



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

September 20, 2023

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket No. W-938, Sub 6 and W-1328, Sub 8 – Application for
Transfer of Public Utility Franchise from Baytree Waterfront
Properties, Inc. to Red Bird Water and for Approval of Rates

Dear Ms. Dunston:

On October 9, 2020, Red Bird Utility Operating Company, LLC d/b/a Red Bird Water (Red Bird), and Baytree Waterfront Properties, Inc. (Baytree), filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the wastewater utility system and public utility franchise serving Windemere Pointe Subdivision in Montgomery County, North Carolina, from Baytree to Red Bird and approval of rates. Red Bird supplemented the joint application several times since the initial filing, with the last supplemental filing occurring on August 2, 2023. On August 9, 2023, the Public Staff filed a letter with the Commission indicating that this docket now included all the information required for a complete Application.

On September 13, 2023, the Commission issued its Order Scheduling Hearings, Establishing Discovery Guidelines, And Requiring Customer Notice (Order). In the Order, the Commission required Red Bird to “consult with the Public Staff to develop a Notice to Customers to be delivered to all affected customers,” and required the proposed Notice to be filed within five business days after the date of the Order.

Red Bird and the Public Staff have consulted over multiple days and have been unable to agree on the content of the required Notice. It is the Public Staff's position that the Notice should contain forecasted future rates, which is based on

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(919) 733-2435

Accounting
(919) 733-4279

Consumer Services
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Economic Research
(919) 733-2267

Energy
(919) 733-2267

Legal
(919) 733-6110

Transportation
(919) 733-7766

Water/Telephone
(919) 733-5610

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the information in Red Bird's application, in order for customers to make informed decisions, including whether to participate in this Docket. Red Bird opposes inclusion in the Notice of future potential rates.

Red Bird and the Public Staff have reached an impasse on this point. In an effort to comply with the Commission's Order, the Public Staff attaches hereto its proposed Notice to Customers.

If you have any questions, please do not hesitate to contact me.

Sincerely,
Electronically submitted
/s/ James Bernier, Jr.
Staff Attorney
James.Bernier@psncuc.nc.gov

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

**NOTICE TO CUSTOMERS
DOCKET NO. W-938, SUB 6
DOCKET NO. W-1328, SUB 8**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Notice is hereby given that Red Bird Utility Operating Company, LLC (Red Bird), 1650 Des Peres Road, Suite 303, St. Louis, Missouri 63131, and Baytree Waterfront Properties, Inc. (Baytree), 4 Stanley Drive, Thomasville, North Carolina 27360, filed an Application with the North Carolina Utilities Commission (Commission) for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the wastewater utility system and public utility franchise serving Windemere Pointe Subdivision (Windemere) in Montgomery County, North Carolina, from Baytree to Red Bird and for approval of rates.

Upon acquisition, Red Bird plans to make wastewater utility system capital improvements, including pump valve vault improvements, installation of new flow monitoring equipment, pump control panels, security fencing, new pumps, and discharge piping. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the Windemere wastewater utility system, the approximate annual revenue requirement associated with these wastewater utility system capital expenditures is \$37,536, or \$120.31 per customer per month for 25 years, subject to true-up.

Red Bird has indicated that it intends to file a general rate case application with the Commission approximately 33 months post-acquisition and seek recovery of the costs of purchasing the Windemere wastewater utility system and a return on its post-closing capital investment in the system, including a reasonable depreciation expense. Depending on the number of utility systems it has acquired by the time it files a rate case relating to the Baytree system, Red Bird may seek approval of a uniform rate for all of its North Carolina utility systems, including Windemere.

EFFECT OF RATES:

The present rates for Baytree were approved in Docket No. W-938, Sub 3, and have been in effect since April 2, 2002, as adjusted for tax law changes in Docket Nos. W-938, Sub 5, and M-100, Sub 138, effective January 1, 2017. Upon acquisition of the Windemere system, Red Bird proposes to charge the current Commission-approved rates for Windemere. The present and proposed rates are as follows:

	<u>Present</u>	<u>Proposed</u>
<u>Monthly Flat Wastewater Rate:</u>	\$ 34.69	\$ 34.69
<u>Annual Availability Rate:</u>	\$ 139.90	\$ 139.90

Based on these rates, a residential customer would be billed \$34.69 per month for wastewater utility service.

