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PLACE: Dobbs Building, Raleigh, North Carolina  
DATE: Thursday, August 4, 2022  
DOCKET NO.: W-1040, Sub 10  
W-1328, Sub 4  
TIME: 6:30 p.m. - 7:23 p.m.  
BEFORE: Commissioner ToNola D. Brown-Bland  
Commissioner Jeffrey A. Hughes

IN THE MATTER OF:

Application by Red Bird Utility Operating Company,  
LLC, 1650 Des Peres Road, Suite 303, St. Louis,  
Missouri 63131, and Bear Den Acres Development,  
Inc., 600 Bear Den Mountain Road, Spruce Pine, North  
Carolina 28777, for Authority to Transfer the Bear  
Den Acres Development Water System and Public  
Utility Franchise in McDowell County, North  
Carolina, and for Approval of Rates

VOLUME 4

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A P P E A R A N C E S:  
FOR RED BIRD UTILITY OPERATING COMPANY, LLC:  
Daniel C. Higgins, Esq.  
Burns Day & Presnell, PA  
Post Office Box 10867  
Raleigh, North Carolina 27608  
  
FOR THE USING AND CONSUMING PUBLIC:  
Megan Jost, Esq.  
Public Staff - North Carolina Utilities Commission  
4326 Mail Service Center  
Raleigh, North Carolina 27699-4300

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T A B L E O F C O N T E N T S  
E X A M I N A T I O N S

PAGE

LORI JACKSON	
Direct Examination by Ms. Jost .....	11
Cross Examination by Mr. Higgins .....	18
GAYLE CLOSI	
Direct Examination by Ms. Jost .....	20
Examination by Commissioner Brown-Bland ...	23
TAMMI RUSHING	
Direct Examination by Ms. Jost .....	24
Examination by Commissioner Brown-Bland ...	29
TRACY BALLARD	
Direct Examination by Ms. Jost .....	31
SHELLEY PIERCE	
Direct Examination by Ms. Jost .....	34
Examination by Commissioner Brown-Bland ...	39
RODNEY LEMMOND	
Direct Examination by Ms. Jost .....	40

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E X H I B I T S
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P R O C E E D I N G S

COMMISSIONER BROWN-BLAND: Good evening.  
Let's come to order and go on the record. I am  
Commissioner ToNola D. Brown-Bland of the North  
Carolina Utilities Commission, and with me -- I'm  
the presiding Commissioner for this hearing, and  
with me this evening is Commissioner Jeffrey A.  
Hughes.

I now call for hearing Docket Numbers  
W-1328, Sub 4 and W-1040, Sub 10, In The Matter of  
Application for Transfer of Public Utility Franchise  
of Bear Den Acres Development, Inc., to Red Bird  
Utility Operating Company, LLC, d/b/a Red Bird  
Water, filed pursuant to North Carolina General  
Statute § 62-111 and Commission Rule R7-37.

On December 3rd, 2020, Bear Den Acres  
Development, Inc., hereafter called Bear Den, filed  
an Application with the Commission seeking authority  
to transfer to Red Bird Water its public utility  
franchise and seeking approval of rates for water  
utility service to Bear Den Acres Development.

On January 5th, 2022, the Commission  
issued an Order Scheduling Hearing, Establishing  
Discovery Guidelines and Requiring Customer Notice.

1           On March 2nd, 2022, the Public Staff and  
2 Red Bird filed a Settlement Agreement and  
3 Stipulation purported to resolve all contested  
4 issues in this docket.

5           On March 18th, 2022, the Public Staff  
6 filed the testimony of D. Michael Franklin in  
7 support of the Stipulation.

8           And on March 18th, 2022, Red Bird filed  
9 the supplemental testimony of Josiah Cox in support  
10 of the Stipulation.

11           On March 21st, 2022, Red Bird and the  
12 Public Staff filed a Joint Motion requesting the  
13 Commission to issue an Order canceling the  
14 evidentiary hearing, approving the Stipulation,  
15 approving bond, and approving transfer and rates.

16           On March 24th, 2022, the Commission issued  
17 an Order Denying the Joint Motion.

18           The Commission held the expert witness  
19 hearing on March 28th, 2022, as scheduled. No  
20 public witness hearing was held before March 28th,  
21 because prior to that time the Commission was aware  
22 of three customer statements having been filed by  
23 customers. But sometime in May, after the  
24 evidentiary hearing, the Commission learned that

1 nine additional consumer protests regarding the  
2 matter had been timely filed. I should say, I  
3 believe there were two prior ones and nine  
4 additional were filed, therefore, bringing the total  
5 number of consumer protests to 11.

6 On May 19th, the Public Staff filed a  
7 request for a public hearing asserting that 11  
8 customers out of a total of about 50 served by the  
9 Bear Den system represents a significant number of  
10 protests.

11 On July 1st, 2022, the Commission issued  
12 an Order scheduling this public hearing to be held  
13 by remote means in two sessions, one beginning at  
14 1:30 and the other beginning at 6:30 p.m. today.

15 The Commission ordered that the Notice of  
16 Public Hearing to customers be mailed to both the  
17 billing address and service address of all affected  
18 customers, hand delivered to all occupied campground  
19 lots, and posted to all physical communication  
20 boards and restroom doors of Bear Den Campground  
21 within 10 days of the date of the Order.

22 In compliance with the requirements of the  
23 State Government Ethics Act, I remind all members of  
24 the Commission of our duty to avoid conflicts of

1 interest, and I inquire at this time whether any  
2 Commissioner has a any known conflict of interest  
3 with respect to this docket?

4 (No response)

5 The record will reflect that no  
6 Commissioner identified any conflict.

7 I now call upon counsel for the parties to  
8 announce their appearances, beginning with the  
9 Applicant.

10 MR. HIGGINS: Good evening, Commissioners.  
11 Dan Higgins with Burns, Day & Presnell appearing for  
12 Red Bird Utility Operating Company.

