



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

March 6, 2024

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

Re: Docket Nos. W-1049, Sub 25 and W-1328, Sub 2 – Application by A&D Water Services, Inc., and Red Bird Utility Operating Company, LLC, d/b/a Red Bird Water for Transfer of Public Utility Franchise and for Approval of Rates

Dear Ms. Dunston,

Attached for filing on behalf of the Public Staff in the above-referenced dockets is the public version of the testimony and exhibits of D. Michael Franklin. Confidential information is located on pages 7-8, 13-15, 20-21, 24, 27, 31-32, 34, 37-39, 42-43, 47, 51, 53, 56, 60, 62, 67-68, 72-73, 75-77, 80, and 89. Franklin Exhibit 2 is confidential in its entirety.

By copy of this letter, we are forwarding a copy of the public version to all parties of record by electronic delivery. The confidential version will be sent to Red Bird Utility Operating Company, LLC.

Sincerely,

Electronically submitted
/s/ Davia A. Newell
Staff Attorney
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/s/ James Bernier, Jr.
Staff Attorney
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cc: Parties of Record

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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1049, SUB 25

DOCKET NO. W-1328, SUB 2

In the Matter of)	
Application by A&D Water Services, Inc., and)	TESTIMONY OF
Red Bird Utility Operating Company, LLC, d/b/a)	D. MICHAEL FRANKLIN
Red Bird Water for Transfer of Public Utility)	PUBLIC STAFF –
Franchise and for Approval of Rates)	NORTH CAROLINA
)	UTILITIES COMMISSION

March 6, 2024

1 **Q. Please state your name, business address, and present**
2 **position.**

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

7 **Q. Please state your qualifications and duties.**

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

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of my testimony is to provide the North Carolina Utilities
11 Commission (Commission) with the results of my investigation of
12 specific areas of the application filed on October 9, 2020, by Red Bird
13 Utility Operating Company, LLC (Red Bird), in Docket No. W-1328,
14 Sub 2, and A&D Water Services, Inc. (A&D), in Docket No. W-1049,
15 Sub 25, for transfer of public utility franchises and for approval of
16 rates (Joint Application).¹ I also discuss whether the transfer is in the
17 best interest of the using and consuming public.

18 The specific areas of my investigation include customer complaints,
19 along with Notices of Violation (NOVs) and Notices of Deficiency

¹ Red Bird supplemented the Joint Application through filings made on October 20, 2020; July 2, October 8 and October 11, 2021; December 15, 2022; September 21 and December 12, 2023; and January 17, 2024.

1 (NODs) issued by the North Carolina Department of Environmental
2 Quality (DEQ). I also assisted the Public Staff's Accounting Division
3 with reviewing expenses and plant in service.

4 **Q. Did Red Bird provide notice to Customers of the Application?**

5 A. Yes. On February 5, 2024, the Commission issued an Order
6 Approving Notice to Customers. On February 28, 2024, Red Bird
7 filed a Certificate of Service stating that the Notice to Customers was
8 mailed or hand delivered by the date specified in the Order Approving
9 Notice to Customers.

10 **Q. Please briefly describe the A&D water and wastewater systems.**

11 A. A&D owns and has Certificates of Public Convenience and Necessity
12 (CPCNs) for 13 utility systems providing water and/or wastewater
13 service to 11 service areas. Five water systems are purchased
14 water-only systems. These are Camelot and Cinnamon Woods
15 located in Henderson County; Kirk Glen and Rolling Oaks located in
16 Buncombe County; and Skyview Park located in Gaston County. The
17 White Oak Village service area located in Henderson County has a
18 purchased water and purchased wastewater system. There are four
19 wastewater-only systems including High Vista, Hunter's Glen, and
20 Mountain Valley located in Henderson County; and Sherwood Forest
21 located in Transylvania County. The Buffalo Meadows service area
22 located in Ashe County has both a water and a wastewater system.

- 1 **Q. Please describe how your testimony is organized.**
- 2 A. My testimony is organized to initially provide, in alphabetical order by
- 3 service area, system specific information such as a description of the
- 4 service area and utility system, the results of the site visit,
- 5 investigation results regarding DEQ's NOV's issued on the system,
- 6 customer complaints and consumer statements of position, current
- 7 and proposed rates, adjustments to plant additions, and planned
- 8 capital improvements. This is followed by general information and
- 9 discussion applicable to all of A&D's water and wastewater systems.
- 10 The following table of contents is provided as a reference to the
- 11 areas of my investigation, presented in detail, with my findings and
- 12 accompanying recommendations:

1

Table 1

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1 **BUFFALO MEADOWS WATER AND WASTEWATER SYSTEMS**

2 **Q. Please describe the Buffalo Meadows service area and the water**
3 **and wastewater utility systems.**

4 A. The Buffalo Meadows water and wastewater systems serve the
5 Buffalo Meadows Subdivision, a residential community located in
6 Ashe County, west of the Town of West Jefferson. The amended
7 application filed with the Commission on July 2, 2021, states on page
8 four that for the 12 months ended on December 31, 2020, the
9 number of metered water and wastewater customers served was 42
10 and the number of flat rate wastewater customers was 2. A&D's
11 schedule of rates for Buffalo Meadows does not have a Commission-
12 approved flat rate.

13 The water system consists of one enclosed well and chemical feed
14 system and an above ground storage tank with an approximate
15 capacity of 10,000 gallons.

16 The wastewater system is comprised of a 10,000-gallon-per-day
17 extended aeration wastewater treatment plant (WWTP) with a grit
18 chamber, aeration basin, clarifier, sludge holding basin, and tablet
19 fed chlorinator and de-chlorinator. The wastewater system
20 discharges to Buffalo Creek.

1 **Q. Have you conducted a site visit of the Buffalo Meadows water**
2 **and wastewater systems and, if so, what were your**
3 **observations?**

4 A. Yes. On March 1, 2024, I conducted a site visit of the Buffalo
5 Meadows water and wastewater systems with the Operators in
6 Responsible Charge (ORC) Nick Walters and Brandon Patrick. Both
7 ORCs have been operating the water and wastewater systems for
8 approximately one year, and as a result were not present during
9 Kimley Horn's inspection in 2021.

10 **Buffalo Meadows Water System**

11 The Buffalo Meadows water system consists of one well and one
12 ground storage tank. A single well pump is used to fill the ground
13 storage tank; no booster pump is required. Water is treated with soda
14 ash, phosphate, and chlorine, and during the site visit all chemical
15 feed equipment was operational. A timer is used to operate the well
16 pump and fill the ground storage tank versus a tank level or pressure
17 sensor. As a result, water often overflows and collects at the base of
18 the water tank. The well house has indication of wood rotting along
19 the foundation on one side of the building and the roof has a
20 temporary patch along the center ridge line. The system condition is
21 consistent with the Kimley Horn report dated April 2021 and provided
22 as Joint Application Confidential Attachment L.15 where the system
23 was described as being in **[BEGIN CONFIDENTIAL]** [REDACTED]

1 [REDACTED] [END

2 **CONFIDENTIAL]**

3 **Buffalo Meadows Wastewater System**

4 The Buffalo Meadows WWTP is comprised of an influent tank where
5 solids are allowed to settle while wastewater flows to two aeration
6 basins. Sludge from the influent tank is pumped approximately twice
7 per year. Only one blower is operational with the second blower out
8 of service due to electric panel issues which have been ongoing
9 since the current ORCs began operating the WWTP. Inspection of
10 the electrical panel indicated the need for refurbishment and rewiring
11 of connections. From the aeration basins, wastewater flows to the
12 clarifier, secondary aeration tank, chlorine feed chamber, chlorine
13 contact chamber, de-chlorinator, and then discharges to Buffalo
14 Creek, which is adjacent to the site. Where grating was present it
15 appeared to be in adequate condition with some surface corrosion.
16 However, the chlorine feed chamber cover was a piece of sheet
17 metal. The system condition is consistent with the Kimley Horn report
18 dated April 2021 and provided as Joint Application Confidential
19 Attachment L.14 where the system was described as being in

20 **[BEGIN CONFIDENTIAL]** [REDACTED]

21 [REDACTED] **[END CONFIDENTIAL]**

1 **Q. Briefly describe the results of your investigation of Buffalo**
2 **Meadows' DEQ NOVs and Civil Penalties.**

3 A. The Buffalo Meadows water system is assigned DEQ system
4 identification number NC0105102, and the wastewater system
5 operates under DEQ National Pollutant Discharge Elimination
6 System (NPDES) permit number NC0030325. I investigated DEQ
7 NOVs and Civil Penalties for the Buffalo Meadows water and
8 wastewater systems for the time period January 1, 2021, through
9 January 31, 2024.

10 **Buffalo Meadows Water System**

11 From January 1, 2021, through January 31, 2024, the Buffalo
12 Meadows water system was issued three NOVs. Two were reporting
13 issues. One, in 2021, was for not submitting the Consumer
14 Confidence Report by the required deadline. The second, in 2024,
15 was related to the Lead Consumer Notice required to notify
16 customers of lead sampling results, which was not provided to
17 customers or timely filed. The third NOV occurred in 2021 and was a
18 Public Notice Rule violation due to A&D not notifying customers of a
19 cited violation on the Buffalo Meadows water system. Of these three
20 NOVs, the Lead Consumer Notice violation, which was issued on
21 January 31, 2024, is the only violation that has not been returned to
22 compliance.

1 **Buffalo Meadows Wastewater System**

2 From January 1, 2021, through January 31, 2024, the Buffalo
3 Meadows wastewater system has received nine NOVs, eight of
4 which were for failing to timely file the Monthly Discharge Monitoring
5 Report. One NOV was due to a Discharge Monitoring Report
6 monitoring frequency violation where the monitoring parameters of
7 Oxygen, Dissolved Oxygen, and Turbidity were not monitored at the
8 weekly monitoring frequency on four separate occasions in January
9 2023.

10 From January 1, 2021, through January 31, 2024, A&D was
11 assessed \$3,060.21 in penalties due to the violations. Of that
12 amount, \$2,807.19 remains unpaid.

13 Furthermore, on March 9, 2022, A&D entered into an Administrative
14 Order on Consent (Administrative Order), Docket No. CWS-04-2021-
15 0320, with the United States Environmental Protection Agency
16 (EPA). The Administrative Order stated Buffalo Meadows WWTP
17 failed to submit any discharge monitoring reports (DMR) since
18 August 2019 and that all five of A&D's WWTPs failed to electronically
19 submit their monthly DMRs as required by its NPDES permits.

1 **Q. Has the Public Staff received any customer complaints from**
2 **Buffalo Meadows customers?**

3 A. From January 1, 2021, through January 31, 2024, no customer
4 complaints had been received by the Public Staff Consumer
5 Services Division.

6 **Q. Has the Public Staff received any consumer statements of**
7 **position from Buffalo Meadows customers?**

8 A. No consumer statements of position have been received by the
9 Public Staff from Buffalo Meadows customers.

10 **Q. Is A&D providing safe and reliable service in Buffalo Meadows?**

11 A. Yes. Based on the limited violations from DEQ and the EPA
12 Administrative Order described above, the observations from my site
13 visit, and the lack of customer complaints and consumer statements
14 of position regarding service, A&D is providing adequate service to
15 its water and wastewater customers in Buffalo Meadows. The
16 Administrative Order by the EPA concerns the ongoing failure of A&D
17 to file required reports but does not indicate a failure to provide safe
18 and reliable service. It is my understanding that A&D submits paper
19 Discharge Monitoring Reports (DMRs) and not Electronic Discharge
20 Monitoring Reports (eDMRs) as required by the permit.

1 **Q. What are the present and proposed Buffalo Meadows water and**
2 **wastewater utility service rates?**

3 A. Buffalo Meadows' present rates, fees, and additional charges were
4 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
5 have been in effect since January 1, 2017. Upon acquisition of these
6 systems, Red Bird proposes to charge these approved rates, fees,
7 and additional charges for the Buffalo Meadows service area. The
8 present and proposed rates are as follows:

9		<u>Present and Proposed</u>
10	<u>Monthly Metered Water Rates:</u>	
11	Residential Base Charge, zero usage	\$ 15.31
12	Usage Charge, per 1,000 gallons	\$ 4.46
13	<u>Monthly Metered Sewer Rates:</u>	
14	Residential Base Charge, zero usage	\$ 28.61
15	Usage Charge, per 1,000 gallons	\$ 8.24
16	<u>Connection Charge:</u>	Actual cost
17	<u>Reconnection Charge:</u>	
18	If water service cut off by	
19	utility for good cause	\$ 23.92
20	If water service discontinued	
21	at customer's request	\$ 23.92
22	If wastewater service cut off by	
23	utility for good cause	Actual cost
24	<u>Returned Check Charge:</u>	\$ 23.92

1 **Q. What is your recommendation regarding the requested**
2 **approval of rates?**

3 A. The requested rates are the current Commission-approved rates for
4 Buffalo Meadows and are just and reasonable. If customers are
5 being charged an unapproved flat rate, Red Bird should either charge
6 the metered rate or, if infeasible, propose to establish a flat rate and
7 request that the Commission approve a flat rate after review by the
8 Public Staff and an opportunity to respond.

9 **Q. What adjustments have you made to Buffalo Meadows plant**
10 **additions since the last rate case?**

11 A. Public Staff Data Request Nos. 3, 5, 6, and 11 requested
12 documentation supporting plant additions made since A&D's last rate
13 case. In response to Public Staff Data Request No. 11, Red Bird
14 provided a spreadsheet titled A&D Asset Valuation Summary (Asset
15 Summary), which included plant additions made since 1995. In
16 response to Public Staff Data Request Nos. 3 and 11, Red Bird
17 provided supporting invoices. The provided invoices did not support
18 the Asset Summary. While the Asset Summary showed a total of
19 **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
20 **CONFIDENTIAL]** the invoices provided to support the Asset
21 Summary amount only totaled **[BEGIN CONFIDENTIAL]** [REDACTED]
22 **[END CONFIDENTIAL]** Of that total, **[BEGIN CONFIDENTIAL]**
23 [REDACTED] **[END CONFIDENTIAL]** in invoices were provided for the

1 Buffalo Meadows wastewater system and invoices totaling [BEGIN
2 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] were provided for
3 the Buffalo Meadows water system that were plant additions
4 associated with Asset Summary entries. An additional [BEGIN
5 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in invoices provided
6 were associated with maintenance and repair activities and not
7 identified by the Asset Summary nor considered by me to be plant
8 additions. Based on my review of the provided invoices, I
9 recommend an increase to the Buffalo Meadows wastewater system
10 plant addition of [BEGIN CONFIDENTIAL] [REDACTED] [END
11 CONFIDENTIAL] by including an invoice for [BEGIN
12 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] that added a sludge
13 sampler system that was not included in the Asset Summary entries.
14 No adjustments based on invoices were made to the Buffalo
15 Meadows water system plant addition amount of [BEGIN
16 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] I also revised the
17 service life of a blower motor plant addition to the Buffalo Meadows
18 wastewater system from 20 years to 5 years based on service lives
19 compiled from other public utility rate cases and my engineering
20 experience.

