

**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 303, St. Louis, Missouri 63131, and)
Bear Den Acres Development, Inc., 600 Bear) ORDER SCHEDULING PUBLIC
Den Mountain Road, Spruce Pine, North) HEARING AND REQUIRING
Carolina 28777, for Authority to Transfer the) PROPOSED ORDERS
Bear Den Acres Development Water System)
and Public Utility Franchise in McDowell County,)
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.

On January 5, 2022, the Commission issued a Scheduling Order in the above-captioned dockets that, among other things, set a deadline for filing customer protests within 45 days of the date of the customer notice. Between February 28 and March 15, 2022, the Commission received three consumer protests to the transfer application. The limited number of protests were not indicative of significant customer protest therefore the Commission did not schedule a public hearing for the receipt of customer testimony.

On March 28, 2022, the Commission held an expert witness hearing and instructed the parties to provide late-filed exhibits within three weeks from March 28, and file proposed orders within 30 days of the availability of the transcript.

On April 18, 2022, Red Bird filed additional information, and the Public Staff filed Late Filed Exhibit 1 as requested by the Commission at the conclusion of the expert witness hearing.

On April 20, 2022, the final transcript was filed, and the Commission issued a Notice of Due Date for Proposed Orders requiring proposed orders to be filed no later than May 20, 2022.

Between May 6 and May 9, 2022, the Commission became aware of nine additional consumer protests, eight of which had been timely submitted. Through no fault of the customers, the Commission had not been aware of these additional consumer statements of protest before holding the expert witness hearing. Likewise, the Public Staff had not been previously aware of the additional customer statements, which brought the total number of timely filed statements to 11. On May 19, 2022, the Public Staff filed a motion requesting that the Commission schedule a public hearing in this matter and extend the deadline for proposed orders until after the conclusion of any public hearing. On May 20, 2022, the Commission issued an order extending the deadline to file proposed orders pending a decision on any public hearing.

Based on the foregoing, and the recommendation of the Public Staff, the Presiding Commissioner finds that significant protests were timely filed in the docket and therefore, finds good cause to schedule a public hearing to be held by remote means via Webex, require Bear Den to provide customer notice to all affected customers of the public hearing, and require proposed orders be filed within 40 days of the date that the transcript of testimony from the public hearing is available.

IT IS, THEREFORE, ORDERED, as follows:

1. That a public hearing is hereby scheduled for Thursday, August 4, 2022, and shall be held remotely via Webex. The first session will begin at 1:30 p.m. and end at the earlier of the conclusion of the last witness' testimony or 4:30 p.m. The second session will begin at 6:30 p.m. and end at the earlier of the last witness' testimony or 10:30 p.m. A link to view the hearing will be available at www.ncuc.net;

2. Members of the public who would like to testify must register in advance of the hearing, no later than 5:00 p.m. on Thursday, July 21, 2022, either by email at ncucpublichearing@ncuc.net or by calling 919-733-0837. Individuals registering to testify must provide their name, the docket number (W-1040, Sub 10), the exact telephone number they will use to participate in the hearing, the session at which they will participate, and the topic of their testimony;

Only individuals registered by 5:00 p.m. on Thursday, July 21, 2022, will be allowed to testify at the public hearing.

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

4. That the Notice to Customers, attached hereto as Appendix A, shall be mailed with sufficient postage to both the billing address and the service address of all affected customers, hand delivered to all occupied campground lots, and posted to all physical communication boards and restroom doors of Bear Den Campground no later than ten days after the date of this Order and that Bear Den shall submit to the

Commission the attached Certificate of Service, properly signed and notarized, not later than 20 days after the date of this Order;

5. That Bear Den and Red Bird are required to file separately, verified reports addressing all customer service and service quality complaints, including what actions are planned to remedy the customer concerns, expressed during the public witness hearing held on August 4, 2022, within 10 days of the conclusion of the public witness hearing. The Public Staff shall, and other intervenors may file a verified response and any comments to Bear Den and Red Bird's reports on or before August 22, 2022; and

6. That the parties of record and the Public Staff are hereby required to file proposed orders within 40 days of the availability of the transcript of testimony of the public hearing.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of July, 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

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

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

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Notice is hereby given that Red Bird Utility Operating Company, LLC (Red Bird), 1650 Des Peres Road, Suite 303, St. Louis, Missouri 63131, and Bear Den Acres Development, Inc. (Bear Den), 600 Bear Den Mountain Road, Spruce Pine, North Carolina 28777, filed an Application with the North Carolina Utilities Commission (Commission) 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.

Upon acquisition, Red Bird plans to make capital improvements including replacement of the well pump at Well No. 1, existing piping in the well houses, and the sight gauge on the water tank. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the water utility system, the approximate annual revenue requirement associated with the capital expenditures is \$19,535 or \$32.56¹ per customer per month for 25 years.

When Red Bird files a general rate case application with the Commission, Red Bird intends to include the costs of purchasing the Bear Den water utility system and its investment in the system in rate base, which would allow Red Bird to recover in rates the reasonable depreciation expense and allow Red Bird the opportunity to earn a return, approved by the Commission, on its post-closing investment. The Company also intends to seek authority to implement uniform rates for all its North Carolina systems.

