

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

**STAFF CONFERENCE AGENDA
December 13, 2021**

COMMISSION STAFF

NO AGENDA ITEMS

PUBLIC STAFF

C. COMMUNICATIONS

- P1. [FILING OF INTERCONNECTION AGREEMENT BY WINDSTREAM AND AMENDMENT BY AT&T](#)

D. ELECTRIC

- P1. [DOCKET NO. E-22, SUB 608 – DOMINION ENERGY NORTH CAROLINA – APPLICATION FOR APPROVAL OF RESIDENTIAL INCOME AND AGE QUALIFYING PROGRAM EXHIBIT NO. P-1](#)

E. WATER

- P1. [DOCKET NO. W-1300, SUB 67 – OLD NORTH STATE WATER COMPANY, LLC – NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN CONTIGUOUS SERVICE AREA EXHIBIT NO. P-2](#)
- P2. [DOCKET NO. W-1300, SUB 73 – OLD NORTH STATE WATER COMPANY, LLC – NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN CONTIGUOUS SERVICE AREA EXHIBIT NO. P-3](#)
- P3. [DOCKET NO. W-1300, SUB 75 – OLD NORTH STATE WATER COMPANY, LLC – NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN CONTIGUOUS SERVICE AREA EXHIBIT NO. P-4](#)
- P4. [DOCKET NO. W-1338, SUB 0 – SIG MARSHVILLE, LLC – PETITION FOR DECLARATORY RULING EXHIBIT NO. P-5](#)

- P5. DOCKET NO. W-1207, SUB 2 – PFEIFFER UNIVERSITY – APPLICATION FOR TRANSFER OF PUBLIC UTILITY SYSTEM TO OWNER EXEMPT FROM REGULATION **EXHIBIT NO. P-6**
- P6. DOCKET NOS. W-1040, SUB 10 AND W-1328, SUB 4 – ORDER SCHEDULING HEARING, ESTABLISHING DISCOVERY GUIDELINES, AND REQUIRING CUSTOMER NOTICE **EXHIBIT NO. P-7**

TO: Agenda – Commission Conference – December 13, 2021

FROM: PUBLIC STAFF – North Carolina Utilities Commission

C. COMMUNICATIONS

P1. FILING OF INTERCONNECTION AGREEMENT BY WINDSTREAM AND AMENDMENT BY AT&T

EXPLANATION: The following interconnection agreement and amendment were filed for Commission approval on October 1, 2021 and October 12, 2021:

Windstream North Carolina, LLC, Windstream Concord Telephone, LLC, and Windstream Lexcom Communications, LLC

Docket Nos. P-118, Sub 209, P-16, Sub 273, P-31, Sub 178 – Agreement with Dish Wireless, LLC, filed on October 1, 2021.

BellSouth Telecommunications, LLC, d/b/a AT&T North Carolina (AT&T)

Docket No. P-55, Sub 1826 – Amendment, filed October 12, 2021, to the interconnection agreement with Granite Telecommunications, LLC (Granite), approved on January 25, 2011. The existing agreement replaced the agreement approved by the Commission on September 9, 2005, in Docket No. P-55, Sub 1564. The amendment modifies certain provisions related to Operations Support Systems and/or Data Connection Security Requirements.

These filings were made in compliance with Commission Rule R17-4(d) and Sections 252(e) and 252(i) of the Telecommunications Act of 1996. The Act provides for the filing of such agreements and amendments with the state commission and approval or rejection by the state commission within 90 days after filing. On June 18, 1996, the Commission issued an Order in Docket No. P-100, Sub 133, allowing interim operation under negotiated agreements filed as public records prior to Commission approval of the agreements.

The Public Staff has reviewed the filings and recommends Commission approval.

RECOMMENDATION: (Proffitt/Coxton) That orders be issued approving the agreement and amendment effective on the date they were filed. The Public Staff has provided copies of the proposed orders to the Commission's Legal Staff.

[Back to Agenda](#)

D. ELECTRIC

P1. DOCKET NO. E-22, SUB 608 – DOMINION ENERGY NORTH CAROLINA – APPLICATION FOR APPROVAL OF RESIDENTIAL INCOME AND AGE QUALIFYING PROGRAM

EXPLANATION: On September 30, 2021, Dominion Energy North Carolina (DENC) filed an application seeking approval of the Residential Income and Age Qualifying Program (RIAQ Program) as a new energy efficiency (EE) program under N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-68. The RIAQ Program is intended to replace the Residential Income and Age Qualifying Home Improvement Program (2015 Program) that was originally approved on October 6, 2015, in Docket No. E-22, Sub 523.

On April 13, 2021, the Commission granted a request from DENC to close the 2015 Program. The Company requested closure of the program, which operated on a system basis in both North Carolina and Virginia, following the May 10, 2018 order issued by the Virginia State Corporation Commission (VSCC) closing the 2015 Program effective June 30, 2021.

On November 1, 2021, DENC filed a Corrected Application for the proposed RIAQ Program that corrected the program name, updated certain cost information, and clarified the measures offered through the RIAQ Program.

The RIAQ Program is designed to provide EE measures to residential customers who meet certain income and age qualifications and live in single family and multifamily dwellings. Similar to the 2015 Program, the RIAQ Program will provide for the direct installation of certain measures consisting of: LED bulbs, showerheads, faucet aerators, pipe wrap, and attic insulation. The RIAQ Program will also include new measures consisting of heat pump and air conditioning tune-ups, duct sealing, water heater wraps, refrigerator replacement, and floor insulation. For some dwellings, the RIAQ Program will fund a more comprehensive energy assessment by weatherization assistance providers that may include blower door testing, as well as certain health and safety measures related to the structure. The health and safety measures are intended to repair items that will allow for the installation of certain EE measures that would otherwise not be appropriate to install without the health and safety measures.

The Public Staff has reviewed the both the original and corrected applications with respect to: (a) N.C.G.S. 62-133.9; (b) Commission Rule R8-68; and (c) the currently approved Cost Recovery and Incentive Mechanism for Demand-Side Management and Energy Efficiency Programs (Mechanism), filed in Docket No. E-22, Sub 464, approved on April 22, 2017.

The Public Staff's review involved an assessment of the differences between the 2015 Program and the RIAQ Program. All participants will receive a basic energy assessment to determine the type of basic measures to be installed. However, with the RIAQ Program, some participants would receive additional EE measures like the heat pump tune-ups,

reducing air leakage, and building insulation. Those measures are intended to provide a higher level of efficiency and improve the comfort level for customers.

The Public Staff notes two distinct differences from the 2015 Program. First, more than 60% of the potential savings are expected from non-lighting and non-water measures. Also, DENC will attempt to address structural deficiencies of the dwellings, installing additional insulation where it is found to be inadequate or non-existent, and where a blower door test suggests excessive air leakage.

Information provided by DENC indicates that like the 2015 Program, the RIAQ Program is not cost-effective under the Total Resource Cost test and Utility Cost test (0.03 each) or the Ratepayer Impact Method test (0.02). For purposes of determining cost effectiveness, the Company utilized a winter coincident peak for the modeling of the RIAQ Program. This approach is consistent with the forecast modeling utilized during the recently filed DSM/EE rider proceeding and the Company's 2021 Integrated Resource Plan.

The RIAQ Program is intended to provide EE measures for a sector of customers that would not likely participate in an EE program, particularly one where the more costly measures provide much greater potential for energy savings.

DENC did not include a specific evaluation, measurement, and verification (EM&V) plan for the RIAQ Program. However, DENC plans to use an independent third-party consultant to implement its EM&V plan for the RIAQ Program, and include details of the EM&V plan for the RIAQ Program in its 2022 EM&V annual report.

The Public Staff believes that the application contains the information required by Commission Rule R8-68(c), is consistent with N.C.G.S. 62-133.9, Commission Rule R8-68(c), and the Mechanism, has the potential to encourage EE, is in the public interest, and should be approved as a "new" EE program pursuant to Commission Rule R8-68. The Public Staff further notes that recovery of program costs and net lost revenues should be allowed pursuant to the Mechanism, as appropriate and as determined in the Company's annual DSM/EE Rider proceedings.

EXHIBIT: A proposed order is attached as [Exhibit No. P-1](#).

RECOMMENDATION: (Floyd/Little) That the Commission issue the proposed order approving DENC's proposed Residential Income and Age Qualifying Program as filed.

[Back to Agenda](#)

E. WATER

P1. DOCKET NO. W-1300, SUB 67 – OLD NORTH STATE WATER COMPANY, LLC – NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN CONTIGUOUS SERVICE AREA

EXPLANATION: On June 2, 2020, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Bella Terra subdivision in Wake County, North Carolina (Bella Terra). On August 21, 2020, ONSWC filed an amendment to the Notification. Bella Terra is contiguous to ONSWC's Bella Vista service area (Bella Vista). On November 19, 2020, ONSWC filed additional required exhibits. ONSWC proposes to charge the rates currently approved for Bella Vista.

