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February 27, 2023

Ms. A. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
430 N. Salisbury Street
Room 5063
Raleigh, NC 27603

Re: In the Matter of
Joint Application of Bald Head Island Transportation, Inc. and Bald Head Island Ferry
Transportation, LLC, for Approval of Transfer of Common Carrier Certificate to Bald
Head Island Transportation, LLC, and Permission to Pledge Assets
NCUC Docket No. A-41, Sub 22
Public Pre-Filed Joint Rebuttal Testimony of Charles A. Paul, III
and Lee H. Roberts

Dear Ms. Dunston:

In accordance with the Commission's Order of January 20, 2023, specifically ordering paragraph 5 thereof, requiring rebuttal testimony to be filed on or before Monday, February 27, 2023, in compliance therewith, attached is the public pre-filed Joint Rebuttal Testimony of Charles A. Paul, III and Lee H. Roberts, filed on behalf of Bald Head Island Transportation, Inc. ("BHIT") and Bald Head Island Ferry Transportation, LLC ("BHIFT").

Confidential and public exhibits thereto will be filed in the docket separately.

17 hard copies of this testimony and exhibits will be provided to the NC Utilities Commission's Clerk's Office within 24 hours following this electronic filing.

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota
Nevada New Jersey New York North Carolina Pennsylvania South Carolina Texas Washington

Ms. A. Shonta Dunston
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If you should have any questions concerning this submittal, do not hesitate to contact me.

Sincerely,

/s/ M. Gray Styers, Jr.

M. Gray Styers, Jr.

Enclosure

cc: Parties and Counsel of Record
Christopher J. Ayers, Esq. - NC Public Staff
William E. H. Creech – NC Public Staff
Lucy Edmondson – NC Public Staff
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Gina Holt – NC Public Staff

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. A-41, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Joint Application
of Bald Head Island Transportation, Inc.,
and Bald Head Island Ferry Transportation,
LLC , for Approval of Transfer of
Common Carrier Certificate to Bald Head
Island Ferry Transportation, LLC, and
Permission to Pledge Assets

**PUBLIC REBUTTAL TESTIMONY OF
LEE H. ROBERTS AND CHARLES A. PAUL, III.**

February 27, 2023

1 **Q. Mr. Roberts, please state your name, occupation, and business address.**

2 A. My name is Lee Roberts. I am Managing Partner of SharpVue Capital, LLC
3 ("SharpVue"). My business address is 3700 Glenwood Avenue, Suite 530,
4 Raleigh, North Carolina 27612.

5
6 **Q. Mr. Paul, please state your name, occupation, and business address.**

7 A. My name is Charles A. "Chad" Paul, III. I am the President of Bald Head Island
8 Transportation, Inc. ("BHIT"). I also serve as Chief Executive Officer and a
9 Manager of Bald Head Island Limited LLC ("BHIL"), BHIT's parent company.
10 My business address is 6 Marina Wynd, Bald Head Island, North Carolina 28461-
11 5073.

12

13 **Q. You both provided separate direct testimony in this docket; what is the**
14 **purpose of your filing joint rebuttal testimony as a panel?**

15 A. There have been numerous issues raised and questions asked in the response
16 testimony regarding the future plans for the ownership and management of the
17 ferry, tram, parking, and tugboat/barge operations post-closing. We will both be
18 involved in those decisions; therefore, testifying together will enable us to provide
19 the most complete and accurate responses to those questions and address the future
20 operation of these assets.

21

1 **Q. Does that mean, Mr. Roberts, that SharpVue will be keeping the current**
2 **management in their current roles post-closing?**

3 A. Yes; SharpVue will keep the operations' current management in their current roles
4 and duties, to include (but not limited to): Mr. Paul; Shirley Mayfield, Chief
5 Financial Officer of Bald Head Island Limited LLC; and Captain Bion Stewart, the
6 current Chief Operating Officer of Bald Head Island Transportation, Inc.

7 Further, SharpVue intends to hire almost all of the current employees
8 involved in ferry, tram, parking, and barge operations. In the process of negotiating
9 the transaction and conducting our due diligence, we have been impressed with the
10 knowledge and expertise this team and these employees bring with it.

11

12 **Q. Mr. Paul, was your continued role in management a consideration in the**
13 **selection of SharpVue as purchaser of the BHIL assets?**

14 A. With regards to my personal role with the company, no; I have other opportunities
15 that I could pursue if no longer involved in these operations. However, providing a
16 seamless transition to a new owner so that operations and customer service will
17 continue without noticeable impact as a result of the transaction was very much a
18 factor.

19

20 The Mitchells see their past stewardship and development of Bald Head Island to
21 be part of their legacy, and it was important to them and to me that the new owner

1 values that legacy and is committed to maintaining continuity of service to support
2 the continued success and stewardship of the island.

3 That desire was also why we wanted the new owner of the ferry, tram, barge
4 and parking to also purchase most of the Mitchells' remaining operations and
5 commercial real estate assets, so that it would also have an interest in the success
6 of the island and of Brunswick County generally over the long-term.
7

8 **Q. To follow-up that answer, Mr. Roberts, is that SharpVue's intentions?**

9 A. Yes. We recognize the attention and care that went into the development of the
10 island in the past, which is why SharpVue wants to be part of its future. As
11 explained in my direct testimony, we see BHIT and BHIL as an unusual situation
12 in which extremely well-run companies need to be sold for external reasons (e.g.,
13 the death of Mr. Mitchell), and it is our intent to continue that track record of
14 success and stewardship.

15 It is in SharpVue's interest for passengers and customers to receive
16 excellent service and to want to return to the island in the future, for the commercial
17 businesses and residential rental properties on the island to succeed, and for the
18 island as a whole to prosper. As the number of residents and visitors to the island
19 grows, ridership on the ferry increases, barge usage increases, and parking facilities
20 are utilized, and the per-unit allocation of the fixed costs decreases. Moreover, as
21 the Mitchells desired, SharpVue is also buying all operations and the majority of
22 the remaining commercial assets from BHIL both on the island and on the mainland

1 in Southport. Therefore, in addition to our personal affection for the island, our
2 economic incentives are aligned with those of the other island stakeholders.

3
4 **Q. The Village's response testimony attempts to contrast the economic interests**
5 **of SharpVue and BHIL with what it describes as "the long term success of the**
6 **Island"; do you see those interests to be in conflict?**

7 **A.** Absolutely not. As I explained in my testimony in Docket No. A-41, Sub 21, our
8 economic incentives are to maximize asset utilization, which can only be
9 accomplished if the island is successful and is an attractive destination for primary
10 and second-home owners as well as vacationer tourism. We believe that (in the
11 words of BHI Club CEO David Sawyer) there is the "symbiotic relationship
12 between the island community, the Clubs and vacationer tourism" and a "reliable,
13 safe, and affordable transportation system". "Symbiosis" by definition, is a
14 mutually beneficial relationship that runs both ways: a successful island
15 community, the Clubs, and vacationer tourism is essential for a commercially
16 successful transportation system. Neither BHIL/BHIT, SharpVue, nor any other
17 owner would institute a pricing structure or operational practices that would harm
18 the island and thereby negatively impact demand for services. It is in all of our
19 mutual interests to view each other as cooperative partners, working together
20 toward common goals. This is one reason that the adversarial nature of these
21 proceedings with the Village has been, in our opinion, unnecessary and counter-
22 productive.

1

2 **Q. How do you respond to the statements that SharpVue has less interest in the**
3 **island than the Mitchell estate has?**

4 A. Such statements are factually and demonstrably untrue. First, SharpVue is buying
5 all of the remaining operations and substantially all of the remaining commercial
6 property assets that the Mitchell estate still possess in Brunswick County. So it is
7 proverbially “stepping into the shoes” of BHIL. Second, the Mitchell estate and
8 heirs have been clear and unequivocal that, at this point, they are no longer
9 interested in continuing to own and operate the assets associated with Bald Head
10 Island. Their focus is now the liquidation and sale of assets in order to fund the
11 Cynthia and George Mitchell Foundation. Accordingly, notwithstanding the plans
12 to institute an electronic ticketing process and reservation system for the ferry
13 discussed below, there is no plan by the Mitchell estate to fund significant capital
14 expenditures in the future.

15

16 **Q. How does the Mitchells’ absence of interest in these operations and desire to**
17 **sell them affect the analysis and criteria considered by the Commission as to**
18 **whether this sale should be approved?**

19 A. We understand that, as explained in the Public Staff’s response testimony, the
20 Commission has utilized a three-part test in determining whether a merger or
21 acquisition is justified by the public convenience and necessity, pursuant to
22 N.C.G.S. § 62-111. Those criteria require assessments of benefits, costs, and risks.

