White Oak (W)	\$ 0.00	\$ 0.00

The present rates for A&D were approved in Docket Nos. W-1049, Sub 19 and M-100, Sub 138 and have been in effect since January 1, 2017. Upon acquisition of the systems, Red Bird proposes to charge the current Commission-approved rates for each of the A&D water and wastewater systems. The present and proposed rates are as follows:

Buffalo Meadows:

<u>Monthly Metered Water Service Rates:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 15.31	\$ 15.31
Usage Charge, per 1,000 gallons	\$ 4.46	\$ 4.46

Monthly Metered Wastewater Rates:

Base Charge, zero usage	\$ 28.61	\$ 28.61
Usage Charge, per 1,000 gallons	\$ 8.24	\$ 8.24

Camelot:

<u>Monthly Metered Water Service Rates:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 38.04	\$ 38.04
Usage Charge, per 1,000 gallons	\$ 3.58	\$ 3.58

Cinnamon Woods:

<u>Monthly Metered Water Service Rates:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 16.51	\$ 16.51
Usage Charge, per 1,000 gallons	\$ 4.15	\$ 4.15

High Vista:

<u>Monthly Flat-Rate Wastewater Service:</u>	<u>Present</u>	<u>Proposed</u>
Residential Flat Rates:		
High Vista Falls	\$ 35.33	\$ 35.33
LaVista Village Condos	\$ 23.00	\$ 23.00
Commercial Flat Rates:		
High Vista Country Club	\$212.00	\$ 212.00
Real Estate Sales Office	\$ 8.05	\$ 8.05
Guardhouse/Security Entrance	\$ 4.03	\$ 4.03
Commercial Rates (Future Development)/REU:	\$ 35.33	\$ 35.33

Hunters Glen:

<u>Monthly Residential Flat-Rate Wastewater Service:</u>	<u>Present</u>	<u>Proposed</u>
	\$ 48.96	\$ 48.96

Monthly Commercial Metered Wastewater Rates:

Commercial Base Charge, zero usage	\$ 42.14	\$ 42.14
Usage Charge, per 1,000 gallons	\$ 7.02	\$ 7.02

Kirk Glen:

<u>Monthly Metered Water Service Rates:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 36.46	\$ 36.46
Usage Charge, per 1,000 gallons	\$ 15.25	\$ 15.25

Mountain Valley:

<u>Monthly Residential Flat-Rate Wastewater Service:</u>	<u>Present</u>	<u>Proposed</u>
	\$ 41.45	\$ 41.45

Rolling Oaks:

<u>Monthly Metered Water Service Rates:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage:		
Residential, standard meter	\$ 28.49	\$ 28.49
Commercial user, 1.0" meter	\$ 71.22	\$ 71.22
Usage Charge, per 1,000 gallons	\$ 4.79	\$ 4.79

Sherwood Forest:

<u>Monthly Flat-Rate Wastewater Service:</u>	<u>Present</u>	<u>Proposed</u>
Residential (Single Family Dwellings, REUs)	\$ 35.02	\$ 35.02
Commercial Rates (Per REU)	\$ 35.02	\$ 35.02
Duplex Housing (2 units)	\$ 70.06	\$ 70.06
Condominiums (22 condos)	\$770.60	\$770.60
Restaurant (3.5 REUs)	\$122.60	\$122.60
Assisted living facility (9.6 REUs)	\$336.27	\$336.27

Skyview:

<u>Monthly Metered Water Service Rates:</u>	<u>Present</u>	<u>Proposed</u>
Residential Base Charge, zero usage	\$ 21.62	\$ 21.62
Usage Charge, per 1,000 gallons	\$ 5.54	\$ 5.54

White Oak:

<u>Monthly Metered Water Service Rates:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 10.00	\$ 10.00
Usage Charge, per 1,000 gallons	\$ 3.48	\$ 3.48

Monthly Metered Wastewater Rates:

Base Charge, zero usage	\$ 26.33	\$ 26.33
Usage Charge, per 1,000 gallons	\$ 2.21	\$ 2.21

On December 22, 2020, the Public Staff filed a deficiency letter outlining information that was needed to complete the Application.

On April 13, 2021, the Public Staff mailed a letter to A&D notifying it that its 2017 through 2020 Annual Reports had not been filed with the Commission. The letter informed A&D that the Annual Reports must be filed by July 31, 2021, to avoid the Public Staff seeking further action against the company, which may include monetary penalties.

On July 2, 2021, Red Bird filed additional and supplemental information to address the issues identified in the Public Staff's December 22, 2020, and April 13, 2021, letters.

On July 23, 2021, the Public Staff filed a second deficiency letter referencing the April 13, 2021, letter; notifying A&D that its 2017 through 2020 Annual Reports had not been filed; and advising A&D that the Application will not proceed until the referenced Annual Reports were filed.

On October 8, and 11, 2021; and December 15, 2022, Red Bird filed additional information to address the issues identified in the Public Staff's July 23, 2021, letter.

On June 14, 2023, Red Bird filed a letter stating that it considers the Application to be complete.

On July 25, 2023, the Public Staff filed a third deficiency letter outlining remaining information still needed to complete the Application and recommending that the Commission determine that the Application is incomplete. On July 28, 2023, the Commission issued an Order Determining Application Incomplete.

Pursuant to the Commission's order, on December 12, 2023, Red Bird filed additional information to address the issues identified in the Public Staff's July 25, 2023, deficiency letter.