1 **Q. Briefly describe Red Bird's plans for capital improvements for**
2 **Buffalo Meadows.**

3 A. After completing the purchase of the Buffalo Meadows water system,
4 Red Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] **[END CONFIDENTIAL]**

9 Red Bird's plans for capital improvements for the Buffalo Meadows
10 wastewater system include **[BEGIN CONFIDENTIAL]** [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] **[END CONFIDENTIAL]**

16 It will be incumbent upon Red Bird to ensure the capital
17 improvements are reasonable and prudent for the capital investment
18 associated with the improvements to be added to rate base and
19 included in rates in a future rate case proceeding. Inclusion of the
20 currently planned improvements to the Buffalo Meadows water
21 system, and based on the resulting revenue requirements to support
22 the improvement costs as identified in the prefiled testimony of Public

1 Staff witness Sun, would result in a \$40.57 per month increase in the
2 water base charge, an increase of 265%. Inclusion of the currently
3 planned improvements to the Buffalo Meadows wastewater system,
4 and the resulting revenue requirements to support the improvement
5 costs as identified in the prefiled testimony of Public Staff witness
6 Sun, would result in a \$74.20 per month increase in the wastewater
7 base charge, an increase of 259%.

8 **CAMELOT WATER SYSTEM**

9 **Q. Please describe the Camelot service area and the water utility**
10 **system.**

11 A. The Camelot water system serves the Camelot Subdivision, a
12 residential community located outside the city limits of
13 Hendersonville. The system's water is provided by the City of
14 Hendersonville, the system consisting of a water distribution system
15 and a concrete meter box containing a master meter. The amended
16 application filed with the Commission on July 2, 2021, states that for
17 the 12 months ended on December 31, 2020, the number of water
18 customers served was 29.

19 **Q. Have you conducted a site visit of the Camelot water system**
20 **and, if so, what were your observations?**

21 A. Yes, on January 30, 2024, Public Staff witness Sun and I performed
22 a site visit of the Camelot water system accompanied by the ORC,

1 Gary Norton. During the site visit the meter vault contained water at
2 a level above the master meter. The ORC stated that the meter vault
3 will fill with water after a significant rainfall and he normally removes
4 the water using portable pumping equipment he carries on his truck.
5 Both the master meter and meter vault are owned by Hendersonville
6 and, as a result, the City is responsible for maintenance of that
7 equipment.

8 **Q. Briefly describe the results of your investigation of DEQ NOV**
9 **s and Civil Penalties.**

10 A. From January 1, 2021, through January 31, 2024, the Camelot water
11 system had one violation that occurred in 2021 for not submitting the
12 Consumer Confidence Report to the State by the required deadline.
13 The Camelot water system has returned to compliance for this
14 violation.

15 **Q. Has the Public Staff received any customer complaints from**
16 **Camelot customers?**

17 A. From January 1, 2021, through January 31, 2024, no customer
18 complaints had been received by the Public Staff Consumer
19 Services Division.

1 **Q. Has the Public Staff received any consumer statements of**
2 **position from Camelot customers?**

3 A. No consumer statements of position have been received by the
4 Public Staff from Camelot customers.

5 **Q. Is A&D providing safe and reliable service in Camelot?**

6 A. Yes. Based on the limited violations from DEQ described above, the
7 observations from my site visit, and the lack of customer complaints
8 and consumer statements of position regarding service, I believe that
9 A&D is providing adequate service to its water customers in Camelot.

10 **Q. What are the present and proposed Camelot water utility service**
11 **rates?**

12 A. Camelot's present rates, fees, and additional charges were approved
13 in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and have been
14 in effect since January 1, 2017. Upon acquisition of the Camelot
15 water system, Red Bird proposes to charge these approved rates,
16 fees, and additional charges for the Camelot Subdivision service
17 area. The present and proposed rates are as follows:

1		<u>Present and Proposed</u>
2	<u>Monthly Water Rates:</u>	
3	Metered Service:	
4	Base Charge, zero usage	\$ 38.04
5	Usage Charge, per 1,000 gallons	\$ 3.58
6	<u>Connection Charge:</u>	None
7	<u>Reconnection Charge:</u>	
8	If water service cut off by	
9	utility for good cause	\$ 24.96
10	If water service discontinued	
11	at customer's request	\$ 24.96
12	To avoid having water utility service disconnected (if payment for	
13	service is not received by the past-due date), a customer must pay	
14	all past-due and current charges and may have to pay late payment	
15	finance charges.	
16	To resume water utility service, after service has been cut-off by	
17	utility for good cause, a customer must pay all delinquent water	
18	charges, including finance charges, plus the approved reconnection	
19	charge.	
20	<u>Returned Check Charge:</u>	\$ 24.96
21	Q. What is your recommendation regarding the requested	
22	approval of rates?	
23	A. The requested rates are the current Commission-approved rates for	
24	Camelot and are just and reasonable.	
25	Q. What adjustments have you made to Camelot plant additions	
26	since the last rate case?	
27	A. I made no adjustments to Camelot plant additions since the last rate	
28	case. Public Staff Data Request Nos. 3, 5, 6, and 11 requested	

1 documentation supporting plant additions made since A&D's last rate
2 case in August 2014. Red Bird did not provide invoices supporting
3 plant additions to Camelot since the last rate case and, as a result,
4 no plant additions were included and no adjustments made.

5 **Q. Briefly describe Red Bird's plans for capital improvements for**
6 **Camelot.**

7 A. After completing the purchase of the Camelot water system, Red Bird
8 intends to [BEGIN CONFIDENTIAL] [REDACTED]
9 [REDACTED] [END
10 CONFIDENTIAL]

11 Inclusion of the currently planned improvements to the Camelot
12 water system, and based on the resulting revenue requirements to
13 support the improvement costs as identified in the prefiled testimony
14 of Public Staff witness Sun, would result in a \$0.46 per month
15 increase in the water base charge, an increase of 1.2%.

16 **CINNAMON WOODS WATER SYSTEM**

17 **Q. Please describe the Cinnamon Woods service area and the**
18 **water utility system.**

19 A. The Cinnamon Woods water system serves the Cinnamon Woods
20 Subdivision, a residential community located southeast of the City of
21 Hendersonville, in the Flat Rock community. The system's water is
22 provided by the City of Hendersonville. The system consists of a

1 water distribution system, a concrete meter box, a building housing
2 two booster pumps, and a 7,500 gallon hydro-pneumatic tank
3 fabricated in 1991. The amended application filed on July 2, 2021,
4 states that for the 12 months ended on December 31, 2020, the
5 number of water customers served was 124.

6 **Q. Have you conducted a site visit of the Cinnamon Woods water**
7 **system and, if so, what were your observations?**

8 A. Yes, on January 30, 2024, Public Staff witness Sun and I performed
9 a site visit of the Cinnamon Woods water system accompanied by
10 the ORC, Gary Norton. Portions of the booster pump piping and
11 exposed areas of the hydro-pneumatic tank showed moderate
12 corrosion. The meter vault showed water intrusion, although, at the
13 time of the site visit, the meter and valve were above the water level.
14 The system condition is consistent with the Kimley Horn report dated
15 July 2021 and provided as Joint Application Confidential Attachment
16 L.17 where the overall condition was considered to be **[BEGIN**
17 **CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**.

18 **Q. Briefly describe the results of your investigation of DEQ NOVs**
19 **and Civil Penalties.**

20 A. From January 1, 2021, through January 31, 2024, the Camelot water
21 system received three violations, one each in 2021, 2022, and 2023.
22 All three violations were reporting violations. The 2021 violation was

1 for not timely submitting the Consumer Confidence Report. The
2 violations in 2022 and 2023 were Lead Consumer Notice violations
3 due to not timely providing customers or the State with lead sampling
4 results. The Cinnamon Woods water system has returned to
5 compliance for the three identified violations.

6 **Q. Has the Public Staff received any complaints from Cinnamon**
7 **Woods customers?**

8 A. From January 1, 2021, through January 31, 2024, no customer
9 complaints had been received by the Public Staff Consumer
10 Services Division from Cinnamon Woods customers.

11 **Q. Has the Public Staff received any consumer statements of**
12 **position from Cinnamon Woods customers?**

13 A. No consumer statements of position have been received by the
14 Public Staff from Cinnamon Woods customers.

15 **Q. Is A&D providing safe and reliable service in Cinnamon Woods?**

16 A. Yes. Based on the limited violations from DEQ described above, the
17 observations from my site visit, and the lack of customer complaints
18 and consumer statements of position regarding service, I believe that
19 A&D is providing adequate service to its water customers in
20 Cinnamon Woods.

3 A. Cinnamon Woods' present rates, fees, and additional charges were
4 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
5 have been in effect since January 1, 2017. Upon acquisition of the
6 Cinnamon Woods water system, Red Bird proposes to charge these
7 approved rates, fees, and additional charges for the Cinnamon
8 Woods Subdivision service area. The present and proposed rates
9 are as follows:

Monthly Water Rates:

Base Charge, zero usage	\$ 16.51
Usage Charge, per 1,000 gallons	\$ 4.15

Reconnection Charge:

If water service cut off by utility for good cause	\$ 24.96
If water service discontinued at customer's request	\$ 24.96

To avoid having water utility service disconnected (if payment for service is not received by the past-due date), a customer must pay all past-due and current charges and may have to pay late payment finance charges.

To resume water utility service, after service has been cut-off by utility for good cause, a customer must pay all delinquent water charges, including finance charges, plus the approved reconnection charge.

Returned Check Charge:	\$ 24.96
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1 **Q. What is your recommendation regarding the requested**
2 **approval of rates?**

3 A. The requested rates are the current Commission-approved rates for
4 Cinnamon Woods and are just and reasonable.

5 **Q. What adjustments have you made to Cinnamon Woods plant**
6 **additions since the last rate case?**

7 A. I made no adjustments to Cinnamon Woods plant additions since the
8 last rate case in August 2014. Red Bird did not provide invoices
9 supporting plant additions to Cinnamon Woods since the last rate
10 case and, as a result, no plant additions were included and no
11 adjustments made.

12 **Q. Briefly describe Red Bird's plans for capital improvements for**
13 **Cinnamon Woods.**

14 A. After completing the purchase of the Cinnamon Woods water
15 system, Red Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] se
19 [REDACTED] **[END CONFIDENTIAL]**

20 Inclusion of the currently planned improvements to the Cinnamon
21 Woods water system and, based on the resulting revenue
22 requirements to support the improvement costs as identified in the

1 prefiled testimony of Public Staff witness Sun, would result in a \$2.34
2 per month increase in the water base charge, an increase of 14%.

3 **HIGH VISTA WASTEWATER SYSTEM**

4 **Q. Please describe the High Vista service area and the wastewater**
5 **utility system.**

6 **A.** The High Vista wastewater system serves 170 customers near the
7 Town of Mills River in Henderson County. The service area includes
8 the High Vista Falls Subdivision (Phases I through V), LaVista Village
9 Condominiums, High Vista Country Club, and certain out-parcels on
10 North Carolina Highway 191 and Bishop Road.

11 The High Vista WWTP has a design flow of 45,000 gallons per day
12 and is comprised of an influent bar screen; two influent equalization
13 basins of 9,000 gallons and 6,500 gallons, respectively, with transfer
14 pumps and blowers; five 9,000 gallons aeration basins with blowers;
15 a flow splitter box; two 6,200 gallon clarifiers with sludge transfer
16 systems; two 48 cubic feet multi-media tertiary filters; filter backwash
17 clearwell with pumps; two 1,200 gallon chlorine contact chambers
18 with liquid beach chlorination; effluent flow splitter box; and two
19 sludge holding tanks, one with a capacity of 2,300 gallons and the
20 second with a capacity of 9,000 gallons. All tanks are in-ground
21 concrete tanks. The wastewater system also has a 500,000 gallon
22 effluent off-spec holding pond, a 100 kilowatt standby generator as a

1 backup power source, and an effluent lift station for optional
2 conjunctive distribution. The wastewater system discharges to Line
3 Creek.

4 **Q. Have you conducted a site visit of the High Vista wastewater**
5 **system and, if so, what were your observations?**

6 A. Yes, on January 31, 2024, Public Staff witness Sun and I performed
7 a site visit of the High Vista WWTP accompanied by the ORC, Vince
8 Edwards. All tanks are in-ground concrete tanks with visible
9 corrosion on some of the grating. The ORC stated that the WWTP
10 has been operating between 16,000 and 20,000 gallons per day
11 versus the permitted capacity of 45,000 gallons per day. Capacity is
12 only challenged during significant rain events. Both blowers used to
13 aerate the post aeration tank are operational. The de-chlorination
14 chamber is located in the post aeration tank and requires a ladder to
15 access the equipment. The effluent holding pond is no longer in
16 service since the spray field is no longer used. This has resulted in
17 the pond filling with rainwater, requiring periodic pumping to reduce
18 the level. The media for the tertiary filters are failing and are
19 supported by straps to prevent falling into the vault. The ORC stated
20 that if the plant were larger, it would not struggle with meeting
21 biochemical oxygen demand (BOD), ammonia, and total suspended
22 solid (TSS) limits. Another challenge is the size of the stream to

1 which the effluent is being discharged, which results in lower
2 permitted limits.

3 Overall, I agree with Kimley Horn's finding as to the overall condition
4 based on its inspection on October 8, 2020, and documented in its
5 report dated September 2021, Confidential Attachment L.18. Kimley
6 Horn stated that [BEGIN CONFIDENTIAL] [REDACTED]
7 [REDACTED] [END CONFIDENTIAL]

8 **Q. Briefly describe the results of your investigation of DEQ NOVs**
9 **and Civil Penalties.**

10 A. The High Vista WWTP operates under NPDES permit NC0089095
11 and was renewed on October 18, 2022. Per the Fact Sheet for
12 Expedited Permit Renewals, dated August 11, 2022, DEQ states that
13 "the facility has been habitually noncompliant throughout the last
14 permit cycle. DEQ sought and received EPA oversight for
15 compliance issues at this facility." The most recent DEQ Compliance
16 Evaluation Inspection was performed on August 9, 2023. The
17 inspection's Summary of Finding/Comments stated that the High
18 Vista WWTP "has had chronic permit limits violations for years" but
19 identified that several components had been repaired or replaced in
20 the past five years. The media of the tertiary filters was still damaged
21 and should be replaced. The inspection also identified the entry into
22 the de-chlorination chamber as being unsafe, stated additional safety

1 equipment should be installed, and found that some of the gratings
2 are severely rusted and present a significant safety hazard to
3 operators and inspectors. As a result of the inspection, NOV-2023-
4 PC-0472 was issued for the above stated safety concerns and the
5 condition of the tertiary filters. This violation remains open.