1 As Mr. John Taylor's pre-filed rebuttal testimony explains, however, the benefits,
2 costs, and risks of the proposed transaction don't exist in a vacuum; they must be
3 assessed in comparison to the alternative of not approving the transaction, i.e., in
4 this case, requiring the assets and operations to remain in the hands of the Mitchell
5 estate. In addition, and perhaps most importantly, these assets in Brunswick
6 County, North Carolina are the last remaining commercial operations in North
7 Carolina still owned by the Mitchell estate. All other business operations have been
8 sold and liquidated. In these regards, this proposed transaction is, from our
9 perspective, very different from a more typical utility merger or acquisition.
10

11 **Q. Is this comparison instructive in the evaluation of Mr. Lloyd's response**
12 **testimony expressing concern about the sufficiency of capital for future needs**
13 **of the operations?**

14 A. I'll address Mr. Lloyd's response testimony in greater detail below, but, yes, as a
15 threshold matter. SharpVue's willingness to invest any needed capital in the future
16 – from its current investors, potential future investors, and its lenders – is far greater
17 than the willingness of the Mitchell estate to do so, and that should be viewed as a
18 significant benefit to the using and consuming public. The costs and risks that are
19 identified by the Village's witness can then be addressed by appropriate regulatory
20 conditions such as those we propose later in our testimony.
21

1 **Q. Do you have plans for an electronic ticketing process and reservation system**
2 **for the ferry?**

3 A. As was discussed during the amendments to the baggage policies in late-
4 2021/early-2022, BHIT current management has been evaluating how to fairly and
5 effectively institute electronic ticketing, which is a necessary step to offering a
6 reservation system. We believe this system will reduce the number of passengers
7 unable to board vessels that are at capacity and generally improve customer service
8 quality.

9 Current management has been working on implementing an electronic
10 ticketing and reservation system for the past 24-months. During this time, we have
11 completed and conducted interviews and site visits with several software providers,
12 addressed the baggage definition and limitations issues that are central to the
13 implementation to any ticketing and reservation system, and recently executed an
14 agreement with an industry leading provider for the system.

15

16 **Q. When do you expect the electronic ticketing and reservation system to be**
17 **implemented?**

18 A. It is our goal for the system to be operational during 2023, and we are currently on
19 schedule to meet that timeframe.

20

21

22

SUFFICIENCY OF CAPITALIZATION / DURATION OF HOLD

Q. Village Witness Lee Lloyd, in the Response Testimony, projects scenarios in which he claims SharpVue will not be able to fund needed capital improvements; how do you respond to his projections?

A. We encourage Mr. Lloyd to review closely the investor presentations shared with our prospective investors. The actual financial projections in those materials were prepared using conservative assumptions and demonstrate that cash flows from operations are able to meet all anticipated recurring capital improvements. For larger capital investments, such as acquiring new ferry vessels, we assumed that these purchases were made with a combination of cash flow from operations and third-party debt. Debt capital for asset-based lending is a readily available source of capital, especially for an asset that has such a direct link to revenue generation. This potential financing structure for large capital investments is also conservative. It is likely that it may be more efficient to lease a new ferry, which will require little to no upfront capital investment and no third-party debt. (As a historic footnote, BHIT originally leased both the *Patriot* and *Ranger* vessels it uses in its ferry operations, and the Commission accepted those lease and authorized BHIT to operate accordingly. See NCUC Docket A-41, Sub 4; Order dated September 6, 2007.).

If sourcing third-party debt capital for capital improvements is in the best interest of the business, we believe many lenders will be interested in providing financing.

1 If additional equity capital is necessary, we have an existing investor group that
2 believes in this long-term investment and more broadly, we have demonstrated our
3 ability to raise equity capital for this investment.

4
5 We recognize external sources of debt capital generally require additional fees,
6 expenses, and time to identify lenders. As a result, using cash flow from operations
7 is the most efficient source of capital that businesses can use, and in this case
8 benefits the public interest. The ability of the businesses' operations to sustain and
9 reinvest in itself using conservative underwriting assumptions, without needing
10 material third party capital is another attribute that attracted us to the business.

11
12 **Q. Mr. Lloyd also speculates -- contrary to Mr. Roberts' testimony -- that**
13 **SharpVue will "flip" the assets in the short run solely for financial gain; what**
14 **are the key factors that support your plans to pursue a longer-term, buy-and-**
15 **hold approach to owning these assets?**

16 **A.** SharpVue's base case has always been to buy and hold the utility assets for the long
17 term and provide steady returns to investors. It is the utility's stable and persistent
18 cash flows that first attracted us to this investment. We intentionally raised capital
19 from investors who possess the ability and willingness to hold these assets for the
20 long term.

1
2 **Q. Mr. Lloyd emphasizes the lack of “dry powder” to provide additional**
3 **financial capital and resources to support ongoing operations, contingencies,**
4 **and needed capital improvements; is that an accurate characterization of**
5 **SharpVue’s long-term financial modeling and plans?**

6 A. No, it is not. Mr. Lloyd overlooks the fact that, at closing, the businesses will have
7 \$2.0 million in cash on hand. As is illustrated in our base-case status quo projections
8 in our investor presentation, the hypothetical sale of the business in year ten also
9 results in the return of cash reserves of more than CONFIDENTIAL [REDACTED]
10 END CONFIDENTIAL. This demonstrates that in addition to meeting the on-going
11 capital improvement needs over this period, the business retains a large cash
12 position throughout the projection period. Additionally, at the transaction’s closing
13 we expect to secure a \$2.0 million line of credit that can be used to meet ongoing
14 operations, contingencies, and needed capital improvements. Notably, over ten
15 years of conservative projections, we do not anticipate that this line of credit will
16 be necessary. As a result, the business will have significant “dry powder”; however
17 it has been contributed up-front, which we believe speaks to our and our investors’
18 belief in the business.

19
20 **Q. Have others reviewed your forward-looking financial models?**

21 A. Yes, both debt and equity investors have reviewed our forward-looking financial
22 models.

1

2 **Q. What has been their assessment?**

3 A. We cannot claim to speak for others. However, it is worth noting that a collection
4 of sophisticated investors and one of the ten largest U.S. banks will fully fund the
5 transaction after reviewing our forward-looking financial models and performing
6 their own due diligence.

7

8

ASSET VALUATION

9 **Q. Are third-party assessments by others relevant to Julius Wright's opinion that**
10 **the price being paid is "too high"?**

11 A. Absolutely, they're relevant in refuting Dr. Wright's opinions.

12

13 **Q. Please explain how.**

14 A. In anticipation of the sale transaction, the Bald Head Island Transportation
15 Authority ("Authority"), chaired by former Commissioner Susan Rabon and whose
16 Board consisted of representatives of the Village, hired not one, but two,
17 independent appraisers. Because the legislation required the purchase price of the
18 assets to be purchased to be "at or below their appraised value", the Authority first
19 engaged Worsley Real Estate Company (Earl M. Worsley, Jr., MAI) in 2019.¹

¹ Mr. Worsley has on numerous previous occasions been employed by the Village of Bald Head Island to complete appraisals on its behalf, including appraisals associated with property the Village acquired from BHIL and sold to BHIL. The Village had three

1 Worsley's appraisals of both the mainland real property and on-island real
2 property are filed herewith as LHR/CAP Rebuttal Exhibits 1 and 2, respectively,
3 and they valued the combined real property at a total of \$42,395,000. Valuations
4 of the other assets (e.g. vessels, trams, equipment, materials, etc. totaled
5 approximately \$8,600,000, resulting in a total appraised value of approximately
6 \$51,000,000. This valuation was then considered by the Authority's investment
7 advisor, Davenport & Company, which advises on many, if not most, of the revenue
8 bond issuances in the State of North Carolina and found it to be a fair value. The
9 Authority and BHIL/BHIT then negotiated and agreed upon a purchase price of
10 \$47,750,000. The Authority's total valuation of the assets is shown on page 7 of
11 its presentation at a public hearing on Bald Head Island on February 17, 2021 given
12 at the recommendation of the Local Government Commission and filed herewith
13 as LHR/CAP Rebuttal Exhibit 3. That presentation, in its entirety, is a succinct
14 summary of all the due diligence that went into that transaction, which has been
15 reviewed and seriously considered by SharpVue in its projections and plans in
16 this transaction, which is the subject of our application before the Commission,
17 and also includes more detail of the facts in the following paragraph.

18 The bond underwriters UBS and PNC then reviewed this purchase price and
19 found it to be at or below the appraised fair value Then the proposed bonds to have

members on the Authority Board at all times and expressed no concern regarding the
engagement of Worsley Company by the Authority.

1 been issued for the purchase were rated by Standard and Poor's, who found that the
2 valuation and projected cash flows would support an investment-grade rating.
3 (Upon information and belief, the collective assets to have been purchased by the
4 Authority would have been one of the few private ferry operations in the world
5 whose bonds would have had an investment grade rating.)

6 After concerns raised by certain LGC members,² the Authority engaged a
7 seconder appraiser Newmark Knight Frank (Greg Becker, MAI, MRICS) in 2021
8 to complete a second set of appraisals for the Authority.³ The Newmark Knight
9 Frank appraisals of both the mainland real property and on-island real property
10 are filed hersith as LHR/CAP Rebuttal Exhibits 4 and 5, respectively, and they
11 valued the combined real property \$39,500,0000 -- within seven percent (7%) of
12 the Worsley appraisals. With the valuation of the vessels, tram, and other
13 tangible real property, this second appraisal also supported the purchase price
14 of \$47,750,000 to have been paid by the Authority.

