

1 PLACE: Briar Chapel Amenity Center, Chapel Hill, North
2 Carolina

3 DATE: Tuesday, October 27, 2009

4 DOCKET NO.: W-1230, Sub 0

5 TIME IN SESSION: 7:25 p.m. - 7:43 p.m.

6 BEFORE: Ron Brown-- Hearing Examiner

7
8 IN THE MATTER OF

9 Briar Chapel Utilities, LLC, Application for Certificate
10 of Public Convenience and Necessity to Provide Sewer
11 Utility Service in Briar Chapel Subdivision in Chatham
12 County.

13 A P P E A R A N C E S:

14 BRIAR CHAPEL UTILITIES

15 Karen Kemerait
16 Blanchard, Miller, Lewis & Styers
17 1117 Hillsborough Street
Raleigh, North Carolina 27603

18 USING AND CONSUMING PUBLIC

19 William Grantmyre
20 Public Staff
21 430 N. Salisbury Street
22 Raleigh, North Carolina 27699-4326
23
24

1 MR. BROWN: Good evening. Let's come to order
2 and begin this hearing. My name is Ron Brown. I am a
3 Hearing Examiner for the North Carolina Utilities
4 Commission, and I have been assigned to preside over this
5 matter before us this evening.

6 The Commission now calls for hearing Docket
7 W-1230, Sub 0, which is in the matter of an Application
8 for Certificate of Public Convenience and Necessity to
9 provide sewer utility service in the Briar Chapel
10 Subdivision in Chatham County and for approval of rates.
11 This matter was initiated by the filing of the Application
12 on April 14th in 2004.

13 On June 10th of 2004, the Commission issued an
14 Order declaring utility status, which is merely a
15 procedural matter requiring an Order for DWQ, Division of
16 Water Quality, to commence processing Briar Chapel's plant
17 approval. Then on June 12, 2008, the Applicant filed an
18 amended Application. And on June 23, the filed further
19 amendment.

20 On February 12, 2009, the Applicant filed a
21 Motion to request issuance of temporary operating
22 authority.

23 On August 13, 2009, the Applicant filed a bond
24 and Commitment letter. And the Commission issued an Order

1 granting temporary operating authority, approving interim
2 rates, scheduling hearing, and requiring customers notice
3 on August 27.

4 On September 2 of this year, the Applicant filed
5 its undertaking. And on September 11, they filed their
6 Certificate of Service indicating that customer notice had
7 been provided as required.

8 On October 16, the Public Staff filed the
9 Affidavit of Calvin C. Craig, III, Financial Analyst with
10 the Economic Research Division. And on October 23,
11 Applicant filed its amended Application.

12 And on October 27, the Applicant and the Public
13 Staff signed a Stipulation, which you have heard explained
14 this evening, and that Stipulation will be filed with the
15 Commission tomorrow on October 28. That brings us to
16 date.

17 Will the parties please announce their
18 appearances beginning with the Public Staff?

19 MR. GRANTMYRE: My name is William Grantmyre,
20 Staff Attorney, Public Staff, representing the Using and
21 Consuming Public.

22 MS. KEMERAIT: My name is Karen Kemerait. I'm
23 the attorney for the Applicant, Briar Chapel Utilities.
24 And with me is Bill Mumford and he's with Briar Chapel

1 Utilities.

2 MR. BROWN: Are there any motions, stipulations
3 or preliminary matters we need to address before we begin
4 this evening?

5 MR. GRANTMYRE: Mr. Hearing Examiner, the Public
6 Staff and Company have entered into a Stipulation, which I
7 gave you a copy earlier. Tomorrow morning we will be
8 filing the identical Stipulation with the Chief Clerk of
9 the North Carolina's Utilities Commission.

10 One thing the customers need to -- if I could
11 just break away for a minute -- this whole proceeding is
12 on the website of the North Carolina Utilities Commission.
13 So if you would Google in North Carolina Utilities
14 Commission, you will see the website. And when you go to
15 docket search, key in W-1230, Sub 0, and you will see an
16 index of all the documents that have been filed in this
17 case. And you can pull up and review in its entirety
18 everything that has been filed.

19 We will file that Stipulation in the morning.
20 Because we have reached a Stipulation, the Public Staff
21 will briefly present our two witnesses, just very briefly,
22 to explain -- give an overview -- of what they did in
23 their investigation.