6 In addition to NOV-2023-PC-0472 mentioned above, from January
7 1, 2021, through January 31, 2024, DEQ has issued 25 NOVs
8 against High Vista with a total of 130 violations. A summary of NOVs
9 and the specific violations is provided in **Franklin Exhibit 1**.

10 The March 9, 2022 Administrative Order, Docket No. CWS-04-2021-
11 0320 stated that High Vista had 178 exceedances of the effluent
12 limits for TSS, BODs, fecal coliform, ammonia nitrogen, flow, and
13 total residual chlorine for over the past five years, thereby violating
14 the effluent limitations specified in the High Vista WWTP permit. All
15 five of A&D's WWTPs failed to electronically submit their monthly
16 DMRs as required by their NPDES permits.

17 **Q. Has the Public Staff received any customer complaints from**
18 **High Vista customers?**

19 A. From January 1, 2021, through January 31, 2024, no customer
20 complaints have been received by the Public Staff Consumer
21 Services Division regarding the High Vista wastewater system.

1 **Q. Has the Public Staff received any consumer statements of**
2 **position from High Vista customers?**

3 A. No consumer statements of position have been received by the
4 Public Staff from High Vista customers.

5 **Q. Is A&D providing safe and reliable service in High Vista?**

6 A. No. The number of environmental violations the system has received
7 is significant and raises environmental safety concerns. As shown in
8 Franklin Exhibit 1, of the 130 violations issued by DEQ from January
9 1, 2021, through January 31, 2024, 108 relate to non-compliance
10 with effluent limits specified by their NPDES permit.

11 **Q. What are the present and proposed High Vista wastewater utility**
12 **service rates?**

13 A. High Vista's present rates, fees, and additional charges were
14 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
15 have been in effect since January 1, 2017. Upon acquisition of the
16 High Vista wastewater system, Red Bird proposes to charge these
17 approved rates, fees, and additional charges for the High Vista
18 service area which includes High Vista Falls Subdivision (Phases I
19 through V), LaVista Village Condominiums, High Vista Country Club,
20 and certain out-parcels on North Carolina Highway 191 and Bishop
21 Road. The present and proposed rates are as follows:

1		<u>Present and Proposed</u>
2	<u>Monthly Flat Rate for Sewer Service:</u>	
3	Residential Rates	
4	High Vista Falls	\$ 35.33
5	LaVista Village Condominiums	\$ 23.00
6	Commercial Rates (Current Active Customers)	
7	High Vista Country Club	\$ 212.03
8	Real Estate Sales Office	\$ 8.05
9	Guardhouse/Security Entrance	\$ 4.03
10	Commercial Rates (Future Development)/REU:	\$ 35.33
11	REU = Residential Equivalent Unit = (DWQ's monthly design	
12	flow rate for customer, or metered water use) / Public Utilities	
13	Engineer's residential flow estimate in last rate case: 8,250	
14	gallons/month)	
15	<u>Connection Charge:</u>	\$ 1,500
16	<u>Reconnection Charge:</u>	Actual cost
17	The Utility shall itemize the estimated costs of disconnecting and	
18	reconnecting sewer utility service and shall furnish a copy of the cost	
19	estimate to the customer with the cut off notice for the pending	
20	disconnection.	
21	To resume sewer utility service, after service has been cut off by the	
22	Utility for good cause, a customer must pay all delinquent sewer	
23	charges, including finance charges, plus the actual cost incurred by	
24	the Utility to reconnect the service.	
25	<u>Returned Check Charge:</u>	\$ 23.92
26	Q. What is your recommendation regarding the requested	
27	approval of rates?	
28	A. The requested rates are the current Commission-approved rates for	
29	High Vista and are just and reasonable.	

1 **Q. What adjustments have you made to High Vista plant additions**
2 **since the last rate case?**

3 A. In response to Public Staff Data Request Nos. 3 and 11, Red Bird
4 provided supporting invoices. The provided invoices did not support
5 the Asset Summary. Of that total, **[BEGIN CONFIDENTIAL]** [REDACTED]
6 **[END CONFIDENTIAL]** in invoices were provided for the High Vista
7 wastewater system that were associated with Asset Summary
8 entries. Additionally, there were **[BEGIN CONFIDENTIAL]** [REDACTED]
9 **[END CONFIDENTIAL]** in invoices that were for maintenance and
10 repair activities and not identified by the Asset Summary or
11 considered by me to be plant additions. Based on my review of the
12 provided invoices, I recommend an increase to the High Vista
13 wastewater system plant additions of **[BEGIN CONFIDENTIAL]**
14 [REDACTED] **[END**
15 **CONFIDENTIAL]** to replace equalization pumps not shown on the
16 Asset Summary. I also revised the service life of a blower motor plant
17 addition from 20 years to 5 years based on service lives compiled
18 from other public utility rate cases and my engineering experience.

1 **Q. Briefly describe Red Bird's plans for capital improvements for**
2 **High Vista.**

3 A. After completing the purchase of the High Vista wastewater system,
4 Red Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] ||
9 [REDACTED] **[END CONFIDENTIAL]**

10 Inclusion of the currently planned improvements to the High Vista
11 wastewater system, and the resulting revenue requirements to
12 support the improvement costs as identified in the prefiled testimony
13 of Public Staff witness Sun, would result in a \$74.31 per month
14 increase in the water flat rate, an increase of 210% to the residential
15 flat rate for High Vista Falls and 423% for LaVista Village
16 Condominiums.

17 **HUNTER'S GLEN WASTEWATER SYSTEM**

18 **Q. Please describe the Hunter's Glen service area and the**
19 **wastewater utility system.**

20 A. The Hunter's Glen wastewater system serves the Hunter's Glen
21 Subdivision, a residential community located in the Town of Horse
22 Shoe, approximately 5.5 miles northwest of the City of

1 Hendersonville. In response to Public Staff Data Request No. 7, Red
2 Bird stated that Hunters Glen serves 68 wastewater customers.

3 The Hunter's Glen WWTP is a 35,000-gallon-per-day extended
4 aeration wastewater treatment system with a duplex influent lift
5 station with grinder pumps and high water alarm, bar screen,
6 aeration basin with dual blowers, clarifier with skimmer and sludge
7 returns, aerobic digester, tablet chlorination with chlorine contact
8 chamber, de-chlorination, effluent flow metering, and sludge holding
9 basin. Discharge of effluent is to Shaw Creek which is part of the
10 French Broad River Basin.

11 **Q. Have you conducted a site visit of the Hunter's Glen wastewater**
12 **system and, if so, what were your observations?**

13 A. Yes, on January 31, 2024, Public Staff witness Sun and I performed
14 a site visit of the Hunter's Glen WWTP accompanied by the ORC,
15 Vince Edwards. There were several pin hole leaks visible on one end
16 of the WWTP that require repair. Some grating has evidence of
17 surface corrosion with one section showing more significant
18 corrosion. The telemetry equipment was operational with a high level
19 alarm. The pumps installed in the influent lift station have been
20 replaced resulting in the lift station no longer using a bypass. Both
21 blowers showed signs of age but were operational. The internal air
22 leak in the aeration basin should be repaired. While the system

1 condition has improved since the Kimley Horn inspection on October
2 8, 2020, also documented in the Kimley Horn report dated July 2021,
3 and provided as Joint Application Confidential Attachment L.19, I
4 consider the overall condition to remain consistent with the report
5 where the overall condition was determined to be [BEGIN
6 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]

7 **Q. Briefly describe the results of your investigation of Hunter's**
8 **Glen's DEQ NOVs and Civil Penalties.**

9 A. The Hunter's Glen wastewater system operates under NPDES
10 permit NC0067288. From January 1, 2021, through January 31,
11 2024, DEQ has issued Hunter's Glen eight NOVs with the most
12 recent NOV issued on November 8, 2023. Of the eight NOVs, three
13 were a result of late or missing discharge monitoring reports, two
14 resulting from late or missing discharge monitoring reports and daily
15 maximum exceedance of BOD, five-day concentration, with one also
16 exceeding the BOD monthly average and the other a frequency
17 violation of the monitoring of weekly nitrogen-ammonia
18 concentration. Of the remaining three NOVs, one NOV was due to a
19 one-time daily maximum exceedance of TSS, and two NOVs were
20 due to a one-time daily maximum exceedance of BOD, five-day
21 concentration. All eight NOVs are closed with no penalties assessed.

1 The Hunter's Glen WWTP was also included in the March 9, 2022
2 Administrative Order, Docket No. CWS-04-2021-0320, with the EPA
3 for failing to electronically submit its monthly DMRs as required by
4 its NPDES permit. It had submitted paper DMRs instead.

5 **Q. Has the Public Staff received any customer complaints from**
6 **Hunter's Glen customers?**

7 A. From January 1, 2021, through January 31, 2024, no customer
8 complaints were received by the Public Staff Consumer Services
9 Division.

10 **Q. Has the Public Staff received any consumer statements of**
11 **position from Hunter's Glen customers?**

12 A. No consumer statements of position have been received by the
13 Public Staff from Hunter's Glen customers.

14 **Q. Is A&D providing safe and reliable service in Hunter's Glen?**

15 A. Yes. Based on the limited violations from DEQ and the EPA
16 Administrative Order on Consent described above, the observations
17 from my site visit, and the lack of customer complaints and consumer
18 statements of position regarding service, I believe that Hunter's Glen
19 is providing adequate service to its water customers. The
20 Administrative Order by the EPA concerns the ongoing failure of A&D
21 to file required reports electronically but does not indicate a failure to
22 provide safe and reliable service.

1 **Q. What are the present and proposed Hunter's Glen wastewater**
 2 **utility service rates?**

3 A. Hunter's Glen's present rates, fees, and additional charges were
 4 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
 5 have been in effect since January 1, 2017. Upon acquisition of the
 6 Hunters Glen wastewater system, Red Bird proposes to charge
 7 these approved rates, fees, and additional charges for the Hunters
 8 Glen Subdivision service area. The present and proposed rates are
 9 as follows:

		<u>Present and Proposed</u>
11	<u>Monthly Residential Flat Rate for Sewer Service:</u>	\$ 48.96
12	<u>Monthly Commercial Metered Sewer Rates:</u>	
13	Commercial Base Charge, zero usage	\$ 42.14
14	Usage Charge, per 1,000 gallons	\$ 7.02
15	<u>Connection Charge:</u>	Actual cost
16	<u>Reconnection Charge:</u>	
17	If sewer service cut off by	
18	utility for good cause	Actual cost
19	<u>Returned Check Charge:</u>	\$ 23.92

20 **Q. What is your recommendation regarding the requested**
 21 **approval of rates?**

22 A. The requested rates are the current Commission-approved rates for
 23 Hunter's Glen and are just and reasonable.

1 **Q. What adjustments have you made to Hunter's Glen plant**
2 **additions since the last rate case?**

3 A. In response to Public Staff Data Request Nos. 3 and 11, Red Bird
4 provided supporting invoices. The provided invoices did not support
5 the Asset Summary. Of that total, **[BEGIN CONFIDENTIAL]** [REDACTED]
6 **[END CONFIDENTIAL]** in invoices were provided for the Hunter's
7 Glen wastewater system that were associated with Asset Summary
8 entries. Additionally, there were **[BEGIN CONFIDENTIAL]** [REDACTED]
9 **[END CONFIDENTIAL]** in invoices that were for maintenance and
10 repair activities and not identified by the Asset Summary or
11 considered by me to be plant additions. Based on my review of the
12 provided invoices, I made no adjustments to the **[BEGIN**
13 **CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** supported by
14 invoices. I also revised the service life of a blower motor plant
15 addition from 20 years to 5 years based on service lives compiled
16 from other public utility rate cases and my engineering experience.

17 **Q. Briefly describe Red Bird's plans for capital improvements for**
18 **Hunter's Glen.**

19 A. After completing the purchase of the Hunter's Glen wastewater
20 system, Red Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]

21 [REDACTED]
22 [REDACTED]

1 [REDACTED]
2 [REDACTED] [END CONFIDENTIAL]

3 Inclusion of the currently planned improvements to the Hunter's Glen
4 wastewater system, and the resulting revenue requirements to
5 support the improvement costs as identified in the prefiled testimony
6 of Public Staff witness Sun, would result in a \$20.21 per month
7 increase in the residential flat rate and commercial metered base
8 charge, an increase of 41% and 48%, respectively.

9 **KIRK GLEN WATER SYSTEM**

10 **Q. Please describe the Kirk Glen service area and the water utility**
11 **system.**

12 A. The Kirk Glen water system serves the Kirk Glen Subdivision, a
13 residential community located outside the town limits of Weaverville
14 in Buncombe County. The system's water is provided by the Town
15 of Weaverville, the system consisting of a master meter, concrete
16 meter box, and a water distribution system. The amended application
17 filed with the Commission on July 2, 2021, states that for the 12
18 months ending on December 31, 2020, the number of water
19 customers served was 34.

1 **Q. Have you conducted a site visit of the Kirk Glen water system**
2 **and, if so, what were your observations?**

3 A. Yes, on January 31, 2024, Public Staff witness Sun and I performed
4 a site visit of the Kirk Glen water system accompanied by the ORC,
5 Trevor McMinn. The master meter is installed in a concrete vault and
6 both the meter and meter vault are maintained by the Town of
7 Weaverville. The system condition is consistent with the Kimley Horn
8 report dated July 2021 and provided as Joint Application Confidential
9 Attachment L.20 where the overall condition was considered to be
10 **[BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]**

11 **Q. Briefly describe the results of your investigation of Kirk Glen's**
12 **DEQ NOVs and Civil Penalties.**

13 A. From January 1, 2021, through January 31, 2024, the Kirk Glen
14 water system had one violation that occurred in 2021 for not timely
15 submitting the Consumer Confidence Report. The Kirk Glen water
16 system has returned to compliance for this violation.

17 **Q. Has the Public Staff received any customer complaints from**
18 **Kirk Glen customers?**

19 A. From January 1, 2021, through January 31, 2024, no customer
20 complaints have been received by the Public Staff Consumer
21 Services Division.