15 The legislation authorizing the creation of the Authority mandated, as noted
16 above, that the value to be paid by the Authority be "at or below their *appraised*

² Dr. Wright is correct that the State Auditor noted that these appraised values were higher than the Brunswick County assessed property tax value, but we will defer to the Commission to give that fact whatever weight it deems it deserves.

³ The selection of Newmark Knight Frank was done with full support of the Village's three representatives on the Authority.

1 **value.”** (N.C. Sess. Law 2017-120, Sec. 6.(a)) (emphasis added). There is
2 specifically no reference in that legislation to net book value of the assets.

3 Once the Authority did not close on its purchase, the fair market value of
4 the assets – as a basic principle of economics—is what a willing buyer offers to pay
5 a willing seller. BHIL and the Mitchell estate contacted several potential
6 purchasers including ferry companies, maritime transport companies, barge
7 operators, parking operators, infrastructure funds and private equity firms.
8 Ultimately BHIL and BHIT negotiated and accepted the offer by SharpVue Capital
9 to purchase the ferry, tram, barge/tugboat, and parking operations for \$56 million
10 (which includes \$2 million in cash for working capital).

11 Of course, SharpVue’s lender engaged an appraisal to confirm the value of
12 the assets being purchased. That appraisal, which was dated December 16, 2022,
13 and requested and received by SharpVue this past Friday, valued the real property
14 utilized by the “Ferry, Tram & Marine Maintenance Operations”, the “Mainland
15 Parking Area”, and “the Freight Barge & Tug & Freight Warehouse” at a total of
16 CONFIDENTIAL [REDACTED]. END CONFIDENTIAL That appraisal is filed
17 concurrently herewith at LHR/CAP CONFIDENTIAL Rebuttal Exhibit 6. The
18 lender also engaged a certified marine surveyor to value the vessels and vehicles
19 used in these operations, and he concluded that their fair market value was
20 CONFIDENTIAL [REDACTED]. END CONFIDENTIAL That appraisal is filed
21 concurrently herewith at LHR/CAP CONFIDENTIAL Rebuttal Exhibit 7.
22 Therefore, the most recent (as of December 22) total appraised value of these assets

1 is approximately CONFIDENTIAL [REDACTED]. END CONFIDENTIAL Given
2 that it was prepared specifically for the SharpVue transaction, the recency of this
3 appraisal, and the appreciation of North Carolina real estate over the past three (3)
4 years, we believe that this is the most accurate valuation of the transportation
5 system assets at issue in this docket.

6 Based upon all of these valuations, the price being paid by SharpVue is not
7 “too high,” as alleged by witness Wright, and represents an appropriate (if not
8 conservative) fair market value of the assets.

9
10 **Q. Why should the Commission give more weight to these sources than to Dr.**
11 **Wright’s opinion as to the fair value of these assets?**

12 **A.** With all due respect to Mr. Wright, he can express whatever opinion he may hold
13 to advance his client’s interest. In contrast, appraisers have licensure or
14 accreditation standards and requirements. Investment advisors, banks and bond
15 underwriters have fiduciary, contractual and regulatory obligations. Investment
16 rating firms like Standard & Poor’s are held accountable by the financial markets
17 and regulatory agencies. A lender, of course, wants to ensure that its loan is
18 sufficiently collateralized.

19 We understand that the Village believes the value is “too high” – i.e., higher
20 than they would like, or are willing, to pay – and, accordingly, that’s what their
21 witnesses opine. But the overwhelming weight of the evidence – from objective,

1 third-party, professional sources – is that the price SharpVue is paying for the assets
2 reflects fair market value.

3
4 **ABSENCE OF “ACQUISITION ADJUSTMENT”**

5 **Q. Why did you delete the words “acquisition premium” from the Amended**
6 **Application, as noted by Mr. Gardner and Dr. Wright?**

7 A. The original Application contemplated that the ferry and tram would be in rate base,
8 but not the parking and barge assets. To clarify, we have not changed our position
9 from the original Application with regard to the ferry and tram – SharpVue is not
10 asking for an acquisition premium to be included in rate base for those assets and
11 in fact has proposed a condition excluding such a premium (Proposed Condition 3).

12 The parking and barge were not contemplated in the original application to
13 be regulated utility assets, so after the order in Docket No. A-41, Sub 21, SharpVue
14 was presented with a different scenario. We omitted the words “acquisition
15 premium” from the Amended Application to preserve the right to request that
16 particular regulatory treatment from the Commission. The issue of whether to
17 allow an acquisition premium in rate base for the barge and parking should be
18 decided by the Commission on the basis of proper evidence if the purchase price is
19 not otherwise included in rate base as discussed below.

1 **Q. Does this mean that SharpVue will request an increase in parking and barge**
2 **rates to “recover an acquisition premium” from customers as witness Wright**
3 **postulates?**

4 **A.** No. We have no plans, or need, for any increases of barge or parking rates beyond
5 the rate of inflation for the next four years. The financial models we have used to
6 underwrite the transaction have included the baseline assumption that parking and
7 barge rates grow at the annual rate of inflation. We were pleased to see the
8 Commission, in its Order in Docket No. A-41, Sub 21, “permit the status quo —
9 and the current rates and services of the Parking and Barge Operations — to
10 continue” and allowing the parking and barge/tugboat “to continue to operate,
11 consistent with their existing operation, rates, and services.” (Dec. 30, 2022, Order,
12 p. 28). The status quo, consistent with the rate case order in Docket No. A-41, Sub
13 7, has been for aggregate parking rates to increase no more than the compound
14 average growth rate of the Consumer Price Index for All Urban Consumers (CPI-
15 U) as calculated by the U.S. Bureau of Labor Statistics. We are willing to condition
16 approval of this transaction on limiting any future rate increase in parking or barge
17 rates to this inflation index for four years after closing or the next rate case,
18 whichever is earlier.

19
20 **Q. Just so that it’s in the record, what are the rates and schedules for the parking**
21 **and tugboat/barge operations?**

1 A. Attached as Addendum I is the parking and barge rates and schedules. This is the
2 same information as was attached to the Public Staff's proposed regulatory
3 conditions.

4
5 **Q. Apart from the commitment to hold parking and barge rate increases to the**
6 **rate of inflation, is SharpVue requesting a rate base acquisition premium**
7 **ruling in the present case?**

8 A. We maintain that the total purchase price for the barge and parking assets should
9 be included in SharpVue's rate base without need for an acquisition adjustment to
10 include the purchase price in rate base. However, if the Commission were to
11 disagree, then we would request that an acquisition premium be included in rate
12 base for those assets.

13

14 **Q. Please explain.**

15 A. The cost of utility assets is determined when those assets are first owned by a utility.
16 The regulated utility is BHIT, and it has never owned the parking and barge assets.
17 Those assets have never been in rate base and have never been included in the cost
18 of service used to determine the utility's rates.

19 Legal counsel has provided Commission precedent that applies to this
20 situation. In a June 15, 1990, order in a Carolina Water Service case, Docket No.
21 W-354, Sub 81, the Commission stated:

22 As a general proposition, when a public utility buys assets that have
23 previously been dedicated to public service as utility property, the

1 acquiring utility is entitled to include in rate base the lesser of the
2 purchase price or the net original cost of the acquired facilities in the
3 hands of the transferor at the time of transfer. The theory behind this
4 proposition is that the investor in utility property should only be entitled
5 to recover his own investment. Also, public utility ratepayers normally
6 should only be responsible for reimbursing an investor once for the cost
7 of public utility property through depreciation expense recovered
8 through rates and through payment of a return on the unrecovered
9 investment.
10
11

12 (Emphasis added.) Thus, the use of net original cost instead of purchase price
13 normally applies when the assets are transferred from ownership by one utility to
14 ownership by another utility. That principle applies to the ferry and tram, but not
15 to the parking and barge. The parking and barge have not been owned by a utility
16 previously, so the principle of applying the lower of net original cost or purchase
17 price is not applicable here.

18 **Q. You have discussed how the normal policy of using original cost instead of**
19 **purchase price is based on a utility-to-utility transfer of the assets in question.**
20 **Since the proposed transfer of parking and barge assets are from non-utility**
21 **to utility, how should the rate base be valued in this situation?**

22 **A.** The rate base value of the barge and parking should be set at the allocated share for
23 those assets of the total purchase price to be paid by SharpVue. There are two main
24 reasons why it would be in the public interest to include the allocated purchase price
25 in rate base if the Commission were to set rates according to traditional
26 ratebase/rate-of-return ratemaking.
27

1 First, the financial viability of the transfer would be destroyed if rate base for those
2 assets were to be set at approximately \$9,000,000, as recommended by the Village,
3 rather than approximately \$34,000,000 (the purchase price to be paid by SharpVue
4 less the allocated value of the Deep Point Terminal lease and non-regulated assets).
5 SharpVue has the ability to cancel the transaction if it is not satisfied with the rate
6 base valuation pursuant to Section 7 of its Asset Purchase Agreement with BHIL.
7 The benefits of the transfer, which are discussed below, will not be realized if
8 SharpVue is not allowed to recover its investment – it would be a forced loss of
9 major proportions and SharpVue would be violating its fiduciary duty to investors
10 if it accepted such terms, and its lender would not provide financing on such terms.