ONSWC presently serves 4 residential water customers in Bella Terra. ONSWC expects to eventually serve 16 and 82 residential water customers in Bella Terra and Bella Vista, respectively. The service area is shown on plans filed with the Notification.

The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued a plan approval letter for Bella Terra, part of Water System No. NC4092128. The plans for Bella Terra are approved under serial number 19-00329, by letter dated June 1, 2019.

ONSWC has entered into an Agreement dated July 31, 2019, with Bella Terra Development, Inc. and Bella Vista Development, LLC (Developers), under which the Developers are installing the water utility system. On June 30, 2021, ONSWC filed an amendment dated June 21, 2021 to the Agreement. ONSWC is requesting a meter installation fee of \$70 and a connection fee of \$500 per single family equivalent unit (SFRE) for water service, to be paid one time by the builder or person first requesting service to a particular lot. ONSWC is purchasing the water system from the Developers for \$1,000 per residential equivalent unit (REU), payable quarterly based upon the number of water service meters installed during the previous quarter.

ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

ONSWC has filed all exhibits required with the Notification.

Based on the foregoing, the Public Staff is of the opinion that ONSWC has the technical, managerial, and financial capacity to provide water utility service in this contiguous area and recommends that the contiguous extension be recognized. The Public Staff further recommends that the Commission require posting of a \$10,000 bond for the contiguous extension of Bella Terra. ONSWC currently has \$750,000 of bonds posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

EXHIBIT: A proposed order is attached as [Exhibit No. P-2](#).

RECOMMENDATION: (Darden/Feasel/Coxton) That the Commission issue the proposed order recognizing the contiguous extension and approving rates.

[Back to Agenda](#)

P2. DOCKET NO. W-1300, SUB 73 – OLD NORTH STATE WATER COMPANY, LLC
– NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN
CONTIGUOUS SERVICE AREA

EXPLANATION: On April 1, 2021, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Phases 2A and 2B of Bailey Farms subdivision, in Franklin County, North Carolina. On April 26, 2021, ONSWC filed an additional required exhibit. Phases 2A and 2B of Bailey Farms are contiguous to ONSWC's Bailey Farms Phase 1 service area. ONSWC proposes to charge the rates currently approved for that service area.

ONSWC presently serves 24 and 23 residential customers in Phases 2A and 2B of the Bailey Farms, respectively. Bailey Farms has been approved for 72 connections in total across all three phases. The service area is shown on plans filed with the Notification.

The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued plan approval letters for Phases 2A and 2B of Bailey Farms subdivision, part of Water System No. NC4035019. The plans for Phases 2A and 2B are approved under serial numbers 19-00195, by letter dated April 3, 2019 and 19-00914, by letter dated December 13, 2019, respectively.

ONSWC has entered into an Agreement for the Installation, Conveyance, and Operation of the Bailey Farms Subdivision Water Utility System (Agreement), dated August 20, 2016, with Crosswind Development, Inc. (Developer), under which the Developer is installing the water utility system. On June 30, 2021, ONSWC filed an amendment dated June 16, 2021 to the Agreement. ONSWC is requesting a meter installation fee of \$70. No connection fee is requested. ONSWC is purchasing the water system for \$500 per residential equivalent unit (REU) from the Developer, payable quarterly based upon the number of water service meters installed during the previous quarter.

ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

ONSWC has filed all exhibits required with the Notification.

Based on the foregoing, the Public Staff is of the opinion that ONSWC has the technical, managerial, and financial capacity to provide water utility service in this contiguous area and recommends that the contiguous extension be recognized. The Public Staff further recommends that the Commission require posting of a \$10,000 bond for the contiguous extension of Phases 2A and 3B of Bailey Farms subdivision. ONSWC currently has \$750,000 of bonds posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

EXHIBIT: A proposed order is attached as [Exhibit No. P-3](#).

RECOMMENDATION: (Darden/Chiu/Coxton) That the Commission issue the proposed order recognizing the contiguous extension and approving rates.

[Back to Agenda](#)

P3. DOCKET NO. W-1300, SUB 75 – OLD NORTH STATE WATER COMPANY, LLC
– NOTIFICATION OF INTENTION TO BEGIN WATER UTILITY OPERATIONS IN
CONTIGUOUS SERVICE AREA

EXPLANATION: On April 1, 2021, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Phases 2 and 3 of Leone Landing subdivision, in Wake County, North Carolina. On April 26, 2021, ONSWC filed an additional required exhibit. Phases 2 and 3 of Leone Landing are contiguous to ONSWC's Leone Landing Phase 1 service area. ONSWC proposes to charge the rates currently approved for that service area.

ONSWC presently serves 28 residential water customers throughout the Leone Landing subdivision and expects to eventually serve a total of 37 residential water customers across all three phases. The total number of approved connections for the Leone Landing subdivision is 37 connections. The service area is shown on plans filed with the Notification.

The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued plan approval letters for Phases 2 and 3 of Leone Landing (referred to as Phase 4 on the approval letter), part of Water System No. NC4092127. The plans are approved under serial number 19-00393, dated June 26, 2019.

ONSWC has entered into an Agreement for Water Service dated September 2013, with Neal Morris Rowland (Developer), under which the Developer is installing the water utility system. On June 28, 2021, ONSWC filed an amendment dated June 16, 2021 to the Water Agreement. ONSWC is requesting a meter installation fee of \$70 and a connection fee of \$4,000 per single family equivalent unit (SFRE) for water service, to be paid on time by the builder or person first requesting service to that particular lot. ONSWC is purchasing the water system for \$4,500 per residential equivalent unit (REU) from Developer, payable within 30 days of connection.

ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

ONSWC has filed all exhibits required with the Notification.

Based on the foregoing, the Public Staff is of the opinion that ONSWC has the technical, managerial, and financial capacity to provide water utility service in this contiguous area and recommends that the contiguous extension be recognized. The Public Staff further recommends that the Commission require posting of a \$10,000 bond for the contiguous extension of Phases 2 and 3 of Leone Landing. ONSWC currently has \$750,000 of bonds posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

EXHIBIT: A proposed order is attached as [Exhibit No. P-4](#).

RECOMMENDATION: (Darden/Feasel/Coxton) That the Commission issue the proposed order recognizing the contiguous extension and approving rates.

[Back to Agenda](#)

P4. DOCKET NO. W-1338, SUB 0 – SIG MARSHVILLE, LLC – PETITION FOR DECLARATORY RULING

EXPLANATION: On November 3, 2021, SIG Marshville, LLC (SIG), filed a petition requesting the Commission to issue a declaratory ruling that, by providing bulk wastewater treatment services to the Town of Marshville (Marshville) in Union County, North Carolina, SIG will not be “operating a public sewerage system for compensation” and should not be deemed a “utility” as defined in N.C. Gen. Stat. § 62-3(23)a.2 and Commission Rule R10-2(a). SIG is a Texas limited liability company authorized to do business in North Carolina with its principal place of business in Dallas, Texas.

According to the petition, Marshville owns, operates, and maintains its wastewater collection system. Wastewater collected by Marshville is currently treated by two different bulk service providers: Union County and Anson County. Marshville transmits up to approximately 300,000 gallons per day (GPD) of its wastewater to Union County for treatment and sends the remainder of its wastewater to Anson County for treatment.

Marshville's current bulk service arrangement with Union County is a product of extended litigation between those parties, and Union County currently provides bulk service to Marshville pursuant to a settlement agreement between them. Union County is either unable or unwilling to provide any additional wastewater treatment capacity to Marshville in the future, and as a result Marshville is unable to provide sewer service as necessary to accommodate future growth.

SIG is willing to provide Marshville with bulk wastewater treatment service and in order to do so it is prepared to build an advanced membrane bioreactor (MBR) wastewater treatment plant initially capable of treating 300,000 GPD of wastewater. The Town and SIG have agreed on the terms of a bulk service agreement under which SIG would provide wholesale bulk wastewater treatment service to Marshville, subject to certain conditions precedent, including SIG securing the ruling from the Commission requested herein. Marshville will continue to own and operate the system for collecting wastewater from Marshville's residents and delivering it to SIG for treatment. An unexecuted version of the parties' bulk service agreement was attached to the petition as Confidential Exhibit A.

On November 15, 2021, SIG filed with the Commission as Confidential Exhibit C, the executed Bulk Municipal Wastewater Treatment Agreement (Agreement), between SIG and Marshville. The Agreement specifies that SIG will construct, operate, and manage a membrane bioreactor wastewater treatment plant and provide bulk wastewater treatment services to only Marshville. SIG will bill Marshville on a monthly basis for bulk wastewater treatment at a negotiated rate pursuant to the Agreement, and Marshville will continue to service its customers in accordance with Marshville's established rules and regulations for the wastewater services provided by Marshville. SIG will treat Marshville's wastewater, initially up to 300,000 GPD, but will provide no direct service to Marshville residents.

