

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1230, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Application by Briar Chapel Utilities, LLC,)	ORDER GRANTING
for a Certificate of Public Convenience and)	TEMPORARY OPERATING
Necessity to Provide Sewer Utility Service)	AUTHORITY, APPROVING
in Briar Chapel Subdivision in Chatham)	INTERIM RATES, SCHEDULING
County, North Carolina, and for Approval of)	HEARING, AND REQUIRING
Rates)	CUSTOMER NOTICE

BY THE COMMISSION: On June 12, 2008, Briar Chapel Utilities, LLC (BCU), filed an amended application for a certificate of public convenience and necessity to provide wastewater utility service and approval of rates for Briar Chapel Subdivision service area in Chatham County, North Carolina, which includes Herndon Woods Subdivision. Chatham County will provide the retail water service.

The Briar Chapel wastewater system will dispose of the wastewater effluent by land application as reclaimed water in various areas within Briar Chapel Subdivision, which does not include a golf course. The wastewater system at build out will consist of a 750,000 gpd wastewater treatment plant (WWTP), gravity and force collection mains, and effluent reclaimed water irrigation facilities to serve approximately 3,000 residential equivalent units (REUs).

The customer base will be primarily residential, but there will also be two schools, offices, and commercial customers. Currently there are approximately 40 residential customers and one school receiving wastewater utility service. BCU has not been charging these customers for the wastewater utility service.

The existing wastewater utility system includes a 250,000 gpd WWTP, a collection system for 1,160 residential units, one charter school, and a spray irrigation system for the effluent reclaimed water, as approved by the NC Division of Water Quality.

This is the first certificate of public convenience and necessity that BCU has applied for. BCU is a wholly owned subsidiary of NNP – Briar Chapel, LLC, the developer of Briar Chapel Subdivision. BCU plans to purchase the Briar Chapel wastewater utility system from its parent company NNP – Briar Chapel, LLC. The developer NNP – Briar Chapel, LLC will contribute 80% of the original cost of the entire wastewater utility system including the effluent reclaimed water irrigation facilities.

On February 12, 2009, BCU filed a motion requesting temporary operating authority and approval of BCU's applied for rates as interim rates. The applied for rates are:

Monthly Service Flat Rate	\$65 per REU
Connection Fee	\$1,500 per REU

The Public Staff has recommended: that the Commission grant temporary operating authority pursuant to GS 62-116(a); that an interim monthly service flat rate of \$45 per REU be approved; and that the applied for connection fee of \$1,500 per REU be approved as an interim connection fee. BCU agreed to the Public Staff's recommended interim monthly service rate of \$45 per REU.

The Public Staff also recommended the Commission require BCU to file with the Commission a \$50,000 bond secured with adequate surety pursuant to G.S. 62-110.3, prior to issuing an order granting temporary operating authority and approving interim rates. The \$50,000 bond and surety have been filed.

The Public Staff further recommended the application be scheduled for public hearing, and that BCU provide public notice to all the existing customers, including residents of Herndon Woods.

Based upon the foregoing, the Commission is of the opinion that the \$50,000 bond and surety should be accepted and approved; that temporary operating authority should be granted to BCU; and that the recommended interim rates should be approved subject to undertaking.

IT IS, THEREFORE, ORDERED as follows:

1. That the \$50,000 bond and surety filed by BCU is accepted and approved.
2. That Briar Chapel Utilities, LLC, is granted temporary operating authority to provide sewer utility service in the Briar Chapel Subdivision service area in Chatham County, North Carolina.
3. That Appendix A constitutes the Temporary Operating Authority.
4. That the Schedule of Interim Rates attached as Appendix B, is approved for sewer utility service rendered by the BCU in the Briar Chapel Subdivision service area for service rendered on and after the date of this order. The interim rates are subject to an undertaking to refund by BCU, with 10% interest per annum, any portion of the interim rates which are not ultimately approved by the Commission. BCU shall submit to the Commission the attached Undertaking (Appendix D) not later than 10 days after the date of this Order.