13 COMMISSIONER BROWN-BLAND: Thank you,  
14 Mr. Higgins.

15 MS. JOST: Good evening. Megan Jost with  
16 the Public Staff appearing on behalf of the Using  
17 and Consuming Public.

18 COMMISSIONER BROWN-BLAND: And thank you,  
19 Ms. Jost.

20 That brings us to our purpose tonight  
21 which is to hear from the Company's customers  
22 regarding their concerns about Bear Den's request to  
23 transfer the franchise to Red Bird Water or  
24 regarding the rates proposed to be charged by Red

1 Bird following the transfer.

2 Let us discuss the procedures that we will  
3 follow and I urge each witness who plans to testify  
4 to listen closely so that we can abide by these  
5 procedures.

6 First, the public witnesses will be  
7 appearing by audio connection only. The  
8 Commissioners and the attorneys will be appearing by  
9 video and audio. Any public witness or member of  
10 the public who wishes to follow a live video stream  
11 of the proceeding may access it on their electronic  
12 devices or computers by way of YouTube, which is  
13 linked from the Commission's homepage which is at  
14 [www.ncuc.net](http://www.ncuc.net). However, should you choose to follow  
15 the proceeding on another electronic device or  
16 computer, when you are called to testify by phone,  
17 in order to avoid feedback, we would ask that you  
18 please be sure you mute your other device and that  
19 way we will avoid interference with the audio on the  
20 Webex internet feed.

21 This hearing is being transcribed by a  
22 court reporter, and it is critical that we have  
23 no interference with her ability to hear and  
24 transcribe word-for-word all that is being said.

1 So, unless you are providing testimony or speaking  
2 for the record, please stay on mute and be advised  
3 that our Webex administrator will mute you if  
4 there's an inadvertent unmuting or if we start to  
5 have interference or background noises.

6 The public witnesses will be called on to  
7 testify in the order that they called in. We are  
8 not able to do so in the order of registration due  
9 to technology limitations, but we wish that we could  
10 do it that way. Now, when it is your turn to speak,  
11 and we are calling on you for your testimony, you  
12 will hear -- you will be unmuted and you should hear  
13 two beeps indicating that you have been unmuted.

14 And once I know that someone is on the phone line, I  
15 am required to have you affirm that the testimony  
16 you will provide will be the truth, and then the  
17 attorney from the Public Staff will take it from  
18 there and get your information for the record and  
19 help us get your testimony and your statement on the  
20 record. After your testimony is complete, the  
21 Public Staff attorney, the attorney for the Company,  
22 and the Commissioners may have questions for you to  
23 help us understand your testimony and be sure that  
24 it is clear that we have heard what you wanted to

1 tell us. If there are no questions, you should not  
2 read anything into it other than we think we have  
3 understood your testimony and we don't have any  
4 follow up.

5 This second session of the public hearing  
6 will end no later than 10:30, but it might end  
7 earlier if we've heard from all the witnesses who  
8 have called in by that time or before then.

9 Each witness will have up to five minutes  
10 to testify. And we think we'll be able to hear from  
11 everybody under those parameters.

12 So, all right, we are ready to begin.  
13 Would you please unmute the first witness for this  
14 evening?

15 (Silence)

16 Hello.

17 SPEAKER: Yeah, I'm Lori Jackson.

18 LORI JACKSON;

19 having been duly affirmed,

20 testified as follows:

21 COMMISSIONER BROWN-BLAND: Ms. Jost.

22 MS. JOST: Thank you.

23 DIRECT EXAMINATION BY MS. JOST:

24 Q Good evening, Ms. Jackson. Could you please

1 state your full name and address for the  
2 record?

3 A Lori N. Jackson. Can I use a Post Office Box?

4 Q I believe the Commission typically wants the  
5 service address, but I'll defer to Commissioner  
6 Brown-Bland.

7 A Okay. No, that's fine. The service address  
8 is -- well, Phase 1, Lot 6 is what I go by  
9 because I don't have an address there per se.  
10 I know there's a 911 address but I don't really  
11 use it. So, it's Bear Den Overlook, but I'm  
12 not sure what the actual number is.

13 Q Okay.

14 COMMISSIONER BROWN-BLAND: That's  
15 sufficient. Thank you.

16 MS. JOST: Thank you.

17 A I found it here. I'm sorry. It's 38 Overlook  
18 Drive.

19 Q Thank you.

20 A Thank you.

21 Q Ms. Jackson, do you have a statement you would  
22 like to deliver to the Commission?

23 A Yes, ma'am. It's right at five minutes, so  
24 yes, I do.

1 Q Go ahead, please.

2 A This is a little bit off, not the subject, but

3 I'm like please consider this a formal

4 complaint regarding Red Bird's unethical

5 business practices during the Bear Den water

6 acquisition. Communications is important in

7 business and customer relationships.

8 Communications has been not existent from the

9 start of the Red Bird Water system acquisition

10 initiated in December of 2020. The only

11 correspondence received from the Red Bird has

12 been notices that were required from the North

13 Carolina water commission. The first

14 notice was received on February 4th, 2022.

15 Because of their incompetence, the Notice was

16 sent to the service address, not the billing

17 address, which made the delivery two and a half

18 weeks late. Of course, this would have been a

19 great opportunity to introduce Red Bird

20 utilities to Bear Den owners, but that didn't

21 happen.

22 Fast forward to July 1st, 2022,

23 when the Commission required Red Bird to mail

24 out a notice for customers to testify. The

1 time sensitive notice was received on  
2 July 18th, 2022. Why did it take 17 days to  
3 get this notice? This gave the owners three  
4 days to sign up to testify. The envelop was  
5 not time stamped. Red Bird had no  
6 identification on the outside of the envelop  
7 and it looked like typical junk mail. Needless  
8 to say, there was no letter from Red Bird  
9 enclosed.

