

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. A-41, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Village of Bald Head Island,)	
Complainant,)	
)	
v.)	ORDER SCHEDULING
)	HEARING AND ESTABLISHING
Bald Head Island Transportation, Inc.,)	PROCEDURES
and Bald Head Island Limited, LLC,)	
)	
Respondents.)	

BY THE PRESIDING COMMISSIONER: On February 16, 2022, the Village of Bald Head Island (VBHI) filed with the Commission a Complaint and Request for Determination of Public Utility Status (Complaint) against Bald Head Island Transportation, Inc. (BHIT), and Bald Head Island Limited, LLC (BHIL, and collectively, Respondents).

On February 17, 2022, the Commission issued an Order Serving Complaint and Request for Determination of Public Utility Status.

On March 15, 2022, Bald Head Island Club (BHI Club) filed a petition with the Commission seeking to intervene in the docket.

On March 18, 2022, the Commission issued an Order Granting Petition to Intervene of Bald Head Island Club.

On March 30, 2022, Respondents filed with the Commission a Response, Motion to Dismiss, and Answer.

Also on March 30, 2022, Respondents filed a Motion that Commission Take Judicial Notice, or, in the Alternative, For Leave to File Supplemental Exhibits to its Answer.

On April 4, 2022, the Commission issued an Order Serving Answer and Motion to Dismiss.

On April 7, 2022, VBHI filed a Motion for Extension of Time to Reply to Response to Complaint.

On April 8, 2022, the Commission issued an Order Granting Motion for Extension of Time.

On April 22, 2022, VHBI filed a Reply to Respondents' Response, Motion to Dismiss, and Answer.

The Presiding Commissioner concludes that, at this time, good cause exists to set the matter for hearing, establish deadlines for petitions to intervene and file testimony, and establish appropriate discovery rules. Pending motions will be addressed by further order of the Commission.

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

1. Any deposition that a party desires to take shall be taken before the deadline for the filing of Respondents' and other intervenor testimony. Notice of deposition shall be served on all parties at least seven calendar days prior to the taking of the deposition. Notice of deposition and all other discovery notices, requests, and motions shall be served on the appropriate parties by hand delivery or facsimile, or by electronic delivery if the receiving party has agreed to receipt by electronic delivery.

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 Respondents' and other intervenor testimony, shall be served by hand delivery, facsimile, or by means of electronic delivery, upon agreement of the receiving party, 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. See N.C. Gen. Stat. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena 24 hours after such a motion is filed.

3. Formal discovery requests related to the Complaint and VBHI's prefiled direct testimony shall be served no later than 14 calendar days prior to the deadline for filing of Respondents' and other intervenor testimony. The party served 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 Respondents' and other intervenor testimony.

4. Formal discovery requests related to Respondents' or intervenor prefiled direct testimony shall be served no later than three calendar days after the testimony is filed. The party served shall have up to three 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 five calendar days after that party's testimony is filed.

5. Formal discovery requests related to the parties' prefiled rebuttal testimony shall be served no later than two business days after such testimony is filed. The party served shall have up to two 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 three business days after the rebuttal testimony was filed. 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, any party filing objections 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 a motion to compel with the Commission, 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 at or before the time of filing with the Commission.

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

The Presiding Commissioner 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 Presiding Commissioner finds good cause to require any party who files supporting exhibits that include tables of numbers and calculations to provide the Commission Staff, and any other party upon request from such party, an electronic version of all such exhibits and workpapers with formulas intact.

Finally, the Presiding Commissioner shall require VBHI to consult with all other parties and file, not later than Monday, October 3, 2022, a joint list of witnesses to be called at the hearing, the order of witnesses, and the order and estimated time for cross-examination. If the parties cannot reach agreement, the remaining parties shall, not later than Wednesday, October 5, 2022, make a filing indicating their points of disagreement with VBHI's filing.

IT IS, THEREFORE, ORDERED as follows:

1. That the hearing is scheduled to begin on Monday, October 10, 2022, at 2:00 p.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina;
2. That Village of Bald Head Island shall file its direct testimony and exhibits on or before Tuesday, August 9, 2022;

3. That on or before Thursday, September 8, 2022, any persons having an interest in this matter may file petitions to intervene in this proceeding pursuant to Commission Rules R1-5, R1-6, R1-7, and R1-19. The Public Staff's right to intervene in this proceeding is recognized pursuant to N.C. Gen. Stat. 62-15(d) and Commission Rule R1-19(e);

4. That Respondents and any intervenors, including the Public Staff, shall file their direct testimony and exhibits or responsive comments on or before Thursday, September 8, 2022;

5. That the parties may file rebuttal testimony or reply comments on or before Wednesday, September 28, 2022;

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

7. That any parties filing supporting exhibits in Excel format shall provide the Commission Staff electronic versions of the exhibits filed in native Excel format via email at NCUCexhibits@ncuc.net, including all of the supporting tabs and formulas, within three days of the filing of such exhibits (or within three business days of the issuance of this order if already filed with the Commission); and that VBHI and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide any other party upon request an electronic version of all such exhibits and workpapers with formulas intact; and

8. That VHBI shall consult with all other parties and file, not later than Monday, October 3, 2022, a joint list of witnesses to be called at the hearing, the order of witnesses, and the order and estimated time for cross-examination. If the parties cannot reach agreement, the remaining parties shall, not later than Wednesday, October 5, 2022, make a filing indicating their points of disagreement with VHBI's filing.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of June, 2022.

NORTH CAROLINA UTILITIES COMMISSION



Joann R. Snyder, Deputy Clerk