On December 19, 2023, the Public Staff filed a letter with the Commission indicating that this docket now includes all the information required for a complete Application.

On January 2, 2024, the Commission issued an Order Finding Application Complete and Requiring the Public Staff to Provide Specific Application Data. On January 9, 2024, as amended January 12, 2024, the Public Staff provided the information requested in the Commission's January 2, 2024 Order.

On January 17, 2024, Red Bird filed a corrected page 1 and a corrected Attachment A to the Application.

Based upon the foregoing, and the recommendation of the Public Staff, the Commission hereby establishes the procedural schedule, including filing requirements of A&D, Red Bird, the Public Staff, and other parties, and requires that Red Bird provide public notice to all affected customers of the Application, including the applied for rates and the scheduled hearings.

The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition which a party desires to take shall be taken before the deadline for filing of the Public Staff and intervenor testimony. Notice of deposition shall be served on all parties at least 7 days prior to the taking of the deposition. Notice of deposition and all other discovery notices, requests and motions shall be served on the

appropriate parties by hand delivery or facsimile, or by electronic delivery if the receiving party has agreed to receipt by electronic delivery.

2. Any motion for subpoena of a witness to appear at the expert witness hearing shall be filed with the Commission before the deadline for the filing of the Public Staff and intervenor testimony, shall be served by hand delivery or facsimile to the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. See N.C. Gen. Stat. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena 24 hours after such motion is filed.

3. Formal discovery requests related to the Application and A&D and Red Bird's prefiled direct testimony shall be served on A&D or Red Bird, or both, not later than 5 calendar days prior to the deadline for filing of the Public Staff and intervenor testimony. The party served shall have up to 3 business day days to file with the Commission objections to discovery requests on an item-by-item basis.

4. Formal discovery requests of the Public Staff or intervenors shall be served not later than 5 calendar days after such testimony is filed. The party served shall have up to 3 business days to file with the Commission objections to the discovery requests on an item-by-item basis.

5. Formal discovery requests related to prefiled rebuttal testimony shall be served on A&D or Red Bird, or both, not later than 3 business days after such testimony is filed. The party served shall have up to 2 calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than 5 business days after rebuttal testimony was filed. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery.

6. Discovery requests need not be filed with the Commission when served; however, any party filing objections shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have 2 calendar days to file a motion to compel with the Commission, and the party objecting to discovery shall have 1 calendar day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery because of that party's late intervention or other delay in initiating discovery.

The Commission recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That a hearing for the purpose of receiving public witness testimony on the Application shall be, and is hereby, scheduled to begin at 7:00 p.m. on Thursday, February 29, 2024 in the Henderson County Courthouse, 200 North Grove Street, Suite 163, Hendersonville, North Carolina 28792. *That the Commission may cancel the public witness hearing if no significant protests are received on or before Monday, February 19, 2024;*

2. That the public witness hearing will be conducted solely for the purpose of receiving the testimony of customers in accordance with Commission Rule R1-21(g). The Commission reserves the right to limit testimony at the public witness hearing pursuant to Commission Rule R1-21(g)(5);

3. That A&D and Red Bird are required to file separate, verified reports addressing all customer service and service quality complaints expressed during the customer hearing held on Thursday, February 29, 2024, within 15 days of the conclusion of the customer hearing. The Public Staff shall, and other intervenors may file a verified response and any comments to A&D's and Red Bird's reports on or before Friday, March 29, 2024;

4. That a hearing for the purpose of receiving expert witness testimony on the Application is scheduled to begin at 2:00 p.m., on Monday, April 1, 2024, and continuing as necessary until conclusion. The hearing will be held in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27603;

5. That the parties shall comply with the discovery guidelines established herein and shall work in a cooperative manner as to discovery;

6. That petitions to intervene in this proceeding shall be filed pursuant to Commission Rules R1-5 and R1-19 not later than Thursday, February 15, 2024;

7. That A&D and Red Bird's prefiled direct testimony and exhibits shall be filed on or before Wednesday, February 7, 2024;

8. That the Public Staff and other intervenors prefiled direct testimony and exhibits shall be filed on or before Wednesday, March 6, 2024;

9. That A&D and Red Bird's prefiled rebuttal testimony and exhibits, if any, shall be filed on or before Friday, March 15, 2024;

10. That an officer or representative from both A&D and Red Bird are required to appear before the Commission at the time and place of the expert witness hearings to testify concerning any of the information contained in the Application;

11. That any parties filing supporting exhibits in PDF format shall provide the Commission Staff electronic versions of the exhibits filed in native Excel format via email at NCUCexhibits@ncuc.net, including all of the supporting tabs and formulas, within three days of the filing of such exhibits (or within three days of the issuance of this order if already filed with the Commission); and that any parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party, upon request, an electronic version of all such exhibits and workpapers, with formulas intact;

12. That A&D and Red Bird shall consult with all other parties and file, no later than Wednesday, March 27, 2024, a list of witnesses to be called at the expert witness hearing, the order of witnesses, and each party's estimated time for cross-examination. If the parties cannot agree, the remaining parties shall, no later than noon on Friday, March 29, 2024, make a filing indicating their points of disagreement with A&D and Red Bird's filing; and

13. That A&D and Red Bird shall consult with the Public Staff to develop a Notice to Customers to be delivered to all affected customers and shall file the proposed Notice to Customers for approval by the Commission no later than 6 business days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of January, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Tamika D. Conyers".

Tamika D. Conyers, Deputy Clerk