10 Now, I watched and read the  
11 YouTube hearing on March 28th. Page 68, line  
12 23, and page 69, line 4, Mr. Cox stated under  
13 oath that Red Bird had sent written  
14 notifications to their future customers. I  
15 didn't get anything. Did anybody else get  
16 anything? Am I the only future customer that  
17 didn't receive written notification besides  
18 what was required from the State? Does anyone  
19 see a pattern of Red Bird's business  
20 procedures? Would you want this  
21 company providing your drinking water?

22 Now, Red Bird claims that their  
23 rates are based on the average of 1500 gallons  
24 per month. I have written proof from

1 December 2018 to December 2021 that shows I  
2 used 1832 gallons for three years. That's  
3 600 gallons a year or 55 gallons per month.  
4 Where is the data that shows that the average  
5 owner is using 1500 gallons per month. Has  
6 Mark Krauss provided insufficient water usage  
7 data to Red Bird? Mark Krauss knows exactly  
8 how much water Bear Den residents are using.  
9 Just ask him for the actual customer usage  
10 bills that are sent out every three months. I  
11 believe you will see the usage is way lower  
12 than 1500 gallons a month. Where is the proof?  
13 After-all, this is what Red Bird's rate  
14 increase is based on. Where are the facts?  
15 Someone somewhere is being misled or  
16 misinformed.

17 Maybe this is not as important,  
18 but Mark Krauss owns eight plus or minus rental  
19 units in the Acres and yet these units may  
20 consistently use 1500 gallons a month, because  
21 they house up to eight people, and I believe  
22 there are hot tubs available, but this is not  
23 the average customer. Shouldn't Mark Krauss be  
24 considered a commercial customer? Is this

1 where the 1500 gallons of water per month came  
2 from?

3 Page 60, line 20, at the expert  
4 hearing, one of the questions Commissioner  
5 Brown-Bland asked Mr. Cox was how his company  
6 found the 50 units at Bear Den water system. I  
7 figured since Mark Krauss had relocated from  
8 the St. Louis, Missouri area that he made a  
9 call to the Red Bird utility company to ask for  
10 their assistance. So I was surprised to hear  
11 Mr. Cox say that Red Bird did its research and  
12 discovered Bear Den Acres. Page 60, line 24  
13 through page 62, line 1. That indeed was great  
14 research data and I would say a heck of a  
15 coincidence.

16 I never realized the Bear Den  
17 water system was in such distress and so  
18 troubled, according to Mr. Cox, page 104, line  
19 22 through page 108. On page 104, line 7, at  
20 the expert hearing, Commissioner Brown-Bland  
21 said, *besides from the testimony of Red Bird,*  
22 *there was no record that the Bear Den owners*  
23 *were unhappy with current service.* I totally  
24 agree with her statement. This is a fact.

1 Mark Krauss wants to get out of the water  
2 utility business at Bear Den and he found a way  
3 out, by book or by crook.

4 Thank you for listening to a  
5 Bear Den owner since 1998. That's it. Thank  
6 you.

7 COMMISSIONER BROWN-BLAND: Ms. Jost, do  
8 you have questions?

9 MS. JOST: I do.

10 BY MS. JOST:

11 Q Ms. Jackson, you referred to a 1500-gallon  
12 number and I believe what you were referring to  
13 was listed in the Notice to customers at the  
14 top of the second page; is that correct?

15 A That's correct.

16 Q And that's where it says *based on an average*  
17 *usage of approximately 1500 gallons per month,*  
18 *the monthly water utility bill is \$37.57?*

19 A Correct.

20 Q So, are you aware that the 1500 gallons that's  
21 mentioned in that sentence is an amount that  
22 was used to calculate an example bill based on  
23 the currently approved rates and that customers  
24 will be billed based on the base charge plus

1           their actual usage, which may be more or less  
2           than 1500 gallons per month?

3    A       I guess I was not aware of that.  I just -- I  
4           guess I'm seeing red when I see the bill goes  
5           up twice as much and they're going to ask for  
6           an immediate increase two years later, without  
7           even knowing what's going on.

8    Q       I understand.  There are a lot of numbers in  
9           that notice.  I want to offer you the telephone  
10           number of Mike Franklin who's an Engineer with  
11           our Water, Sewer and Telephone Division.  He  
12           would be happy to answer any questions you have  
13           or clarify the numbers and rates that appear in  
14           that notice.  His number is 919-715-2666.

15   A       Okay.  Thank you.

16   Q       That's the only question I have.  Thank you.

17   A       And what's your name?

18   Q       Megan Jost.  I'm a Staff Attorney with the  
19           Public Staff.

20   A       Okay.  Thank you, Megan.

21           COMMISSIONER BROWN-BLAND:  Mr. Higgins, do  
22           you have questions for the witness?

23           MR. HIGGINS:  Sorry, I was muted.

24   CROSS EXAMINATION BY MR. HIGGINS:

1 Q Ms. Jackson, Dan Higgins for Red Bird. Did you  
2 file an email -- did you send an email to the  
3 Utilities Commission on or about February 28th  
4 regarding this docket voicing your complaints?

5 A I probably did. I don't know exactly the date  
6 without getting back online. Actually, I think  
7 I'm on record for two different letters to the  
8 committee or Commission.

9 Q Okay. Yeah, subject to -- fair enough, subject  
10 to check, I believe the date was February 28th.

11 MR. HIGGINS: Those are all the questions  
12 I have.

13 THE WITNESS: Thank you, Mr. Higgins.

14 COMMISSIONER BROWN-BLAND: Commissioner  
15 Hughes, do you have any questions?

16 (No response)

17 Ms. Jackson, we thank you for your  
18 testimony and you may be excused.

19 THE WITNESS: And I will say you did a  
20 great job on YouTube. That was fantastic. So no  
21 matter what happens, I think you did a fine job,  
22 Ms. Bland -- Brown-Bland.

