



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

November 2, 2009

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FILED

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Clerk's Office
N.C. Utilities Commission

Ms. Renné C. Vance, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

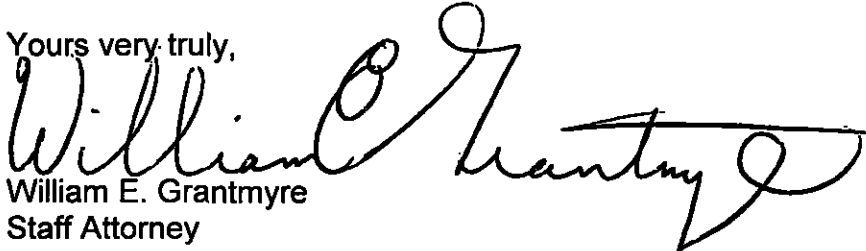
Re: Docket No. W-1230, Sub 0

Dear Ms. Vance:

Enclosed for filing are twelve (12) copies of the Stipulation of Briar Chapel Utilities, LLC, and the Public Staff in the above-referenced docket.

By copy of this letter, I am forwarding a copy to all parties of record.

Yours very truly,


William E. Grantmyre
Staff Attorney

WEG/bl

Enclosures

cc: Parties of Record

Executive Director
733-2435

Communications
733-2810

Economic Research
733-2902

Legal
733-6110

Transportation
733-7766

Accounting
733-4279

Consumer Services
733-9277

Electric
733-2267

Natural Gas
733-4326

Water
733-5610

(ST)

Brain

AG

Bennink

Foster

Holmes

Seasome

Kato

Hilburn

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. W-1230, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

FILED
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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)
Subdivision in Chatham County, North Carolina,)
and for Approval of Rates)

STIPULATION

Pursuant to G.S. 62-69 and Rule R1-24(c) of the Rules and Regulations of the North Carolina Utilities Commission (Commission), Briar Chapel Utilities, LLC (BCU), and the Public Staff – North Carolina Utilities Commission (Public Staff), hereinafter, collectively referred to as the "Parties", submit the following Stipulation for the Commission's consideration. The Parties stipulate and agree as follows:

PROCEDURAL HISTORY

On June 12, 2008, BCU filed an amended application with the Commission for a certificate of public convenience and necessity (Certificate) to provide wastewater utility service in Briar Chapel Subdivision service area in Chatham County, North Carolina, which includes Herndon Woods Subdivision. Chatham County will provide the water utility service.

The Briar Chapel wastewater utility 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 utility system at buildout 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 66 residential customers and one school receiving wastewater utility service. BCU began charging these customers for the wastewater utility service upon issuance of the Commission's August 27, 2009 Order Granting Temporary Operating Authority, Approving Interim Rates, Scheduling Hearing, and Requiring Public Notice.

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 (DWQ).

This is the first Certificate BCU has applied for.

BCU is a wholly owned subsidiary of NNP – Briar Chapel, LLC (NNP – Briar Chapel), the developer of Briar Chapel Subdivision.

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

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

The Public Staff recommended the Commission grant temporary operating authority pursuant to G.S. 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.

BCU filed the \$50,000 bond and surety with the Commission on August 13, 2009. The Commission accepted and approved the bond and surety in the Commission's order dated August 27, 2009.

The Public Staff has conducted extensive discovery and comprehensive negotiations with BCU. As a result of those negotiations, the Public Staff and BCU have been able to agree upon this Stipulation.

The Public Staff and BCU agree to the terms set forth below:

1. BCU is properly before the Commission seeking approval of a Certificate pursuant to G.S. 62-110 to provide wastewater utility service in the Briar Chapel Subdivision service area, which includes Herndon Woods Subdivision in Chatham County, North Carolina, and approval of rates.

2. The service area that is the subject of this proceeding to be served by the existing 250,000 gpd WWTP, is shown on the map entitled Briar Chapel Utilities, LLC Sewer Service Area (Phase 1 250,000 GPD) and filed with the Commission on October 23, 2009.
3. BCU plans to purchase the Briar Chapel wastewater utility system from its parent company NNP – Briar Chapel. The developer NNP – Briar Chapel, shall contribute 80% of the original cost of the entire wastewater utility system serving all present and future phases of Briar Chapel Subdivision, including the effluent reclaimed water irrigation facilities. The purchase price paid by BCU to NNP – Briar Chapel for the entire wastewater utility system serving all present and future phases of Briar Chapel Subdivision, including the effluent reclaimed water irrigation facilities, shall be 20% of NNP – Briar Chapel's total construction cost.
4. BCU has filed all exhibits required for the Certificate.
5. On October 23, 2009, BCU filed with the Commission a revised draft unexecuted Agreement between NNP – Briar Chapel and BCU dated September ____, 2009 (Agreement). The Public Staff and BCU agree that BCU shall file with the Commission this Agreement fully executed no more than 20 days after the Commission's order issuing the Certificate.
6. BCU shall file with the Commission no more than 30 days after the Commission's order issuing the Certificate, a copy of the executed and recorded Effluent Easement and Irrigation Agreement.
7. BCU has the technical, managerial, and financial capacity to provide wastewater utility service in this new franchise area.
8. The quality of wastewater utility service provided to date by BCU has been satisfactory.
9. BCU in its application applied for the following wastewater rates:

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


10. BCU and the Public Staff agree the Commission approved wastewater rates should be:

Monthly Service Flat Rate	\$45 per REU
Connection Fee	\$1,500 per REU

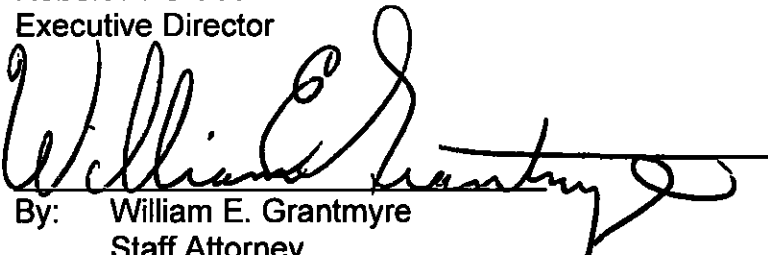
11. In the future, BCU at its option may apply to the Commission for an increased connection fee. Any future increase in connection fee will not modify the requirement for the developer NNP – Briar Chapel to contribute 80% of the wastewater utility system capital costs.
12. The \$50,000 bond and surety filed by BCU and approved by the Commission by order dated August 27, 2009, is an adequate bond for the service area subject to this proceeding described in paragraph 2 above.
13. That NNP – Briar Chapel should provide to the Public Staff for review within 60 days of filing with the IRS, NNP – Briar Chapel's federal income tax returns for the years 2009, 2010, 2011, and 2012.
14. That BCU and the Public Staff will support this Stipulation in any proposed order filed with the Commission in this docket.

The foregoing is agreed and stipulated to, this the 27th day of October, 2009.

BRIAR CHAPEL UTILITIES, LLC


By: WILLIAM MUMFORD
ASST. SECRETARY

PUBLIC STAFF
Robert P. Gruber
Executive Director


By: William E. Grantmyre
Staff Attorney