11 Second, in this unique situation, there is no risk of arbitrage, a concern
12 raised by Village witness O'Donnell, who opined: "Placing assets in rate base at
13 market value would, essentially, turn the keys to regulation of utility rates to
14 arbitrage specialists that would buy and sell assets on an endless basis and force
15 consumers to pay higher and higher rates for assets for which they have already
16 paid." Counsel has identified that this same concern is reflected in past
17 Commission decisions:

18 "The Hearing Examiner notes also that the danger of including such
19 debit adjustments in rate base - encouraging transfers made to build
20 up rate base-may be adequately guarded against by examining each
21 transaction to ensure that it is prudent, at arms length and the
22 benefits accruing to the customers outweigh the costs of inclusion
23 in rate base of the excess purchase price."
24

(Emphasis added.) Order of April 30, 1997, in Docket No. W-274, Sub 122, quoting from the January 10, 1986, order in Docket No. W-354, Sub 39. However, rate base approval of the SharpVue purchase price would not create such risk. The basis for including the purchase price in rate base is that those assets have never before been owned by a utility. Once SharpVue owns them, the rate base amount could not be bid up in subsequent transfers (if any) because the general rule of not allowing acquisition adjustment into rate base would apply because at that point the parking and barge assets would, in fact, thereafter be utility-owned. In other words, the precedent that SharpVue is relying on to allow the purchase price into rate base would also prevent any future purchase prices from going into rate base. The concern raised by the Village about “endless” rate base increases for the same assets is simply incorrect in this case.

We also note that the purchase price in this case is lower than the fair market value as established by the most recent appraisal as explained above. Thus, the public interest is served by setting rate base for the parking and barge assets at the lower of fair market value or purchase price.

Q. Previously you said original cost instead of purchase price is ‘normally’ the rate base valuation where a utility asset is transferred from one utility to another utility. Are there exceptions?

A. Yes. We understand from counsel that in some cases of a transfer of assets from one utility to another utility, the Commission has included an acquisition

1 adjustment, or “acquisition premium,” in rate base. In other words, the purchase
2 price instead of net original cost was allowed into rate base for the acquiring utility.
3 This is a case-by-case determination, and the standard is whether the burden on
4 customers of a higher rate base is outweighed by the public benefit of the transfer.
5 For instance, the Commission’s order of April 30, 1997, in Docket No. W-274, Sub
6 122, found that “The acquisition will benefit the customers of Hardscrabble by
7 ensuring the long term viability of their water system” and then concluded “that the
8 acquisition is in the best interests of the customers and that Heater should be
9 allowed to make the requested debit acquisition adjustment to rate base after the
10 transfer has been completed.”

11 In a subsequent order, Docket No. W-1000, Sub 5, issued on January 6,
12 2000, the Commission observed that its test for when to include an acquisition
13 adjustment in rate base had varied among past cases, and established one consistent
14 test going forward:

15 the Commission should refrain from allowing rate base treatment of
16 an acquisition adjustment unless the purchasing utility establishes,
17 by the greater weight of the evidence, that the price the purchaser
18 agreed to pay for the acquired utility was prudent and that both the
19 existing customers of the acquiring utility and the customers of the
20 acquired utility would be better off [or at least no worse off] with
21 the proposed transfer, including rate base treatment of any
22 acquisition adjustment, than would otherwise be the case.

23
24 In that case the Commission approved the transfer as in the public interest, but
25 declined to allow the acquisition premium (amount of purchase price above the net
26 original cost of the selling utility) into rate base: “it appears to the Commission

1 that all of the benefits which would accrue to North Topsail customers from an
2 acquisition by UI will exist whether or not the acquisition adjustment is included in
3 rate base.”
4

5 **Q. How is the reasoning in those prior decisions applicable to the present case?**

6 A. As noted above, based on past Commission precedent in Docket No. W-354, Sub
7 81, there should not be a need to address original cost versus purchase price for the
8 parking and barge assets because the purchase by SharpVue would be the first time
9 those assets enter utility ownership. Accordingly, the purchase price is the proper
10 rate base amount.

11 However, if the Commission were to decide differently, the present case
12 would justify inclusion of the purchase price in rate base under the Commission’s
13 standard for an acquisition premium. The reasons are that (a) the purchase price is
14 a reasonable amount, set by arms’ length bargaining and below fair market value,
15 and (b) the benefits of the transfer will outweigh the burden of the higher rate base
16 amount by replacing an owner that does not want to continue the utility business
17 with a new owner that has the ability and desire to operate the utility.

18 With respect to the reasonableness of the purchase price, there are multiple
19 appraisals that support the price, as we discuss in detail earlier in this testimony.

20 With respect to the benefits of the transfer, the Mitchell estate is no longer interested
21 in owning and operating a utility business. An indifferent owner is not in the best
22 interest of utility customers. An estate where the other assets have been distributed

1 to heirs is not in a position to fund future capital improvements. In contrast,
2 SharpVue has the financial capability and willingness to fund future capital needs
3 of the utility. Just as with the Hardscrabble system acquired by Heater in the Docket
4 No. W-274, Sub 122, case noted above, “The acquisition will benefit the customers
5 . . . by ensuring the long term viability of” the ferry and transportation system.”

6 At the same time, the present case is starkly different from the UI (Utilities
7 Inc.) acquisition of the North Topsail system in Docket No. W-1000, Sub 5, because
8 SharpVue has the contractual right to cancel its transaction with BHIL whereas UI
9 did not have that right. Without including the purchase price in rate base, there is
10 considerable jeopardy to the benefit of transferring the regulated operations serving
11 Bald Head Island to a willing and capable owner (SharpVue) from a utility that is
12 ultimately owned by an estate that intends to sell off its assets and not continue as
13 a utility business. This benefit outweighs the burden of higher rate base for the
14 parking and barge assets. This is especially true in light of SharpVue’s commitment
15 not to increase parking and barge rates more than the CPI for the next four years.

16
17 **VILLAGE’S EXPRESSED CONCERNS**

18 **Q. Both Mr. Gardner’s and Dr. Wright’s testimonies refer to the results of a**
19 **survey conducted by the Bald Head Association; has the Village of Bald Head**
20 **Island—which seeks to acquire the ferry and tram for itself and has intervened**
21 **in this docket—been lobbying island residents and landowners to oppose the**
22 **requested CPCN transfer in this?**

1 **A.** Yes. It's a small island with roughly 300 registered voters, and of course the Mayor,
2 Mayor Pro Tem, and Village Council members live on the island, so we had
3 assumed that there had been a lot of coordination of communications to shape on-
4 island "public opinion." But then, on November 16, and again—a second time—
5 on November 18, the Mayor sent out an official email, from the
6 public.information@villagebhi.org email address, using the official Village of Bald
7 Head Island letterhead, stating the Village's position that it "does not have
8 sufficient answers . . . necessary for us to support the transfer" and asking residents
9 to "please vote "No" or "Do not know enough" (emphasis in original) in response
10 to the BHA's November 14 survey. A copy of the November 16 email is attached.

11

12 **Q.** **What is your reaction to the Village's claim that it "does not have sufficient**
13 **answers" and Mr. Gardner's statements about what he believes are "missing**
14 **from the applicant's testimony?**

15 **A.** They are astonishing statements. Mr. Paul and I answered questions for more than
16 two hours at an island forum sponsored by the Bald Head Island Association, at
17 which the mayor attended. As noted above, I have testified and been cross-
18 examined by the Village's attorneys in Commission Docket No. A-41, Sub 21. I
19 have personally met with the Mayor, the Mayor pro tem, and their attorneys on
20 three occasions and would have been willing to meet more often if requested. I
21 have been available to be deposed in both Docket No. A-41, Sub 21, and Sub 22.
22 Our counsel has responded to voluminous sets of Data Requests from both the

1 Village and the Public Staff in the two dockets, and we have provided thousands of
2 pages of documents to the Village in response to their Data Requests and those
3 from the Public Staff.

4 On the other hand, the tactic represented by the mayor's emails is not
5 surprising because it has unfortunately become a recurring motif. In the Village's
6 public communications to the LGC about the Bald Head Island Transportation
7 Authority (BHITA), the Village argued that there wasn't enough information
8 validating the valuation, yet the Village used the same information to support its
9 \$54 million bond referendum to purchase the Transportation System assets. In
10 meetings I have attended with the mayor and mayor pro tem, they said they needed
11 more information before making a decision, yet they have never specifically
12 indicated what information was needed. In response to the offer for the Village to
13 buy the transportation system on the same terms we are buying it, the Village said
14 they didn't have enough information, and yet again did not specifically state what
15 information was needed. Nor did it pursue any independent due diligence
16 opportunities afforded to them by BHIL and BHIT to conduct its own due diligence.
17 It is our opinion that it's not at all about information; it's about outcome: the
18 Village wants to kill the sale to SharpVue, like it did the sale to the Authority, so
19 that it can buy the transportation system itself for less than its fair market value.
20

21 **Q. Dr. Wright testified that he believes the corporate structure SharpVue will**
22 **utilize will make it difficult to regulate the operations. How do you respond?**

1 A. SharpVue will be the manager of Pelican Legacy Holdings, LLC. In addition, the
2 SharpVue management team (Lee Roberts and Doug Vaughn) will own and/or
3 directly control more than 50% of the investments in Pelican Legacy Holdings, will
4 be the managers on the Board of Managers for these entities (along with Chad Paul),
5 and will be the strategic decisionmakers, along with Chad Paul, for the ferry and
6 tram. Although there will be other investors in Pelican Legacy, they will not be
7 able to change management or separate SharpVue from Pelican Legacy Holding—
8 the owners/managers of SharpVue (Roberts and Vaughn will be the majority
9 owners/managers of Pelican Legacy Holdings.) This type of
10 ownership/management structure is not unusual; it's very common among private
11 equity-owned utilities and infrastructure assets. Moreover, SharpView's proposed
12 ownership and management structure is consistent with the current ownership
13 structure by the Mitchells of BHIL and BHIT.