Based on the foregoing, the Public Staff is of the opinion that based on the specific regulatory circumstances, SIG should not be considered a public utility.

EXHIBIT: A proposed order is attached as [Exhibit No. P-5](#).

RECOMMENDATION: (Darden/Grantmyre) That the Commission issue the proposed order finding that SIG should not be considered a public utility.

[Back to Agenda](#)

P5. DOCKET NO. W-1207, SUB 2 – PFEIFFER UNIVERSITY – APPLICATION FOR TRANSFER OF PUBLIC UTILITY SYSTEM TO OWNER EXEMPT FROM REGULATION

EXPLANATION: On October 27, 2021, Pfeiffer University (Pfeiffer), a North Carolina non-profit corporation, filed an application with the Commission seeking authority to transfer its wastewater utility system to Stanly County (County), which is exempt from Commission regulation. Pfeiffer provides wastewater utility service to 27 residential customers.

Pfeiffer's present wastewater utility rates, which were approved by the Commission effective October 5, 2010, in Docket No. W-1207, Sub 1, are as follows:

Monthly Metered Wastewater Utility Service	
Base charge (includes first 2,000 gallons)	\$21.90
Usage charge, per 1,000 gallons (> 2,000 gallons)	\$ 9.00

The County's present wastewater utility rates, effective July 1, 2021, are as follows:

Monthly Metered Wastewater Utility Service	
Minimum charge (includes the first 2,000 gallons)	\$18.25
Usage charge, per 1,000 gallons	\$ 9.13

The monthly wastewater bill would decrease from \$39.90 to \$36.51, based on 4,000 gallons per month.

On September 1, 2017, Pfeiffer entered into an Asset Purchase Agreement with the County. Pfeiffer's wastewater assets were transferred to the County at no cost. The County's connection fees were waived for existing customers. On September 1, 2017, the Assignment of Easements and Rights of Way for Sanitary Sewer Lines and Facilities was recorded with the Register of Deeds in Stanly County. The County has been billing customers since October 2017.

The Public Staff has reviewed the application and is of the opinion that the transfer is in the best interest of the 27 residential customers and recommends that the Commission approve the transfer of the wastewater utility system from Pfeiffer to the County without public hearing. In addition, the Public Staff recommends that the \$10,000 certificate of deposit posted with the Commission be released and the franchise granted to Pfeiffer, in Docket No. W-1207, Sub 0, be canceled.

EXHIBIT: A proposed order is attached as [Exhibit No. P-6](#).

RECOMMENDATION: (Casselberry/Windley/Magarira) that the Commission issue the proposed order approving the transfer. [Back to Agenda](#)

P6. DOCKET NOS. W-1040, SUB 10 AND W-1328, SUB 4 – ORDER SCHEDULING HEARING, ESTABLISHING DISCOVERY GUIDELINES, AND REQUIRING CUSTOMER NOTICE

EXPLANATION: On December 4, 2020, Red Bird Utility Operating Company, LLC (Red Bird), and Bear Den Acres Development, Inc. (Bear Den), filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the water utility system and public utility franchise serving Bear Den Acres Development in McDowell County, North Carolina, from Bear Den to Red Bird and approval of rates. Red Bird filed with the Commission supplemental and additional materials in support of its Application on March 29, April 19, and April 20, 2021.

Bear Den currently serves 50 residential customers in Bear Den Acres Development. Upon acquisition, Red Bird plans to make capital improvements including replacement of the well pump at Well No. 1, existing piping in the well houses, and the sight gauge on the water tank. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the water utility system, the approximate annual revenue requirement associated with the capital expenditures is \$19,535 or \$32.56¹ per customer per month for 25 years.

The present rates for Bear Den were approved in Docket Nos. W-1040, Sub 8 and M-100, Sub 138, and have been in effect since December 6, 2016. Upon acquisition of the system, Red Bird proposes to charge the current Commission approved rates for Bear Den. The present and proposed rates are as follows:

<u>Monthly Metered Residential Water Service:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 33.40, minimum	\$ 33.40, minimum
Usage Charge, per 1,000 gallons	\$ 2.78	\$ 2.78

Based on an average usage of approximately 1,500 gallons per month, the monthly water utility bill is \$37.57.

Upon acquisition, Red Bird plans to make capital improvements and implement changes to operations that will increase annual operating costs above current levels. Non-confidential Attachment E.1 to the Application states Red Bird plans to request a rate increase approximately 14 months post-acquisition, subject to Commission approval. As part of that request, Red Bird also intends to seek uniform rates across all its North Carolina systems, including Bear Den. If the full amount of the projected rate increase, including the request for uniform rates, were approved by the Commission in the timeframe proposed by Red Bird, the average monthly bill charged to each customer for water utility service would be as follows:

¹ The approximate annual revenue requirement is based on a revised estimated capital expenditure Red Bird provided in Confidential Attachment R filed with the Commission on October 6, 2021, which is nearly \$200,000 less than the capital expenditure estimate Red Bird provided in Attachment L.1 filed with the Commission on March 29, 2021.

<u>Timeframe</u>	<u>Monthly Water Utility Bill</u>
Present ¹	\$ 37.57
Year 1	\$ 37.57
Year 2 ²	\$ 67.46
Years 3 through 5	\$ 73.44

The Public Staff recommends that the matter be decided without a public witness hearing if no significant protests are received subsequent to customer notice. The Public Staff further recommends that the matter be scheduled for an expert witness hearing for the sole purpose of receiving expert testimony from Red Bird, the Public Staff, and other intervenors, if any, and that Red Bird should be required to provide notice to all affected customers of the Application, including the applied for rates and the scheduled hearing.

EXHIBIT: A proposed order is attached as [Exhibit No. P-7](#).

RECOMMENDATION: (Franklin/Feasel/Jost) That the Commission issue the proposed order scheduling the expert witness hearing, establishing discovery guidelines, and requiring customer notice.

[Back to Agenda](#)

¹ The timeframes of present through the first two months of Year 2 assumes an average monthly usage of 1,500 gallons per customer.

² Red Bird has indicated it intends to request approval of a rate increase approximately 14 months post-acquisition. Values are based on two months at Year 1 rates and ten months at the higher proposed rate of \$73.44 per customer, which is the projected average monthly bill amount for Red Bird customers statewide. Although Red Bird plans to request both a rate increase and uniform statewide rates, no rate change can be implemented until approved by the Commission.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-22, SUB 608

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Application of Dominion Energy North	)	ORDER APPROVING PROGRAM
Carolina for Approval of Residential)	
Income and Age Qualifying Program)	

BY THE COMMISSION: On September 30, 2021, Dominion Energy North Carolina (DENC) filed an application seeking approval of the Residential Income and Age Qualifying Program (RIAQ Program) as a new energy efficiency (EE) program under N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-68. The RIAQ Program is intended to replace the Residential Income and Age Qualifying Home Improvement Program (2015 Program) that was originally approved on October 6, 2015, in Docket No. E-22, Sub 523.

On April 13, 2021, the Commission granted a request from DENC to close the 2015 Program. The Company requested closure of the program, which operated on a system basis in both North Carolina and Virginia, following the May 10, 2018 order issued by the Virginia State Corporation Commission (VSCC) closing the 2015 Program effective June 30, 2021.

On November 1, 2021, DENC filed a Corrected Application for the proposed RIAQ Program that corrected the program name, updated certain cost information, and clarified the measures offered through the RIAQ Program.

The RIAQ Program is designed to provide EE measures to residential customers who meet certain income and age qualifications and live in single family and multifamily dwellings. Similar to the 2015 Program, the RIAQ Program will provide for the direct installation of certain measures consisting of: LED bulbs, showerheads, faucet aerators, pipe wrap, and attic insulation. The RIAQ Program will also include new measures consisting of heat pump and air conditioning tune-ups, duct sealing, water heater wraps, refrigerator replacement, and floor insulation. For some dwellings, the RIAQ Program will fund a more comprehensive energy assessment by weatherization assistance providers that may include blower door testing, as well as certain health and safety measures related to the structure. The health and safety measures are intended to repair items that will allow for the installation of certain EE measures that would otherwise not be appropriate to install without the health and safety measures.

The Public Staff presented this matter at the Commission's Regular Staff Conference on December 13, 2021. The Public Staff stated that it reviewed both the original and corrected applications with respect to: (a) N.C.G.S. 62-133.9; (b) Commission Rule R8-68; and (c) the currently approved Cost Recovery and Incentive Mechanism for Demand-Side Management and Energy Efficiency Programs (Mechanism), filed in Docket No. E-22, Sub 464, approved on April 22, 2017.

