

**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)	ORDER
Carolina 27609, and Old North State Water Company,)	CONSOLIDATING
LLC, 4700 Homewood Court, Suite 108, Raleigh, North)	DOCKETS,
Carolina 27609, for Authority to Transfer the Briar)	SCHEDULING
Chapel Subdivision Wastewater System and Franchise)	HEARINGS, AND
in Chatham County, North Carolina, and Approval of)	REQUIRING
Rates)	CUSTOMER NOTICE
)	
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)	
Fearrington Utilities, 2000 Fearrington 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)	

BY THE COMMISSION: On March 14, 2019, in Docket Nos. W-1320, Sub 0 and W-1300, Sub 55, ONSWC - Chatham North, LLC (Chatham North), and Old North State Water Company, LLC (Old North State), filed an application seeking authority to transfer to Chatham North, an affiliate of Old North State, the Briar Chapel Subdivision wastewater utility system assets and franchise in Chatham County, and for approval of rates (BC Application). There are currently 1,687 residential customers and 16 commercial customers, equal to 78 residential equivalent units (REUs), in the Briar Chapel Subdivision wastewater system service area. Chatham County provides the water utility service.

Chatham North and Old North State have entered into a Briar Chapel Asset Purchase Agreement (BC APA) dated January 3, 2019, under which Chatham North is purchasing the wastewater utility system for \$206,000, which amount Old North State listed on the BC Application as its original cost net investment. Chatham North does not presently hold wastewater franchises in North Carolina.

The current rates for Briar Chapel are the rates the Commission approved in the original franchise proceeding in Docket No. W-1230, Sub 0, Order dated December 8, 2009, for the developer owned utility Briar Chapel Utilities, LLC. When Old North State acquired the Briar Chapel wastewater utility system from Briar Chapel Utilities, LLC pursuant to Commission Order dated April 20, 2015, in Docket No. W-1300, Sub 9, the Commission approved for Old North State the then-existing rates for Briar Chapel Utilities, LLC, which had previously been reduced for the repeal of the gross receipts tax. Chatham North proposes to continue to charge the present Commission-approved rates.

The Briar Chapel present and proposed continued rates are as follows:

<u>Monthly Flat Rate Wastewater Service</u>	
Flat Rate Residential, per REU	\$42.30

On August 12, 2019, Old North State filed an amendment to the BC Application requesting approval for the connection fee to be increased from \$1,500 to \$4,000 per REU.

The North Carolina Department of Environmental Quality, Division of Water Resources (DWR), has approved the wastewater collection and treatment systems and reuse spray irrigation systems under permit numbers WQ0029867, WQ0028522, and WQCS00372.

On August 5, 2019, in Docket Nos. W-1320, Sub 2 and W-661, Sub 9, Chatham North and Fitch Creations, Inc. d/b/a Fearrington Utilities (FCI) filed an application seeking authority to transfer to Chatham North, the Fearrington Village wastewater utility system assets and franchise in Chatham County, and for approval of rates (Fearrington Application). There are currently 1,383 residential customers and 6 commercial customers, equal to 66 REUs, in the Fearrington Village wastewater system service area.

Old North State and FCI have entered into an Asset Purchase Agreement executed on September 22, 2017, (Fearrington APA), under which Old North State is purchasing the Fearrington Village wastewater utility system for \$1 plus future considerations. Exhibit 3 to the Fearrington APA is a lease agreement under which Old North State is obligated to pay to FCI a monthly rental payment \$3,250. Old North State and FCI have a pending wastewater asset and franchise transfer application in Docket Nos. W-1300, Sub 47 and W-661, Sub 9. Old North State assigned to Chatham North the Fearrington APA by assignment dated "March 2019". FCI is the developer of the Fearrington Village development. The Fearrington Village wastewater treatment plant

(WWTP) first two 90,000 gallons per day (gpd) phases were constructed in 1984. The last 90,000 gpd WWTP phase was constructed in 1995. This WWTP is nearing the end of its useful life and will need to be completely replaced, including material treatment upgrades, to meet upcoming nutrient management requirements for discharge into the Jordan Lake watershed. FCI has been issued a 500,000 gpd NPDES permit for discharge into an unnamed tributary of Bush Creek, a tributary of Jordan Lake, which will be transferred to Chatham North. DWR will be revising the Fearington Village NPDES permit, including adding significantly more stringent nutrient requirements.