14 Finally, the regulatory conditions proposed by the Applicants, attached to
15 this testimony, which follow very closely the conditions proposed by the Public
16 Staff address, specifically provide the Commission tools to monitor and regulate
17 distributions to SharpVue and its affiliates (Condition 7), notice of certain
18 investments that affect the books, costs, rates, revenues, etc. of BHIFT (Condition
19 9), management changes (Condition 15), and, of course affiliated agreements
20 (Condition 19).

21

1 **Q. Dr. Wright is also critical of a private equity firm owning the operations. Do**
2 **you believe those concerns are well-founded?**

3 **A.** Absolutely not. As I just indicated, it's not uncommon for private equity firms to
4 own utilities and infrastructure assets. In fact, I think it's very likely that in the
5 changing market, private equity-owned utilities are going to be more and more
6 common. Dr. Wright seems to have a misconception about how private equity
7 works and the role it plays in the market. This is not an instance where we intend
8 to flip these assets to make a quick profit. We plan to hold them long-term as
9 explained in more detail above.

10 Moreover, SharpVue is willing to agree to conditions that resolve Dr.
11 Wright's concerns. For example, Proposed Condition 7 would limit the amount of
12 distributions that BHIFT can pay to SharpVue and its affiliates. Similarly,
13 Proposed Condition 8 would impose required equity capital levels until the next
14 rate case, and Proposed Condition 9 would require notice of certain types of
15 investments. These are just a few of the conditions that alleviate the concerns raised
16 by Dr. Wright.

17

18 **Q. Has SharpVue demonstrated sufficient experience in and expertise with the**
19 **operation of a utility and/or transportation system?**

20 **A.** As we have consistently stated, including in our verified Application, and as
21 expressed above, the skilled management team who has been managing the
22 operations for over a decade will remain in place. Chad Paul will be responsible

1 for the day-to-day management of the transportation system. Bion Stewart will be
2 assisting him with day-to-day operational decisions. Shirley Mayfield will be
3 responsible for financial accounting. With this management team in place,
4 SharpVue will have more experience in, and expertise with, the operation of the
5 Bald Heald Island ferry than any other conceivable purchaser.
6

7 **Q. Mr. Lloyd raised some concerns about an investor presentation from March**
8 **2022 in which he says reflected a short-term investment strategy. How do you**
9 **reconcile that presentation with your testimony that SharpVue plans to hold**
10 **the assets long term?**

11 A. As I have consistently explained, and testified in Docket No. A-41, Sub 21, our
12 ownership of the assets being purchased from BHIL will not be held in a limited
13 life fund, but in an LLC with a perpetual life. That plan was also included in the
14 March 2022 investor presentation. But we are structuring the ownership of the
15 transportation system for long-term ownership. We will be hiring employees and
16 management in anticipation of long-term ownership, and we have absolutely no
17 obligations, and no plans, to divest any of the assets within any time period. The
18 Mitchells have provided ferry and tram services for more than thirty years; our
19 plans and commitments are the same as theirs were and generally the same as that
20 of any utility owner. We have never contemplated selling the ferry operations to
21 another private buyer.
22

1 **Q. Dr. Wright also suggests that the transaction poses no meaningful benefit to**
2 **the public. Do you believe that to be true?**

3 A. First, I would like to start by noting that BHIL’s owners have made it very clear to
4 everyone that—since they have been actively trying sell the ferry and tram for over
5 five years, and have every intention of selling it—BHIL has no long term capital
6 plan to invest any additional funds in the utility. Despite Dr. Wright's opinion that
7 there is no risk of service disruption, the reality remains that BHIL and BHIT cannot
8 continue to operate the ferry long-term due to the realities associated with Mitchell
9 estate.

10 Second, and contrary to Dr. Wright’s implication that there are serious
11 quality problems with the operations, the due diligence reports contracted by and
12 provided to the Bald Head Island Transportation Authority, including the Bond
13 Feasibility analysis and Seller’s Due Diligence Report conducted by Mercator, and
14 reviewed by its finance advisor (Davenport & Company) and bond underwriters
15 UBS and PNC, all consistently found that that the transportation system has been
16 well run, and that its assets have been well maintained. Specifically, the Due
17 Diligence Assessment by Moffat & Nichol, filed concurrently herewith as
18 LHB/CAP Rebuttal Exhibit 8, found no high repair priorities, and a structure
19 condition rating of all the marine assets to be “good” or “satisfactory” (other than
20 the passenger landing on the island which is “fair” and may require replacement
21 within ten years – a condition that we were already well aware of). Moreover, the
22 United States Coast Guard, North Carolina DOT Ferries Division, and the

1 Passenger Vessel Association of America all consider BHIT and its management
2 team to be “best in class” operators. SharpVue’s own due diligence confirmed these
3 conclusions. Having a new owners committed to continue this level of service is
4 a very meaningful benefit to the public.

5 That having been said, we do think steps can be taken to improve system
6 operations that current management has been evaluating and working on for the
7 past 24 months. A starting point would be improved information technology, that
8 would allow reservations and electronic ticketing discussed earlier in this
9 testimony. We also believe that—once the ownership of the system is settled and
10 the sale to SharpVue has closed—we will be able to more effectively address
11 employee hiring, training, and retention—issues that remain “clouded” due to the
12 uncertainty of future management and ownership. 2023 will be the first full
13 calendar year that the new baggage policies approved by the Commission in Docket
14 A-41, Sub 20 will be in place, and we are hopeful that, with better public
15 understanding of those policies, baggage handling will improve, which should
16 improve on-time performance. But, as we stated in our verified Application, we
17 will also evaluate with management how to improve baggage handling operations,
18 and when and how to replace the next ferry in the fleet. SharpVue will be assessing
19 operations during our first year of ownership and evaluating other steps we can
20 take, and prudent investments we should make, to improve operations. SharpVue
21 is also willing to agree to conditions relating to quality of services (for example,
22 see Proposed Conditions 18 and 25).

1 All to say that we are confident SharpVue's acquisition will ensure
2 continued stability of the operations and enable improvements that will further
3 benefit the public. It's certainly in the public interest to have a ready, willing, and
4 able operator who is committed to investing what is necessary to carry the ferry
5 operations into the future, which is certainly not the current situation with the
6 Mitchell estate.

7
8 **Q. Mr. Gardner testified at length about the ferry's poor on-time performance**
9 **and maintenance issues. Does SharpVue have specific plans for improving on-**
10 **time performance and for maintenance of the ferries and trams?**

11 A. Although the Mitchells have not made any major capital expenditures in the ferries
12 and trams while trying to sell these operations (and will not), every well-informed
13 and knowledgeable evaluator of the system has concluded that the ferries and trams
14 have been well maintained. That is our own assessment as well. We will absolutely
15 continue that tradition and record of maintenance. Additionally, despite comments
16 about poor maintenance of the terminal, our due diligence uncovered no such
17 problems and neither did the Authority's advisors who evaluated the vessels and
18 the terminal and marine infrastructure. *See, e.g.* Exhibit 8 filed herewith. To the
19 contrary, the facilities are top notch and much nicer than one would encounter in
20 your typical ferry experience.

21 The on-time performance issues are complex, but, as Bion Stewart's
22 testimony shows, they are not nearly as grim as Mr. Gardner paints them. SharpVue

1 will be studying the situation during the first year of our ownership, and we have
2 not jumped to any conclusions as to how they should be addressed. We know the
3 problems are seasonally impacted (and even vary day-to-day over the course of the
4 week in the summer). We are confident that the baggage policies approved by the
5 Commission in Docket No. A-41, Sub 20 will help once they are fully internalized
6 by vacationers in 2023. We also know that on-time performance can be affected
7 by factors beyond the operator's control (e.g., weather, Cape Fear River channel
8 dredging, other traffic in the river), and delays are cumulative over the course of
9 the day when operating 30-minute departure times. It is too early for us to know
10 whether the solution will include adding more resources (at additional cost) or
11 altering schedules, some combination of the two, or different solutions altogether.