1 **Q. Has the Public Staff received any consumer statements of**
2 **position from Kirk Glen customers?**

3 A. No consumer statements of position have been received by the
4 Public Staff from Kirk Glen customers.

5 **Q. Is A&D providing safe and reliable service in Kirk Glen?**

6 A. Yes. Based on the limited violations from DEQ described above, the
7 observations from my site visit, and the lack of customer complaints
8 and consumer statements of position regarding service, I believe that
9 A&D is providing adequate service to its Kirk Glen water customers.

10 **Q. What are the present and proposed Kirk Glen wastewater utility**
11 **service rates?**

12 A. Kirk Glen's present rates, fees, and additional charges were
13 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
14 have been in effect since January 1, 2017. Upon acquisition of the
15 Kirk Glen water system, Red Bird proposes to charge these
16 approved rates, fees, and additional charges for the Kirk Glen
17 Subdivision service area. The present and proposed rates are as
18 follows:

1		<u>Present and Proposed</u>
2	<u>Monthly Metered Water Rates:</u>	
3	Residential Base Charge, zero usage	\$ 36.46
4	Usage Charge, per 1,000 gallons	\$ 15.25
5	<u>Connection Charge:</u>	Actual Cost
6	<u>Reconnection Charge:</u>	
7	If water service cut off by	
8	utility for good cause	\$ 23.99
9	If water service discontinued	
10	at customer's request	\$ 23.99
11	<u>Returned Check Charge:</u>	\$ 23.96

12 **Q. What is your recommendation regarding the requested**
13 **approval of rates?**

14 A. The requested rates are the current Commission-approved rates for
15 Kirk Glen and are just and reasonable.

16 **Q. What adjustments have you made to Kirk Glen plant additions**
17 **since the last rate case?**

18 A. I made no adjustments to Kirk Glen plant additions since the last rate
19 case. In response to Public Staff Data Request Nos. 3 and 11, Red
20 Bird provided supporting invoices. Red Bird did not provide invoices
21 supporting plant additions to Kirk Glen since the last rate case and,
22 as a result, no plant additions were included and no adjustments
23 were made.

1 **Q. Briefly describe Red Bird's plans for capital improvements for**
2 **Kirk Glen.**

3 A. The Facility Report prepared by Kimley Horn for Kirk Glen, dated July
4 2021 and filed as Joint Application Confidential Attachment L.20
5 states that **[BEGIN CONFIDENTIAL]** [REDACTED] rs
6 [REDACTED] **[END CONFIDENTIAL]** As a result, the revenue
7 requirement to support planned capital improvement costs for Kirk
8 Glen is \$0.

9 **MOUNTAIN VALLEY WASTEWATER SYSTEM**

10 **Q. Please describe the Mountain Valley service area and the**
11 **wastewater utility system.**

12 A. The Mountain Valley wastewater system serves the Mountain Valley
13 Subdivision, a residential community located in Henderson County,
14 east of the Town of Etowah. The amended application filed with the
15 Commission on July 2, 2021, states that for the 12 months ended on
16 December 31, 2020, the number of wastewater customers served
17 was 65.

18 The Mountain Valley WWTP is a 24,000 gallons-per-day extended
19 aeration wastewater treatment system comprised of an aeration
20 basin, clarifier, tablet chlorination, chlorine contact chamber, tablet
21 de-chlorination, effluent metering, and sludge holding basin. Effluent
22 discharge is to Shaw Creek in the French Broad River Basin.

1 **Q. Have you conducted a site visit of the Mountain Valley**
2 **wastewater system and, if so, what were your observations?**

3 A. Yes, on January 31, 2024, Public Staff witness Sun and I performed
4 a site visit of the Mountain Valley WWTP accompanied by the ORC,
5 Vince Edwards. Of the two required blowers, one has been out of
6 service for six months. As identified in the Kimley Horn inspection
7 performed on October 8, 2020, and documented in the Kimley Horn
8 report dated July 2021, Joint Application Confidential Attachment
9 L.21, the rusted metal divider between the digester and aeration
10 basin has not been repaired, and the ISCO auto sampler remains out
11 of service. The ORC is using a temporary sampler in its place.
12 Additionally, I observed control panels with debris at the bottom of
13 the panel box, a vise clamp used to secure a sample hose, and the
14 wet well showing signs of corrosion with significant corrosion
15 observed in the wet well control panels. The observed system
16 condition is consistent with the Kimley Horn report dated July 2021,
17 Joint Application Confidential Attachment L.21, which states that the
18 **[BEGIN CONFIDENTIAL]** [REDACTED]
19 [REDACTED] **[END**
20 **CONFIDENTIAL]**

1 **Q. Briefly describe the results of your investigation of Mountain**
2 **Valley's DEQ NOVs and Civil Penalties.**

3 A. The Mountain Valley wastewater system operates under NPDES
4 permit NC0073741. From January 1, 2021, through January 31,
5 2024, DEQ issued Mountain Valley six NOVs with the most recent
6 NOV issued on November 8, 2023. Of the six NOVs, three were
7 solely the result of late or missing discharge monitoring reports. One
8 of the six was a result of late or missing discharge monitoring reports,
9 a daily maximum exceedance of BOD, and exceeding the BOD
10 monthly average. Another one of the six was a result of late or
11 missing discharge monitoring reports and a one-time daily maximum
12 exceedance of TSS. The sixth NOV was for daily maximum
13 exceedance of BOD and exceeding the BOD monthly average. All
14 six NOVs are closed with no penalties assessed.

15 The Mountain Valley WWTP was also included in the March 9, 2022
16 Administrative Order, Docket No. CWS-04-2021-0320, with the EPA
17 for failing to electronically submit its monthly DMRs as required by
18 its NPDES permit. It had submitted paper DMRs instead.

1 **Q. Has the Public Staff received any customer complaints from**
2 **Mountain Valley customers?**

3 A. From January 1, 2021, through January 31, 2024, no customer
4 complaints have been received by the Public Staff Consumer
5 Services Division.

6 **Q. Has the Public Staff received any consumer statements of**
7 **position from Mountain Valley customers?**

8 A. No consumer statements of position have been received by the
9 Public Staff from Mountain Valley customers.

10 **Q. Is A&D providing safe and reliable service in Mountain Valley?**

11 A. Yes. Based on the limited violations from DEQ described above, the
12 observations from my site visit, and the lack of customer complaints
13 and consumer statements of position regarding service, I believe that
14 Mountain Valley is providing adequate service to its water
15 customers.

16 **Q. What are the present and proposed Mountain Valley wastewater**
17 **utility service rates?**

18 A. Mountain Valley's present rates, fees, and additional charges were
19 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
20 have been in effect since January 1, 2017. Upon acquisition of the
21 Mountain Valley wastewater system, Red Bird proposes to charge
22 these approved rates, fees, and additional charges for the Mountain

1 Valley Subdivision service area. The present and proposed rates are
2 as follows:

3	<u>Present and Proposed</u>	
4	<u>Monthly Residential Flat Rate for Sewer Service:</u>	\$ 41.45
5	<u>Connection Charge:</u>	Actual cost
6	<u>Reconnection Charge:</u>	
7	If sewer service cut off by utility for good cause	
8		Actual cost
9	<u>Returned Check Charge:</u>	\$ 23.92

10 **Q. What is your recommendation regarding the requested**
11 **approval of rates?**

12 A. The requested rates are the current Commission-approved rates for
13 Mountain Valley and are just and reasonable.

14 **Q. What adjustments have you made to Mountain Valley plant**
15 **additions since the last rate case?**

16 A. I made no adjustments to Mountain Valley plant additions since the
17 last rate case. Red Bird did not provide invoices supporting plant
18 additions to Mountain Valley since the last rate case and, as a result,
19 no plant additions were included and no adjustments made.

20

1 **Q. Briefly describe Red Bird's plans for capital improvements for**
2 **Mountain Valley.**

3 A. After completing the purchase of the Mountain Valley wastewater
4 system, Red Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] **[END**
9 **CONFIDENTIAL]**

10 Inclusion of the currently planned improvements to the Mountain
11 Valley wastewater system and the resulting revenue requirements to
12 support the improvement costs as identified in the prefiled testimony
13 of Public Staff witness Sun would result in a \$20.34 per month
14 increase in the residential wastewater flat rate or an increase of 49%.

15 **ROLLING OAKS WATER SYSTEM**

16 **Q. Please describe the Rolling Oaks service area and the water**
17 **utility system.**

18 A. The Rolling Oaks water system serves the Rolling Oaks Subdivision,
19 a residential community located outside the city limits of Asheville.
20 The system's water is provided by the City of Asheville, the system
21 consisting of a water distribution system, a master meter, and a metal
22 meter vault. The amended application filed with the Commission on

1 July 2, 2021, states that for the 12 months ended on December 31,
2 2020, the number of water customers served was 43.

3 **Q. Have you conducted a site visit of the Rolling Oaks water**
4 **system and, if so, what were your observations?**

5 A. Yes, on January 31, 2024, Public Staff witness Sun and I performed
6 a site visit of the Rolling Oaks water system accompanied by the
7 ORC, Trevor McMinn. The master meter is located in a metal meter
8 vault, both of which are provided and maintained by the City of
9 Asheville. No specific concerns were identified during the site visit.
10 Overall the system is in fair condition.

11 **Q. Briefly describe the results of your investigation of Rolling Oaks**
12 **DEQ NOVs and Civil Penalties.**

13 A. From January 1, 2021, through January 31, 2024, the Rolling Oaks
14 water system had one violation that occurred in 2021 for not timely
15 submitting the Consumer Confidence Report. The Rolling Oaks
16 water system has returned to compliance for this violation.

17 **Q. Has the Public Staff received any customer complaints from**
18 **Rolling Oaks customers?**

19 A. From January 1, 2021, through January 31, 2024, no customer
20 complaints have been received by the Public Staff Consumer
21 Services Division.

1 **Q. Has the Public Staff received any consumer statements of**
2 **position from Rolling Oaks customers?**

3 A. No consumer statements of position have been received from Rolling
4 Oaks customers.

5 **Q. Is A&D providing safe and reliable service in Rolling Oaks?**

6 A. Yes. Based on the limited violations from DEQ described above, the
7 observations from my site visit, and the lack of customer complaints
8 and consumer statements of position regarding service, I believe that
9 Rolling Oaks is providing adequate service to its water customers.

10 **Q. What are the present and proposed Rolling Oaks water utility**
11 **service rates?**

12 A. Rolling Oaks' present rates, fees, and additional charges were
13 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
14 have been in effect since January 1, 2017. Upon acquisition of the
15 Rolling Oaks water system, Red Bird proposes to charge these
16 approved rates, fees, and additional charges for the Rolling Oaks
17 Estates Subdivision service area. The present and proposed rates
18 are as follows:

1		<u>Present and Proposed</u>	
2	<u>Monthly Metered Water Rates:</u>		
3	Base Charge, zero usage		
4	Residential, standard meter	\$	28.49
5	Commercial user, 1.0" meter	\$	71.22
6	Usage Charge, per 1,000 gallons	\$	4.79
7	<u>Connection Charge:</u>	\$	600.00
8	<u>Reconnection Charge:</u>		
9	If water service cut off by		
10	utility for good cause	\$	23.92
11	If water service discontinued		
12	at customer's request	\$	23.92
13	To avoid having water utility service disconnected (if payment for		
14	service is not received by the past-due date), a customer must pay		
15	all past-due and current charges and may have to pay late payment		
16	finance charges.		
17	To resume water utility service, after service has been cut-off by		
18	utility for good cause, a customer must pay all delinquent water		
19	charges, including finance charges, plus the approved reconnection		
20	charge.		
21	<u>Returned Check Charge:</u>	\$	23.92
22	Q. What is your recommendation regarding the requested		
23	approval of rates?		
24	A. The requested rates are the current Commission-approved rates for		
25	Rolling Oaks and are just and reasonable.		

1 **Q. What adjustments have you made to Rolling Oaks plant**
2 **additions since the last rate case?**

3 A. I made no adjustments to Rolling Oaks plant additions since the last
4 rate case. Red Bird did not provide invoices supporting plant
5 additions to Rolling Oaks since the last rate case and, as a result, no
6 plant additions were included and no adjustments made.

7 **Q. Briefly describe Red Bird's plans for capital improvements for**
8 **Rolling Oaks.**

9 A. After completing the purchase of the Rolling Oaks water system, Red
10 Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]
11 [REDACTED]
12 [REDACTED] **[END CONFIDENTIAL]**

13 Inclusion of the currently planned improvements to the Rolling Oaks
14 water system, and the resulting revenue requirements to support the
15 improvement costs as identified in the prefiled testimony of Public
16 Staff witness Sun, would result in a \$2.35 per month increase in the
17 water base charge, an increase of 8.2% to the residential base
18 charge and 3.3% to the commercial base charge, respectively.

1 **SHERWOOD FOREST WASTEWATER SYSTEM**

2 **Q. Please describe the Sherwood Forest service area and the**
3 **wastewater utility system.**

4 A. The Sherwood Forest wastewater system serves the Sherwood
5 Forest Subdivision in the unincorporated community of Cedar
6 Mountain, eight miles southeast of the City of Brevard in
7 Transylvania County. In response to Public Staff Data Request No.
8 7, Red Bird stated that Sherwood Forest serves 22 wastewater
9 customers. The Sherwood Forest wastewater treatment system is
10 permitted to process 15,000 gallons per day. The wastewater sent to
11 the Sherwood Forest wastewater treatment facility is liquid effluent
12 from residential customers' septic systems that is transported to an
13 influent lift station and is pumped to the WWTP for treatment. The
14 WWTP includes a dosing tank, surface sand filter, tablet chlorinator,
15 and tablet de-chlorinator. Treated effluent is discharged into the Little
16 River.

17 **Q. Have you conducted a site visit of the Sherwood Forest**
18 **wastewater system and, if so, what were your observations?**

19 A. Yes, on January 30, 2024, Public Staff witness Sun and I performed
20 a site visit of the Sherwood Forest wastewater system accompanied
21 by the ORC, Wesley Royal. During the site visit we observed that
22 some of the above surface polyvinyl chloride (PVC) wastewater
23 dispersion lines were broken, there was significant vegetation in the

1 sand filter bed that was in service, the concrete dosing tank showed
2 evidence of concrete spalling and cracking, especially at the two
3 manholes. Both the chlorination and de-chlorination chambers had
4 evidence of structural degradation. We were unable to view the
5 influent lift station internals due to difficulty opening the access cover.
6 I disagree with the observed overall condition identified by the Kimley
7 Horn report dated July 2021 and provided as Joint Application
8 Confidential Attachment L.23, which states that the overall condition
9 of the site [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
10 The system is functional and in need of repairs, but based on the
11 regulatory performance discussed below, I believe the appropriate
12 overall condition of the system is “needs maintenance”.

