

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

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

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Red Bird Utility Operating)	
Company, LLC, 1650 Des Peres Road, Suite)	MOTION OF THE PUBLIC
303, St. Louis, Missouri 63131, and Bear Den)	STAFF FOR ORDER
Acres Development, Inc., 600 Bear Den)	SCHEDULING PUBLIC
Mountain Road, Spruce Pine, North Carolina)	WITNESS HEARING AND
28777, for Authority to Transfer the Bear Den)	EXTENDING DEADLINE TO
Acres Development Water System and Public)	FILE PROPOSED ORDERS
Utility Franchise in McDowell County, North)	
Carolina, and for Approval of Rates)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and moves the North Carolina Utilities Commission (Commission) to issue an order scheduling a public witness hearing and extending the deadline for the filing of proposed orders in the above-captioned dockets. In support of this motion, the Public Staff respectfully shows the Commission the following:

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

2. On January 5, 2022, the Commission issued an Order Scheduling Hearing, Establishing Discovery Guidelines, and Requiring Customer Notice (Scheduling Order) setting this matter for hearing on March 28, 2022, directing that a Notice to Customers be mailed with sufficient postage or hand delivered by Red Bird to all affected customers no later than 14 days after the date of the order; and requiring that Red Bird submit to the Commission a Certificate of Service, properly signed and notarized, indicating that the notice had been sent to customers as directed. The Scheduling Order also states that a public witness hearing has not yet been scheduled and that the Commission may decide the matter without a public witness hearing if no significant protests are received within 45 days of the date of the notice.

3. On January 21, 2022, Red Bird filed a certificate of service stating that the Notice to Customers was mailed or hand delivered to all affected customers by the date specified in the Scheduling Order, January 19, 2022. On February 4, 2022, Red Bird filed a Notice of Supplemental Service of Notice to Customers stating that the Notice to Customers was originally mailed to the service addresses rather than the billing addresses of at least some Bear Den customers, and that the Company had also mailed the Notice to Customers to the billing addresses of all Bear Den customers on January 31, 2022, to ensure that all customers were properly notified.

4. On March 21, 2022, Red Bird and the Public Staff (hereinafter, the Parties) filed a joint proposed order and a joint motion requesting that the Commission enter an order, among other things, cancelling the evidentiary hearing scheduled for March 28, 2022, and approving the Parties' Settlement Agreement and Stipulation filed March 2, 2022. The joint proposed order stated that, as of March 17, 2022, 45 days after the date

supplemental notices were mailed by Red Bird, the Commission and the Public Staff had received two consumer statements of position, and one Bear Den customer had filed a petition to intervene, which was subsequently withdrawn.

5. On March 24, 2022, the Commission issued an order denying the Parties' joint motion.

6. On April 20, 2022, following the evidentiary hearing, the Commission issued a notice setting May 20, 2022, as the due date for proposed orders and/or briefs in this matter.

7. Thereafter, the Parties learned that 11 additional consumer statements had been received by the Commission by the deadline for protests specified in the Commission's Scheduling Order.

8. Given that there are approximately 50 customers in the Bear Den system, the Public Staff believes the number of consumer statements received by the Commission's deadline constitutes significant protest and therefore requests that the Commission schedule a hearing for the purpose of receiving the testimony of public witnesses. Based on the Public Staff's understanding that many Bear Den customers have their primary residences somewhere other than Bear Den Acres Development, the Public Staff requests that the public witness hearing be scheduled to take place by virtual means using WebEx.

9. The Public Staff further requests that the Commission extend the May 20, 2022 deadline for the filing of proposed orders to enable the Parties to address testimony provided at the public witness hearing.

10. The Public Staff is authorized to represent that Red Bird does not object to this motion.

WHEREFORE, the Public Staff moves:

1. That the Commission schedule a public witness hearing by virtual means using WebEx;
2. That the Commission extend the deadline for the filing of proposed orders to enable the Parties to address the public witness hearing in their proposed order; and
3. For such other and further relief as the Commission may deem just and proper.

Respectfully submitted, this the 19th day of May, 2022.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Lucy E. Edmondson
Interim Chief Counsel

Electronically submitted
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CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the foregoing Motion upon each of the parties of record in this proceeding or their attorneys of record by emailing them an electronic copy or by causing a paper copy of the same to be hand-delivered or deposited in the United States Mail, postage prepaid, properly addressed to each.

This the 19th day of May, 2022.

Electronically submitted
/s/ Megan Jost