Chatham North plans to construct a pump station to pump the Fearington Village wastewater to the Briar Chapel WWTP for treatment rather than replace the aged Fearington Village WWTP. Chatham North plans to convert the existing 250,000 gpd Briar Chapel extended aeration WWTP into a 1.0 MGD membrane bioreactor (MBR) WWTP to serve as a regional WWTP to treat the wastewater for the future buildout of Briar Chapel and Fearington Village, and other nearby future developments. The high quality MBR-treated effluent will be of the quality to meet the Jordan Lake nutrient requirements. Portions of the MBR-treated effluent will continue to be sprayed at the DWR-approved spray irrigation and reuse sites at Briar Chapel, and portions of the MBR-treated effluent will be discharged pursuant to the NPDES 500,000 gpd permit into an unnamed tributary of Bush Creek, a tributary of Jordan Lake.

The present annual flat rates of \$259.97 per REU rates for Fearington Village were approved in FCI's most recent general rate case Order dated December 22, 2009, in Docket No. W-661, Sub 6, as later modified for the elimination of the gross receipt tax.

The Fearington APA Paragraph 1.9 provides that Chatham North will not apply for a rate increase for Fearington Village until at least 24 months after the closing of the transfer of the Fearington Village wastewater system assets to Chatham North.

Chatham North proposes to continue the present Fearington Village Commission-approved rates as follows:

<u>Annual Flat Rate Residential, per REU</u>	\$259.97
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The Fearington Village commercial properties will continue to pay the currently approved flat rates.

On August 22, 2019, Chatham North filed a motion to consolidate the Briar Chapel Application and the Fearington Application. The Public Staff – North Carolina Utilities Commission (Public Staff) stated at the September 23, 2019 Commission Staff Conference that the Public Staff supports this motion for consolidation as there will be an integrated wastewater utility system, as upgraded by Chatham North for Briar Chapel and Fearington Village.

The hearing scheduled for January 14, 2020, at 7:00 p.m., at the Historic Chatham County Courthouse, 9 Hillsboro Street, 2nd Floor Courtroom, Pittsboro, North Carolina

shall be solely for the purpose of receiving testimony from the Briar Chapel and Fearington Village customers. The Commission has also scheduled a hearing in Raleigh on January 22, 2020, to begin at 10:00 a.m., in the Commission Hearing Room 2115, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, solely for the purpose of receiving expert witness testimony from Old North State, Chatham North, FCI, the Public Staff, and intervenors, if any.

The Commission finds good cause to schedule the BC Application and the Fearington Application for hearings and to require that Old North State and FCI provide notice to their customers of the hearings scheduled herein.

The Public Staff presented this matter at the Commission Staff Conference on September 23, 2019.

Based on the foregoing, and upon the recommendation of the Public Staff, the Commission is of the opinion that the BC Application and the Fearington Application should be consolidated; that a customer-only public hearing should be scheduled; that the matter should be scheduled for an evidentiary hearing solely for the purpose of receiving expert testimony; that the dates for the pre-filing of testimony should be established; and that customer notice should be provided.

IT IS, THEREFORE, ORDERED as follows:

1. That the BC Application, Docket No. W-1320, Sub 0, and Docket No. W-1300, Sub 55, and the Fearington Application, Docket No. W-1320, Sub 2, and Docket No. W-661, Sub 9, are hereby consolidated.

2. That the BC Application and Fearington Application are scheduled for hearing, solely for the purpose of receiving expert witness testimony from Chatham North, Old North State, FCI, the Public Staff, and intervenors, if any:

Raleigh, North Carolina: Beginning at 10:00 a.m., on Wednesday, January 22, 2020, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street.

3. That the BC Application and Fearington Application are scheduled for public hearing, solely for the purpose of receiving testimony from the Briar Chapel and Fearington Village customers, as follows:

Pittsboro, North Carolina: at 7:00 p.m., on Tuesday, January 14, 2020, 2nd Floor Courtroom, Historic Chatham County Courthouse, 9 Hillsboro Street.

4. That on or before Wednesday, December 4, 2019, Chatham North, Old North State, and FCI shall file the direct testimony of their witness(es).

5. That, on or before Friday, December 20, 2019, the Public Staff and intervenors, if any, shall file the testimony of their witness(es).

6. That, on or before Tuesday, January 7, 2020, Chatham North, Old North State, and FCI shall file the rebuttal testimony of its witness(es), if any.

7. That, on or before Friday, December 27, 2019, persons having an interest in this matter may file petitions to intervene in this docket.

8. That the customer evening hearing in Pittsboro is scheduled for the purpose of receiving testimony from the Briar Chapel and Fearington Village customers. Chatham North, Old North State, and FCI within 20 days after that hearing shall file a report responding to the testimony provided by the customers.

9. That an officer or representative of Chatham North, Old North State, and FCI are required to appear in person before the Commission at the time and place of the evidentiary hearing to testify concerning any of the information contained in the BC Application and the Fearington Application.

