

**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	)	RESPONSE OF
Transportation, Inc., and Bald Head Island	)	THE PUBLIC STAFF
Ferry Transportation, LLC, for Approval of	)	TO MOTION TO HOLD
Transfer of Common Carrier Certificate to	)	PROCEEDING IN ABEYANCE
Bald Head Island Ferry Transportation,	)	
LLC, and Permission to Pledge Assets	)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and pursuant to the Commission’s Order Requiring Responses to Motion to Hold Proceeding in Abeyance issued February 6, 2023, respectfully submits its response.

On July 14, 2022, Bald Head Island Transportation, Inc. (BHIT), Bald Head Island Limited, LLC (BHIL), and Bald Head Island Ferry Transportation, LLC (BHIFT, and collectively with BHIT and BHIL, the Applicants), a wholly owned subsidiary of Pelican Legacy Holdings, LLC (Pelican), and managed by SharpVue Capital, LLC (collectively with Pelican, SharpVue), filed an application pursuant to N.C. Gen. Stat. § 62-111 for approval (1) to transfer to BHIFT BHIT’s Common Carrier Certificate, in order to operate the passenger ferry transportation services to and from Bald Head Island and the tram services on the island, and (2) for BHIFT

or SharpVue to pledge assets and borrow/issue debt pursuant to N.C. Gen. Stat. §§ 62-160 and 62-161 as may be necessary to finance the transaction.

On August 24, 2022, the Commission issued an Order Scheduling Hearing, Establishing Procedural Deadlines, and Requiring Public Notice (Scheduling Order), which among other things established deadlines for the filing of direct testimony by intervenors and rebuttal testimony of the Applicants and scheduled public witness and expert witness hearings on the transfer application.

On December 21, 2022, the Commission issued an Order Holding Proceeding in Abeyance, which held this proceeding in abeyance pending final decision in Docket No. A-41, Sub 21 (Sub 21), and stated that the expert witness hearing would be rescheduled by further order of the Commission.

On December 30, 2022, the Commission issued an Order Ruling on Complaint and Request for Determination of Public Utility Status (Order Ruling on Complaint) in the Sub 21 docket.

On January 20, 2023, the Commission issued an Order Rescheduling Hearing and Establishing Additional Procedures, which among other things, rescheduled the expert witness hearing in this proceeding to begin on Tuesday, March 7, 2023.

On January 30, 2023, BHIL, BHIT, and SharpVue filed notice of appeal of the Commission's December 30, 2022 Order Ruling on Complaint in the Sub 21 docket.

On February 3, 2023, the Village of Bald Head Island (VBHI or Village), a party in both this proceeding and Sub 21, filed a Motion to Hold Proceeding in Abeyance and Request for Expedited Ruling on the Motion (Motion to Hold Proceeding in Abeyance).

On February 6, 2023, the Commission issued its Order Requiring Response to Motion to Hold Proceeding in Abeyance ordering BHIT, BHIL, SharpVue, and the Public Staff to respond to the Motion to Hold Proceeding in Abeyance and allowing other parties to file responses.

The Public Staff is neutral on VBHI's Motion to Hold Proceeding in Abeyance as it relates to scheduling and is prepared to proceed with the expert witness hearing scheduled for March 7, 2023. In ruling on the motion, the Public Staff requests the Commission consider any impacts that proceeding with, or delaying, the transfer proceeding may have on customers. As we enter the spring season, ridership will consistently increase until it peaks during the summer months. A delay in the hearing will necessarily delay a final decision on the transfer of the assets, thus perpetuating uncertainty with respect to the ultimate ownership of BHIT, BHIL, and BHIFT. The Public Staff has not evaluated the impact of extended uncertainty on the practical operations of the ferry, such as access to capital, ability to hire and retain employees, maintenance of equipment, and commitment to service quality.

The Public Staff continues to face significant time and resource constraints due to significant workload driven by active dockets pending before the

Commission; thus, holding the proceeding in abeyance would potentially avoid a portion of proceedings that might later be rendered moot. It could also forestall a proceeding that will be rendered necessary if the Commission's order is affirmed, which would require restarting and revisiting the investigation, a less than efficient process. While the Public Staff strongly supports promoting judicial economy, especially when experiencing time and resource constraints, maintaining safe and reliable service at reasonable rates is the primary concern of the Public Staff.

While the Public Staff originally contemplated a shorter period for establishing rate base, on further review, because of current water and electric rate case workload, impending medical leave of key taskforce members, and the fact that this is the first investigation of rate base of a parking lot and barge, the Public Staff will need approximately 120 days to determine rate base in this matter. Relatedly, due to the time constraints associated with the March 7 evidentiary hearing, the Public Staff will be unable to establish rate base for any of the assets contemplated in the proposed transfer. Significant research will be necessary to ensure a reasonable rate base is calculated that is fair to customers. Additionally, as the Commission has already ordered existing rates to remain in effect pending a future rate case, the Public Staff does not believe it is necessary to establish rate base in this proceeding. Should the Commission desire the Public Staff to file testimony and supporting exhibits to establish rate base, the Public Staff respectfully requests that the Commission provide the Public Staff sufficient time for that purpose in this proceeding.

WHEREFORE, the Public Staff prays that the Commission take the Public Staff's response into consideration.

Respectfully submitted this the 8th day of February, 2023.

PUBLIC STAFF  
Christopher J. Ayers  
Executive Director

Lucy E. Edmondson  
Chief Counsel

Electronically submitted  
/s/ Gina C. Holt  
Manager, Legal Division, Water,  
Sewer, Telephone, &  
Transportation Sections

/s/ William E. H. Creech  
Staff Attorney

4326 Mail Service Center  
Raleigh, North Carolina 27699-4300  
Telephone: (919) 733-6110  
[zeke.creech@psncuc.nc.gov](mailto:zeke.creech@psncuc.nc.gov)

## CERTIFICATE OF SERVICE

I certify that a copy of this Response has been served on all parties of record or their attorneys, or both, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 8th day of February 2023.

Electronically submitted  
/s/ William E. H. Creech  
Staff Attorney