23 COMMISSIONER BROWN-BLAND: Thank you.  
24 Thank you.

1                   Could you unmute the next witness?

2   (Silence)

3                   Hello.

4                   SPEAKER: Hello.

5   GAYLE CLOSI;

6   having been duly affirmed,

7   testified as follows:

8                   COMMISSIONER BROWN-BLAND: Ms. Jost.

9                   DIRECT EXAMINATION BY MS. JOST:

10           Q     Good evening, ma'am. Could you please state  
11                   your full name and address for the record?

12           A     Yes, ma'am. My name is Gayle Closi, and my  
13                   address is Bear Den; it's also 38 Overlook  
14                   Drive, Phase 1, Lot 6.

15           Q     Thank you. And do you have a statement that  
16                   you'd like to provide to the Commission this  
17                   evening?

18           A     I just have a couple of questions if you don't  
19                   mind. It's not really a statement, yeah, kind  
20                   of a statement, but if you don't mind.

21           Q     Go ahead with your statement, yes, please.

22           A     Sure. I had a question about the 1500 per  
23                   month but you've just answered that to the  
24                   other girl. I just had a question about, I

1 hope when they take over that they will check  
2 and bill us for what we use because we  
3 certainly don't want them to assume that we all  
4 use the \$1500.00 (sic) per month or per gallon.

5 Also, they said they wanted to  
6 make improvements. I don't mind people making  
7 improvements but first they need to take over,  
8 look at the situation. We have not had any  
9 problems with the meters that are already there  
10 or any water that we're using. So, I hate to  
11 see them go in here and rip off a lot of stuff  
12 that's going to maybe charge us more money.  
13 So, I'm just concerned about that. And  
14 actually -- I mean that's kind of all I have to  
15 say. I just -- you know, I'm very upset that  
16 they came in the way they did. And I've never  
17 seen them come around our property or leave  
18 anything on our doors that we could get back to  
19 them and say thank you, but that's the way it  
20 is. So, I thank you for your time.

21 COMMISSIONER BROWN-BLAND: Thank you,  
22 Ms. Closi.

23 Ms. Jost, do you have questions for the  
24 witness?

1 MS. JOST: Just one.

2 BY MS. JOST:

3 Q Ms. Closi, so you said that you didn't have any  
4 problem with your meters or your water. We  
5 heard some testimony at the earlier hearing  
6 from witnesses who said that they sometimes had  
7 differing degrees of discolored water. Is that  
8 something you've ever experienced?

9 A Yes. What happens from the past is if they had  
10 a problem they turned their water system off to  
11 make corrections or take care of the situation  
12 and then when they turn the water back on, yes,  
13 there is a little bit of discoloration but it  
14 doesn't last. You run the water and it clears  
15 up within five minutes.

16 Q Thank you.

17 A You're welcome.

18 MS. JOST: That's my only question.

19 Thanks.

20 THE WITNESS: Thank you.

21 COMMISSIONER BROWN-BLAND: Mr. Higgins.

22 MR. HIGGINS: I don't have any questions  
23 for Ms. Closi.

24 COMMISSIONER BROWN-BLAND: Commissioner

1 Hughes.

2 COMMISSIONER HUGHES: (Shakes head no).

3 EXAMINATION BY COMMISSIONER BROWN-BLAND:

4 Q Ms. Closi, do you use -- do you drink and cook  
5 with the water?

6 A I do.

7 Q Do you use any type of filtration system at  
8 your residence?

9 A Yes, I do. Not to shower, but I use -- when I  
10 cook I don't, but when I drink the water from  
11 the faucet I do have two Pur filters in my  
12 kitchen and I fill them and when I make coffee  
13 in the morning I use that water. When I drink  
14 and take pills or anything I use that water.

15 Q And do you recall having heard or having been  
16 informed that Red Bird would begin to take over  
17 the billing from Bear Den?

18 A I heard they were going to but I have no idea  
19 when or what's happening. So, not a lot of us,  
20 I don't think, are informed very much of what's  
21 going on.

22 COMMISSIONER BROWN-BLAND: Thank you. Are  
23 there any questions on Commission's questions?

24 MS. JOST: No questions.

1 COMMISSIONER BROWN-BLAND: Ms. Closi,  
2 thank you for coming on tonight and you are excused.

3 THE WITNESS: Thank you and thank you for  
4 your time. Goodbye.

5 COMMISSIONER BROWN-BLAND: Goodbye.  
6 Can we unmute the next witness, please?

7 SPEAKER: Hello.

8 COMMISSIONER BROWN-BLAND: Hello.

9 TAMMI RUSHING;  
10 having been duly affirmed,  
11 testified as follows:

12 COMMISSIONER BROWN-BLAND: Ms. Jost.

13 DIRECT EXAMINATION BY MS. JOST:

14 Q Good evening. Could you please state your name  
15 and address for the record?

16 A Tammi Rushing. And I've always known my lot as  
17 Lot Number 9, Phase 1. It's on Overlook Drive.  
18 And I was told the new address is Lot Number  
19 37, I guess for 911 purposes, but you know,  
20 there's not communication really regarding  
21 anything between Mark and us with that. So I  
22 assume it's Lot Number 37 now; I'm not sure.

23 Q Okay. Thank you. Do you have a statement you  
24 would like to provide?

1 A Yes, I do. All the concerns that the two lot  
2 owners previously spoke about are my biggest  
3 concerns. I don't want to, you know, reiterate  
4 all those, but the biggest thing is that  
5 there's been, and it almost seems intentionally  
6 done, that we have not been properly, or for  
7 lack of a better word, ethically communicated  
8 with about what has been going on with Red  
9 Bird, with the acquisition, just as Lori said.

