



**NORTH CAROLINA  
PUBLIC STAFF  
UTILITIES COMMISSION**

January 5, 2021

**VIA ELECTRONIC MAIL**

Mr. Daniel C. Higgins, Esq.  
Burns, Day & Presnell, P. A.  
2626 Glenwood Avenue, Suite 560  
Raleigh, North Carolina 27608

Re: Docket Nos. W-1259, Sub 5 and W-1328, Sub 6, Proposed Transfer of Meadowlands Development, LLC, to Red Bird Utility Operating Company, LLC, d/b/a Red Bird Water, and for Approval of Rates

Dear Mr. Higgins:

The Public Staff has reviewed the application filed in the above-referenced docket on October 9 and 21, 2020, by Red Bird Utility Operating Company, LLC, d/b/a Red Bird Water (Red Bird or the Company) for the transfer to Red Bird of the Meadowlands Development, LLC (Meadowlands), public utility franchise and for approval of rates. Based on its review, the Public Staff has identified the following material deficiencies that must be addressed in order for the application to be complete:

1. Page 2, line 6(b), of the application requires the applicant to provide the address where the bill can be paid in person. The Company's application states, "See Attachment H" in response to this requirement. Attachment H does not provide an address where bills can be paid in person as required by the application.
2. Page 3 of the application requires the applicant to provide information regarding the service area listed on lines 1-27.b. The Company's application states, "See attachment D" in response to these requirements. Attachment D to the Company's application does not provide the following service area information required by the application:
  - a) "Is sewage disposal by septic tank or by sewer system?" (line 12);
  - b) "If disposal is by sewer system, is sewage treated by utility company or by others?" (line 13);

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Energy  
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Legal  
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Transportation  
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- c) "Capacity of Company's sewage treatment plant (gallons per day)" (line 14);
- d) "Number of [sewer] service taps in use (list number of each size)" (line 17);
- e) "Number of customers that can be served by treatment plant capacity" (line 22);
- f) "Name [of the] nearest water/sewer utility system" (line 23);
- g) "Distance to the nearest water/sewer utility system" (line 24);
- h) "Does any other person or utility seek to furnish the service(s) proposed herein? (yes or no)" (line 25); and
- i) "Has the system been offered for sale to the customers, county, or municipality? (yes or no). If not, why not?" (line 26).

3. Page 4 of the application requires the applicant to provide information regarding revenues and expenses for a 12-month period. The Company's application states, "See attachment C" in response to this requirement. The Public Staff has identified the following issues with Attachment C to the Company's application:

- a) Attachment C does not contain the information required by lines 21-25, and 27;
- b) Attachment C page 18, line 27, lists a "Miscellaneous expense (Itemize on Page 20)" in the amount of \$4,996. Page 20 is not included in Attachment C; and
- c) Neither the Company's application nor Attachment C indicates which 12-month period the data provided corresponds with. Regardless, the most recent revenues and expenses are required and should include data from 2020.

4. Page 6, line 1(b), of the application requires the applicant to provide capital structure balances for the applicant prior to the purchase of the new sewer system, including a breakdown of the amount and percent of total capital. The Company's application states, "See Attachments G & L." Attachments G and L to the Company's application do not provide the required capital structure balance information for the Company.

5. Page 6, line 3, of the application requires the applicant to identify improvements or additions to be made in the first year and provide information regarding how they will be financed. Page 7, lines 1 and 2, of the application requires the Company to identify improvements or additions and replacements required in the next five years and ten years and provide information on how they will be financed. The Company states on its application, "See Attachment L" in response to these requirements. The Public Staff has identified the following issues with Confidential Attachment L to the Company's application:

- a) Attachment L is designated by the Company as confidential. The information contained in Attachment L is not confidential and should be publicly filed;
- b) The Company must provide the information required by page 7 of the application for five years and ten years; and
- c) Confidential Attachment L does not indicate how the improvements or additions and replacements listed on the attachment will be financed as required by pages 6 and 7 of the application.

6. Page 7, line 3, of the application requires the applicant to fill out the Addendum to Application for Transfer of Public Utility Franchise and for Approval of Rates attached to the application or, in the alternative, to provide three specified items. The third item is the most recent fiscal year budgets, capital and operating, and the actual amounts for that year for the utility's and/or parent company's North Carolina utility operations. In response to this item, the Company stated in its application, "N/A; No North Carolina Utility Operations." Because the Company is unable to provide all of the information required as an alternative to completing the addendum, the Company should complete the Addendum to Application for Certificate of Public Convenience and Necessity and for Approval of Rates for the system that is the subject of the application. This information should be filed publicly.

7. Page 8 of the application includes a list of exhibits that must be attached to the application. Item 4 on the list of required exhibits is a "copy of (1) exhibits showing that the Seller has ownership of all property necessary to operate the utility and (2) a purchase agreement reduced to writing. Any changes in the purchase agreement should be filed immediately with the Commission." In response to Item 4, Red Bird's application states, "See attachment G." Confidential Attachment G, the Agreement for Sale of Utility System, references Exhibits A, B, C, and D, which were not provided. If not provided in an exhibit, the Agreement for

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Sale of Utility System must include the service area description, description of land and improvements, easements, leases, and personal property and equipment included in the sale in order for the application to be complete. Furthermore, Exhibit G must be filed with the Chief Clerk of the Utilities Commission with only confidential portions such as purchase price redacted.

8. The Application is missing appraisals or similar documentation supporting the purchase price agreed to in the Agreement for Sale of Utility provided as Confidential Attachment G.

The Public Staff considers the Company's application incomplete as filed for the reasons set forth above.

In order that the Public Staff may complete its review of the Company's application and make a recommendation to the Commission, please file with the Commission and provide to the Public Staff the information described in items 1 through 8 above.

If you have any questions, please do not hesitate to contact me at (919) 733-0978 or the email address below. Company personnel are welcome to contact Mike Franklin at (919) 715-2666 or [mike.franklin@psncuc.nc.gov](mailto:mike.franklin@psncuc.nc.gov) with questions related to the application.

Sincerely yours,

Electronically submitted

/s/ Megan Jost

Staff Attorney

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