

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. W-1320, SUB 0
DOCKET NO. W-1300, SUB 55
DOCKET NO. W-1320, SUB 2
DOCKET NO. W-661, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. W-1320, SUB 0)
DOCKET NO. W-1300, SUB 55)
)
In the Matter of)
Application by ONSWC – Chatham)
North, LLC,)
4700 Homewood Court, Suite 108,)
Raleigh, North Carolina 27609, and)
Old North State Water Company,)
LLC, 4700 Homewood Court, Suite)
108, Raleigh, North Carolina 27609,)
for Authority to Transfer the Briar)
Chapel Subdivision Wastewater)
System and Franchise in Chatham)
County, North Carolina, and)
Approval of Rates)
)
DOCKET NO. W-1320, SUB 2)
DOCKET NO. W-661, SUB 9)
)
In the Matter of Application by)
ONSWC – Chatham North, LLC,)
4700 Homewood Court, Suite 108,)
Raleigh, North Carolina 27609, and)
Fitch Creations, Inc., d/b/a)
Farrington Utilities, 2000)
Farrington Village Center, Pittsboro,)

North Carolina 27312, for Authority)
to Transfer the Fearrington Village)
Wastewater System and Franchise)
in Chatham County, North Carolina,)
and Approval of Rates)
_____)

VERIFIED PETITION FOR INTERVENTION
BY THE BRIAR CHAPEL COMMUNITY ASSOCIATION, INC.

Pursuant to Commission Rule R1-19, the Briar Chapel Community Association, Inc. (“BCCA”), by its undersigned counsel and by the attached verification, respectfully submits this Petition to intervene in the above-referenced consolidated cases in connection with the BCCA’s opposition to the proposed transfers and the interconnection of the Briar Chapel and Fearrington Village wastewater utility systems. As grounds for this Petition, the BCCA submits as follows:

1. The BCCA is a nonprofit corporation, with an elected Board of Directors, organized under Chapters 55A and 47F of the N.C. General Statutes and has approximately 2000 member-households in the Briar Chapel community located in Chatham County, North Carolina. Generally, the BCCA’s responsibilities include the management, maintenance, and operation and control of over 900 acres of common area for the benefit of member-owners and households in the community,

including the establishment, administration and enforcement of standards of conduct, maintenance, or other activity generally prevailing in Briar Chapel.

2. The address for the BCCA is 1600 Briar Chapel Parkway, Chapel Hill, N.C. 27516; and the email address for the President of the BCCA Board of Directors is Thomas.Speer@briarchapelife.com. The names, post office address, and electronic mailing addresses of counsel for the BCCA in this matter are provided below.

3. The BCCA Board of Directors unanimously authorized the preparation and filing of this Petition on March 12, 2020.

4. The current BCCA Board of Directors did not come into existence until late November 2019 when the developer of Briar Chapel, NNP-Briar Chapel, LLC, turned over control of the Board to the homeowners in Briar Chapel. As represented in the Public Staff's "Motion to Reschedule Evidentiary Hearing" filed January 21, 2020 ("Public Staff's Motion"), which is incorporated herein as if fully set out herein, the current BCCA Board of Directors notified the Public Staff that, despite the Board's efforts, the Board was unsuccessful in hiring an attorney prior to the December 27, 2019 deadline for petitions to intervene in this

proceeding. Thereafter, the Board contacted a number of attorneys and ultimately engaged undersigned counsel in early February to investigate the current proceedings and to advise the Board about intervention. A principal purpose of the Public Staff's Motion was to provide for a reasonable period of time within which the Board, through the investigation and advice of counsel, could make a decision about filing a Petition for intervention. *See Public Staff's Motion* at ¶¶ 8-11.

5. Pursuant to an Effluent Easement and Irrigation Agreement (recorded with the Chatham County Register of Deed in Book 1494 at page 0824), significant portions of BCCA common-area property consist of easements in favor of Old North State Water Company ("ONSWC") for its wastewater infrastructure servicing Briar Chapel. At the public hearing before this Commission on January 14, 2020, 31 Briar Chapel customers, including five members of the BCCA Board, testified and introduced 26 exhibits in opposition to the ONSWC, Chatham North and Fearington Village applications. This testimony complained of: (1) odor problems from the WWTP; (2) odor problems from the reclaimed water irrigation system; (3) significant over irrigation on reclaimed water spray fields, resulting in standing water, and damage to vegetation; (4) 14 raw

sewage sanitary sewer overflows since October 2017; (5) overburdening of easements; (6) lack of response by ONSWC and its operator, Envirolink, Inc, to customer service complaints; and (7) the spraying of reclaimed water outside of DEQ permitted spray areas. *See also Public Staff's Motion* at ¶¶ 2-4, and 7. All of these complaints directly affect BCCA property that is managed for the benefit of Briar Chapel residents.

6. By a cover letter dated February 3, 2020, ONSWC filed a "Report Responding to Testimony of the Briar Chapel and Fearington Village Customers" at the January 14, 2020 hearing. The BCCA disputes significant portions of the representations and assertions made in this Report.

7. If permitted to intervene, the BCCA intends to file supplemental direct expert witness testimony in accordance with the Commission's schedule set forth in its "Order Rescheduling Hearing and Establishing Deadlines for Prefiling Testimony," dated February 26, 2020, and to otherwise participate in these proceedings as permitted by Commission rules.

WHEREFORE, the BCCA respectfully petitions this Commission to allow the BCCA to intervene in this proceeding and to enter an order

about intervention as soon as reasonably practicable so that the BCCA, if granted intervenor status, may adequately prepare for its responsibilities to comply with this Commission rescheduling Order for prefiling testimony of February 26, 2020.

This the 22 day of March, 2020.

THE BROUGH LAW FIRM, PLLC

Electronically submitted
/s/ G. Nicholas Herman
N.C. State Bar # 10923

/s/ Brady N. Herman
N.C. State Bar # 53492
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VERIFICATION

I, Thomas Speer, President, Briar Chapel Community Association, being duly sworn, states that he has read the foregoing Verified Petition and knows the contents thereof; and, that the information contained therein is true to the best of his information and knowledge.


Thomas Speer

Chatham County, North Carolina

Sworn to and subscribed before me,
this 27th day of March, 2020.


NOTARY PUBLIC

Gerard H Tucker Jr
Notary Public
Chatham County, NC

My commission expires: 08/04/2020

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing Verified Petition upon all parties to this cause by deposit in the U.S. Mail, postage prepaid, and by email transmission

This the 30th day of March, 2020.

/s/ G. Nicholas Herman