The Public Staff stated its review involved an assessment of the differences between the 2015 Program and the RIAQ Program. All participants will receive a basic energy assessment to determine the type of basic measures to be installed. However, under the RIAQ Program, some participants would receive additional EE measures like heat pump tune-ups, reducing air leakage, and building insulation. Those measures were intended to provide a higher level of efficiency and improve the comfort level for customers.

The Public Staff noted two distinct differences from the 2015 Program. First, more than 60% of the potential savings are expected from non-lighting and non-water measures. Also, DENC will attempt to address structural deficiencies of the dwellings, installing additional insulation where it is found to be inadequate or non-existent, and where a blower door test suggests excessive air leakage.

The Public Staff also stated that information provided by DENC indicated that like the 2015 Program, the RIAQ Program was not cost-effective under the Total Resource Cost test and Utility Cost test (0.03 each) or the Ratepayer Impact Method test (0.02). For purposes of determining cost effectiveness, the Company utilized a winter coincident peak for the modeling of the RIAQ Program. This approach is consistent with the forecast modeling utilized during the recently filed DSM/EE rider proceeding and the Company's 2021 Integrated Resource Plan.

The Public Staff further stated that the RIAQ Program was intended to provide EE measures for a sector of customers that would not likely participate in an EE program, particularly one where the more costly measures provide much greater potential for energy savings.

The Public Staff also noted that DENC did not include a specific evaluation, measurement, and verification (EM&V) plan for the RIAQ Program. However, DENC plans to use an independent third-party consultant to implement its EM&V plan for the RIAQ Program, and include details of the EM&V plan for the RIAQ Program in its 2022 EM&V annual report.

The Public Staff concluded by stating that the application contained the information required by Commission Rule R8-68(c), was consistent with N.C.G.S. 62-133.9, Commission Rule R8-68(c), and the Mechanism, had the potential to encourage EE, was in the public interest, and recommended that the RIAQ Program be approved as a "new" EE program pursuant to Commission Rule R8-68. The Public Staff further recommended that recovery of program costs and net lost revenues should be allowed pursuant to the Mechanism, as appropriate and as determined in the Company's annual DSM/EE Rider proceedings.

Based on the foregoing and the entire record in this proceeding, the Commission finds good cause to approve the RIAQ Program as a new EE program. The Commission further finds and concludes that the appropriate ratemaking treatment for the Program, including program costs, net lost revenues, and performance incentives, should be determined in DENC's annual cost recovery rider approved pursuant to Commission Rule R8-69.

IT IS, THEREFORE, ORDERED as follows:

1. That the Residential Income and Age Qualifying Program is hereby approved as a new energy efficiency program pursuant to Commission Rule R8-68;
2. That the Commission shall determine the appropriate ratemaking treatment for the RIAQ Program, including program costs, lost revenues, and incentives, in DENC's annual cost recovery rider, in accordance with N.C.G.S. 62-133.9 and Commission Rule R8-69;
3. That DENC shall file tariffs for each program within 10 days of the date of this Order that include the effective date of the programs.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 67

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Notification by Old North State Water Company,)	
LLC, 4700 Homewood Court, Suite 108, Raleigh,	)	ORDER RECOGNIZING
NC 27609, of Intention to Begin Operations in	)	CONTIGUOUS
Contiguous Service Area to Provide Water Utility	)	EXTENSION AND
Service in Bella Terra Subdivision in Wake County,	)	APPROVING RATES
North Carolina, and for Approval of Rates)	

BY THE COMMISSION: On June 2, 2020, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Bella Terra subdivision in Wake County, North Carolina (Bella Terra). On August 21, 2020, ONSWC filed an amendment to the Notification. Bella Terra is contiguous to ONSWC's Bella Vista service area (Bella Vista). On November 19, 2020, ONSWC filed additional required exhibits. ONSWC proposes to charge the rates currently approved for Bella Vista.

The Public Staff presented this matter at the Commission's Staff Conference on December 13, 2021. The Public Staff recommended that the Commission issue an order recognizing the contiguous extension and approving the requested rates.

Based upon the verified Notification, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

2. ONSWC presently serves 4 residential water customers in Bella Terra. ONSWC expects to eventually serve 16 and 82 residential water customers in Bella Terra and Bella Vista, respectively. The service area is shown on plans filed with the Notification.

3. The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued a plan approval letter for Bella Terra subdivision, part of Water System No. NC4092128. The plans for Bella Terra are approved under serial number 19-00329, by letter dated June 1, 2019.

4. ONSWC has entered into an Agreement dated July 31, 2019, with Bella Terra Development, Inc. and Bella Vista Development, LLC (Developers), under which the Developers are installing the water utility system. On June 30, 2021, ONSWC filed an amendment dated June 21, 2021 to the Agreement. ONSWC is requesting a meter installation fee of \$70 and a connection fee of \$500 per single family equivalent unit (SFRE) for water service, to be paid one time by the builder or person first requesting service to a particular lot. ONSWC is purchasing the water system from the Developers for \$1,000 per residential equivalent unit (REU), payable quarterly based upon the number of water service meters installed during the previous quarter.

5. Pursuant to the Commission's August 26, 2019 Order in Docket No. W-100, Sub 57, a utility is required to collect income tax on contributions in aid of construction (CIAC) from a contributor when contributions were contracted for on or after October 5, 2018. Notwithstanding the Commission's August 26, 2019 Order, in accordance with N.C. Gen. Stat. § 62-133.12B, beginning July 2, 2021, a "water or wastewater public utility is solely responsible for funding the income taxes on taxable contributions in aid of construction and customer advances for construction and shall record the income taxes the water or wastewater utility pays in accumulated deferred income taxes for accounting and rate-making purposes." Based on the foregoing, ONSWC must collect income tax on taxable CIAC received prior to July 2, 2021 from the contributor. Income taxes on taxable CIAC received on or after July 2, 2021, must be handled in accordance with N.C.G.S. § 62-133.12B.

6. ONSWC has filed all exhibits required with the Notification.

7. ONSWC has the technical, managerial, and financial capacity to provide water utility service in this franchise location.

8. ONSWC proposes to charge its Bella Vista water utility service rates approved in Docket No. W-1300, Sub 14.

9. The Public Staff recommended that ONSWC be required to post a \$10,000 bond for Bella Terra. ONSWC currently has \$750,000 of bond secured by an irrevocable letter of credit with BNY Mellon, National Association posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

CONCLUSIONS

Based on the foregoing and the recommendation of the Public Staff, the Commission concludes that \$10,000 of ONSWC's unassigned bond surety should be assigned to the contiguous extension; that the contiguous extension by ONSWC in Bella Terra should be recognized as meeting the Commission's criteria for the extension; the meter installation fee, connection fee, and purchase price for water utility service should be approved; and the requested rates should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That \$10,000 of Old North State Water Company, LLC's unassigned surety bond secured by an irrevocable letter of credit with BNY Mellon, National Association is assigned to Bella Terra. The remaining unassigned bond surety shall be \$120,000 (a total of \$30,000 is being assigned concurrently in Docket No. W-1300, Subs 67, 73, and 75);
2. That the contiguous extension of water utility service from Bella Vista into Bella Terra in Wake County, North Carolina, is recognized as meeting the Commission's criteria for the extension pursuant to N.C.G.S. § 62-110(a), and Appendix A, attached hereto, constitutes Old North State Water Company, LLC's Certificate of Public Convenience and Necessity covering the contiguous extension;
3. That Old North State Water Company, LLC's existing Schedule of Rates approved by Commission Order issued on January 26, 2016, in Docket No. W-1300, Sub 14, is approved for water utility service in Bella Terra, in Wake County, North Carolina; and
4. That a meter installation fee of \$70, a connection fee of \$500 per single-family residential equivalent connection for water utility service, and a purchase price of \$1,000 per residential equivalent unit from Developers, payable quarterly based upon the number of water service meters installed during the previous quarter are approved for Bella Terra.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

APPENDIX A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 67

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

OLD NORTH STATE WATER COMPANY, LLC

is given this acknowledgement of
contiguous extension pursuant to N.C. Gen. State. § 62-110(a) to the
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water utility service

in

BELLA TERRA SUBDIVISION

Wake County, North Carolina,

subject to any orders, rules, regulations,
and conditions now or hereafter lawfully made
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 73

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Notification by Old North State Water Company,)	
LLC, 4700 Homewood Court, Suite 108, Raleigh,	)	ORDER RECOGNIZING
NC 27609, of Intention to Begin Operations in	)	CONTIGUOUS
Contiguous Service Area to Provide Water Utility	)	EXTENSION AND
Service in Bailey Farms Phases 2A and 2B	)	APPROVING RATES
Subdivision in Franklin County, North Carolina, and)	
for Approval of Rates)	

BY THE COMMISSION: On April 1, 2021, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Phases 2A and 2B of Bailey Farms subdivision, in Franklin County, North Carolina. On April 26, 2021, ONSWC filed an additional required exhibit. Phases 2A and 2B of Bailey Farms are contiguous to ONSWC's Bailey Farms Phase 1 service area. ONSWC proposes to charge the rates currently approved for that service area.

