

**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,	)	ORDER DENYING JOINT
Suite 303, St. Louis, Missouri 63131, and Bear	)	MOTION FOR ORDER
Den Acres Development, Inc., 600 Bear	)	CANCELLING EVIDENTIARY
Den Mountain Road, Spruce Pine, North	)	HEARING, APPROVING
Carolina 28777, for Authority to Transfer	)	STIPULATION, APPROVING
the Bear Den Acres Development Water System	)	BOND, AND APPROVING
and Public Utility Franchise in McDowell County,	)	TRANSFER AND RATES
North Carolina, and for Approval of Rates	)	

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

On January 5, 2022, the Commission issued a Scheduling Order in the above-captioned docket that, among other things, scheduled an expert witness hearing to be held on Monday, March 28, 2022 beginning at 1:00 p.m.

On March 2, 2022, Red Bird and the Public Staff (Stipulating Parties) filed a Settlement Agreement and Stipulation (Stipulation) wherein the Stipulating Parties stated all contested issues have been resolved. Included within the Stipulation was a request to cancel the March 28, 2022, expert witness hearing.

Between February 28 and March 15, 2022, the Commission received three consumer protests to the transfer application, one of which raises the issues regarding a nonprofit water association, Bear Den Acres Water Association, for the property which purportedly owns the water lines under the streets of the campground.

On March 21, 2022, the Stipulating Parties filed a Joint Motion for Order Cancelling Evidentiary Hearing, Approving Stipulation, Approving Bond, and Approving Transfer and Rates.

Also on March 21, 2022, Red Bird posted a \$75,000.00 bond as required by the terms of the Stipulation.

After the Commissions' review of the Application, the Commission has questions for the Stipulating Parties, including questions regarding the intended ownership and transfers of the Bear Den System by CSWR, LLC and Red Bird UOC, LLC and Red Bird UHC, LLC, as well as questions regarding the existing and future plans for the nonprofit Bear Den Water Association referenced in the Restrictive Covenants filed with the McDowell County Register of Deeds dated November 31[sic], 1978.

Based on the foregoing, the Presiding Commissioner hereby denies the Stipulating Parties' requests to cancel the expert witness hearing and Joint Motion for Order Cancelling Evidentiary Hearing, Approving Stipulation, Approving Bond, and Approving Transfer and Rates. Accordingly, the expert witness hearing will be held on Monday, March 28, 2022, beginning at 1:00 p.m.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of March, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Erica N. Green". The signature is written in a cursive style with a large, stylized initial "E".

Erica N. Green, Deputy Clerk