24 MR. BROWN: Okay. Would you like to proceed

1 with that before we call for any --

2 MR. GRANTMYRE: Yes. David Furr?

3 DAVID FURR; Being first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION BY MR. GRANTMYRE:

6 Q Would you please state your name and business
7 address?

8 A My name is David Furr, Utilities Engineer, Public
9 Staff, North Carolina Utilities Commission, Dobbs
10 Building, North Salisbury Street, Raleigh, North Carolina.

11 Q And approximately how many years experience have
12 you had working on water and wastewater cases with the
13 Public Staff?

14 A Water and wastewater, approximately 11/12 years.

15 Q Now, please give a brief overview of your
16 investigation which you found on the plant.

17 A As far as looking at the plant, we came out and
18 did inspect the plant, went to the treatment plant
19 facility. We looked at some of the pumping stations that
20 lift the affluent around the subdivision. We went out
21 into the spray fields and looked at the spray heads.

22 It's a very modern wastewater treatment plant;
23 very well built. I know the designer and very familiar
24 with his work. It's a very good facility.

1 In regards to the audit work that we did to come
2 up with what the expenses are, this is a new facility so
3 there are not any historical known operating expenses for
4 this system. Some of the systems we can use the permit
5 and use the current cost of things to come very close to
6 what those costs are. For instance with the testing that
7 is required around the sewage treatment plant, the permit
8 requires specific testing be done on what the cost of the
9 individual test is. And we can calculate pretty
10 accurately what that cost is. Other costs with no history
11 involved at this point is maintenance and repair and those
12 type of things. We end up having to estimate those
13 things.

14 Q You were looking at cost of some of these
15 facilities you recently did after this most recent rate
16 case, didn't you?

17 A I was the engineer on that rate case. There was
18 another engineer in my division. There were one or two
19 accountants.

20 Q In that case you used some of their operating
21 expenses as a guideline for their actual expenses for line
22 items. You look at maintenance and repair and some other
23 type things?

24 A Yes.

1 MR. GRANTMYRE: We have no further questions.

2 MS. KEMERAIT: I have no cross.

3 MR. GRANTMYRE: One other question.

4 BY MR. GRANTMYRE:

5 Q Do you feel they have the managerial and technical
6 ability to provide those water services in this area?

7 A Yes, sir.

8 MR. GRANTMYRE: Michelle Boswell?

9 MICHELLE BOSWELL; Being first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION BY MR. GRANTMYRE:

12 Q Would you please state your name and business
13 address for the record?

14 A Michelle Boswell. I work at 430 N. Salisbury
15 Street. I'm a Certified Public Accountant in North
16 Carolina.

17 Q And you are employed in the Accounting Division of
18 the Public Staff?

19 A I'm a Staff Accountant.

20 Q And approximately how many years have you been
21 working with the Public Staff?

22 A Nine years.

23 Q How many companies have you audited during that
24 period?

1 A Too many to count.

2 Q And did you do the audit of all the financial
3 information along with Mr. Furr?

4 A I did.

5 Q And that included plant invoices, also, the
6 invoices they installed the wastewater treatment plant?

7 A I did.

8 Q Can you please give the customers a brief overview
9 of what an audit by the Public Staff consists of? And did
10 you prepare this magnificent work paper that has all the
11 financial schedules?

12 A I prepared the work paper. Whether or not it's
13 magnificent, I will let someone else decide.

14 Q I think it's magnificent. But go ahead.

15 A Whenever we look at any utility whether it's
16 electric, natural gas, water, sewer or telephone, we audit
17 everything from every last bit of plants they put in
18 service, ever screw they use, every drop of concrete; the
19 whole shootin' sha-bang so to speak. We also go through
20 every expenses such as salaries, any contracts they have
21 signed, any money they spend they say would be ongoing.

22 From there we put those numbers into our
23 schedules, and we go through and determine what's actually
24 reasonable; should they be paying themselves what they are

1 paying themselves? Should they include what they included
2 in there? And it's ongoing. We rely on other utilities
3 and the knowledge we have there.

4 We also go into the county themselves and say
5 how much or what is an average person would receive for
6 doing this job? And see if you are paying within that
7 average. If you are not, we reduce it; some cases they
8 have increases. It's a back and forth thing. We actually
9 go through each and every dollar and make a recommendation
10 based off that.