The Public Staff presented this matter at the Commission's Staff Conference on December 13, 2021. The Public Staff recommended that the Commission issue an order recognizing the contiguous extension and approving the requested rates.

Based upon the verified Notification, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.

2. ONSWC presently serves 24 and 23 residential customers in the Phases 2A and 2B of the Bailey Farms, respectively. Bailey Farms has been approved for 72

connections in total across all three phases. The service area is shown on plans filed with the Notification.

3. The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued plan approval letters for Phases 2A and 2B of Bailey Farms subdivision, part of Water System No. NC4035019. The plans for Phases 2A and 2B are approved under serial numbers 19-00195, by letter dated April 3, 2019 and 19-00914, by letter dated December 13, 2019, respectively.

4. ONSWC has entered into an Agreement for the Installation, Conveyance, and Operation of the Bailey Farms subdivision Water Utility System (Agreement), dated August 20, 2016, with Crosswind Development, Inc. (Developer), under which the Developer is installing the water utility system. On June 30, 2021, ONSWC filed an amendment dated June 16, 2021 to the Agreement. ONSWC is requesting a meter installation fee of \$70. No connection fee is requested. ONSWC is purchasing the water system for \$500 per residential equivalent unit (REU) from the Developer, payable quarterly based upon the number of water service meters installed during the previous quarter.

5. Pursuant to the Commission's August 26, 2019 Order in Docket No. W-100, Sub 57, a utility is required to collect income tax on contributions in aid of construction (CIAC) from a contributor when contributions were contracted for on or after October 5, 2018. Notwithstanding the Commission's August 26, 2019 Order, in accordance with N.C. Gen. Stat. § 62-133.12B, beginning July 2, 2021, a "water or wastewater public utility is solely responsible for funding the income taxes on taxable contributions in aid of construction and customer advances for construction and shall record the income taxes the water or wastewater utility pays in accumulated deferred income taxes for accounting and rate-making purposes." Based on the foregoing, ONSWC must collect income tax on taxable CIAC received prior to July 2, 2021 from the contributor. Income taxes on taxable CIAC received on or after July 2, 2021, must be handled in accordance with N.C.G.S. § 62-133.12B.

6. ONSWC has filed all exhibits required with the Notification.

7. ONSWC has the technical, managerial, and financial capacity to provide water utility service in this franchise location.

8. ONSWC proposes to charge the water utility services rates approved for the Bailey Farms Phase 1 service area approved in Docket No. W-1300, Sub 37.

9. The Public Staff recommended that ONSWC be required to post a \$10,000 bond for Phases 2A and 2B of Bailey Farms. ONSWC currently has \$750,000 of bond secured by an irrevocable letter of credit with BNY Mellon, National Association posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

CONCLUSIONS

Based on the foregoing and the recommendation of the Public Staff, the Commission concludes that \$10,000 of ONSWC's unassigned bond surety should be assigned to the contiguous extension; that the contiguous extension by ONSWC in Phases 2A and 2B of Bailey Farms should be recognized as meeting the Commission's criteria for the extension; the meter installation fee and purchase price for water utility service should be approved; and the requested rates should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That \$10,000 of Old North State Water Company, LLC's unassigned surety bond secured by an irrevocable letter of credit with BNY Mellon, National Association is assigned to Phases 2A and 2B of Bailey Farms. The remaining unassigned bond surety shall be \$120,000 (a total of \$30,000 is being assigned concurrently in Docket No. W-1300, Subs 67, 73, and 75);

2. That the contiguous extension of water utility service from Phase 1 of Bailey Farms into Phases 2A and 2B of Bailey Farms in Franklin County, North Carolina, is recognized as meeting the Commission's criteria for the extension pursuant to N.C.G.S. § 62-110(a), and Appendix A, attached hereto, constitutes Old North State Water Company, LLC's Certificate of Public Convenience and Necessity covering the contiguous extension;

3. That Old North State Water Company, LLC's existing Schedule of Rates approved on June 19, 2017, in Docket No. W-1300, Sub 37, is approved for water utility service in Phases 2A and 2B of Bailey Farms, in Franklin County, North Carolina; and

4. That a meter installation fee of \$70, and a purchase price of \$500 per residential equivalent unit from Developer, payable quarterly based upon the number of water service meters installed during the previous quarter are approved for Phases 2A and 2B of the Bailey Farms.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

APPENDIX A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 73

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

OLD NORTH STATE WATER COMPANY, LLC

is given this acknowledgement of
contiguous extension pursuant to N.C. Gen. State. § 62-110(a) to the
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water utility service

in

PHASES 2A AND 2B OF THE BAILEY FARMS SUBDIVISION

Franklin County, North Carolina,

subject to any orders, rules, regulations,
and conditions now or hereafter lawfully made
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 75

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Notification by Old North State Water Company,)	
LLC, 4700 Homewood Court, Suite 108, Raleigh,	)	ORDER RECOGNIZING
NC 27609, of Intention to Begin Operations in	)	CONTIGUOUS
Contiguous Service Area to Provide Water Utility	)	EXTENSION AND
Service in Phases 2 and 3 of Leone Landing	)	APPROVING RATES
Subdivision in Wake County, North Carolina, and)	
for Approval of Rates)	

BY THE COMMISSION: On April 1, 2021, Old North State Water Company, LLC (ONSWC), filed a Notification of Intention to Begin Operations in Area Contiguous to Present Service Area (Notification) to provide water utility service in Phases 2 and 3 of Leone Landing subdivision, in Wake County, North Carolina. On April 26, 2021, ONSWC filed an additional required exhibit. Phases 2 and 3 of Leone Landing are contiguous to ONSWC's Leone Landing Phase 1 service area. ONSWC proposes to charge the rates currently approved for that service area.

The Public Staff presented this matter at the Commission's Staff Conference on December 13, 2021. The Public Staff recommended that the Commission issue an order recognizing the contiguous extension and approving the requested rates.

Based upon the verified Notification, and the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. ONSWC presently holds water franchises serving approximately 1,688 customers and wastewater franchises serving approximately 4,404 customers in North Carolina. ONSWC's record of service is satisfactory.
2. ONSWC presently serves 28 residential water customers throughout the Leone Landing subdivision and expects to eventually serve a total of 37 residential water customers across all three phases. The total number of approved connections for the

Leone Landing subdivision is 37 connections. The service area is shown on plans filed with the Notification.

3. The North Carolina Department of Environmental Quality, Division of Water Resources, Public Water Supply Section, has issued plan approval letters for Phases 2 and 3 of Leone Landing (referred to as Phase 4 on the approval letter), part of Water System No. NC4092127. The plans are approved under serial number 19-00393, dated June 26, 2019.

4. ONSWC has entered into an Agreement for Water Service dated September 2013, with Neal Morris Rowland (Developer), under which the Developer is installing the water utility system. On June 28, 2021, ONSWC filed an amendment dated June 16, 2021 to the Water Agreement. ONSWC is requesting a meter installation fee of \$70 and a connection fee of \$4,000 per single family equivalent unit (SFRE) for water service, to be paid on time by the builder or person first requesting service to that particular lot. ONSWC is purchasing the water system for \$4,500 per residential equivalent unit (REU) from Developer, payable within 30 days of connection.

5. Pursuant to the Commission's August 26, 2019 Order in Docket No. W-100, Sub 57, a utility is required to collect income tax on contributions in aid of construction (CIAC) from a contributor when contributions were contracted for on or after October 5, 2018. Notwithstanding the Commission's August 26, 2019 Order, in accordance with N.C. Gen. Stat. § 62-133.12B, beginning July 2, 2021, a "water or wastewater public utility is solely responsible for funding the income taxes on taxable contributions in aid of construction and customer advances for construction and shall record the income taxes the water or wastewater utility pays in accumulated deferred income taxes for accounting and rate-making purposes." Based on the foregoing, ONSWC must collect income tax on taxable CIAC received prior to July 2, 2021 from the contributor. Income taxes on taxable CIAC received on or after July 2, 2021, must be handled in accordance with N.C.G.S. § 62-133.12B.

6. ONSWC has filed all exhibits required with the Notification.

7. ONSWC has the technical, managerial, and financial capacity to provide water utility service in this franchise location.

8. ONSWC proposes to charge the water utility services rates approved for the Leone Landing Phase 1 service area approved in Docket No. W-1300, Sub 4.

9. The Public Staff recommended that ONSWC be required to post a \$10,000 bond for Phases 2 and 3 of Leone Landing. ONSWC currently has \$750,000 of bond secured by an irrevocable letter of credit with BNY Mellon, National Association posted with the Commission. Of this amount, \$600,000 of bond surety is assigned to specific subdivisions, and \$150,000 of bond surety is unassigned.