The extent of a rate increase that could be requested by Red Bird approximately three years in the future cannot be definitely predicted at this time, but any proposed rate increase will be subject to Commission approval.¹ Based on revenues projected by Red Bird, if the full amount of the projected rate increase, including the request for uniform rates, is granted, the average monthly statewide bill amount could be as much as the rates shown below.

<u>Timeframe</u>	<u>Monthly Wastewater Utility Bill</u>
Present	\$ 34.69
Years 1 through 2	\$ 34.69
Year 3 ²	\$ 47.13
Years 4 through 5	\$ 88.19

PROCEDURES FOR PUBLIC HEARINGS:

The Commission has scheduled the following hearings on the Application:

Public witness hearing at 7:00 p.m. on Wednesday, October 18, 2023, to be held in the Montgomery County Courthouse, 108 East Main Street, Troy, North Carolina 27321. *This hearing may be cancelled if no significant protests are received on or before Wednesday, October 11, 2023.*

The public witness hearing on Wednesday, October 18, 2023, will be solely for the purpose of receiving the testimony of customers in accordance with Commission Rule R1-21(g). The Commission reserves the right to limit testimony at the public witness hearing pursuant to Commission Rule R1-21(g)(5).

Expert witness hearing at 1:00 p.m. on Monday, November 6, 2023, and continuing as necessary until concluded. The hearing will be held in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. The hearing

¹ Any future change in rates proposed by Red Bird would require filing a general rate case application pursuant to N.C. Gen. Stat. § 62-134 and approval by the Commission. Future rates are subject to change and would be expected to be more than the current rates.

² Value based on Red Bird's projected revenue in Year 3.

scheduled for Monday, November 6, 2023, shall be conducted solely for the purpose of receiving testimony of Red Bird, Baytree, the Public Staff, and any other parties of record.

The Public Staff is authorized by statute to represent consumers in proceedings before the Commission. Consumer statements to the Public Staff should include the customer's name, contact information, and any information that the writer wishes to be considered by the Public Staff in its investigation of the matter, and such statements should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300. Consumer statements may also be faxed to (919) 715-6704.

Consumer statements may be submitted to the Commission via the web form at <https://www.ncuc.net/contactus.html>. Consumer statements are not evidence unless those persons appear at a public witness hearing and testify concerning the information contained in their consumer statements.

The Attorney General is also authorized by statute to represent the consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, c/o Utilities Section, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001. Written statements may also be e-mailed to utilityAGO@ncdoj.gov.

Persons desiring to intervene in this proceeding as formal parties of record should file a petition to intervene pursuant to Commission Rules R1-5 and R1-19, not later than Wednesday, October 11, 2023. Such petitions should be filed with the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300. The direct testimony and exhibits of expert witnesses to be presented by intervenors should also be filed with the Commission on or before Tuesday, October 17, 2023.

Information regarding this proceeding can also be accessed from the Commission's website at www.ncuc.net under Docket Number "W-1328 Sub 8."

This the ____ day of _____, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

CERTIFICATE OF SERVICE

I, _____, mailed with sufficient postage or hand delivered to all affected customers copies of the attached Notice to Customers issued by the North Carolina Utilities Commission in Docket Nos. W-938, Sub 6, and W-1328, Sub 8, and the Notice was mailed or hand delivered by the date specified in the Order.

This the _____ day of _____ 2023.

By:

Signature

Name of Utility Company

The above named Applicant, _____, personally appeared before me this day and, being first duly sworn, says that the required Notice to Customers was mailed or hand delivered to all affected customers, as required by the Commission Order dated _____ in Docket Nos. W-938, Sub 6, and W-1328, Sub 8.

Witness my hand and notarial seal, this the _____ day of _____ 2023.

Notary Public

Address

(SEAL) My Commission Expires:

Date