10 If I would not have -- I had 24  
11 to 48-hours of notice about what this, what was  
12 going on tonight and if I wasn't signed up by  
13 whatever day I was just out of luck. It came  
14 in an envelop that didn't have a date, time,  
15 anything. I assume -- Mark finally got back to  
16 us and he knows that we receive our mail at our  
17 home addresses. I'm in Bessemer City, North  
18 Carolina. That's where we receive our water  
19 bills and other bills from Bear Den. I don't  
20 understand that ethical dilemma, and just  
21 giving us enough time to be informed and then,  
22 therefore -- you know, what complaints we have  
23 and just to be able to share those with you  
24 guys.

1 I've been there, a lot owner  
2 since 1995. I have -- over the past four  
3 years, I used approximately 354 gallons a  
4 month. And, you know, we're not sure how much  
5 that's going to increase and whether the  
6 increase is actually to a base rate versus the  
7 usage rate.

8 In the original deed of the  
9 Association, you know, it's supposed to be  
10 not-for-profit organization, you know,  
11 not-for-profit business as far as the water  
12 goes and we were restricted from being able to  
13 have wells placed on the property. I would  
14 like to know is that going to change because,  
15 if I'm going to end up paying seventy some  
16 dollars possibly for three hundred and some  
17 gallons of water per month, I'm going to make  
18 the investment in myself and not Bear Den's  
19 Association or Red Bird. So, I would like to  
20 understand the plan on the base rate versus the  
21 usage rate and how much water that will be for.  
22 Also, with where it is, Well No. 1 and where  
23 does it serve, what phase? Is it Phase 1? Is  
24 it Phase 2? Is it in the campground even?

1 Does any of that water go into the rented  
2 spaces Mark has there in the campground? We're  
3 not sure. I just would like to know what the  
4 benefit of any of these upgrades or so-called  
5 upgrades are going to be to any of the Bear Den  
6 owners.

7 I don't mind -- we love it up  
8 there, enjoy going, but -- and don't mind  
9 paying a fair price for water; absolutely not.  
10 But I've also heard a lot of and seen a lot of  
11 complaints about Red Bird's water when they've  
12 taken over service anywhere. I haven't heard  
13 positive things and I have checked into that.  
14 It's very concerning, very concerning. But all  
15 the other, what Gayle and Lori have both  
16 specified to in their -- also, everything they  
17 have said are questions that I have as well.

18 COMMISSIONER BROWN-BLAND: Does that  
19 conclude your statement?

20 THE WITNESS: No, one more thing. When we  
21 had met with Mark in the past, it was stated that in  
22 order for certain changes, with things he had  
23 mentioned at a meeting, that it was going to take  
24 100 percent consensus from all of the owners. And

1 so we just were -- you know, if that's the way it's  
2 going to be with any other issue, we're just  
3 wondering why it wouldn't be the same thing and why  
4 there wouldn't be better communication about any  
5 possible changes with the water situation. That  
6 concludes my statement.

7 COMMISSIONER BROWN-BLAND: Ms. Jost.

8 BY MS. JOST:

9 Q Yes. Ms. Rushing, I don't know if you heard  
10 earlier but I provided the telephone number for  
11 Mike Franklin who's an Engineer with the Public  
12 Staff's Water, Sewer and Telephone Division.

13 A I did. Can I make sure I got that right?

14 Q Okay. It's 919-715-2666.

15 A Okay.

16 Q And he will be happy to talk with you about the  
17 rates or any of the numbers that appear in the  
18 Notice that you have questions about.

19 A Okay.

20 MS. JOST: I don't have anything further  
21 for Ms. Rushing.

22 COMMISSIONER BROWN-BLAND: Mr. Higgins.

23 MR. HIGGINS: No questions for

24 Ms. Rushing.

1           COMMISSIONER BROWN-BLAND: Commissioner  
2 Hughes, any questions?

3           COMMISSIONER HUGHES: No questions.

4           THE WITNESS: May I make one other  
5 statement or no?

6           COMMISSIONER BROWN-BLAND: I'll let you  
7 but let me ask you this question just to clarify for  
8 me.

9 EXAMINATION BY COMMISSIONER BROWN-BLAND:

10 Q       You mentioned about a meeting that was  
11           requiring 100 percent consensus. Could you  
12           explain that once more for me and what that was  
13           about?

14 A       Well -- and some of the others could probably  
15           give you the exact date, but it was soon after  
16           Mark had taken over. I think it was October,  
17           two years ago, we had a meeting and it was  
18           about I guess the status, the updates he was  
19           making to the campground and things going on,  
20           and like the new Phase 1 versus Phase 2, like  
21           road maintenance, prices, et cetera, were, and  
22           things -- you know, it didn't have to do with  
23           the water. But some of us have been to a  
24           meeting --

1 Q All right.

2 A -- so it didn't have to do with the water per  
3 se.

4 Q Okay. Thank you.

5 A Well, there was some complaints about maybe  
6 people having red water that wasn't clear  
7 initially when, I guess, they were getting to  
8 their campers and -- you know, but like Gayle  
9 said it clears up. You know, we haven't had  
10 any complaints so.

11 COMMISSIONER BROWN-BLAND: Okay. Any  
12 questions on Commission's questions?

13 MS. JOST: No, ma'am.

14 MR. HIGGINS: No, ma'am.

15 COMMISSIONER BROWN-BLAND: Ms. Rushing, we  
16 thank you for your testimony, and you may be  
17 excused.

18 THE WITNESS: Thank you.

19 COMMISSIONER BROWN-BLAND: The next  
20 witness, please.

21 SPEAKER: Hello.

22 COMMISSIONER BROWN-BLAND: Hello.

23 TRACY BALLARD;

24 having been duly affirmed,

1 testified as follows:

2 COMMISSIONER BROWN-BLAND: Ms. Jost.

3 DIRECT EXAMINATION BY MS. JOST:

4 Q Good evening. Could you please state your name  
5 and address for the record?

6 A Tracy Ballard. It's Phase 1, Lot 5. I do not  
7 know the new address. That has never been  
8 communicated with us that we have a new  
9 address.