12
13 **Q. Dr. Wright expressed concerns regarding the fact that the real estate used in**
14 **the ferry operations will not be owned by Bald Head Island Ferry**
15 **Transportation but will instead be held by an affiliate who theoretically could**
16 **sell the real estate to a third party. Will SharpVue commit to maintaining the**
17 **existing continuity of ownership or control in all components of the**
18 **transportation system, including the ferry, parking, and barge operations?**

19 **A.** Yes. That is our current plans, and we do not anticipate or foresee any changes in
20 our ownership in the foreseeable future. It is worth noting that the mainland
21 terminal at Deep Point in Southport and the Island terminal are currently leased by
22 BHIT and not owned by BHIT. Our proposed ownership structure mirrors the

1 current ownership structure. Most importantly, proposed Regulatory Condition 22
2 expressly commits that

3 BHIFT shall continue to have the right to maintain the long-term
4 lease for ferry terminal facilities on the mainland and island
5 (Terminal Lease) and the right to secure and maintain a perpetual
6 easement(s) or long-term lease(s) or otherwise ensure
7 ownership or control of all property necessary for regulated
8 parking and barge and tug operations at reasonable rates . . .
9

10 (emphasis added). When read along with the “Successors” condition (Number 28),
11 and the “Parking Availability” condition (Number 4), these conditions fully address
12 witness Wright’s concern.

13 No business or political leader can honestly make guarantees in
14 perpetuity—BHIL never has and no future owner ever would. But, as previously
15 stated in my rebuttal testimony in Docket No. A-41, Sub 21, there will be no less
16 spaces for parking than the aggregate of: (i) the current number of paved, lined
17 spaces at the Deep Point lots (1,955) and (ii) the number of overflow cars that it
18 can currently accommodate on the unpaved, gravel lots at Deep Point (347), and
19 we have memorialized that again in this docket in proposed Regulatory Condition
20 4.

21
22 **Q. Although SharpVue’s legal position is that parking services cannot be**
23 **regulated under Chapter 62 of the General Statutes, is SharpVue willing to**
24 **accept voluntarily a condition, enforceable by the Commission, regarding the**
25 **pricing of parking services at the Deep Point Terminal?**

1 A. Yes. As memorialized in proposed Condition 4, SharpVue has committed that it
2 will not increase the aggregate rates for parking ticket classes or levels in the
3 foreseeable future more than the then-applicable Consumer Price Index for All
4 Urban Consumers (CPI-U) as reported by the United States Bureau of Labor
5 Statistics for at least four years or until the next rate case.
6

7 **Q. You've mentioned proposed conditions several times. Do you agree with the**
8 **regulatory conditions proposed by the Public Staff?**

9 A. Conceptually and in large part, yes. The Public Staff has undertaken a rigorous
10 investigation of the details of the transaction, and we appreciate their efforts and
11 support their role in evaluating the benefits and risks of the sale on behalf of the
12 using and consuming public. But there are some details of their proposed
13 conditions that we believe should be modified for clarity, for more efficient
14 administration, and to ensure that they appropriately correspond to and address the
15 potential risks of a transaction such as this, while still enabling the owners and
16 managers to exercise their best judgment for the future of the assets and operations
17 to serve those utilizing them.
18

19 **Q. Do have a set of regulatory conditions that you believe are appropriate to**
20 **impose on the approval of this transfer of the certificate?**

21 A. Yes. Our proposed Regulatory Conditions are set forth in Appendix A attached to
22 this testimony. When we refer to proposed conditions throughout our testimony,

1 we are referring to our proposed conditions attached to our testimony in Appendix
2 II.

3
4 **Q. What are some of the other commitments that SharpVue has previously made**
5 **to the intervenors about rates and is now willing to memorialize in Regulatory**
6 **Conditions to the order approving the transaction?**

7 **A.** SharpVue has committed that it will not seek a change in rates for at least one (1)
8 year following a prospective transfer of the CPCN under which BHIT's ferry and
9 tram services operate. (Proposed Condition 27). SharpVue has concluded that it
10 can continue to operate the ferry and tram services at the approved rates at this time,
11 assuming that there are no significant changes to its regulated status or to the rate
12 base. SharpVue would, however, consider a decision to include the assets of the
13 parking and barge businesses in the ferry/tram rate base, or to otherwise regulate
14 those assets, as a "significant change." However, SharpVue will not increase the
15 aggregate rates for parking ticket classes or levels or barge/tugboat services
16 more than the compound average growth rate from January 1, 2023 of the
17 Consumer Price Index for All Urban Consumers (CPI-U) as calculated by the
18 U.S. Bureau of Labor Statistics for a period of four years following closing or
19 the next rate case. (Proposed Condition 5). SharpVue will also not seek to
20 recover any direct costs and expenses related to the transfer (proposed Condition
21 1).

1 SharpVue further commits that Bald Head Island Ferry Transportation, LLC
2 is “stepping into the shoes” of BHIT such that it assumes responsibility for all rights
3 and obligations of BHIT that flow from the Commission’s order approving a
4 settlement of the 2010 Rate Case for the ferry and tram services in Docket A-41,
5 Sub 7. (Proposed Condition 4). Specifically, this includes, but is not limited to,
6 the provision of that order that \$523,725 of annual revenues (including regulatory
7 fee impact) from the parking business that SharpVue seeks to acquire from BHIL
8 will continue to be imputed to the revenue requirement of the utility with respect to
9 the existing Commission-ordered rates until such time as the Commission may
10 approve an adjustment to rates.

11 SharpVue also agrees that conditions are appropriate expressly requiring it
12 to abide by the terms of the existing lease agreement between BHIT and BHIL
13 (included in the current ferry rate base under the terms of Docket A-41, Sub 7) to
14 lease real property in Southport, North Carolina and on Bald Head Island (Proposed
15 Condition 22).

16

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

18 **A. Yes, at this time.**

Addendum I

Parking, Barge, Tug rates and operation schedules

Deep Point Parking Rates

- \$12.00 - Daily General Lot Rate (overnight lot and no limit on length of stay);
- \$10.00 - Daily Contractor Lot Rate (no overnight parking permitted);
- \$1,400 - Annual Premium Lot Rate (overnight lot and no limit on length of stay);
- \$1,150 - Annual General Lot Rate (overnight lot and no limit on length of stay);
- \$700 - Annual Contractor Lot Rate (no overnight parking permitted);
- \$650 - Annual Employee Lot Rate (no overnight parking permitted - we do allow overnight parking given special, case-by-case circumstances in this lot);
- QR Code Exit Passes - Parking pass afforded to accommodate primarily Island-based businesses with seasonal or short-term employee needs. QR Code Exit Passes are \$6.00 per use-swipe to get out of a daily ticketed lot only (General Lot and Contractor Lot). QR Code Exit Passes are the responsibility of the businesses purchasing them and they are responsible for keeping track of their balances. Each business is given a code to go online to our website and view their balances.
- \$20.00 - Oversized Vehicle – Barge Landing Overnight-Oversized Parking - We charge an oversize rate of \$20.00 per day (this rate is based on a customer's vehicle taking up the equivalent of two standard-sized parking stalls). Barge Vehicle-Oversized Vehicles are parked in designated parking stalls located behind the Shipping & Receiving facility. All customers receive a tag to show they have paid before parking. This is the only parking area that we require prepayment before parking the customer. These spots are on a first come, first serve basis.

Please note that on a case-by-case basis, BHIL provides accommodation in the Employee Lot for employees who may have to stay overnight on occasion. Examples include the Conservancy, The BHI Club Chefs who sometimes stay a few nights in a row, and employees of the Village who may need to stay on-island on occasion.

Barge & Tug

Service Schedule⁴

Since November 7, 2022, the barge has been operating on the following schedule:

- Departure from Deep Point Terminal: Monday-Friday: 8am, 10am, 12pm, 2pm;
- Departure from Bald Head Island Terminal: Monday-Friday: 9am, 11am, 1pm, 3pm;
- Barge Maintenance days 1st and 3rd Wednesday beginning October 5, 2022.

As of March 12, 2023, the barge is currently expected to operate on the following schedule:

- Departure from Deep Point Terminal: Monday, Tuesday, Thursday: 7am, 9am, 11am, 1pm, 3pm;
- Departure from Bald Head Island Terminal: Monday, Tuesday, Thursday: 8am, 10am, 12pm, 2pm, 4pm;
- Departure from Deep Point Terminal: Wednesday, Friday: 7am, 9am, 11am, 1pm;
- Departure from Bald Head Island Terminal: Wednesday, Friday: 8am, 10am, 12pm, 2pm;
- Barge Maintenance days 1st and 3rd Wednesday ending April 12, 2023.

Charges for Barge Transport

Barge deck space ticket charges are currently \$60.00 each. Each ticketed deck space authorizes the holder to utilize six feet in one of three lanes aboard the barge for one round trip. Vehicle size determines the number of deck space tickets required. Lengths over an increment of six feet are rounded to the nearest six feet.

⁴ The November – February schedule is the off-peak schedule, and the March – October schedule is the peak season schedule.