EFFECT OF RATES:

In its Application, Red Bird proposes to charge the rates approved on December 6, 2016, in Docket No. W-1040, Sub 8, by Commission Order Approving Tariff Revision and Requiring Customer Notice. The Commission approved rates include a base charge of \$33.40 for minimum usage and a usage rate of \$2.78 for every 1,000 gallons of usage.

¹ The approximate annual revenue requirement is based on a revised estimated capital expenditure Red Bird provided in Confidential Attachment R filed with the Commission on October 6, 2021, which is nearly \$200,000 less than the capital expenditure estimate Red Bird provided in Attachment L.1 filed with the Commission on March 29, 2021.

Based on an average usage of approximately 1,500 gallons per month, the monthly water utility bill is \$37.57.

Red Bird plans to request a rate increase and uniform statewide rates approximately 14 months post-acquisition subject to Commission approval.² If the full amount of the projected rate increase, including the request for uniform rates, is granted, the average monthly statewide bill amount could be as much as the rates shown below.

Subject to Commission approval, the present and projected average monthly bill charged to each customer for water utility service as proposed by Red Bird are as follows:

<u>Timeframe</u>	<u>Monthly Water Utility Bill</u>
Present ³	\$37.57
Year 1	\$37.57
Year 2 ⁴	\$67.46
Years 3 through 5	\$73.44

PROCEDURE FOR PUBLIC HEARING:

The Commission has scheduled a *Public Hearing* Thursday, August 4, 2022, to be held remotely via Webex for customer testimony. The first session will begin at 1:30 p.m. and end at the earlier of the conclusion of the last witness' testimony or 4:30 p.m. The second session will begin at 6:30 p.m. and end at the earlier of the last witness' testimony or 10:30 p.m. A link to view the hearing will be available at www.ncuc.net.

Members of the public that would like to testify must register in advance of the hearing, no later than 5:00 p.m. on Thursday, July 21, 2022, either by email at ncucpublichearing@ncuc.net or by calling 919-733-0837. Individuals registering to testify must provide their name, the docket number (W-1040, Sub 10), the exact telephone number they will use to participate in the hearing, the session at which they will participate, and the topic of their testimony. Witnesses calling from any number different from the number provided at registration may be delayed or experience other difficulty in providing their testimony.

² Any future change in rates proposed by Red Bird would require filing a general rate case application with the Commission pursuant to N.C. Gen. Stat. § 62-134. Future rates are subject to change and could be less or more than the projected \$73.44 per customer.

³ The timeframes of Present through the first two months of Year 2 assumes an average monthly usage of 1,500 gallons per customer.

⁴ Red Bird has indicated it intends to request approval of a rate increase approximately 14 months post-acquisition. Values are based on two months at Year 1 rates and ten months at the higher proposed rate of \$73.44 per customer, which is the projected average monthly bill amount for customers statewide. Although Red Bird plans to request both a rate increase and uniform statewide rates, no rate change can be implemented until approved by the Commission.

Only individuals registered by 5:00 p.m. on Thursday, July 21, 2022, will be allowed to testify at the public hearing. The Commission reserves the right to limit testimony at the public hearing.

The public hearing scheduled for August 4, 2022, shall be conducted solely for the purpose of receiving customer testimony.

The Public Staff – North Carolina Utilities Commission (Public Staff) is authorized by statute to represent consumers in proceedings before the Commission. Written statements or protests to the Public Staff should include any information that the writer wishes to be considered by the Public Staff in its investigation of the matter, and such statements should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326.

Written statements can also be faxed to 919-715-6704 or e-mailed to mike.franklin@psncuc.nc.gov. Written statements are not evidence unless those persons submitting the statements appear at the public hearing and testify concerning the information contained in their written statements.

Commission hearings are subject to change because of COVID-19. Any changes to scheduled hearings will be posted on the NCUC website (<https://www.ncuc.net/>).

The Attorney General is also authorized by statute to represent consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001. Written statements may also be e-mailed to utilityAGO@ncdoj.gov.

Information regarding this proceeding can also be accessed from the Commission's website at www.ncuc.net under the docket number of this proceeding.

This the 1st day of July, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Erica N. Green". The signature is written in a cursive, flowing style.

Erica N. Green, Deputy Clerk

CERTIFICATE OF SERVICE

I, _____, mailed with sufficient postage to both the billing address and the service address of all affected customers, and had hand delivered to all occupied campground lots, and posted to all physical communication boards and restroom doors of Bear Den Campground copies of the attached Notice to Customers issued by the North Carolina Utilities Commission in Docket Nos. W-1040, Sub 10 and W-1328, Sub 4, and the Notice was mailed, hand delivered, and posted by the date specified in the Order.

This the ____ day of _____ 2022.

By: _____
Signature

Name of Utility Company

The above named Applicant, _____, personally appeared before me this day and, being first duly sworn, says that the required Notice to Customers was mailed to all affected customers, hand delivered, and posted, as required by the Commission Order dated _____ in Docket Nos. W-1040, Sub 10 and W-1328, Sub 4.

Witness my hand and notarial seal, this the ____ day of _____ 2022.

Notary Public

Printed Name

(SEAL) My Commission Expires: _____
Date