10 Q That's fine, thank you. And do you have a  
11 statement you would like to provide?

12 A Yes. I would just reiterate that everything  
13 that Gayle, and Lori and Tammi have all said is  
14 the same concerns that we have. We've -- I  
15 have -- we have been there since 1987; have  
16 never had any issues with the water. Our water  
17 usage on the average is anywhere from zero to  
18 360 gallons a month. And our main concern is  
19 the price that is listed in the letter at  
20 \$73.44. That is confusing. Is that on top of?  
21 Is that a base charge? That's what we can't  
22 understand. What is that charge and where is  
23 that coming from?

24 COMMISSIONER BROWN-BLAND: Do you have

1 anything else you want to tell us?

2 THE WITNESS: Just the lack of  
3 communications. Like Gayle and Tammi and Lori all  
4 said, we were not communicated -- the timeliness of  
5 the letters were very short. We got like a two-week  
6 notice. The first that we heard of it was  
7 mid-February of any changes. It just seems to be  
8 that we're blindsided or it's just kind of being  
9 swept under the rug as to not let us know what is  
10 going on.

11 COMMISSIONER BROWN-BLAND: All right.

12 THE WITNESS: And we've never had issues  
13 with our water. We drink out of the spigot. We  
14 have no issues with drinking the water straight from  
15 the faucet.

16 COMMISSIONER BROWN-BLAND: Thank you for  
17 that. So, Ms. Ballard, I know that you and some of  
18 the other witnesses have had a few questions, and  
19 this -- as I usually tell the witnesses at a public  
20 hearing, this proceeding is in the nature of a court  
21 proceeding, and so just like in a court where the  
22 judge doesn't answer questions, this is your  
23 opportunity to tell us what you want us to know.  
24 However, usually the Company and both the Public

1 Staff are always happy to assist and to answer  
2 questions, and so they've heard your questions.  
3 It's been taken down on the transcript. And  
4 Ms. Jost was giving out the name of the Public Staff  
5 Engineer who's looked into this matter and  
6 investigated it. His name is Michael Franklin, and  
7 she has given out the number. She'll give it out  
8 again in a minute, but he'll be happy to answer  
9 those questions about rates.

10 From the earlier hearing, it's already  
11 been stated on the record that the rates that Red  
12 Bird seeks to have approved upon transfer are the  
13 existing current rates that you have. The other  
14 rates that are projections for the future speak to  
15 the future, but Mr. Franklin can answer more about  
16 that and he will be happy to do that for any  
17 customer of the system.

18 Ms. Jost, would you give that number out?

19 MS. JOST: Yes. Mr. Franklin's number is  
20 919-715-2666.

21 COMMISSIONER BROWN-BLAND: And Ms. Jost,  
22 if you have anything to add or if I misstated  
23 anything there, please correct me or add at this  
24 time, and following that if you have questions for

1 this witness, please go ahead.

2 MS. JOST: I don't have any additions or  
3 corrections or questions. Thank you.

4 COMMISSIONER BROWN-BLAND: Mr. Higgins, do  
5 you have questions for Ms. Ballard.

6 MR. HIGGINS: No, ma'am. No questions.

7 COMMISSIONER BROWN-BLAND: Commissioner  
8 Hughes.

9 COMMISSIONER HUGHES: (Shakes head no).

10 COMMISSIONER BROWN-BLAND: Ms. Ballard, we  
11 appreciate you joining us tonight for this public  
12 hearing and expressing your views, glad you could do  
13 it, and you may be excused.

14 SPEAKER: Thank you.

15 COMMISSIONER BROWN-BLAND: Thank you.

16 Next witness, please.

17 SPEAKER: Hello.

18 COMMISSIONER BROWN-BLAND: Hello.

19 SHELLEY PIERCE;

20 having been duly affirmed,

21 testified as follows:

22 COMMISSIONER BROWN-BLAND: Ms. Jost.

23 DIRECT EXAMINATION BY MS. JOST:

24 Q Good evening. Please state your name and

1 address for the record.

2 A My name is Shelley Pierce and my address is 384  
3 Bear Cub Drive, Spruce Pine, North Carolina  
4 28777, also known as Lot 7 in Phase 2 of Bear  
5 Den Acres.

6 Q Thank you. And do you have a statement you  
7 would like to provide?

8 A I do. So, we are one of the eight or nine  
9 full-time residents that live here and we have  
10 not had many issues at all with our water. I  
11 do believe that most of the people that are  
12 having issues with their water is due to their  
13 location. They seem to be at the highest  
14 location at the end of the line. The  
15 properties with the water issues are not being  
16 used full-time so the water sits. And it's not  
17 a loop system so the water is not being used  
18 regularly, so I believe it leads to sediment  
19 build up. And, thankfully, we have not had to  
20 deal with those issues.

21 My personal concern is not with  
22 the purchase of the water system as much,  
23 although it's a little concerning hearing about  
24 the complaints about Red Bird, but the

1 excessive price hike. The letter I received  
2 stated they are going to replace a well pump at  
3 Well No. 1, existing piping in the wellhouse  
4 which is PVC basically, and a sight gauge on  
5 the water tank which is a clear tube that has a  
6 float to see where the water level is. It  
7 seems very excessive to me that these repairs  
8 would warrant a \$32.00 increase per month for  
9 25 years, from what I understood from the  
10 letter.