13 **Q. Briefly describe the results of your investigation of Sherwood**
14 **Forest’s DEQ NOVs and Civil Penalties.**

15 A. The Sherwood Forest wastewater system operates under NPDES
16 permit NC0048658. From January 1, 2021, through January 31,
17 2024, DEQ issued Sherwood Forest one NOV on February 15, 2022.
18 The NOV was for Daily Maximum Exceedance of Coliform, Fecal
19 Membrane Filtration (MF), and Membrane Filtration Method (MFC)
20 Broth that occurred on November 3, 2021. While the NOV did not
21 result in a fine or penalty, I was informed by the DEQ Asheville
22 Regional Office that Sherwood Forest has accumulated \$1,087.32 in

1 unpaid fines and penalties due to NOVs received prior to January 1,
2 2021.

3 The Sherwood Forest WWTP was also included in the March 9, 2022
4 Administrative Order, Docket No. CWS-04-2021-0320, with the EPA
5 for failing to electronically submit its monthly DMRs as required by
6 its NPDES permit. It had submitted paper DMRs instead.

7 **Q. Has the Public Staff received any customer complaints from**
8 **Sherwood Forest customers?**

9 A. From January 1, 2021, through January 31, 2024, no customer
10 complaints have been received by the Public Staff Consumer
11 Services Division.

12 **Q. Has the Public Staff received any consumer statements of**
13 **position from Sherwood Forest customers?**

14 A. No consumer statements of position have been received from
15 Sherwood Forest customers.

16 **Q. Is A&D providing safe and reliable service in Sherwood Forest?**

17 A. Yes. Based on the limited violations from DEQ described above, the
18 observations from my site visit, and the lack of customer complaints
19 and consumer statements of position regarding service, I believe that
20 Sherwood Forest is providing adequate service to its wastewater
21 customers.

1 **Q. What are the present and proposed Sherwood Forest**
 2 **wastewater utility service rates?**

3 A. Sherwood Forest's present rates, fees, and additional charges were
 4 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
 5 have been in effect since January 1, 2017. Upon acquisition of the
 6 Sherwood Forest wastewater system, Red Bird proposes to charge
 7 these approved rates, fees, and additional charges for the Sherwood
 8 Forest Subdivision service area. The present and proposed rates are
 9 as follows:

10 Present and Proposed

11 Monthly Flat Rate for Sewer Service:

12 Residential Rates (Single Family Dwellings, REUs)	\$ 35.02
13 Commercial Rates (per REU)	\$ 35.02
14 Duplex housing (Two units)	\$ 70.06
15 Condominiums (22 condos)	\$ 770.60
16 Restaurant (3.5 REUs)	\$ 122.60
17 Assisted living facility (9.6 REUs)	\$ 336.27

18 Connection Charge: \$ 1,500

19 Reconnection Charge: Actual cost

20 The Utility shall itemize the estimated costs of disconnecting and
 21 reconnecting sewer utility service and shall furnish a copy of the cost
 22 estimate to the customer with the cut off notice for the pending
 23 disconnection.

24 To resume sewer utility service, after service has been cut off by the
 25 Utility for good cause, a customer must pay all delinquent sewer
 26 charges, including finance charges, plus the actual cost incurred by
 27 the Utility to reconnect the service.

28 Returned Check Charge: \$ 23.92

1 **Q. What is your recommendation regarding the requested**
2 **approval of rates?**

3 A. The requested rates are the current Commission-approved rates for
4 Sherwood Forest and are just and reasonable.

5 **Q. What adjustments have you made to Sherwood Forest plant**
6 **additions since the last rate case?**

7 A. I made no adjustments to Sherwood Forest plant additions since the
8 last rate case. Red Bird did not provide invoices supporting plant
9 additions to Sherwood Forest since the last rate case and, as a
10 result, no plant additions were included and no adjustments made.

11 **Q. Briefly describe Red Bird's plans for capital improvements for**
12 **Sherwood Forest.**

13 A. After completing the purchase of the Sherwood Forest wastewater
14 system, Red Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED] **[END**

20 **CONFIDENTIAL]**

21 Inclusion of the currently planned improvements to the Sherwood
22 Forest wastewater system, and based on the resulting revenue

1 requirements to support the improvement costs as identified in the
2 prefiled testimony of Public Staff witness Sun, would result in a
3 \$64.84 per month increase in the residential and commercial (per
4 REU) wastewater flat rate, an increase of 185%.

5 **SKYVIEW PARK WATER SYSTEM**

6 **Q. Please describe the Skyview Park service area and the water**
7 **utility system.**

8 A. The Skyview Park water system serves the Skyview Park
9 Subdivision, a residential community located just inside the Gastonia
10 city limits. In response to Public Staff Data Request No. 7, Red Bird
11 stated that Skyview serves 73 metered water customers. The
12 system's water is provided by the City of Gastonia. The system
13 consists of a distribution system, a concrete meter vault containing
14 the master meter, and a concrete vault containing a backflow
15 preventer valve.

16 **Q. Have you conducted a site visit of the Skyview Park water**
17 **system and, if so, what were your observations?**

18 A. Due to the system being a purchased water system with minimal
19 equipment, no recent water quality violations, and its location relative
20 to the other A&D systems, a site visit of the Skyview water system
21 was not performed.

1 **Q. Briefly describe the results of your investigation of Skyview**
2 **Park's DEQ NOVs and Civil Penalties.**

3 A. From January 1, 2021, through January 31, 2024, the Skyview Park
4 water system had one violation that occurred in 2021 for not timely
5 submitting the Consumer Confidence Report. The Skyview Park
6 water system has returned to compliance for this violation.

7 **Q. Has the Public Staff received any customer complaints from**
8 **Skyview Park customers?**

9 A. Yes. On December 4, 2023, the Public Staff Consumer Services
10 Division received a complaint from a customer whose water was
11 disconnected prior to the disconnect date stated on the bill. After
12 being contacted by Consumer Services, the water service was
13 reconnected. This is the only complaint received from January 1,
14 2021, through January 31, 2024.

15 **Q. Has the Public Staff received any consumer statements of**
16 **position from Skyview Park customers?**

17 A. No consumer statements of position have been received by the
18 Public Staff from Skyview Park customers.

19 **Q. Is A&D providing safe and reliable service in Skyview Park?**

20 A. Yes. Based on the limited violations from DEQ described above, the
21 sole customer complaint, and lack of consumer statements of

1 position regarding service, I believe that Skyview Park is providing
2 adequate service to its water customers.

3 **Q. What are the present and proposed Skyview Park water utility**
4 **service rates?**

5 A. Skyview Park's present rates, fees, and additional charges were
6 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
7 have been in effect since January 1, 2017. Upon acquisition of the
8 Skyview water system, Red Bird proposes to charge these approved
9 rates, fees, and additional charges for the Skyview Park Subdivision
10 service area. The present and proposed rates are as follows:

		<u>Present and Proposed</u>
<u>Monthly Metered Water Rates:</u>		
13	Residential Base Charge, zero usage	\$ 21.62
14	Usage Charge, per 1,000 gallons	\$ 5.54
15	<u>Connection Charge:</u>	Actual Cost
16	<u>Reconnection Charge:</u>	
17	If water service cut off by	
18	utility for good cause	\$ 23.92
19	If water service discontinued	
20	at customer's request	\$ 23.92
21	<u>Returned Check Charge:</u>	\$ 23.92

1 **Q. What is your recommendation regarding the requested**
2 **approval of rates?**

3 A. The Skyview Park requested rates are the current Commission-
4 approved rates and are just and reasonable.

5 **Q. What adjustments have you made to Skyview Park plant**
6 **additions since the last rate case?**

7 A. I made no adjustments to Skyview Park plant additions since the last
8 rate case. Red Bird did not provide invoices supporting plant
9 additions to Skyview Park since the last rate case and, as a result,
10 no plant additions were included and no adjustments made.

11 **Q. Briefly describe Red Bird's plans for capital improvements for**
12 **Skyview Park.**

13 A. The Facility Report prepared by Kimley Horn for Skyview Park, dated
14 July 2021, and filed as Joint Application Confidential Attachment
15 L.24 states that **[BEGIN CONFIDENTIAL]** [REDACTED] r
16 [REDACTED] **[END CONFIDENTIAL]** As a result, the revenue
17 requirements to support planned capital improvement costs for
18 Skyview Park is \$0.

1 **WHITE OAK VILLAGE WATER AND WASTEWATER SYSTEMS**

2 **Q. Please describe the White Oak Village service area and the**
3 **water and wastewater utility systems.**

4 A. White Oak Village is a community located southeast of
5 Hendersonville. The Applicant purchases water and wastewater
6 treatment for White Oak Village from the City of Hendersonville. The
7 amended application filed with the Commission on July 2, 2021,
8 states that for the 12 months ending on December 31, 2020, the
9 number of water and wastewater customers served was 90.

10 The water system consists of a water distribution system and a
11 concrete meter box containing a master meter. The wastewater
12 system is comprised of collection system piping, a duplex
13 submersible lift station, a valve vault, and a meter vault. Wastewater
14 discharges to a six-inch force main connecting to the City of
15 Hendersonville's wastewater system.

16 **Q. Have you conducted a site visit of the White Oak Village water**
17 **and wastewater systems and, if so, what were your**
18 **observations?**

19 A. Yes, on January 30, 2024, Public Staff witness Sun and I performed
20 a site visit of the White Oak Village water and wastewater systems
21 accompanied by the ORC, Kevin White. The water system is
22 comprised of a meter vault in which the master meter is installed. As

1 previously stated, water for the White Oak service area is purchased
2 from Hendersonville and, as a result, the master meter is owned and
3 maintained by Hendersonville. The water system condition is
4 consistent with the Kimley Horn report dated July 2021 and provided
5 as Joint Application Confidential Attachment L.25 where the overall
6 condition was considered to be [BEGIN CONFIDENTIAL] [REDACTED]
7 [END CONFIDENTIAL]

8 Similar to the water service, wastewater service is also purchased
9 from Hendersonville. The wastewater system is comprised of a dual
10 pump lift station, a valve vault and flow meter vault, with wastewater
11 discharging to a force main and manhole where it connects to
12 Hendersonville's wastewater system. At the time of the site visit, the
13 valves and piping located in the valve vault showed signs of
14 moderate corrosion. Furthermore, one of the lift station pumps was
15 not installed, and the backup generator was not in service. Both
16 appeared to have been out of service for an extended period of time.
17 However, due to the limited equipment needed to operate the
18 system, I determined the system's condition to be "needs
19 maintenance" and not the [BEGIN CONFIDENTIAL] [REDACTED] [END
20 CONFIDENTIAL] condition stated in the Kimley Horn report dated
21 July 2021 and provided as Joint Application Confidential Attachment
22 L.26.

1 **Q. Briefly describe the results of your investigation of White Oak**
2 **Village's DEQ NOVs and Civil Penalties.**

3 A. The White Oak Village water system operates under assigned DEQ
4 system identification number NC1045025 and the wastewater
5 system operates under DEQ permit WQ0029358. The DEQ permit is
6 for the White Oak Village wastewater collection system only since
7 wastewater treatment is purchased from Hendersonville. The results
8 of my investigation of DEQ NOVs and Civil Penalties for the White
9 Oak Village water and wastewater systems for the time period
10 January 1, 2021, through January 31, 2024, are discussed below.

11 **White Oak Village Water System**

12 From January 1, 2021, through January 31, 2024, the White Oak
13 Village water system had three violations. One violation was issued
14 in 2021 for not timely submitting the Consumer Confidence Report.
15 A violation was issued in 2023 as result of A&D not properly
16 monitoring for lead and copper by failing to submit one or more lead
17 and copper laboratory results for the three-year compliance period.
18 The 2023 violation resulted in a penalty of \$200. In 2024, the most
19 recent violation, a Public Notice Rule Linked to Violation was issued
20 as a result of A&D not notifying customers of a cited violation on the
21 White Oak Village water system. Of these three violations, the 2023
22 and 2024 violations have not returned to compliance.

1 **White Oak Village Wastewater System**

2 From January 1, 2021, through January 31, 2024, the White Oak
3 Village wastewater system has not received any NOVs.

4 **Q. Has the Public Staff received any customer complaints from**
5 **White Oak Village customers?**

6 A. From January 1, 2021, through January 31, 2024, no customer
7 complaints have been received by the Public Staff Consumer
8 Services Division.

9 **Q. Has the Public Staff received any consumer statements of**
10 **position from White Oak Village customers?**

11 A. Yes. The Public Staff received one consumer statement of position
12 from a White Oak Village customer. The statement was from a
13 married couple concerned about future rate increases that would
14 result from Red Bird's estimated cost of improvements identified in
15 the Notice to Customers.

16 **Q. Is A&D providing safe and reliable service in White Oak Village?**

17 A. Yes. Based on the limited violations from DEQ described above, the
18 observations from my site visit, and the lack of customer complaints
19 and consumer statements of position regarding service, I believe that
20 White Oak Village is providing adequate service to its water
21 customers.

1 **Q. What are the present and proposed White Oak Village water and**
2 **wastewater utility service rates?**

3 A. White Oak Village's present rates, fees, and additional charges were
4 approved in Docket Nos. W-1049, Sub 19, and M-100, Sub 138, and
5 have been in effect since January 1, 2017. Upon acquisition of the
6 White Oak Village water and wastewater systems, Red Bird
7 proposes to charge these approved rates, fees, and additional
8 charges for the White Oak Village Mobile Home Park service area.
9 The present and proposed rates are as follows:

1		<u>Present and Proposed</u>
2	<u>Monthly Metered Water Service:</u>	
3	Base Charge, zero usage	\$ 10.00
4	Usage Charge, per 1,000 gallons	\$ 3.48
5	<u>Monthly Metered Sewer Service:</u>	
6	Base Charge, zero usage	\$ 26.33
7	Usage Charge, per 1,000 gallons	\$ 2.21
8	<u>Connection Charge:</u>	Actual Cost
9	<u>Reconnection Charge:</u>	
10	If water service cut off by	
11	utility for good cause	\$ 24.96
12	If water service discontinued	
13	at customer's request	\$ 24.96
14	If sewer service cut off by	
15	utility for good cause	Actual Cost
16	To avoid having water utility service disconnected (if payment for	
17	service is not received by the past-due date), a customer must pay	
18	all past-due and current charges and may have to pay late payment	
19	finance charges.	
20	To resume water utility service, after service has been cut-off by	
21	utility for good cause, a customer must pay all delinquent water	
22	charges, including finance charges, plus the approved reconnection	
23	charge.	
24	<u>Returned Check Charge:</u>	\$ 24.96
25	Q. What is your recommendation regarding the requested	
26	approval of rates?	
27	A. The requested rates are the current Commission-approved rates for	
28	White Oak Village and are just and reasonable.	