ADDENDUM II

DOCKET NO. A-41, SUB 22

REGULATORY CONDITIONS

These Regulatory Conditions set forth requirements imposed upon Pelican Legacy Holdings, LLC (Holdings), Bald Head Island Ferry Transportation, LLC (and BHIFT), a wholly owned subsidiary of Pelican Legacy Holdings, LLC (Holdings), SharpVue Capital, LLC (SharpVue), and other entities that invest in Holdings that are owned or controlled by SharpVue or its principals, Lee Roberts and Douglas Vaughn, which are currently SVC Pelican Partners, LLC (Partners), SharpVue Real Estate Partners II, LP, Pelican Co-Invest, LLC, and SharpVue Real Estate Partners II AI, LP (as well as any successor entities)(“SharpVue Affiliates”), as a condition of approval of the application by BHIL, BHIT, and BHIFT pursuant to N.C. Gen. Stat. § 62-111 and Commission Rule R2-8.1 for authority (1) to transfer BHIT’s Common Carrier Certificate to BHIFT to operate the passenger ferry transportation services to and from Bald Head Island, the tram services on the island, and, the parking, barge, and tug operations (collectively, the Transportation Assets) (the Transfer), and for BHIFT or SharpVue to pledge assets and borrow or issue debt pursuant to N.C.G.S. §§ 62-160 and 62-161 secured by the Transportation Assets as may be necessary to finance the Transfer (the Pledging of Assets, and collectively with the Transfer, the Proposed Transaction).

These Regulatory Conditions, which become effective only upon closing of the Transfer, shall apply jointly and severally to Holdings, BHIFT, SharpVue, and SharpVue

1 Affiliates, and shall be interpreted in the manner that ensures BHIFT’s customers (a) are
2 protected from any known adverse effects from the Transfer, (b) are protected as much as
3 possible from potential costs and risks resulting from the Transfer, (c) receive sufficient
4 known and expected benefits to offset any potential costs and risks resulting from the
5 Transfer. These Regulatory Conditions do not apply, however, to how the SharpVue
6 Affiliates operate or manage cash for other investments separate from and unrelated to their
7 investment in Holdings and that have no effect on the rates and services provided by
8 BHIFT.

9 For purposes of these Regulatory Conditions, the North Carolina Utilities
10 Commission is referred to as “the Commission,” and the Public Staff – North Carolina
11 Utilities Commission is referred to as “the Public Staff.” For purposes of these Regulatory
12 Conditions, the term “affiliated” or “Affiliate” (other than previously defined SharpVue
13 Affiliate) shall mean Holdings, BHIFT, and any business entity of which 10% or more is
14 owned or controlled, directly or indirectly, by Holdings and BHIFT, including but not
15 limited to Pelican Real Property, LLC, Pelican Logistics, LLC, and Pelican IP, LLC.

16 Each entity bound by these Regulatory Conditions must acknowledge and consent
17 to these Regulatory Conditions and is further required not to cause any subsidiary entities
18 to violate such Regulatory Conditions, nor to prevent any bound entity from taking action
19 to comply with the Regulatory Conditions, as long as the Regulatory Conditions remain in
20 effect. The consent and acknowledgment as set forth above does not constitute a general
21 consent to expansion of the Commission’s jurisdiction over such entity(entities) beyond

1 that established by Chapter 62 of the North Carolina General Statutes. Further, as long as
2 SharpVue and its affiliates own or operate ferry, tram, parking, barge, and tug operations,
3 SharpVue and the SharpVue Affiliates agree to submit to the Commission's regulation and
4 oversight of those operations as set forth in the Regulatory Conditions herein and the
5 Commission's December 30, 2022 Order in Docket No. A-41, Sub 21, unless and until and
6 to whatever extent such Order may be overturned, reversed, or replaced and is thus no
7 longer valid and enforceable.

8 The Commission retains the right to impose future limitations on BHIFT that the
9 public interest requires.

10 **1 Transfer-related Direct Costs and Expenses.** Direct costs and expenses
11 associated with the Transfer will be excluded from the regulated expenses of
12 BHIFT for Commission financial reporting and ratemaking purposes. Direct
13 Transfer expenses are change-in-control payments made to terminated
14 executives, Transfer-related bonuses, severance payments, regulatory process
15 costs, and transaction fees (such as, but not limited to, acquisition, architectural,
16 broker, environmental, financing, investment banker, and legal fees for due
17 diligence, transaction structuring, financial market analysis, and fairness
18 opinions based on formal agreements with investment bankers). BHIFT will
19 file a summary report of its final accounting for direct Transfer and Transfer-
20 related -expenses within 120 days after the close of the Transfer, and

1 supplemental reports within 60 days after each quarter until such expenses
2 cease.

3 **2 Non-Consummation of Transfer.** If the Transfer is not consummated, neither
4 the cost nor the receipt of any termination payment shall be allocated to BHIL
5 or BHIT or included in regulated expenses of BHIL or BHIT for Commission
6 financial reporting and ratemaking purposes. BHIL's and BHIT's customers
7 shall not otherwise bear any direct expenses or costs associated with a non-
8 consummated Transfer.

9 **3 Acquisition Adjustments.** SharpVue, SharpVue Affiliates, Holdings, and
10 BHIFT shall neither pursue nor recover an acquisition adjustment on assets
11 used and useful in provided ferry or tram services in any future rate case.

12 **4 Parking Availability.** SharpVue, SharpVue Affiliates, Holdings or their
13 affiliates will provide no less spaces for parking than the aggregate of: (i) the
14 current number of paved, lined spaces at the Deep Point lots (1,955) and (ii) the
15 number of overflow cars that it can currently accommodate on the unpaved,
16 gravel lots at Deep Point (347). Holdings and its affiliates also commit that it
17 will meet the parking space commitments of this paragraph in one, or a
18 combination of, the following ways: (i) at the Deep Point parking lots currently
19 used by BHIL; (ii) through the acquisition and development of other
20 conveniently located parking lots with regular shuttle service to convey

1 passengers and their baggage to and from the Deep Point terminal; or (iii)

2 through the construction of parking decks or garages in lieu of surface lots.

3 This obligation would continue until such time as the Commission were to

4 allow a waiver or modification of this condition upon a showing of a

5 demonstrable decline in demand for parking at Deep Point or the availability of

6 equivalent parking by a third-party provider.

7 **5. Parking and Barge/Tugboat Rates:** For a period of four years following the
8 closing of the sale and barge/tugboat assets and the parking facilities at the
9 Deep Point Terminal, or the next rate case filed by BHIFT, whichever is earlier,
10 Holdings or its affiliates will not increase the aggregate rates for parking ticket
11 classes or levels or barge/tugboat services more than the compound average
12 growth rate from January 1, 2023 of the Consumer Price Index for All Urban
13 Consumers (CPI-U) as calculated by the U.S. Bureau of Labor Statistics.

14 **6. Hold Harmless Commitment.** The Transfer shall be effectuated in a manner
15 designed to prevent harm to BHIFT's ratepayers. Notwithstanding this,
16 SharpVue, SharpVue Affiliates, Holdings, and BHIFT (as well as any successor
17 entities directly or indirectly owning or controlling BHIFT assets, operations,
18 or its employees) shall take all such actions as may be reasonably necessary and

1 appropriate to hold BHIFT's customers harmless from the effects of the
2 Transfer.

3 **7. Distributions to SharpVue, SharpVue Affiliates, and Holdings.** BHIFT shall
4 not pay to SharpVue, SharpVue Affiliates, Holdings, or their members or
5 managers any distribution that would result in a cash balance of less than
6 \$500,000 for ferry, tram, parking and barge operations.

7 **8. Common Equity Capital.** Until a final order is issued in BHIFT's next (first)
8 general rate case, BHIFT shall maintain common equity capital at levels equal
9 to or greater than 40% of total adjusted booked capital (including common
10 equity, preferred stock, long-term debt, and long-term capital leases) (On Day
11 1, booked capital is invested common equity). No equity distributions, whether
12 by dividend or other form, such as the management fees of SharpVue, may be
13 made that would result in invested equity capital of BHIFT falling below this
14 minimum 40% level without prior approval of the Commission.

15 Notwithstanding the foregoing, BHIFT may petition the Commission for an
16 exception to this Regulatory Condition.

17 **9. Notice of BHIFT-related Investments.** Whenever SharpVue, SharpVue
18 Affiliates, or Holdings makes any new or increased direct or indirect
19 investment in a business entity other than Holdings and/or BHIFT where: (a)
20 such investment appears or will appear on the books of BHIFT, or will

1 otherwise have a direct effect on the books, costs, rates, revenues, charges,
2 obligations, services, capitalization, or indebtedness of BHIFT, and (b) the
3 amount of such investment is equal to 10% or more of BHIFT's book
4 capitalization, then BHIFT shall file or cause to be filed, as soon as practicable
5 following Board or other approval of the subject transaction and any public
6 announcement thereof (if any), a confidential notice of the investment with the
7 Commission. The notice shall include a full description of the investment and
8 an explanation of how will appear on the books of BHIFT, or will otherwise
9 have an effect on the books, costs, rates, revenues, charges, obligations,
10 services, capitalization, or indebtedness of BHIFT.