CONCLUSIONS

Based on the foregoing and the recommendation of the Public Staff, the Commission concludes that \$10,000 of ONSWC's unassigned bond surety should be assigned to the contiguous extension; that the contiguous extension by ONSWC in Phases 2 and 3 of Leone Landing should be recognized as meeting the Commission's criteria for the extension; the meter installation fee, connection fee, and purchase price for water utility service should be approved; and the requested rates should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That \$10,000 of Old North State Water Company, LLC's unassigned surety bond secured by an irrevocable letter of credit with BNY Mellon, National Association is assigned to Phases 2 and 3 of Leone Landing. The remaining unassigned bond surety shall be \$120,000 (a total of \$30,000 is being assigned concurrently in Docket No. W-1300, Subs 67, 73, and 75);

2. That the contiguous extension of water utility service from Phase 1 of Leone Landing Subdivision into Phases 2 and 3 of Leone Landing in Wake County, North Carolina, is recognized as meeting the Commission's criteria for the extension pursuant to N.C.G.S. § 62-110(a), and Appendix A, attached hereto, constitutes Old North State Water Company, LLC's Certificate of Public Convenience and Necessity covering the contiguous extension;

3. That Old North State Water Company, LLC's existing Schedule of Rates approved by Commission Order issued on July 21, 2014, in Docket No. W-1300, Sub 4, is approved for utility service in Phases 2 and 3 of Leone Landing, in Wake County, North Carolina; and

4. That a meter installation fee of \$70, a connection fee of \$4,000 per single-family residential equivalent connection for water utility service, and a purchase price of

\$4,500 per residential equivalent unit from Developer, payable within 30 days of connection are approved for Phases 2 and 3 of the Leone Landing.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

APPENDIX A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 75

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

OLD NORTH STATE WATER COMPANY, LLC

is given this acknowledgement of
contiguous extension pursuant to N.C. Gen. State. § 62-110(a) to the
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water utility service

in

LEONE LANDING PHASES 2 & 3 SUBDIVISION

Wake County, North Carolina,

subject to any orders, rules, regulations,
and conditions now or hereafter lawfully made
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1338, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Petition by SIG Marshville, LLC, 5950 Berkshire Lane, Suite 800, Dallas, Texas 75225, for Declaratory Ruling	)	ORDER ON PETITION FOR DECLARATORY RULING
)	

BY THE COMMISSION: On November 3, 2021, SIG Marshville, LLC (SIG), filed a petition requesting the Commission to issue a declaratory ruling that, by providing bulk wastewater treatment services to the Town of Marshville (Marshville) in Union County, North Carolina, SIG will not be “operating a public sewerage system for compensation” and should not be deemed a “utility” as defined in N.C. Gen. Stat. § 62-3(23)a.2 and Commission Rule R10-2(a). SIG is a Texas limited liability company authorized to do business in North Carolina with its principal place of business in Dallas, Texas.

According to the petition, Marshville owns, operates, and maintains its wastewater collection system. Wastewater collected by Marshville is currently treated by two different bulk service providers: Union County and Anson County. Marshville transmits up to approximately 300,000 gallons per day (GPD) of its wastewater to Union County for treatment and sends the remainder of its wastewater to Anson County for treatment.

Marshville’s current bulk service arrangement with Union County is a product of extended litigation between those parties, and Union County currently provides bulk service to Marshville pursuant to a settlement agreement between them. Union County is either unable or unwilling to provide any additional wastewater treatment capacity to Marshville in the future, and as a result Marshville is unable to provide sewer service as necessary to accommodate future growth.

SIG is willing to provide Marshville with bulk wastewater treatment service and in order to do so it is prepared to build an advanced membrane bioreactor (MBR) wastewater treatment plant initially capable of treating 300,000 GPD of wastewater. The Town and SIG have agreed on the terms of a bulk service agreement under which SIG would provide wholesale bulk wastewater treatment service to Marshville, subject to certain conditions precedent, including SIG securing the ruling from the Commission requested herein. Marshville will continue to own and operate the system for collecting

wastewater from Marshville's residents and delivering it to SIG for treatment. An unexecuted version of the parties' bulk service agreement was attached to the petition as Confidential Exhibit A.

On November 15, 2021, SIG filed with the Commission as Confidential Exhibit C, the executed Bulk Municipal Wastewater Treatment Agreement (Agreement), between SIG and Marshville. The Agreement specifies that SIG will construct, operate, and manage a membrane bioreactor wastewater treatment plant and provide bulk wastewater treatment services to only Marshville. SIG will bill Marshville on a monthly basis for bulk wastewater treatment at a negotiated rate pursuant to the Agreement, and Marshville will continue to service its customers in accordance with Marshville's established rules and regulations for the wastewater services provided by Marshville. SIG will treat Marshville's wastewater, initially up to 300,000 GPD, but will provide no direct service to Marshville residents.

SIG states in its petition that a condition precedent to its provision of the aforementioned bulk services to Marshville is a declaratory ruling by the Commission that its proposed activities will not cause it to be deemed a public utility within the meaning of N.C.G.S. § 62-3(23)a, will not cause it to be a utility within the meaning of Commission Rule R10-2(a), and will not cause it to be considered "directly or indirectly ... furnishing ... public utility service" within the meaning of N.C.G.S. § 62-110(a). Attached to the November 15 filing is Marshville's adopted Resolution approving contracting with SIG for bulk wastewater treatment service.

The petition states that the parties' bulk service agreement will benefit Marshville in a number of ways. First, Marshville will secure a long-term stable source of bulk wastewater treatment with the pricing established in advance for the term of the Agreement. Second, Marshville will be spared the capital investment necessary to construct its own wastewater treatment plant and facilities. Third, Marshville will be spared the cost of employing personnel as necessary to operate a wastewater treatment plant. Fourth, as growth and development opportunities come to Marshville, the lack of access to additional wastewater treatment capacity would limit Marshville's efforts to accommodate potential growth. This restriction of future growth would severely limit Marshville's ability to expand its tax base. With the initial capacity which SIG is willing to provide on a bulk service basis, together with SIG's willingness to expand its treatment capacity as needed, Marshville will be able to accommodate future growth.

In support of the petition, SIG cites the flexible definition of "the public" adopted by the North Carolina Supreme Court in *State ex rel Utilities Commission v. Simpson*, 295 NC 519, 246 S.E.2d 753 (1978) (*Simpson*). In that case, the Court listed some of the regulatory circumstances to be considered in determining whether a person is providing

service to “the public” within the meaning of N.C.G.S. § 62-3(23)a. These include (1) the nature of the industry sought to be regulated, (2) the type of market served by that industry, (3) the kind of competition that naturally inheres in that market, and (4) the effect of non-regulation or exemption from regulation of one or more persons engaged in the industry. The Court also stated: “The meaning of ‘public’ must in the final analysis be such as will, in the context of the regulatory circumstances ... accomplish ‘the legislature’s purpose and comport with its public policy’.” *Id.* at 524, 246 S.E.2d at 756-57 (citations omitted). SIG asserts that its request for a declaratory ruling satisfies the *Simpson* factors.

SIG also cites *In re: Request for Declaratory Ruling by Pharr Yarns, LLC*, Docket No. W-1260, Sub 0 (November 22, 2005), in which the Commission held that the provision of wholesale, bulk wastewater treatment services by Pharr Yarns, LLC (Pharr Yarns), to the Town of McAdenville did not result in Pharr Yarns being deemed a public utility. SIG further cites *In the Matter of Petition for Declaratory Ruling by JUSA Utilities Bridgeton, LTD*, W-1290, Sub 0, where the Commission reached the same conclusion and ruled that construction of a wastewater treatment plant by JUSA Utilities Bridgeton LTD (JUSA) for the purpose of providing bulk wastewater treatment service to the Town of Bridgeton (Bridgeton), and JUSA’s provision of bulk wastewater treatment service to Bridgeton, would not cause JUSA to be a public utility. Order on Petition for Declaratory Ruling, Docket W-1260, Sub 0 (April 27, 2010). SIG asserts that its proposal to provide bulk wastewater treatment services to Marshville comports with these prior Commission decisions.

SIG further cites the following cases in which the Commission has held that the provision of a commodity or service to a single customer under various scenarios would not cause the provider to be a public utility: *In re: Request for Declaratory Ruling by Fayetteville Gas Company, LLC*, Docket No. SP-100, Sub 6 (May 24, 1996); *In re: Request for Declaratory Ruling by N.C. Municipal Landfill Gas Co., LLC, et al.*, Docket No. SP-100, Sub 10 (October 30, 1996); and *In re: Request for Declaratory Ruling by Pitt Landfill Gas, LLC*, Docket No. SP-100, Sub 13 (March 19, 1997).

In addition to citing case law and prior Commission rulings, SIG emphasizes that the actual provider of service to the public in this case is an unregulated municipal corporation.