1 **Q. What adjustments have you made to White Oak Village plant**
2 **additions since the last rate case?**

3 A. In response to Public Staff Data Request Nos. 3 and 11, Red Bird
4 provided invoices totaling **[BEGIN CONFIDENTIAL]** [REDACTED]
5 [REDACTED] **[BEGIN**
6 **CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** for the White
7 Oak Village water system that were associated with Asset Summary
8 entries. An additional **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
9 **CONFIDENTIAL]** Asset Summary amount was included in the White
10 Oak Village water system plant additions since the two entries were
11 of an amount where an invoice was not required. An Asset Summary
12 identified plant addition of **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
13 **CONFIDENTIAL]** assigned to White Oak Village water system was
14 not included since an invoice supporting that amount was not
15 provided. Additionally, there were **[BEGIN CONFIDENTIAL]** [REDACTED]
16 **[END CONFIDENTIAL]** in invoices that were for maintenance and
17 repair activities on the White Oak Village wastewater system that
18 were not included in the Asset Summary or considered by me to be
19 plant additions. Based on my review of the provided invoices, no
20 adjustments were made to the White Oak Village wastewater system
21 plant addition amount of **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
22 **CONFIDENTIAL]** or the White Oak Village water system plant
23 addition amount of **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**

1 **CONFIDENTIAL]** with the exception of not including the line item for
2 **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** that was
3 not supported by an invoice. I also revised the service life of a blower
4 motor plant addition to the White Oak Village wastewater system
5 from 20 years to 5 years based on service lives compiled from other
6 public utility rate cases and my engineering experience and reduced
7 the service life of two meter installation plant additions totaling
8 **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** from 20
9 years to 10 years based on previous A&D rate cases.

10 **Q. Briefly describe Red Bird's plans for capital improvements for**
11 **White Oak Village.**

12 A. After completing the purchase of the White Oak Village wastewater
13 system, Red Bird intends to **[BEGIN CONFIDENTIAL]** [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED] **[END**
18 **CONFIDENTIAL]**

19 The Facility Report prepared by Kimley Horn for the White Oak
20 Village water system, dated July 2021 and filed as Joint Application
21 Confidential Attachment L.25 states that **[BEGIN CONFIDENTIAL]**
22 [REDACTED] **[END CONFIDENTIAL]** As

1 a result, the revenue requirements to support planned capital
2 improvement costs for the White Oak Village water system is \$0.

3 Inclusion of the currently planned improvements to the White Oak
4 Village wastewater system, and based on the resulting revenue
5 requirements to support the improvement costs as identified in the
6 prefiled testimony of Public Staff witness Sun, would result in a \$5.32
7 per month increase in the wastewater base charge or an increase of
8 20%.

9 **ALLOCATION OF PURCHASE PRICE**

10 **Q. Please explain how the purchase price was allocated among the**
11 **13 systems.**

12 **A.** Red Bird did not assign portions of the purchase price to the systems.
13 To determine how the purchase price should be allocated between
14 the 13 systems for further evaluation, I first took the systems with
15 positive net plant value and subtracted that total from the purchase
16 price amount. Then using the total revenue amounts provided in the
17 Joint Amended Application, page 4, filed on July 2, 2021, I calculated
18 the percentage of A&D's total revenue provided by each system and
19 multiplied that by the remaining purchase price amount. Then the net
20 plant value was added to that total for each system to determine the
21 purchase price allocation. My calculation is shown as **Confidential**
22 **Franklin Exhibit 2.**

RED BIRD CAPABILITIES

Q Based on your investigation, what is your opinion of Red Bird's ability to own and operate A&D water and wastewater system?

A. Public Staff witness John R. Hinton addresses Red Bird's financial ability to own and operate the A&D water and wastewater systems. Based on our investigation, Red Bird, a subsidiary of Central States Water Resources, LLC, has the financial, technical, and managerial capabilities necessary to provide water and wastewater utility service to customers in A&D's service area. Therefore, the Public Staff recommends the Commission approve the transfer of the water and wastewater systems from A&D to Red Bird, subject to certain conditions described below.

DISTRESSED/TROUBLED ASSESSMENT

Q. Do you agree with the prefiled direct testimony of Red Bird witness Cox that the A&D water and wastewater systems are either distressed, troubled, or in need of an infusion of capital investment that the current owner is either unable or unwilling to provide?

A. No. It is overly simplistic to make a broad conclusion that applies to all of A&D's 13 systems due to the varying degrees of complexity and needs of each. Six of the water systems – Camelot, Cinnamon Woods, Kirk Glen, Rolling Oaks, Skyview Park and White Oak Village – are purchased water systems, which require less

1 equipment and labor than a drinking water well system with
2 treatment. With the exception of Cinnamon Woods, these are simple
3 systems where the utility is essentially only responsible for the
4 distribution system, while the water provider is responsible for
5 providing water to the system and maintaining the master meter and
6 meter vault.

7 I also note that witness Cox uses the phrases “distressed,”
8 “troubled,” or “in need of capital infusion” interchangeably as if they
9 are synonymous. In my opinion, each of these phrases has a distinct
10 and different meaning and does not clearly comport with the
11 terminology used in the Commission’s *Order Approving Transfer and*
12 *Denying Acquisition Adjustment, Petition of Utilities, Inc. for Transfer*
13 *of the Certificate of Public Convenience and Necessity for Providing*
14 *Sewer Utility Service on North Topsail Island and Adjacent Mainland*
15 *Areas in Onslow County from North Topsail Water and Sewer, Inc.*
16 *and for Temporary Operating Authority*, Docket No. W-1000, Sub 5
17 (N.C.U.C. January 6, 2000) (W-1000, Sub 5 Order), discussed
18 below, which uses the terms “operationally troubled” and “financially
19 troubled.” Regarding consideration of the appropriateness of
20 allowing an acquisition adjustment, the Commission pointed out in
21 the W-1000, Sub 5 Order that none of the phrases used by witness
22 Cox have been deemed to be universally dispositive.

1 I also disagree with the contention that an unwillingness to provide
2 an infusion of capital investment by the current owner equates to the
3 utility being distressed or troubled. By authority granted under N.C.
4 Gen. Stat. § 62-42, the Commission may direct regulated utilities to
5 make necessary additions, extensions, repairs, improvements, or
6 additional services or changes within a reasonable prescribed time
7 to secure reasonably adequate service or facilities and reasonably
8 and adequately serve the public convenience and necessity.

9 Red Bird hired Engineering firm Kimley Horn to assess the condition
10 of each A&D system and filed the Kimley Horn reports as Joint
11 Application, Confidential Attachments L.14 through L.26. Kimley
12 Horn recommended minor improvements for the A&D purchased
13 water systems with **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
14 **CONFIDENTIAL]** required for Kirk Glen, Skyview Park, and White
15 Oak Village. For Camelot and Rolling Oaks, Kimley Horn
16 recommended **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
17 **CONFIDENTIAL]** in improvements, respectively, although half of the
18 recommended Rolling Oaks improvement amount to **[BEGIN**
19 **CONFIDENTIAL]** [REDACTED] **[END**
20 **CONFIDENTIAL]** is not considered a utility expense since it is the
21 responsibility of the water provider. As compared to the previously
22 mentioned water systems, improvements identified by Kimley Horn
23 for the Cinnamon Woods water system are more extensive and

1 include installation of a [BEGIN CONFIDENTIAL] [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [END CONFIDENTIAL] Kimley Horn also concluded the Cinnamon

5 Woods water system to be in [BEGIN CONFIDENTIAL] [REDACTED]

6 [END CONFIDENTIAL] condition.

7 I have previously discussed the DEQ NOVs issued to each of these
8 purchased water systems for the time period from January 1, 2021,
9 through January 31, 2024. While receipt of NOVs is neither ideal nor
10 condoned, the nature of the NOVs and their issuance frequency
11 combined with the minimal improvements identified by Kimley Horn
12 for the six purchased water systems and the overall condition of
13 Cinnamon Woods, the Public Staff does not consider the six A&D
14 purchased water systems to be distressed, troubled, or in need of
15 capital infusion that A&D is unable to provide.

16 In addition to the six purchased water systems, A&D also has the
17 water system at Buffalo Meadows. While Kimley Horn identifies
18 recommended improvements to the system, most are considered
19 enhancements and not required for continued operation.

20 Furthermore, Kimley Horn stated that [BEGIN CONFIDENTIAL] [REDACTED]

21 [REDACTED] [END CONFIDENTIAL]

22 Invoices provided to the Public Staff in response to Public Staff Data

1 Request No. 9 indicate that A&D made capital improvements in 2021
2 to the water system of \$1,670 by installing new chemical feed pumps.
3 Based on the NOVs received, the condition of the system as
4 identified by Kimley Horn, and the investment made to the system by
5 A&D, the Public Staff does not consider the Buffalo Meadows water
6 system to be distressed, troubled, or in need of capital infusion that
7 A&D is unable to provide.

8 The A&D WWTPs at Buffalo Meadows, Hunter's Glen, Mountain
9 Valley, Sherwood Forest and High Vista; and the lift station at White
10 Oak Village are more complicated due to the significant amount of
11 equipment required as compared to the A&D water systems. Each
12 A&D wastewater system is discussed in more detail below.

13 **Buffalo Meadows Wastewater System**

14 As previously stated, the Buffalo Meadows wastewater system has
15 received nine NOVs from January 1, 2021, to January 31, 2024.
16 Eight of the NOVs were due to late filing of the monthly discharge
17 monitoring reports beginning May 2022 through December 2022,
18 with an average of the reports being 52 days late. While filing of the
19 discharge monitoring reports is important because it facilitates timely
20 notification to DEQ if the wastewater treatment system is out of
21 compliance with its discharge permit, it is not indicative of a
22 wastewater system discharging effluent outside approved limits. The

1 ninth NOV was a monitoring violation issued in April 2023 due to
2 Buffalo Meadows failing to monitor weekly oxygen, dissolved
3 oxygen, and turbidity parameters during four weeks in January 2023.
4 Excluding the discharge monitoring report violations, Buffalo
5 Meadows was compliant 98% of the time period reviewed.

6 The Kimley Horn report identified Buffalo Meadows wastewater
7 system as having evidence of [BEGIN CONFIDENTIAL] [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] [END CONFIDENTIAL] The
11 report also identified [BEGIN CONFIDENTIAL] [REDACTED]

12 [REDACTED]

13 [REDACTED] [END CONFIDENTIAL]

14 Contrary to these findings, the wastewater system is routinely
15 operating within its permit requirements, and its effluent is compliant
16 with DEQ regulatory standards. As a result, I do not consider the
17 Buffalo Meadows wastewater system to be either distressed,
18 troubled, or in need of an infusion of capital investment that the
19 current owner is unable to provide.

20 **Hunter's Glen Wastewater System**

21 I previously provided a summary of the DEQ NOV's issued to
22 Hunter's Glen from January 1, 2021, to January 31, 2024. Similar to

1 the Buffalo Meadows discussion, the NOV's issued to Hunter's Glen
2 were due to late or missing discharge monitoring reports. While these
3 reports are important, they are not indicative of a wastewater system
4 failing to provide adequate service to customers or discharging
5 effluent outside approved limits. Excluding the discharge monitoring
6 report violations, Hunter's Glen was compliant 96% of the time period
7 reviewed.

8 Kimley Horn determined that the Hunter's Glen wastewater system
9 was in [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
10 condition and identified repairs and improvements [BEGIN
11 CONFIDENTIAL] [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED] [END CONFIDENTIAL] One
15 item for repair identified by Kimley Horn was that the [BEGIN
16 CONFIDENTIAL] [REDACTED] e
17 [REDACTED]. [END CONFIDENTIAL] During my site visit on
18 January 31, 2024, the pumps had been repaired/replaced and the
19 system was no longer on bypass. It is also important to note that
20 some of the items identified by Kimley Horn are not required. Rather,
21 they are improvements. These include installing [BEGIN
22 CONFIDENTIAL] [REDACTED]
23 [END CONFIDENTIAL] Furthermore, Kimley Horn stated the

1 Hunter's Glen [BEGIN CONFIDENTIAL] [REDACTED]
2 [REDACTED] [END
3 CONFIDENTIAL] Based on the above, I do not consider Hunter's
4 Glen to be distressed, troubled, or in need of an infusion of capital
5 investment that the current owner is unable to provide.

6 **Mountain Valley Wastewater System**

7 As previously stated, the Mountain Valley wastewater system has
8 received six NOV's from January 1, 2021, to January 31, 2024.
9 Similar to the Buffalo Meadows discussion, Mountain Valley was
10 issued NOV's due to late or missing discharge monitoring reports.
11 While these reports are important, they are not indicative of a
12 wastewater system failing to provide adequate service to customers
13 or discharging effluent outside approved limits. Excluding the
14 discharge monitoring report violations, Mountain Valley was
15 compliant 94% of the time period reviewed.

16 The Kimley Horn report, dated July 2021 and provided as Joint
17 Application Confidential Attachment L.21, identified recommended
18 repairs and improvements to the system. During my site visit I
19 determined the condition of the Mountain Valley wastewater system
20 to be consistent with the condition identified by Kimley Horn, that the
21 [BEGIN CONFIDENTIAL] [REDACTED]
22 [REDACTED] [END

1 **CONFIDENTIAL]** While maintenance and repairs are needed at
2 Mountain Valley, based on the NOVs received during the review
3 period, the overall plant condition and lack of customer complaints, I
4 do not consider Mountain Valley to be distressed, troubled, or in need
5 of an infusion of capital investment that the current owner is unable
6 to provide.

7 **Sherwood Forest Wastewater System**

8 As previously stated, the Sherwood Forest wastewater system has
9 received one NOV from January 1, 2021, to January 31, 2024. The
10 NOV was for Daily Maximum Exceedance of Coliform, Fecal
11 Membrane Filtration (MF), and Membrane Filtration Method (MFC)
12 Broth that occurred on November 3, 2021. Sherwood Forest was
13 compliant 99% of the time during the review period.

14 As a result of my site visit, discussed above, I determined the
15 Sherwood Forest wastewater system to be functional and in need of
16 repairs with an overall condition of “needs maintenance”. Based on
17 the regulatory performance of the system, the lack of customer
18 complaints, and the results of my site visit, I do not consider
19 Sherwood Forest wastewater system to be distressed, troubled, or
20 in need of an infusion of capital investment that the current owner is
21 unable to provide.