11 I'm all in favor of clean  
12 water. I just want comparable rates to the  
13 communities around us and I don't want to be  
14 price gouged, you know. Our last quarterly  
15 bill here at Bear Den was \$129.00 for three  
16 months. If it was billed at the rate of  
17 \$73.44, our bill would go up to \$220.32, and  
18 that's over \$100.00 increase for one quarter.  
19 This would put an undue hardship on every owner  
20 in our community. Most are seasonal  
21 residences and are only using water less than  
22 half the year, if that. We're a seasonal  
23 neighborhood and our values up here are well  
24 under the average for our county, and this type

1 of increase would also hurt our property values  
2 as well.

3 I also want to express my  
4 concern that the letters are not being received  
5 in a timely manner. We received the letter for  
6 this hearing on July 19th, two days before the  
7 deadline on July 21st. And my husband was the  
8 one talking to all the neighbors that were  
9 here, and I don't believe any of them had  
10 received a letter when we got it on Tuesday.  
11 So that's Tuesday before the Thursday deadline.  
12 And at least he spoke with five or six people  
13 that were actually up here during that  
14 timeframe and he gave them copies of the  
15 letter. They had not received the letter. So  
16 I have big concerns on that.

17 I thank you for your time and  
18 consideration, and especially the Commission  
19 that is looking out for our best interest. So,  
20 thank you.

21 COMMISSIONER BROWN-BLAND: Thank you,  
22 Ms. Pierce.

23 Ms. Jost, do you have questions?

24 MS. JOST: Just one question.

1 BY MS. JOST:

2 Q The letter that you received, was it mailed or  
3 hand delivered; do you know?

4 A It was in my mailbox. I did look for a stamp  
5 on it, I could not find anything. Like others  
6 have said, it kind looked like junk mail. And  
7 we check our mail pretty much every day so I  
8 know it wasn't sitting there. It was not hand  
9 delivered. And I heard someone saying stuff  
10 about postings on bathhouses and that kind of  
11 thing, I do not believe any of that took place.  
12 We do have one little neighborhood board but I  
13 don't know that anything has been put in there  
14 for years. So, I do believe that there is  
15 definitely a communication problem and that  
16 people were not properly notified.

17 Q And do you recall seeing any meter, postal  
18 meter marks on the envelop?

19 A I did not see any of that. Our mailboxes are  
20 kind of weird because we're in McDowell County  
21 but Mitchell County delivers our mail, so our  
22 mailboxes are almost a mile away from our  
23 residences. So, it's an odd situation and --  
24 but yeah, I didn't see anything on the envelop.

1 Q Thank you.

2 MS. JOST: No further questions.

3 COMMISSIONER BROWN-BLAND: Mr. Higgins.

4 MR. HIGGINS: I don't have any questions.

5 Thank you.

6 COMMISSIONER BROWN-BLAND: Commissioner  
7 Hughes.

8 COMMISSIONER HUGHES: No questions.

9 EXAMINATION BY COMMISSIONER BROWN-BLAND:

10 Q Ms. Pierce, do you have any information or  
11 recollection of having been told that Red Bird  
12 would soon be taking over the billing, the  
13 billing for the water service?

14 A I haven't heard anything specifically on the  
15 billing. I -- the last I heard about Red Bird  
16 is they were servicing the tanks as of July and  
17 that's all I've heard but, you know, I haven't  
18 heard anything about billing. I'm just very  
19 concerned about the water bill increases and  
20 the work that's being done that doesn't warrant  
21 those type of increases.

22 Q And just remind me, did you say that you are  
23 satisfied with the water service today?

24 A Yeah, the water service has been fine for us.

1           And we're not at the end of the loop or up high  
2           so we haven't really had any issues with our  
3           water, and I drink it right from the faucet and  
4           I do not have a filter other than my kidneys.

5           COMMISSIONER BROWN-BLAND: Thank you for  
6           that, Ms. Pierce.

7           Unless someone speaks up, I assume there  
8           are no further questions for this witness.

9           Thank you for coming --

10          THE WITNESS: Thank you.

11          COMMISSIONER BROWN-BLAND: -- for  
12          attending, Ms. Pierce, and you may be excused.

13          THE WITNESS: Appreciate it.

14          COMMISSIONER BROWN-BLAND: And do we have  
15          another witness?

16          SPEAKER: Hello.

17          COMMISSIONER BROWN-BLAND: Hello.

18                        RODNEY LEMMOND;  
19                        having been duly affirmed,  
20                        testified as follows:

21          COMMISSIONER BROWN-BLAND: Ms. Jost.

22          DIRECT EXAMINATION BY MS. JOST:

23          Q        Good evening, sir. Could you please state your  
24                    name and address for the record?

1 A Yes, ma'am. I'm Rodney Lemmond. It's 400 Bear  
2 Cub Drive, Spruce Pine, North Carolina. That's  
3 28777. It's Lot 9 in Phase 2.

4 Q Thank you. And Mr. Lemmond, do you have a  
5 statement you would like to provide?

6 A Yes, ma'am, I do.

7 Q You can go ahead.

8 A Okay, thank you. As far as in reference to the  
9 Notice to the customers of the community there  
10 for the water system, the first thing that I  
11 was looking at was the capital improvements  
12 included in the replacement, and referring back  
13 to the replacements that they were saying that  
14 they were going to improve was well pump at No.  
15 1, the piping in the wellhouses, and the sight  
16 gauge on the water tank, and that was it in  
17 this letter and the estimated cost for that  
18 was -- the assessment was \$19,535.00 annually  
19 or it was the \$32.56 a month for 25 years.  
20 That comes out to about \$488,375.00 over the  
21 25-year span. That sounds pretty expensive to  
22 replace those several items that I just  
23 mentioned. It kind of concerns me that with  
24 what they want to -- or what they are assessing

1 to be repaired, and this annual cost, whatever,  
2 it's on top of your base facility charges and  
3 plus whatever usage there is in the water.