The Public Staff recommended that, based on the specific regulatory circumstances presented, SIG should not be considered a public utility.

Based on the foregoing and the recommendation of the Public Staff, the Commission concludes that SIG should not be considered a public utility by virtue of the activities described in the petition. The Commission notes that this decision is limited to

the facts set forth above and in the petition and should not be regarded as precedent for any other person engaging in such activities other than those presented in this case. The determination of public utility status must be made in each case on the basis of the particular facts and circumstances presented.

IT IS, THEREFORE, ORDERED that SIG shall not be considered a public utility as defined in N.C.G.S. § 62-3(23)a.2 and Commission Rule R10-2(a) by virtue of the activities described in the Petition for Declaratory Ruling.

ISSUED BY ORDER OF THE COMMISSION.

This is the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1207, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Application by Pfeiffer University, Post)	
Office Box 960, Misenheimer, North	)	ORDER APPROVING
Carolina, 28109, for Transfer of Its	)	TRANSFER TO OWNER
Wastewater Utility System Serving All Its	)	EXEMPT FROM REGULATION AND
Residential Customers in Stanly County,	)	CANCELING CERTIFICATE OF
North Carolina to Stanly County, Owner	)	PUBLIC CONVENIENCE AND
Exempt from Commission Regulation	)	NECESSITY

BY THE COMMISSION: On October 27, 2021, Pfeiffer University (Pfeiffer), a North Carolina non-profit corporation, filed an application with the Commission seeking authority to transfer the wastewater utility system to Stanly County (County), which is exempt from Commission regulation.

The Public Staff presented this matter at the Commission's Staff Conference on December 13, 2021, and stated it is of the opinion that the transfer was in the best interest of the 27 residential customers and recommended that the Commission approve the transfer of the wastewater utility system from Pfeiffer to the County without public hearing. In addition, the Public Staff recommended the \$10,000 certificate of deposit posted with the Commission be released and the franchise granted to Pfeiffer, in Docket No. W-1207, Sub 0, be canceled.

Based upon the verified application and the entire record in this matter, the Commission makes the following:

FINDINGS OF FACT

1. Pfeiffer provides wastewater utility service to 27 residential customers.
2. Pfeiffer's present wastewater utility rates, which were approved by the Commission effective October 5, 2010, in Docket No. W-1207, Sub 1, and are as follows:

Monthly Metered Wastewater Utility Service	
Base charge (includes first 2,000 gallons)	\$21.90
Usage charge, per 1,000 gallons (> 2,000 gallons)	\$ 9.00

3. The County's present wastewater utility rates, effective July 1, 2021, are as follows:

Monthly Metered Wastewater Utility Service	
Minimum charge, includes the first 2,000 gallons	\$18.25
Usage charge, per 1,000 gallons	\$ 9.13

4. The transfer resulted in the monthly residential wastewater bill decreasing from \$39.90 to \$36.51, based on 4,000 gallons of usage.

5. On September 1, 2017, Pfeiffer entered into an Asset Purchase Agreement with the County; the wastewater assets were transferred to the County at no cost. The County's connection fees were waived for existing customers, and the Assignment of Easements and Rights of Way for Sanitary Sewer Lines and Facilities was recorded with the Register of Deeds in Stanly County. The County has been billing customers since October 2017.

CONCLUSIONS

Based on the foregoing and the recommendation of the Public Staff, the Commission concludes that this matter may be determined without public hearing and that the transfer should be approved, the franchise canceled, and the bond released.

IT IS, THEREFORE, ORDERED as follows:

1. That the transfer of Pfeiffer's wastewater utility system to Stanly County, an owner exempt from Commission regulation, is hereby approved;

2. That the Certificate of Public Convenience and Necessity to provide wastewater utility service granted to Pfeiffer in Docket No. W-1207, Sub 0, is hereby canceled; and

3. That the bond and surety in the amount of \$10,000, filed with the Commission on April 22, 2004, is hereby released.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1040, SUB 10
DOCKET NO. W-1328, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Red Bird Utility Operating)	
Company, LLC, 1650 Des Peres Road, Suite	)	ORDER SCHEDULING
303, St. Louis, Missouri 63131, and Bear Den	)	HEARING, ESTABLISHING
Acres Development, Inc., 600 Bear Den	)	DISCOVERY
Mountain Road, Spruce Pine, North Carolina	)	GUIDELINES, AND
28777, for Authority to Transfer the Bear Den	)	REQUIRING
Acres Development Water System and Public	)	CUSTOMER NOTICE
Utility Franchise in McDowell County, North)	
Carolina, and for Approval of Rates)	

BY THE COMMISSION: On December 4, 2020, Red Bird Utility Operating Company, LLC (Red Bird), and Bear Den Acres Development, Inc. (Bear Den), filed with the Commission an Application for Transfer of Public Utility Franchise and for Approval of Rates (Application) seeking authority to transfer the water utility system and public utility franchise serving Bear Den Acres Development in McDowell County, North Carolina, from Bear Den to Red Bird and approval of rates. Red Bird filed with the Commission supplemental and additional materials in support of its Application on March 29, April 19, and April 20, 2021.

Bear Den currently serves 50 residential customers in Bear Den Acres Development. Upon acquisition, Red Bird plans to make capital improvements including replacement of the well pump at Well No. 1, existing piping in the well houses, and the sight gauge on the water tank. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the water utility system, the approximate annual revenue requirement associated with the capital expenditures is \$19,535 or \$32.56¹ per customer per month for 25 years.

¹ The approximate annual revenue requirement is based on a revised estimated capital expenditure Red Bird provided in Confidential Attachment R filed with the Commission on October 6, 2021, which is nearly \$200,000 less than the capital expenditure estimate Red Bird provided in Attachment L.1 filed with the Commission on March 29, 2021.

The present rates for Bear Den were approved in Docket Nos. W-1040, Sub 8 and M-100, Sub 138, and have been in effect since December 6, 2016. Upon acquisition of the system, Red Bird proposes to charge the current Commission approved rates for Bear Den. The present and proposed rates are as follows:

<u>Monthly Metered Residential Water Service:</u>	<u>Present</u>	<u>Proposed</u>
Base Charge, zero usage	\$ 33.40, minimum	\$ 33.40, minimum
Usage Charge, per 1,000 gallons	\$ 2.78	\$ 2.78

Based on an average usage of approximately 1,500 gallons per month, the monthly water utility bill is \$37.57.

Upon acquisition, Red Bird plans to make capital improvements and implement changes to operations that will increase annual operating costs above current levels. Non-confidential Attachment E.1 to the Application states Red Bird plans to request a rate increase approximately 14 months post-acquisition, subject to Commission approval.¹ As part of that request, Red Bird also intends to seek uniform rates across all its North Carolina systems, including Bear Den. If the full amount of the projected rate increase, including the request for uniform rates, were approved by the Commission in the timeframe proposed by Red Bird, the average monthly bill charged to each customer for water utility service would be as follows:

<u>Timeframe</u>	<u>Monthly Water Utility Bill</u>
Present ²	\$ 37.57
Year 1	\$ 37.57
Year 2 ³	\$ 67.46
Years 3 through 5	\$ 73.44

The Public Staff – North Carolina Utilities Commission (Public Staff) presented this matter at the Commission’s Staff Conference on December 13, 2021. The Public Staff recommended that the matter be decided without a public witness hearing if no significant protests are received subsequent to customer notice. The Public Staff further

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. Future rates are subject to change and could be less or more than the projected \$73.44 per customer.

² The timeframes of present through the first two months of Year 2 assumes an average monthly usage of 1,500 gallons per customer.

³ Red Bird has indicated it intends to request approval of a rate increase approximately 14 months post-acquisition. Values are based on two months at Year 1 rates and ten months at the higher proposed rate of \$73.44 per customer, which is the projected average monthly bill amount for Red Bird customers statewide. Although Red Bird plans to request both a rate increase and uniform statewide rates, no rate change can be implemented until approved by the Commission.

recommended that the matter be scheduled for an expert witness hearing for the sole purpose of receiving expert testimony from Red Bird, the Public Staff, and other intervenors, if any, and that Red Bird should be required to provide notice to all affected customers of the Application, including the applied for rates and the scheduled hearing.

Based upon the foregoing, and the recommendation of the Public Staff, the Commission is of the opinion that the matter may be determined without public witness hearing if no significant protests are received subsequent to customer notice; that the matter should be scheduled for an expert witness hearing for the sole purpose of receiving expert witness testimony from Red Bird, the Public Staff, and other intervenors, if any.

The Commission hereby establishes the procedural schedule, including filing requirements of Red Bird and other parties, and requires that Red Bird provide notice to all affected customers of the Application, including the applied for rates and the scheduled hearing.

The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition shall be taken before the deadline for the filing of Public Staff and other intervenor testimony, or as agreed to by the parties should the Company require depositions. A notice of deposition shall be served on all parties at least seven business days prior to the taking of the deposition.