1 **White Oak Village Wastewater System**

2 As discussed above, the White Oak Village wastewater system is
3 comprised of a duplex submersible lift station, a valve vault and
4 meter vault that purchases sewer service from the City of
5 Hendersonville. From January 1, 2021, through January 31, 2024,
6 the White Oak Village wastewater system had not received any
7 NOVs. During my site visit I determined the system's overall
8 condition to be "needs maintenance." Furthermore, no customer
9 complaints have been received on the wastewater system and while
10 one consumer statement of position was received, it was due to
11 concerns of the rate impact due to Red Bird's proposed
12 improvements to all A&D water and wastewater systems. It was not
13 related to White Oak Village wastewater system service issues.
14 Based on the regulatory performance of the system, the lack of
15 customer complaints, and the results of my site visit, I do not consider
16 White Oak Village wastewater system to be distressed, troubled, or
17 in need of an infusion of capital investment that the current owner is
18 unable to provide.

19 **High Vista Wastewater System**

20 As discussed above, from January 1, 2021, through January 31,
21 2024, DEQ had issued 25 NOVs against High Vista with a total of
22 130 violations. A summary of NOVs and the specific violations are
23 provided in Franklin Exhibit 1.

1 The March 9, 2022 Administrative Order, Docket No. CWS-04-2021-
2 0320 stated that High Vista had 178 exceedances of the effluent
3 limits for TSS, BODs, fecal coliform, ammonia nitrogen, flow, and
4 total residual chlorine for over the past five years violating the effluent
5 limitations specified in the High Vista WWTP permit. This regulatory
6 environmental performance of High Vista is abysmal. During my site
7 visit, I agreed with the Kimley Horn overall assessment that [BEGIN
8 CONFIDENTIAL] [REDACTED] [END
9 CONFIDENTIAL]

10 Although during the review period, no customer complaints have
11 been received, the environmental regulatory performance cannot be
12 ignored. As a result, I consider the High Vista wastewater system to
13 be troubled and in need of capital investment.

14 ACQUISITION ADJUSTMENT RECOMMENDATION

15 **Q. What is your recommendation concerning an acquisition**
16 **adjustment?**

17 A. The Public Staff does not support recovery of an acquisition
18 adjustment for the A&D water systems and the Buffalo Meadows,
19 Hunter's Glen, Mountain Valley, Sherwood Forest, and White Oak
20 Village wastewater systems. As a general proposition, when a public
21 utility buys assets that have previously been dedicated to public
22 service as utility property, the acquiring utility is entitled to include in

1 rate base the lesser of the purchase price or the net original cost of
2 the acquired facilities owned by the seller at the time of the transfer.
3 See W-1000, Sub 5 Order.

4 The Commission has indicated "a strong general policy against the
5 inclusion of acquisition adjustments in rate base subject to
6 exceptions in appropriate instances." *Id.* at 24. In the W-1000, Sub 5
7 Order, the Commission discussed the circumstances when the rate
8 base treatment of acquisition adjustments is proper. The
9 Commission stated:

10 As should be apparent from an analysis of the
11 Commission's previous Orders concerning this subject,
12 a wide range of factors have been considered relevant
13 in attempting to resolve this question, including the
14 prudence of the purchase price paid by the acquiring
15 utility; the extent to which the size of the acquisition
16 adjustment resulted from an arm's length transaction;
17 the extent to which the selling utility is financially or
18 operationally "troubled;" the extent to which the
19 purchase will facilitate system improvements; the size
20 of the acquisition adjustment; the impact of including
21 the acquisition adjustment in rate base on the rates
22 paid by customers of the acquired and acquiring
23 utilities; the desirability of transferring small systems to
24 professional operators; and a wide range of other
25 factors, none of which have been deemed universally
26 dispositive. Although the number of relevant
27 considerations seems virtually unlimited, all of them
28 apparently relate to the question of whether the
29 acquiring utility paid too much for the acquired utility
30 and whether the customers of both the acquired and
31 acquiring utilities are better off after the transfer than
32 they were before that time. This method of analysis is
33 consistent with sound regulatory policy since it focuses
34 on the two truly relevant questions which ought to be
35 considered in any analysis of acquisition adjustment

1 issues. It is also consistent with the construction of G.S.
2 62-111 (a) adopted *in State ex rel. Utilities Commission*
3 *v. Village of Pinehurst*. 99 N.C App. 224,393 S.E.2d
4 111 (1990), *aff'd* 331 N.C. 278,415 S.E.2d 199 (1992),
5 which seems to indicate that all relevant factors must
6 be considered in analyzing the appropriateness of
7 utility transfer applications. As a result, . . . the
8 Commission should refrain from allowing rate base
9 treatment of an acquisition adjustment unless the
10 purchasing utility establishes, by the greater weight of
11 the evidence, that the price the purchaser agreed to
12 pay for the acquired utility was prudent and that both
13 the existing customers of the acquiring utility and the
14 customers of the acquired utility would be better off [or
15 at least no worse off] with the proposed transfer,
16 including rate base treatment of any acquisition
17 adjustment, than would otherwise be the case. *Id.* at
18 27.

19 Based on the foregoing, A&D customers would need to be either
20 better off or at least no worse off as a result of the sale of the system,
21 including rate base treatment of any acquisition adjustment. The
22 prefiled direct testimony of witness Cox identifies improved customer
23 service, asset management via Utility Cloud software, professional
24 operations, and access to capital as benefits that would come with
25 Red Bird's ownership.

26 Red Bird has stated that it intends to use both third-party customer
27 service representatives and contract operators for its systems in
28 North Carolina. Customer service and professional operation could
29 both be contracted out to a third party by any current or acquiring
30 utility. Witness Cox also outlined the benefits associated with Utility
31 Cloud, a non-affiliated company with whom A&D or a different

1 purchaser could pursue a contract. There is no evidence to suggest
2 that A&D customers would be better off under Red Bird ownership
3 with Red Bird hiring a contract operator and a third-party customer
4 service firm and contracting with Utility Cloud, as compared to the
5 current owner or a different purchaser doing the same.

6 On pages 25 and 33 of his prefiled direct testimony, witness Cox
7 testifies that the survey and capital improvement estimates are
8 preliminary, and the extent of problems with the systems cannot be
9 truly known until Red Bird has acquired and begun to operate them.
10 This raises the question of whether, due to the uncertainty as to the
11 amount of capital investment that may be necessary, Red Bird's
12 willingness to make capital investments can actually be considered
13 a tangible benefit to customers.

14 In this proceeding, as previously stated, between January 1, 2021,
15 and January 31, 2024, the A&D wastewater systems of Buffalo
16 Meadows, Hunter's Glen, Mountain Valley, Sherwood Forest, and
17 White Oak Village were issued NOVs primarily due to A&D not
18 submitting, or submitting late, the discharge monitoring reports and
19 not submitting the reports electronically as required by the system
20 permits. While these reports are important in allowing DEQ to
21 monitor each system's compliance with their permit, they are not
22 indicative of a wastewater system failing to provide adequate service

1 to customers or discharging effluent outside approved limits. The
2 NOVs issued to the water systems are infrequent and do not provide
3 evidence of ongoing environmental regulatory violations. Therefore,
4 the evidence demonstrates that there are no serious operational
5 problems currently affecting the A&D water systems and the Buffalo
6 Meadows, Hunter's Glen, Mountain Valley, Sherwood Forest, and
7 White Oak Village wastewater systems, and these systems are being
8 operated in a satisfactory manner. Therefore, I conclude that the
9 aforementioned systems are neither troubled nor distressed.²

10 In the W-1000, Sub 5 Order, the Commission assessed whether a
11 system was operationally troubled. The Commission stated:

12 The evidence supports the conclusion that NTWS
13 management routinely makes prudent use of its
14 available capital resources to provide an adequate
15 quality of service to its customers. Furthermore, the
16 NTWS system does not suffer from various system
17 deficiencies, ongoing environmental regulatory
18 violations and frequent customer complaints that typify
19 operationally-troubled systems. The Commission finds
20 and concludes that the facilities owned and operated
21 by NTWS are in satisfactory condition and are currently
22 sufficient to provide sewer utility service to the
23 customers. Without some evidence of inadequate
24 service currently or in the recent past, the Commission
25 cannot conclude that NTWS is operationally troubled.
26 The record in this case is devoid of such evidence.
27 Accordingly, the Commission concludes that NTWS is
28 not an operationally troubled system. *Id.* at 21.

² High Vista is discussed separately below.

1 The aforementioned systems do not suffer from system deficiencies
2 or ongoing environmental regulatory violations. From January 1,
3 2021, through January 31, 2024, there has been only one customer
4 complaint. That complaint was from a Skyview Park customer where
5 the customer's water service was disconnected prematurely. No
6 other customer complaints were received by the Public Staff
7 Consumer Services Division. Furthermore, one consumer statement
8 of position has been received from a White Oak Village customer
9 expressing concerns of the rate impact the planned improvements
10 Red Bird intends to implement on the combined A&D systems and
11 was not related to service issues or concerns. As a result, there is no
12 material evidence that the A&D water systems and the Buffalo
13 Meadows, Hunter's Glen, Mountain Valley, Sherwood Forest, and
14 White Oak Village wastewater systems are operationally troubled.
15 Furthermore, allowing rate base treatment of an acquisition
16 adjustment based on Red Bird's purchase price of these systems
17 and net plant in service could incentivize other utility owners to fail to
18 properly operate and maintain systems and accumulate
19 environmental violations in order to be characterized as operationally
20 troubled and, thus, receive a higher purchase price.

21 Additionally, Red Bird has not quantified "the impact of including the
22 acquisition adjustment in rate base on the rates paid by customers
23 of the acquired and acquiring utilities." Allowing Red Bird to recover

1 in rate base the entire difference between the purchase price and the
2 net plant in service would equate to the following monthly rate
3 impacts based on the annual revenue requirements as shown in
4 Public Staff Sun Exhibit 1, Schedule 2-1.

5	<u>System</u>	<u>Rate Increase</u>	<u>% Increase</u>
6	Buffalo Meadows Wastewater	\$ 0.60	2.1
7	Buffalo Meadows Water	\$ 0.44	2.9
8	Camelot	\$ 1.01	2.7
9	Cinnamon Woods	\$ 0.73	4.4
10	Hunter's Glen Residential	\$ 0.91	1.9
11	Hunter's Glen Commercial	\$ 0.91	2.2
12	Kirk Glen	\$ 1.89	5.2
13	Mountain Valley	\$ 0.90	2.2
14	Rolling Oaks Residential	\$ 1.16	4.1
15	Rolling Oaks Commercial	\$ 1.16	1.6
16	Sherwood Forest	\$ 1.53	4.4
17	Skyview Park	\$ 0.63	2.9
18	White Oak Village Wastewater	\$ 0.60	2.3
19	White Oak Village Water	\$ 0.36	3.6

20 While the Public Staff is opposed to an acquisition adjustment for the
21 above systems, the Public Staff is of the opinion that an acquisition
22 adjustment in the amount of \$15,159 is appropriate for the High Vista

1 wastewater system. While no customer complaints on High Vista
2 have been received between January 1, 2021, and January 31,
3 2024, as previously stated, the number of NOVs and involvement by
4 the EPA is of extreme concern and cannot be ignored. An acquisition
5 adjustment of this amount would increase the High Vista monthly
6 rates by \$0.90.

7 For the remaining A&D systems, approval of an acquisition
8 adjustment is not in the public interest. Red Bird has not established
9 by the greater weight of the evidence that the benefits to A&D's
10 customers resulting from the allowance of rate base treatment of an
11 acquisition adjustment in this case would offset or exceed the
12 resulting burden or harm to customers, including but not limited to,
13 the future rate impact of the requested acquisition adjustment and
14 excessive due diligence expenses.

15 **DUE DILIGENCE RECOMMENDATION**

16 **Q. What is the Public Staff's recommendation regarding Red Bird's**
17 **due diligence expenses?**

18 **A.** In response to a Public Staff data request requesting all invoices for
19 due diligence expenses, Red Bird provided invoices dated between
20 September 2019 and December 2023 from three law firms, three
21 engineering firms, one laboratory, and one environmental firm to
22 support its due diligence expense of \$381,649.51, shown on Cox

1 Direct Exhibit 6. The Public Staff found a number of issues with the
2 21 Design Group invoices provided by Red Bird to support its due
3 diligence expenses included in Cox Direct Exhibit 6. These include:

- 4 • 12 invoices for work performed for Sapphire Lakes, a system
5 no longer owned by A&D as it was transferred to the Town of
6 Rosman in Docket No. 1049, Sub 26.
- 7 • Invoices 10394, 10395, 10398, 10399, 10401 and 10405 for
8 work performed for Magnolia Water System, Central States
9 Water Resources, LLC's Louisiana affiliate.
- 10 • Invoice 12744 for work performed for Crosby Utilities, a North
11 Carolina system acquired by Red Bird in 2023.
- 12 • Burgin Engineering, Inc. (Burgin) invoices 9-12077 and 9-
13 12088 were not included. Burgin's scope of work included
14 performing site inspections and providing capital improvement
15 estimates. This work was performed in 2020 and is
16 superseded by the Kimley Horn inspections and reports and
17 therefore was not used by Red Bird. 21 Design Group invoice
18 13250 was not provided.
- 19 • Invoices 21089 and 21090 where the combined total of both
20 invoices was more than the included subcontractor invoiced
21 amount.

- 1 • 133 of the approximately 321 21 Design Group, Inc. invoices
2 provided included a 5% markup for subcontractors with the
3 markup alone totaling over **[BEGIN CONFIDENTIAL]**
4 ██████████ **[END CONFIDENTIAL]**. An additional 21 Design
5 Group, Inc. invoice, 21087, included a 50% markup.

6 While the Public Staff does not support subcontractor markups being
7 added to rate base and included in rates, invoice 21087 is especially
8 troubling. If the 50% markup is incorrect, then it can be said that Red
9 Bird has inadequate billing oversight. A lack of billing oversight is also
10 evident in the incorrect billed amount in 21 Group invoices 21089 and
11 21090 discussed previously.

12 Additionally, I identified discrepancies in the legal due diligence
13 invoices. Black, Slaughter & Black invoice 221657 does not support
14 the amount stated in Cox Direct Exhibit 6. Moreover, Black,
15 Slaughter & Black invoice 229857 includes work performed by the
16 Hutchens Law Firm, but the Hutchens Law Firm invoice was not
17 provided and therefore could not be verified.