11 **10. Notice of Default or Bankruptcy.** If SharpVue or SharpVue Affiliates
12 experiences a material default on a Holdings or BHIFT-related obligation or
13 files for bankruptcy, Holdings and BHIFT shall notify the Commission of the
14 event in advance, if possible, or, if not, as soon as possible but not later than ten
15 days after such event.

16 **11. Non-attribution or Forgiveness of Intercompany "Loan."** To the extent that
17 closing of the Transfer memorializes any intercompany "loan" between BHIL
18 and BHIT (see \$19,808,223 of Related Party Loan(s) as reported in BHIT's
19 Financial Report of December 31, 2021), SharpVue, SharpVue Affiliates,
20 Holdings, and BHIFT must disclaim any such "loan" and any such "loan" or

1 indebtedness shall not be binding upon Holdings and BHIFT and shall not be
2 presented for Commission consideration whatsoever, whether for rate base
3 purposes or otherwise. This requirement applies to all existing or subsequent
4 indebtedness of BHIL or BHIT through closing, but not to cumulative negative
5 retained earnings as shown on BHIT's balance sheet prior to closing.

6 **12. Post-Closing Financial Information.** Holdings and BHIFT shall file
7 confidentially pre-and post-Transfer closing balance sheets and the associated
8 closing journal entries, including relevant descriptions and disclosures for the
9 transactions recorded as soon as practicable but not later than the end of the
10 second full quarter following the close of the Transfer, and shall provide
11 confidentially to the Public Staff closing documents for the consummation of
12 the Proposed Transaction, including closing statements for Holdings and
13 BHIFT.

14 **13. Meetings with Public Staff.** Holdings and BHIFTA management shall meet
15 periodically with the Public Staff, whenever requested, to discuss Holdings'
16 financial condition, BHIFT's financial condition and results, service quality
17 metrics and maintenance initiatives and results, and the ferry, barge, tug, and

1 tram transportation services, parking services, and any changes and potential
2 improvements, and new tariffs.

3 **14. Access to Books and Records.** In accordance with and to the extent provided by
4 North Carolina law, the Commission and the Public Staff shall continue to have
5 access to the books and records of Holdings and BHIFT.

6 **15. Management.** SharpVue, Holdings, and BHIFT have indicated that they intend
7 to maintain current management comprised of existing key BHIL and BHIT
8 employees Chad Paul, Shirley Mayfield, and Captain Bion Stewart. Holdings
9 and BHIFT shall notify the Commission at least 14 days prior to any
10 termination of agreements (except for termination for cause) with or resignation
11 by these key personnel or as soon as practicable following their knowledge of
12 any such termination or resignation .

13 **16. Regulatory Reporting Requirements.** BHIFT shall comply with all regulatory
14 reporting requirements, including Annual Report, Quarterly Report, and
15 Quarterly Financial Report of monthly information.

16 **17. Regulatory Staffing.** Holdings and BHIFT shall maintain sufficient, adequately
17 trained personnel to ensure that regulatory reporting requirements are complied
18 with in a timely and accurate manner. BHIFT shall notify the Public Staff when

1 there is any change in regulatory or compliance personnel at the management
2 level.

3 **18. Overall Service Quality and On-Time Performance.** Upon consummation of
4 the Transfer, SharpVue, Holdings, and BHIFT shall continue to provide safe
5 and reliable parking, ferry, barge, tug, and tram services consistent with current
6 practices. Holdings and BHIFT shall have a goal of on-time ferry departures of
7 90%, excluding delays caused by force majeure events beyond their control,
8 including, but not limited to, adverse weather conditions, river and port traffic,
9 requested emergency response and evacuation services, and dredging by third-
10 parties that affect transit to and from Bald Head Island. BHIFT shall evaluate
11 service delivery and related components to maintain and improve overall
12 ridership experience and report findings of its evaluation to the Public Staff at
13 meetings pursuant to Regulatory Condition #14 and at public meetings
14 conducted pursuant to Regulatory Condition #22.

15 **19. Affiliated Agreements.** Holdings and BHIFT shall file with the Commission
16 agreements pursuant to N.C.G.S. § 62-153. All such agreements that involve
17 payment of fees or other compensation by Holdings or BHIFT shall require
18 acceptance and authorization by the Commission and shall be subject to any
19 other Commission action required or authorized by North Carolina law and the
20 Rules and orders of the Commission. Holdings, and BHIFT shall file notice

1 with the Commission of any proposed amendments to, assignment of, or
2 transfer of management rights under the Management Agreement (referred to
3 by BHIFT as an “Investment Management Agreement”) among SharpVue,
4 Partners, and Holdings that would result in SharpVue Managing Partners Lee
5 Roberts and Douglas Vaughn no longer be leading the provision of
6 management services under the Management Agreement.

7 **20. Intellectual Property.** All intellectual property currently used in parking, ferry,
8 barge, tug, and tram operations shall continue to be available for use by BHIFT
9 at no additional charge. To the extent that intellectual property of BHIL
10 conveyed to Pelican IP, LLC, at closing is currently used in parking, ferry,
11 barge, tug, or tram operations, BHIFT shall have the continued right to utilize
12 such intellectual property and shall not be charged a licensing fee or any other
13 sum associated with such use.

14 **21. Public meetings with Stakeholders.** Management of Holdings and BHIFT shall
15 meet at least semi-annually in a noticed public meeting (one of which must be
16 on Bald Head Island) with ferry, barge, tug, and tram service constituents to
17 receive input on all aspects of such services.

18 **22. Ferry Terminals, Barge, and Parking Access.** BHIFT shall continue to have
19 the right to maintain the long-term lease for ferry terminal facilities on the
20 mainland and island (Terminal Lease) and the right to secure and maintain a

1 perpetual easement(s) or long-term lease(s) or otherwise ensure ownership or
2 control of all property necessary for regulated parking and barge and tug
3 operations at reasonable rates, with escalations not to exceed the rate of
4 inflation for an annual 12-month period at a rate greater than the annual
5 increase in the Consumer Price Index for Urban Consumers, CPI-U, as
6 published by the U.S. Bureau of Labor Statistics, unless any such rent
7 escalation at a different rate is approved by the Commission in a rate case
8 proceeding. In the event that any such easement or lease is terminated, expires,
9 or is rendered inoperable, the grantor/lessor shall file written notice in this
10 docket at least 90 days in advance and BHIFT shall be granted access (for
11 example, by new easement or lease) to such facilities necessary for regulated
12 operations at reasonable rates.

13 **23. Supplemental Assets.** The subsequent sale, assignment, lease, easement, or
14 other transfer of any right or interest in and to supplemental assets (assets other
15 than regulated assets) under the Asset Purchase Agreement (APA) for the
16 Transfer shall not materially impact customers of regulated operations for the
17 ferry, tram, parking, barge, or tug.

18 **24. Mergers and Acquisitions.** For any proposed merger or other business
19 combination that would affect BHIFT, Holdings, or SharpVue, BHIFT shall file
20 an application for approval pursuant to N.C.G.S. § 62-111(a) at least 90 days

1 before the proposed closing date for such merger or other business
2 combination.

3 **25. Vessel Replacement.** Within one year of the closing of the Transfer, Holdings
4 and BHIFT shall file a ten-year plan for the capital expenditures to replace any
5 of BHIT's current ferry vessels, including the proposed financing of any capital
6 expenditures related to the vessels.

7 **26. Transfer Pricing Between Affiliates.** For untariffed goods and services
8 provided by Holdings, BHIFT, SharpVue, or Sharp Affiliates to a non-utility
9 Affiliate, the transfer price paid shall be set at the higher of market value or
10 Holdings', BHIFT's, SharpVue's, or SharpVue Affiliates' cost. For untariffed
11 goods and services provided to Holdings, BHIFT, SharpVue, or SharpVue
12 Affiliates by a non-utility Affiliate, the transfer price charged by a non-utility
13 Affiliate to Holdings, BHIFT, SharpVue, or SharpVue Affiliates shall be set at
14 the lower of market value or the non-utility Affiliate's cost. Services provided
15 by Holdings, BHIFT, SharpVue, or SharpVue Affiliates to utility Affiliates or
16 by utility Affiliates to Holdings, BHIFT, SharpVue, or SharpVue Affiliates

1 shall be transferred at the supplier's cost, unless otherwise directed by order of
2 the Commission.

3 **27. Rate Case.** BHIFT agrees not to seek an increase in rates for at least one year
4 following the consummation of the Transfer, other than as allowed under
5 Condition 5 above.

6 **28. Tariff/Service Regulations.** Within thirty days of the issuance of the final
7 Order in this docket, the Applicants will file tariffs/service regulations, with
8 rates and operating schedules, for parking and tugboat/barge services for
9 approval by the Commission consistent with its Order in this docket.

10 **29. Successors.** The respective successors and assigns of Holdings, BHIFT,
11 SharpVue, and SharpVue Affiliates shall be bound by these regulatory
12 conditions, Commission rules, and Commission jurisdiction established by
13 Chapter 62 of the North Carolina General Statutes. Any successor or assign
14 shall file in this docket consent to submit to the Commission's jurisdiction for
15 the limited purpose of allowing the Commission to oversee and enforce these
16 regulatory conditions