2. Any motion for subpoena of a witness to appear at the evidentiary hearing shall be filed with the Commission before the deadline for the filing of the Public Staff and other intervenor testimony shall be served by hand delivery or facsimile to the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. N.C.G.S. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena within one business day of the filing of such motion.

3. Formal discovery requests related to the Application and the Company's pre-filed direct and supplemental testimony shall be served on the Company by hand delivery, facsimile, or electronic delivery with the Company's agreement, no later than 14 calendar days prior to the filing of Public Staff and other intervenor testimony. The Company shall have up to ten calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten calendar days prior to the deadline for the filing of Public Staff and other intervenor testimony.

4. Formal discovery requests of the Public Staff or other intervenors shall be served by hand delivery, facsimile, or electronic delivery with the agreement of the receiving party, no later than five calendar days after the filing of that party's testimony. The party served shall have up to three business days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than nine calendar days after the filing of that party's testimony.

5. Formal discovery requests related to pre-filed rebuttal testimony shall be served by hand delivery, facsimile, or electronic delivery with the Company's agreement, no later than two calendar days after the filing of such testimony. The party served shall have up to two calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than three business days after the filing of such rebuttal testimony. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery.

6. Discovery requests need not be filed with the Commission when served; however, objections shall be filed with the Commission, and the objecting party shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed, shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two business days to file with the Commission a motion to compel, and the party objecting to discovery shall have one business day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party by hand delivery, facsimile, or electronic delivery with the agreement of the receiving party, at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery due to that party's late intervention or other delay in initiating discovery.

The Commission urges all parties to work in a cooperative manner and to try to accommodate discovery within the time available. The Commission recognizes that in the past, most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

Further, the Commission finds good cause to require the Company and all other parties who file exhibits and workpapers that include tables of numbers and calculations to provide the Commission Staff, Public Staff, and any other party upon request from such party an electronic version of all such exhibits and workpapers, with formulas intact.

Finally, the Commission will require the Company to consult with all other parties and file, no later than [Day of Week], [Date], a list of witnesses to be called at the hearing, the order of witnesses, and the estimated time for cross-examination. If the parties cannot agree, the remaining parties shall, no later than [Day of Week], [Date], make a filing indicating their points of disagreement with the Company's filing.

IT IS, THEREFORE, ORDERED as follows:

1. That the Application is scheduled for expert witness hearing beginning at X:XX p.m., on [Day of Week], [Date], and continuing as necessary until conclusion. The hearing will be held in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina.

2. That the parties shall comply with the discovery guidelines established herein and shall work in a cooperative manner as to discovery.

3. That all parties filing supporting exhibits in Excel format shall provide the Commission Staff electronic versions of the exhibits filed in native Excel format, including all of the supporting tabs and formulas, within three days of the filing of such exhibits; and that Red Bird and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party upon request an electronic version of all such exhibits and workpapers, with formulas intact.

4. That Red Bird is required to prefile all testimony on which it will rely at the expert witness hearing on or before [Day of Week], [Date]. The Public Staff and other intervenors, if any, shall file their testimony on or before [Day of Week], [Date], and Red Bird shall file its rebuttal testimony, if any, on or before [Day of Week], [Date]. Red Bird and the Public Staff shall address in their testimony the issue of whether the Commission should allow a purchase acquisition adjustment.

5. That on or before [Day of Week], [Date], any persons having an interest in this matter may file petitions to intervene to this proceeding pursuant to Commission Rules R1-5, R1-7, and R1-19.

6. That Red Bird shall consult with all other parties and file, no later than [Day of Week], [Date], a list of witnesses to be called at the hearing, the order of witnesses, and the estimated time for cross-examination. If the parties cannot agree, the remaining

parties shall, no later than [Day of Week], [Date], make a filing indicating their points of disagreement with the Company's filing.

7. That an officer or representative of Red Bird is required to appear before the Commission at the time and place of the expert witness hearing to testify concerning any of the information contained in the Application.

8. That the Notice to Customers, attached hereto as Appendix A, shall be mailed with sufficient postage or hand delivered by Red Bird to all affected customers no later than 14 days after the date of this Order and that Red Bird shall submit to the Commission the attached Certificate of Service, properly signed and notarized, not later than 21 days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

**NOTICE TO CUSTOMERS
DOCKET NO. W-1040, SUB 10
DOCKET NO. W-1328, SUB 4**

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 Bear Den Acres Development, Inc. (Bear Den), 600 Bear Den Mountain Road, Spruce Pine, North Carolina 28777, 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 water utility system and public utility franchise serving Bear Den Acres Development in McDowell County, North Carolina, from Bear Den to Red Bird and approval of rates.

Upon acquisition, Red Bird plans to make capital improvements including replacement of the well pump at Well No. 1, existing piping in the well houses, and the sight gauge on the water tank. Based on Red Bird's estimated costs for these improvements, due diligence costs, and the purchase price of the water utility system, the approximate annual revenue requirement associated with the capital expenditures is \$19,535 or \$32.56¹ per customer per month for 25 years.

When Red Bird files a general rate case application with the Commission, Red Bird intends to include the costs of purchasing the Bear Den water utility system and its investment in the system in rate base, which would allow Red Bird to recover in rates the reasonable depreciation expense and allow Red Bird the opportunity to earn a return, approved by the Commission, on its post-closing investment. The Company also intends to seek authority to implement uniform rates for all its North Carolina systems.

¹ The approximate annual revenue requirement is based on a revised estimated capital expenditure Red Bird provided in Confidential Attachment R filed with the Commission on October 6, 2021, which is nearly \$200,000 less than the capital expenditure estimate Red Bird provided in Attachment L.1 filed with the Commission on March 29, 2021.

EFFECT OF RATES:

In its Application, Red Bird proposes to charge the rates approved on December 6, 2016, in Docket No. W-1040, Sub 8, by Commission Order Approving Tariff Revision and Requiring Customer Notice. The Commission approved rates include a base charge of \$33.40 for minimum usage and a usage rate of \$2.78 for every 1,000 gallons of usage.

Based on an average usage of approximately 1,500 gallons per month, the monthly water utility bill is \$37.57.

Red Bird plans to request a rate increase and uniform statewide rates approximately 14 months post-acquisition subject to Commission approval.¹ 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.

Subject to Commission approval, the present and projected average monthly bill charged to each customer for water utility service as proposed by Red Bird are as follows:

<u>Timeframe</u>	<u>Monthly Water Utility Bill</u>
Present ²	\$37.57
Year 1	\$37.57
Year 2 ³	\$67.46
Years 3 through 5	\$73.44

PROCEDURE FOR PUBLIC HEARING:

At this point no public witness hearing has been scheduled. The Commission may decide this matter without a public witness hearing if no significant protests are received from consumers within 45 days of the date of this notice. Correspondence concerning the

¹ Any future change in rates proposed by Red Bird would require filing a general rate case application with the Commission pursuant to N.C. Gen. Stat. § 62-134. Future rates are subject to change and could be less or more than the projected \$73.44 per customer.

² The timeframes of Present through the first two months of Year 2 assumes an average monthly usage of 1,500 gallons per customer.

³ Red Bird has indicated it intends to request approval of a rate increase approximately 14 months post-acquisition. Values are based on two months at Year 1 rates and ten months at the higher proposed rate of \$73.44 per customer, which is the projected average monthly bill amount for customers statewide. Although Red Bird plans to request both a rate increase and uniform statewide rates, no rate change can be implemented until approved by the Commission.

transfer or the need for a public witness hearing should be directed to the Public Staff – North Carolina Utilities Commission (Public Staff).

The Commission has scheduled this matter for an expert witness hearing beginning at X:XX x.m., on [Day of Week], [Date] and continuing as necessary until conclusion. The hearing will be held in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina.

The Public Staff is authorized by statute to represent consumers in proceedings before the Commission. Written statements/protests to the Public Staff should include 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 27699-4326. Written statements may also be faxed to (919) 715-6704 or e-mailed to statements@ncuc.net.

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, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001.

Persons desiring to intervene in this matter as formal parties of record should file a petition pursuant to North Carolina Utilities Commission Rules R1-5 and R1-19, *on or before [Day of Week], [Date]*. Any such petition should be filed with the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300.

Information regarding this proceeding can also be accessed from the Commission's website at www.ncuc.net under the docket number of this proceeding.

This the ____ day of _____, 2021.

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-1040, Sub 10 and W-1328, Sub 4, and the Notice was mailed or hand delivered by the date specified in the Order.

This the ____ day of _____ 202_.

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-1040, Sub 10 and W-1328, Sub 4.

Witness my hand and notarial seal, this the ____ day of _____ 202_.

Notary Public

Address

(SEAL) My Commission Expires:

Date

[Back to Agenda](#)