5. That the application is scheduled for public hearing at 7:00 p.m., on Tuesday, October 27, 2009, at the Briar Chapel Amenity Center, 1600 Briar Chapel Parkway, Chapel Hill, North Carolina.

6. That an officer or representative of BCU is required to appear in person before the Commission at the time and place of the hearing to testify concerning any of the information contained in the application. If BCU desires to cross-examine any witnesses at the hearing, then BCU shall be represented by legal counsel at the hearing.

7. That the Notice to Customers, attached as Appendix C, be mailed with sufficient postage or hand delivered by BCU to all customers including the residents of Herndon Woods not later than 15 days after the date of this Order; and that BCU submit to the Commission the attached Certificate of Service properly signed and notarized no later than 30 days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of August, 2009.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

rb080309.02

Gail L. Mount, Deputy Clerk

Chairman Edward S. Finley, Jr., and Commissioner Bryan E. Beatty did not participate.

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

APPENDIX A

DOCKET NO. W-1230, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

BRIAR CHAPEL UTILITIES, LLC

is granted this

TEMPORARY OPERATING AUTHORITY

to provide sewer utility service

in

BRIAR CHAPEL SUBDIVISION

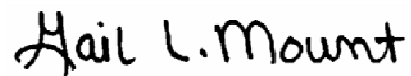
Chatham County, North Carolina

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 27th day of August, 2009.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive, flowing style.

Gail L. Mount, Deputy Clerk

SCHEDULE OF INTERIM RATES

for

BRIAR CHAPEL UTILITIES, LLC

for providing sewer utility service in

BRIAR CHAPEL SUBDIVISION

Chatham County, North Carolina

Monthly Flat Rate for Sewer Service: \$ 45.00 per REU ^{1/}

Connection Fee: \$ 1,500.00 per REU ^{1/}

Reconnection Charges:

If sewer service cut off by utility for good cause Actual cost ^{2/}

Returned Check Charge: \$20.00

Bills Due: On billing date

Bills Past Due: 15 days after billing date

Billing Frequency: Shall be monthly for service in arrears

Finance Charges for Late Payment: 1% per month will be applied to the unpaid balance of all bills still past due 25 days after billing date.

^{1/} REU is one Residential Equivalent Unit

^{2/} Briar Chapel Utilities shall itemize the estimated cost of disconnecting and reconnecting the service and shall provide this estimate to the customer with the cutoff notice **prior** to disconnection.

**STATE OF NORTH CAROLINA
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APPENDIX C
PAGE 1 OF 3

**NOTICE TO CUSTOMERS
DOCKET NO. W-1230, SUB 0
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

Notice is given that Briar Chapel Utilities, LLC (BCU or Applicant), 16 Windy Knoll Circle, Chapel Hill, North Carolina 27516, has applied to the North Carolina Utilities Commission for authority to provide sewer utility service in Briar Chapel Subdivision service area which includes Herndon Woods in Chatham County, North Carolina, and for approval of rates. BCU also requested Temporary Operating Authority and approval of its proposed rates as interim rates.

The Public Staff recommended interim rates to the North Carolina Utilities Commission. The Public Staff indicated that the Applicant had been informed of these recommended interim rates and that the Applicant agreed to the Public Staff's interim rates.

Based upon the foregoing, the Commission has granted Briar Chapel Utilities, LLC, Temporary Operating Authority and approved the interim rates recommended by the Public Staff, subject to refund. The recommended interim rates and BCU's proposed rates are as follows:

	<u>Recommended Interim Rates</u>	<u>Proposed Rates</u>
<u>Residential Service:</u>		
Monthly Flat Rate per REU ^{1/}	\$45.00	\$65.00
<u>Nonresidential Service:</u>		
Monthly Flat Rate per REU ^{1/}	\$45.00	\$65.00
<u>Connection Fee per REU:</u> ^{1/}	\$1,500	\$1,500

^{1/} REU is a residential equivalent unit

The Commission may consider additional or alternative rate design proposals which were not included in the original application and may order increases or decreases in the sewer rate schedule which differ from those proposed by the Applicant. However, any rate structure considered will not generate more overall revenues than requested.