11 Q In the handout we gave to the customers, these
12 numbers are verified numbers and support those --

13 A They are.

14 Q You also had an opportunity to look at the
15 Stipulation and you support the Stipulation?

16 A I do.

17 MR. GRANTMYRE: We have no further questions.

18 MS. KEMERAIT: I have no questions.

19 MR. GRANTMYRE: That concludes the Public
20 Staff's presentation.

21 MR. BROWN: Okay. We need to --

22 MR. GRANTMYRE: We have no questions of the
23 Company. As I said, my stack of stuff two feet high, we
24 asked a lot of questions and got a lot of answers. So we

1 don't need customers -- If the customers want to speak to
2 the Company afterwards, I am sure the Company would be
3 glad to stay and answer any questions as will the Public
4 Staff.

5 MS. KEMERAIT: We will be willing do stay. I
6 will not be calling any witnesses. We agreed to the
7 Stipulation. We will be glad to stick around and answer
8 any questions.

9 MR. MUMFORD: Absolutely.

10 MR. BROWN: You heard the Public Staff and the
11 Public Staff's witnesses summarizing what they did to
12 conduct the audit of the Application of Briar Chapel
13 Utility Systems put forth, and you heard the Utility say
14 they agree with the Stipulation that has been signed with
15 the Public Staff.

16 And so we arrive at the last chance of any
17 customers that would like to make a statement. This is
18 not a time -- In a hearing like this, the customers'
19 participation is not a dialogue. It is a time for a
20 statement. You may make a statement. If you have
21 questions, you can ask questions before the hearing and
22 after the hearing. You can ask the Public Staff to ask
23 questions for you. But, of course, I think the question
24 and answer period before was very good. And I heard a lot

1 of good questions that were asked. Of course, they will
2 stick around afterwards if you like.

3 If you would like to make a statement, you can
4 come forward and make a statement.

5 PAUL NORTON; Being first duly sworn,
6 testified as follows:

7 DIRECT EXAMINATION BY MR. GRANTMYRE:

8 Q State your name for the record, please.

9 A My name is Paul Norton. I live at Vernon Woods.
10 In your documentation on here the connection fee, I just
11 want to say that in the documentation we have, it
12 stipulates no charge for us having sewage hooked up. And
13 I just want to verify that that is correct.

14 MR. MUMFORD: That is correct.

15 MR. GRANTMYRE: Are there any other customers
16 who would like to testify?

17 (No response.)

18 If not I would like the record to show that only
19 one customer testified and 14 customers are in attendance
20 as concerned customers. And they asked some very good
21 questions.

22 MR. BROWN: I am going to ask the Public Staff
23 and the Company to prepare a Joint Proposed Recommended
24 Order. And in preparing the Proposed Order, I ask them to

1 address the concerns here -- to address those concerns in
2 the Joint Proposed Recommended Order.

3 For your benefit, what they are going to do is
4 to prepare an Order they would like for me to issue. And
5 then I will take it, and I may take it exactly like it is
6 without moving a word or period or I may -- who knows what
7 I may do. I may juggle it around a little bit or I may
8 not. And then when I issue the Order, it is a Recommended
9 Order. I am not the Commission or a Commissioner. I am a
10 Hearing Examiner. And so Recommended Orders are that.
11 And they typically have a period of time after I issue an
12 Order that the parties and the Commission -- any party or
13 the Commission could decide to take issue with the Order
14 that I put out. And they could file a disagreement with
15 it. It's not likely to happen with this being a
16 Stipulated Order. I know the parties aren't going to if I
17 issue it like they present it and it's not likely the
18 Commission will either. But there is always a
19 possibility. So I do feel I should mention that is a
20 possibility.

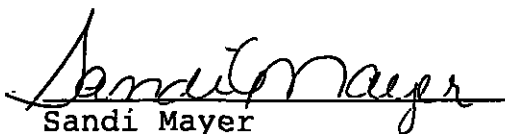
21 The parties indicated that they will file this
22 within a week after the closing of the hearing tonight.
23 This being a Proposed Recommended Order, I will get to
24 work on putting it out shortly thereafter.

1 If there is nothing further, this hearing is
2 adjourned.

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4 Whereupon, the hearing was adjourned.
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CERTIFICATE

The undersigned Court Reporter certifies that
this is the transcription of notes taken by her during
this proceeding and that the same is true, accurate and
correct.


Sandi Mayer
Court Reporter II

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N.C. Utilities Commission
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