

David P. Ferrell
Member

February 8, 2023

Ms. Shonta Dunstan, Chief Clerk
North Carolina Utilities Commission
430 North Salisbury Street
Raleigh, NC 27603-5918

**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 Ferry Transportation, LLC and Permission to Pledge Assets
NCUC Docket No.: A-41, Sub 22**

Dear Ms. Dunstan:

Attached for filing on behalf of SharpVue Capital, LLC in the above-referenced proceeding is SharpVue's Supplemental Response to Motion to Hold Proceeding in Abeyance.

Thank you for your attention to this matter and please let us know if you have any questions.

Sincerely,

/s/ *David P. Ferrell*

David P. Ferrell

Enclosure

cc: Parties of Record

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Raleigh

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.,
Bald Head Island Limited LLC, 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

**SHARPVUE'S SUPPLEMENTAL
RESPONSE TO
MOTION TO HOLD PROCEEDING
IN ABEYANCE**

In addition to the Response filed in the above-captioned docket along with, Bald Head Island Transportation, Inc., (“BHIT”), and Bald Head Island Limited LLC (“BHIL”), Bald Head Island Ferry Transportation, LLC, a wholly owned subsidiary of Pelican Legacy Holdings, LLC, and managed by SharpVue Capital, LLC (collectively “SharpVue”), through its counsel, hereby provides this supplemental response to the Motion to Hold Proceeding in Abeyance filed by the Village of Bald Head Island (the “Village”).

The purpose of this response is to emphasize, from SharpVue’s perspective, that an indefinite delay of a decision in this docket is likely, as a practical matter, to preclude the proposed sale.

In filing the appeal of the Order in Docket No. A-41, Sub 21, SharpVue, along with BHIL and BHIT, did nothing more than exercise their statutory and Constitutional rights to have the issues *in that docket* reviewed by the appellate courts, which, in the Village’s own words, “*exist independently from any potential sale,*” and doing so does not constitute a reason to stay the Commission’s consideration of the merits of the transfer.

The eventual ownership of the Bald Head Island ferry is obviously in limbo -- to the detriment of the employees who provide the service and to the using and consuming public who use it. The Commission's Order in Docket No. A-41, Sub 21 expressly does not decide many issues regarding the nature and scope of regulation of the parking and barge/tugboat operations, leaving "these and other questions . . . for another day, when such matters are properly pending before the Commission." (Order, p. 29) But the proper question before the Commission now is the ownership of the assets -- whether they must be retained indefinitely by an Estate who wants to sell them, or can be purchased by a buyer who wants to own and operate those assets and is ready to invest in them to ensure sustained stability and success. Although some of the unanswered questions left opened by the Commission's Order may not be addressed for months, the issue of ownership needs to be resolved now while financing is available and the current operational circumstances can be maintained.¹

An indefinite delay of this straightforward, and threshold, question -- who can own these assets -- would send a clear, and chilling, message to our investors. Moreover, in an environment of volatile interest rates and equity values, technological advances, new markets, and rising opportunity costs, investors and lenders will look elsewhere to put their financial resources to work -- the sources of the well-known "deal fatigue." SharpVue fears that granting the pending motion would, in effect, serve as a "pocket veto" to decide the

¹ The Village's Motion also discussed the pending legal action that BHIL has been required file to clear title to the assets and to have the purported right of first refusal declared invalid so that they can be purchased by SharpVue. While that is another pre-condition of closing and the transfer of the assets (along with others set forth in the Asset Purchase Agreement), every sale transaction has multiple preconditions that must be satisfied, along with the Commission's approval of the transfer of the CPCN. The fact that unrelated preconditions are being satisfied concurrently is neither unusual nor dictates a particular ordering or sequencing. The parties to the transaction are able to assess risks and manage the process as they deem appropriate. No statute or Commission precedent requires the Commission approval to be last.

docket and preclude the sale. This may be an outcome the Village -- as a competing bidder that has sought at every turn to prevent the sale -- may greatly desire, but, with all due respect, would be an unnecessary miscarriage of what should be an orderly regulatory process to determine whether SharpVue's purchase is justified by public convenience and necessity.

While the Village may contend that a refusal to waive our legal right to appeal justifies such an outcome, whatever result the appellate courts ultimately reach on the Sub 21 appeal, and whenever it is issued, should not dictate *whether* SharpVue is entitled to a timely hearing and decision on its petition in this docket. Therefore, the motion to hold the hearing in abeyance should be denied.

Respectfully submitted this 8th day of February, 2023.

NEXSEN PRUET PLLC

/s/ David P. Ferrell

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Counsel for Bald Head Island Ferry Transportation,
LLC, Pelican Legacy Holdings, LLC and SharpVue
Capital, LLC

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served on behalf of the Applicants the foregoing SharpVue's Supplemental Response to Motion to Hold Proceeding in Abeyance, upon all parties of record by electronic mail and/or mail as follows:

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This the 8th day of February, 2023.

/s/ David P. Ferrell

David P. Ferrell