PROCEDURES FOR PUBLIC HEARING:

The Commission has scheduled the application for public hearing at hearing at 7:00 p.m., on Tuesday, October 27, 2009, at the Briar Chapel Amenity Center, 1600 Briar Chapel Parkway, Chapel Hill, North Carolina. This hearing will be for the taking of testimony from the customers of BCU including residents of Herndon Woods, the Public Staff, other interveners, and BCU. Correspondence concerning the proposed rates and/or service problems should be directed to the Public Staff.

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 which the writer wishes to be considered by the Public Staff in its investigation of the matter, and these statements should be addressed to Mr. Robert Gruber, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326. Written statements/protests can also be faxed to Public Utilities Engineer David Furr at (919) 715-6704 or emailed to Mr. Furr at david.furr@ncmail.net.

The Attorney General is also authorized by statute to represent consumers in proceedings before the Commission. Statements/protests to the Attorney General should be addressed to The Honorable Roy Cooper, Attorney General, c/o Utilities Section, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001.

Written statements are not evidence unless those persons submitting the statements appear at the public hearing and testify concerning the information contained in their written statements.

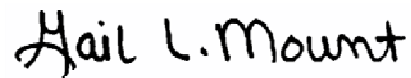
Persons desiring to present testimony concerning their opinion on this application, or on any service problems they may be experiencing, may appear at the public hearing and give such testimony.

Persons desiring to intervene in the matter as formal parties should file a motion under North Carolina Utilities Commission Rules R1-6, R1-7, and R1-19 no later than 10 days before the date of the hearing. Such motions should be filed with the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325.

A copy of the application and all filings in this matter are available for review by the public at the Office of the Chief Clerk, North Carolina Utilities Commission, 430 North Salisbury Street, Raleigh, North Carolina. Upon request, the Chief Clerk will place a copy of the application and all filings in centrally located public libraries where they may be copied without prohibition. Such requests may be made by writing to the Chief Clerk, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325, by giving the name and address of the library to which the information is to be mailed. Information regarding this proceeding can also be accessed from the Commission's website at www.ncuc.net.

This the 27th day of August, 2009.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive, flowing style.

Gail L. Mount, Deputy Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

APPENDIX D

DOCKET NO. W-1230, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Briar Chapel Utilities, LLC, for a)	
Certificate of Public Convenience and Necessity to)	
Provide Sewer Utility Service in Briar Chapel)	UNDERTAKING
Subdivision in Chatham County, North Carolina, and)	
for Approval of Rates)	

NOW COMES Briar Chapel Utilities, LLC (Applicant), and files this Undertaking as follows:

UNDERTAKING

The Applicant, by and through its undersigned owner/executive officer, makes its written undertaking to the North Carolina Utilities Commission that it will refund to its customers any amount of the approved interim rate, plus 10% interest per annum, that may be finally determined by the Commission to be excessive and is required by Final Order of the Commission.

This _____ day of _____, 2009.

By: _____

(Owner/President)

CERTIFICATE OF SERVICE

I, _____, mailed with sufficient postage or hand delivered to all affected customers the attached Notice to Customers issued by the North Carolina Utilities Commission in Docket No. W-1230, Sub 0, and the Notice was mailed or hand delivered by the date specified in the Order.

This the ____ day of _____, 2009.

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 No. W-1230, Sub 0.

Witness my hand and notarial seal, this the ____ day of _____, 2009.

Notary Public

Address

(SEAL)

My Commission Expires:

Date