18 In addition to the foregoing issues, certain expenses do not appear
19 to be appropriately categorized as due diligence expenses. For
20 example, legal invoices from Burns, Day & Presnell, P.A. would be
21 for expenses associated with this proceeding before the Commission
22 and not for due diligence costs associated with the purchase of the

1 A&D water and wastewater systems. Furthermore Burns, Day &
2 Presnell invoices 69832, 70066, 70465, 70885, 71248, 71446, and
3 71647 do not have an itemized list of charges specific to the work
4 performed for A&D. Instead, the invoices show activities performed
5 for various Red Bird systems being purchased in North Carolina with
6 a total cost at the bottom of the invoice. The amount attributed to
7 A&D is determined by dividing the total invoice amount by the
8 number of times each North Carolina system was mentioned on the
9 invoice.

10 Based on my review, I determined that the total amount of due
11 diligence expenses that are not supported by invoices is \$35,149
12 with another \$10,029 attributed to mark ups charged by 21 Design
13 Group. On page 34 of his prefiled direct testimony, Red Bird witness
14 Cox testifies that due diligence expenses are legitimate business
15 expenses and this “opportunity cost” should be shared with
16 ratepayers just as the benefits of completed acquisitions are shared.
17 Although witness Cox states that due diligence costs should be
18 “shared” with ratepayers, Red Bird has not identified the portion of
19 the \$381,649.51 of due diligence expenses that would be Red Bird’s
20 responsibility and not the responsibility of ratepayers, nor has Red
21 Bird demonstrated what specific benefits ratepayers would receive
22 as a result of the due diligence expenses.

1 Public Staff witness Sun calculated the revenue requirements for
2 each A&D system to support the due diligence costs requested by
3 Red Bird. This required the determination of the amount from each
4 due diligence invoice that applies to each system. While the invoices
5 from Engineering firms showed the applicable A&D system, the legal
6 invoices were not system specific and only referred to A&D. As a
7 result, the Public Staff determined the percentage of the Engineering
8 firm due diligence invoice amount assigned to each system and then
9 applied those percentages to the legal invoices to determine the total
10 due diligence expense for each system. Furthermore, the 21 Design
11 Group work performed for the Sapphire Lakes service area totaling
12 \$4,121.25 was subtracted from Red Bird's identified due diligence
13 expense of \$381,649.68. The resulting revenue requirements for
14 each A&D system as a result of Red Bird's requested due diligence
15 expenses are shown in Public Staff Sun Exhibit 1, Schedule 2. The
16 revenue requirements to support the due diligence costs requested
17 by Red Bird would result in the following increase in monthly water
18 and wastewater flat rates or base charges as applicable:

1	<u>System</u>	<u>Rate Increase</u>	<u>% Increase</u>
2	Buffalo Meadows Wastewater	\$ 7.92	27.7
3	Buffalo Meadows Water	\$ 8.37	54.7
4	Camelot	\$ 5.18	13.6
5	Cinnamon Woods	\$ 1.98	12.0
6	High Vista – High Vista Falls	\$ 4.35	12.3
7	High Vista – LaVista Village	\$ 4.35	18.9
8	Hunter’s Glen Residential	\$ 4.70	9.6
9	Hunter’s Glen Commercial	\$ 4.70	11.1
10	Kirk Glen	\$ 5.74	15.7
11	Mountain Valley	\$ 4.21	10.2
12	Rolling Oaks Residential	\$ 2.95	10.4
13	Rolling Oaks Commercial	\$ 2.95	4.1
14	Sherwood Forest	\$15.05	43.0
15	Skyview Park	\$ 3.85	17.8
16	White Oak Village Wastewater	\$ 2.75	10.5
17	White Oak Village Water	\$ 2.32	23.2

18 Due diligence expenses are typically limited to transaction closing
19 costs and are generally less than \$10,000. In this proceeding, since
20 multiple systems are being acquired with varying infrastructure,
21 complexity, and customer counts, I determined recommended
22 allowable due diligence expenses for each system. I considered
23 likely cost savings in mobilizing personnel and equipment due to the

1 proximity of these systems to one another, customer counts, and
2 system complexity (physical and operational). As a result, I
3 recommend limiting due diligence to \$2,000 each for Camelot and
4 Kirk Glen due to both systems being simple purchased water
5 systems with fewer than 35 customers. For the Cinnamon Woods,
6 Rolling Oaks, and Skyview Park systems, I recommend due
7 diligence expenses of \$4,000 each since these systems are also
8 purchased water but are larger systems and have a higher number
9 of customers than Camelot and Kirk Glen. For the wastewater
10 systems of Hunter's Glen, Mountain Valley, and Sherwood Forest, I
11 recommend allowing due diligence expenses of \$8,000 each. This is
12 based on these systems having wastewater treatment systems but
13 relatively low customer counts of 65 or less. For the combined White
14 Oak Village water and wastewater systems, I recommend due
15 diligence expenses of \$8,000. This is based on White Oak Village
16 having both a purchased water and purchased wastewater system
17 and a customer count of 90. For the High Vista wastewater system,
18 I recommend allowing \$10,000 in due diligence expenses based on
19 the customer count of 170 and the system having a WWTP. Lastly,
20 for the combined Buffalo Meadows water and wastewater systems, I
21 recommend due diligence expenses of \$10,000 be allowed. Buffalo
22 Meadows has both a WWTP and provides water service using an
23 onsite well and ground storage tank. Based on the information

1 provided herein, including more detailed system information in my
2 testimony above, the Public Staff recommends that the majority of
3 due diligence costs be absorbed by Red Bird as a cost of doing
4 business and that the due diligence expenses included in rate base
5 be limited to \$68,000. This amount is consistent with previous
6 transfer applications, including those in Docket No. W-354, Sub 396,
7 where the Public Staff recommended due diligence expenses of
8 \$8,229 be included in rate base, and Docket No. W-218, Sub 527,
9 where the Public Staff recommended, and the Commission
10 approved, the inclusion of \$4,000 in attorney fees in rate base.

11 **TIMING OF ACQUISITION ADJUSTMENT AND DUE DILIGENCE**
12 **DETERMINATION**

13 **Q. Do you agree with Red Bird's assertion that allowance of an**
14 **acquisition adjustment and due diligence expenses should be**
15 **considered during the first rate case instead of in this CPCN**
16 **proceeding?**

17 **A.** No. Session Law 2023-67 provides that the Commission shall issue
18 an order approving the application upon finding that the proposed
19 grant or transfer of a CPCN, among other things, is in the public
20 interest. The Commission cannot determine whether granting a
21 transfer is in the public interest if it does not know the impact to rate
22 base and customer rates due to an acquisition adjustment and
23 allowance of due diligence expenses. Red Bird has indicated that it

1 will seek uniform rates in its first rate case. Deferring the decision
2 whether to allow an acquisition adjustment and due diligence
3 expenses for multiple utility systems to a future rate case would
4 unduly complicate and encumber the rate case proceeding. The
5 information required to make determinations on an acquisition
6 adjustment and due diligence expenses is known at this time.

7 For all of these reasons, the Commission should make
8 determinations on whether to allow an acquisition adjustment and
9 due diligence expenses as part of this transfer proceeding consistent
10 with long established procedure before the Commission, including
11 but not limited to the proceedings predating the Docket No. W-1000,
12 Sub 5 Order, such as Hardscrabble in Docket No. W-274, Sub 122;
13 Carolina Water I in Docket Nos. W-354, Subs 39, 40, and 41;
14 Carolina Water II in Docket Nos. W-354, Subs 74, 79, and 81; and
15 Transylvania in Docket Nos. W-1012, Subs 2 and 3. In the
16 *Recommended Order Approving Transfer and Rates, Granting*
17 *Franchise, Determining Amount of Bond, and Requiring Customer*
18 *Notice* issued in Docket Nos. W-933, Sub 12, and W-1328, Sub 0
19 (Recommended Order),³ the panel of Commissioners concluded that
20 the procedure established in the proceedings cited above is still

³ On February 22, 2024, Red Bird timely filed exceptions to the Recommended Order and on March 1, 2024, filed a Notice of Dismissal and Withdrawal of the Etowah Application.

1 appropriate following the enactment of S.L. 2023-67, which amended
2 N.C.G.S. § 62-111, including establishing timelines for the
3 determination of applications for grants or transfers of CPCNs for
4 certain water and wastewater systems. The panel stated:

5 The Commission is not persuaded by Red Bird's
6 argument that the amendments to N.C.G.S. § 62-111
7 limit the Commission's consideration of financial issues
8 such that an acquisition adjustment and/or due
9 diligence expense should be ignored at the time of
10 transfer or that such considerations play no part in
11 determining whether the transfer is in the public
12 interest.

13 *See Recommended Order Approving Transfer and Rates, Granting*
14 *Franchise, Determining Amount of Bond, and Requiring Customer*
15 *Notice, Joint Application by Red Bird Utility Operating Company, LLC*
16 *d/b/a Red Bird Water and Etowah Sewer Company, Inc. for Transfer*
17 *of Public Utility Franchise and for Approval of Rates, Docket Nos. W-*
18 *933, Sub 12, and W-1328, Sub 0 (N.C.U.C. February 7, 2024).*

19 **BOND RECOMMENDATION**

20 **Q. What is your recommendation concerning the bond for the**
21 **wastewater utility system?**

22 A. North Carolina Session Law 2023-137, Section 24 revised N.C. Gen.
23 Stat. § 62-110.3(a) reads that no franchise may be granted to any
24 water or sewer utility company "until the applicant furnishes a bond,
25 secured with sufficient surety as approved by the Commission, in an
26 amount not less than twenty-five thousand dollars (\$25,000)." In

1 addition, the bond, “shall be conditioned upon providing adequate
2 and sufficient service within all the applicant's service areas.”
3 Further, N.C.G.S. § 62-110.3(a) provides:

4 In setting the amount of a bond, the Commission shall
5 consider and make appropriate findings as to the
6 following:

- 7 (1) Whether the applicant holds other water
8 or sewer franchises in this State, and if
9 so its record of operation,
- 10 (2) The number of customers the applicant
11 now serves and proposes to serve,
- 12 3) The likelihood of future expansion needs
13 of the service,
- 14 (4) If the applicant is acquiring an existing
15 company, the age, condition, and type of
16 the equipment, and
- 17 (5) Any other relevant factors, including the
18 design of the system.

19 Commission Rules R7-37 and R10-24 restate and reaffirm most of
20 these provisions and requirements although the Commission Rules
21 have not been updated to reflect the revised bond amount required
22 by N.C.G.S. § 62-110.3. Bond is required to ensure the continued
23 provision of adequate and sufficient wastewater services in the event
24 a wastewater utility is unable to provide such service due to financial
25 constraints, mismanagement, or other factors. The factors and
26 findings set forth in N.C.G.S. § 62-110.3(a)(1) – (5) make clear that
27 the bond amount depends heavily on the applicant's financial,
28 managerial, and technical expertise; the applicant's prior
29 performance where applicable; the number of current and projected

1 future wastewater customers; system expansion plans and needs;
2 the complexity of the applicant's system and facilities; and any other
3 factors that bear upon the risk of the applicant providing inadequate,
4 inconsistent, and/or insufficient wastewater services. Section 62-
5 110.3 and Commission Rules R7-37 and R10-24 make it clear that a
6 higher risk of deficient wastewater services necessitates a higher
7 bond amount.

8 Red Bird has a very brief history of operations and management in
9 North Carolina, and due to the customer size, the improvements
10 planned by Red Bird, the number of systems being acquired, and the
11 size of the WWTP and wastewater collection systems, I recommend
12 that a \$215,000 bond be posted by Red Bird.

13 **PUBLIC STAFF RECOMMENDATION**

14 **Q. What is your recommendation regarding the requested**
15 **transfer?**

16 **A.** While the Public Staff has found that Red Bird has the financial,
17 technical, and managerial ability to own and operate the A&D water
18 and wastewater systems, the Public Staff's support of the requested
19 transfer is contingent on the following conditions: (1) allowing an
20 acquisition adjustment in the amount of \$15,159 for the High Vista
21 wastewater system but denying an acquisition adjustment for the
22 remaining A&D water and wastewater systems; (2) including in rate

1 base no more than the net plant in service amount provided by Public
2 Staff witness Sun plus \$68,000 in due diligence expenses; and (3)
3 requiring a bond of \$215,000.

4 As stated previously, with the exception of the High Vista wastewater
5 system, which has unique circumstances, the Public Staff does not
6 consider the remaining A&D water and wastewater systems to be
7 troubled. It is important for the Commission to consider the impact
8 the combination of an acquisition adjustment and the due diligence
9 expenses could have on rates as previously described. This would
10 not include any operating expenses associated with Red Bird's
11 operations and ownership, such as allocated expenses, or any
12 increases in due diligence expenses.

13 **Q. Does this conclude your testimony?**

14 **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.

HIGH VISTA NC DEQ VIOLATION SUMMARY
January 1, 2021 through January 31, 2024

Parameter	2021 Total	2022 Total	2023 Total	January 2024 Total	Total All
Nitrogen, Ammonia Total Concentration/ Daily Maximum Exceeded	0	0	1	0	1
Nitrogen, Ammonia Total Concentration/ Monthly Average Exceeded	2	0	2	0	4
Biochemical Oxygen Demand (BOD), 5 Day Daily Maximum Exceeded	34	12	12	0	58
Biochemical Oxygen Demand (BOD), 5 Day Monthly Average Exceeded	10	6	5	0	21
Total Suspended Solids (TSS) Concentration Daily Maximum Exceeded	8	1	1	0	10
Total Suspended Solids (TSS) Concentration Monthly Average Exceeded	7	3	3	0	13
Coliform, Fecal Membrane Filtration, Membrane Filtration Coliform Broth; Daily Maximum Exceeded	1	1	0	0	2
Monitoring: Dissolved Oxygen Weekly Frequency Violation	5	0	3	0	8
Monitoring: Chlorine, Total Residue; Twice Weekly	0	0	1	0	1
Monitoring: Turbidity, Quarterly Frequency Violation	1	1	0	0	2
Monitoring: Flow, In Conduit or Through Treatment Plant; Continuous Frequency Violation	1	1	0	0	2
Monitoring: Flow, In Conduit or Through Treatment Plant; Monthly Average Exceeded	1	0	0	0	1
Late/Missing Discharge Monitoring Report (DMR)	1	2	4	0	7
Total Violations ¹	71	27	32	0	130

¹ Since NC DEQ NOV's can contain multiple violations in a single NOV, total violations are all violations identified in NOV's issued to High Vista during the specified time period. Total NOV's issued will be lower.

CONFIDENTIAL
DOCKET NO. W-1328, SUB 2
PUBLIC STAFF
FRANKLIN EXHIBIT 2

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, by United States Mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 6th day of March, 2024.

Electronically submitted
/s/ Davia A. Newell
Staff Attorney