4 It's like there's no guarantee that that  
5 \$19,535.00 a year will cover the cost of the  
6 infrastructure for 25 years.

7 There's always going to be  
8 other damages; there'll be breakage; there'll  
9 be, you know, different things, which normally  
10 most companies would absorb those costs through  
11 their profits off their revenue. It doesn't  
12 look like that they are wanting to do that.  
13 And the way this reads, it looks to me like Red  
14 Bird is basically wanting us to pay for their  
15 investment. I kind of wonder where's their  
16 investment at. It basically states that this  
17 is to allow Red Bird to recover rates that are  
18 reasonable, and depreciation expenses; allow  
19 Red Bird the opportunity to earn a return that  
20 is approved by the Commission. Well again,  
21 their -- to me their profit margin will be  
22 based off of the base facility charges and the  
23 revenue that they're able to obtain month to  
24 month.

1                   If you look at the way this is  
2                   laid out as far as the yearly rates, and I  
3                   realize that this is not present, but they are  
4                   asking for this transfer of the water system to  
5                   be basically what has already been approved in  
6                   the rate cases that was approved by Bear Den,  
7                   however that reads.

8                   So with that being said, they  
9                   also are stating in this notice that 14 months  
10                  after their acquisition of the water system  
11                  that that's when they are going to increase  
12                  these rates or they're going to ask for the  
13                  increase. And the way this reads is the first  
14                  year being \$37.57, and then in the second year,  
15                  after two months, in the third month we are  
16                  going to be looking at \$73.44 there from now on  
17                  for 25 years. To me, based on those kind of  
18                  rates, that almost sounds like a co-op. If we  
19                  should have -- in my opinion, we should have --  
20                  if we're going to do it like this -- if they  
21                  are going to do it that way and the Commission  
22                  is going to grant them this, then we basically  
23                  ought to have co-ownership and we ought to  
24                  receive a percentage of the profits from the

1 revenue. I don't think that's going to happen,  
2 but that's what it sounds like, and that's  
3 normally how that works.

4 So, I don't think this is a  
5 fair deal for the customers of this water  
6 system. I really think that we're basically  
7 paying for their investment. I don't see where  
8 they are extending any expenses other than  
9 what -- you know, other than what we're paying  
10 them, and it just doesn't look right to me.

11 Anyway, based on everything  
12 that I've said, and I'll cut it short, there's  
13 more to it than that. But I would say, based  
14 on my opinion, I think the North Carolina  
15 Utilities Commission, I think they should deny  
16 transfer of the public utility franchise to Red  
17 Bird Utility Operating Company, which is an  
18 LLC; that's another reason that I think it  
19 should be denied and, with that, I'll close.  
20 Thank you for your considerations.

21 COMMISSIONER BROWN-BLAND: Thank you,  
22 Mr. Lemmond.

23 Ms. Jost, do you have follow-up.

24 MS. JOST: I don't have any questions but

1 I'm going to one last time offer the telephone  
2 number of Mike Franklin, Engineer with our Water,  
3 Sewer and Telephone Division, who can answer  
4 questions about the Notice, especially about the  
5 rates listed in the Notice. His telephone number is  
6 919-715-2666.

7 COMMISSIONER BROWN-BLAND: I do encourage  
8 those of you with questions to go ahead and call  
9 Mr. Franklin.

10 You said no questions, Ms. Jost?

11 MS. JOST: I do not.

12 COMMISSIONER BROWN-BLAND: Mr. Higgins.

13 MR. HIGGINS: No, ma'am. I don't have any  
14 questions for Mr. Lemmond.

15 COMMISSIONER BROWN-BLAND: And  
16 Commissioner Hughes.

17 COMMISSIONER HUGHES: No questions either.

18 COMMISSIONER BROWN-BLAND: Mr. Lemmond, we  
19 appreciate your testimony, and you may be excused.

20 THE WITNESS: Yes, ma'am, thank you. I  
21 appreciate your consideration. Thank you.

22 COMMISSIONER BROWN-BLAND: Thank you.

23 Next witness.

24 MR. McCOY: That is all. No more -- no

1 more callers, Commissioner.

2 COMMISSIONER BROWN-BLAND: All right.  
3 Well, is there anything else that the parties has to  
4 bring to the Commission's attention before we  
5 adjourn?

6 MR. HIGGINS: One, Commissioner  
7 Brown-Bland. Ms. Jost shared with me the exhibits  
8 from our first session this afternoon, the three  
9 exhibits that were provided --

10 COMMISSIONER BROWN-BLAND: Ms. Brooks.

11 MR. HIGGINS: -- by the witness and they  
12 are fine. I have no objection to those being  
13 accepted into the record.

14 COMMISSIONER BROWN-BLAND: Thank you for  
15 that, Mr. Higgins.

16 I will say for the benefit of the public  
17 or anyone still watching these proceedings that the  
18 Company will file its responses to what it's heard  
19 and answer some of the concerns that have been  
20 raised and the Public Staff will have an opportunity  
21 to respond to what the Company submits. And you may  
22 follow these proceedings at our website at  
23 [www.ncuc.net](http://www.ncuc.net) and use the docket number for the case  
24 to follow it and follow the transcript. As I

1 understand from some of the witnesses, some of the  
2 customers have already been doing that.

3           So, with that, as I say, I encourage you  
4 to follow the proceedings, and we thank everyone for  
5 coming out and participating in these proceedings,  
6 and we will be adjourned.

7           (The proceedings were adjourned)

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C E R T I F I C A T E

I, KIM T. MITCHELL, DO HEREBY CERTIFY that  
the Proceedings in the above-captioned matter were  
taken before me, that I did report in stenographic  
shorthand the Proceedings set forth herein, and the  
foregoing pages are a true and correct transcription  
to the best of my ability.

Kim T. Mitchell  
Kim T. Mitchell