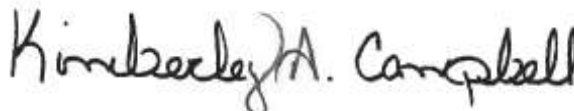
10. That, within five business days of the date of this Order, Chatham North shall deliver copies of the Notice to Customers, attached hereto as Appendix A-1, to all customers served by the Briar Chapel wastewater system, and to all customers served by the Fearington Village wastewater system, by U.S. mail or by hand delivery.

11. That, within 10 business days of the date of this Order, Chatham North shall file a completed copy of the Certificate of Service, attached hereto, evidencing compliance with the requirement to give notice to its customers pursuant to Ordering Paragraph No. 10 of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of October, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive, flowing style.

Kimberley A. Campbell, Chief Clerk

Chair Charlotte A. Mitchell did not participate in this decision.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

NOTICE TO CUSTOMERS

BRIAR CHAPEL
DOCKET NO. W-1320, SUB 0
DOCKET NO. W-1300, SUB 55

FEARRINGTON VILLAGE
DOCKET NO. W-1320, SUB 2
DOCKET NO. W-661, SUB 9

Notice is hereby given that, ONSWC - Chatham North, LLC (Chatham North), 4700 Homewood Court, Suite 108, Raleigh, NC 27609, and Old North State Water Company, LLC (Old North State), 4700 Homewood Court, Suite 108, Raleigh, NC 27609, filed an application with the North Carolina Utilities Commission (Commission) for authority to transfer to Chatham North, an affiliate of Old North State, the Briar Chapel Subdivision wastewater system in Chatham County, and for approval of rates.

Notice is hereby given that, ONSWC - Chatham North, LLC (Chatham North), 4700 Homewood Court, Suite 108, Raleigh, NC 27609, and Fitch Creations, Inc., d/b/a Fearington Utilities (FCI), 2000 Fearington Village Center, Pittsboro, North Carolina, 27312, filed an application with the Commission for authority to transfer to Chatham North, an affiliate of Old North State, the Fearington Village Subdivision wastewater system in Chatham County, and for approval of rates.

Chatham North proposes to continue to charge the Commission-approved present rates for the Briar Chapel and Fearington Village. Chatham North has not applied for a customer rate increase.

Chatham North plans to construct a pump station to pump the Fearington Village wastewater to the Briar Chapel wastewater treatment plant (WWTP) for treatment rather than replace the aged Fearington Village WWTP. Chatham North plans to convert the existing 250,000 gallons per day (gpd) Briar Chapel extended aeration WWTP into a 1.0 million gallons per day (MGD) membrane bioreactor (MBR) WWTP to serve as a regional WWTP to treat the wastewater for the future buildouts of Briar Chapel and Fearington Village, and other nearby future developments. The high quality MBR-treated effluent will be of the quality to meet the upcoming stringent Jordan Lake nutrient requirements. Portions of the MBR-treated effluent will continue to be sprayed at the

North Carolina Department of Environmental Quality, Division of Water Resources-approved spray irrigation and reuse sites at Briar Chapel, and portions of MBR-treated effluent will be discharged pursuant to the NPDES 500,000 gpd permit into an unnamed tributary of Bush Creek which is a tributary of Jordan Lake.

PROCEDURE FOR PUBLIC HEARING:

The Commission has scheduled a public hearing for Tuesday, January 14, 2020, at 7:00 p.m., at the Historic Chatham County Courthouse, 2nd Floor Courtroom, 9 Hillsboro Street, Pittsboro, North Carolina which shall be solely for the purpose of receiving testimony from the Briar Chapel and Fearington Village customers.

The Commission has also scheduled a hearing for Wednesday, January 22, 2020, at 10:00 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, for the purpose of receiving the expert testimony of Old North State, Chatham North, FCI, the Public Staff – North Carolina Utilities Commission (Public Staff), and intervenors, if any.

The Public Staff is authorized by statute to represent the consumers in proceedings before the Commission. Written statements 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 such statements should be addressed to Mr. Chris Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina, 27699-4300. Written statements may also be faxed to (919) 715-6704 or e-mailed to Lindsay Darden at lindsay.darden@psncuc.nc.gov.

Pursuant to N.C. Gen. Stat. § 14-269.4, absent certain specific exceptions, it is unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes, in any building housing any court of the General Court of Justice. Therefore, weapons are strictly prohibited at the hearings scheduled in these dockets in county courthouses. Everyone entering the county courthouse shall have to pass through a metal detector, and any weapons found will be seized.

Persons desiring to present testimony concerning their opinions on the BC Application and/or the Fearington Application, or on any service problems they may be experiencing, may appear at the public hearing at the Historic Chatham County Courthouse and give such testimony.

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.

The Attorney General is also authorized by statute to represent the consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001.

Persons desiring to intervene in the matter as formal parties of record should file a motion under North Carolina Utilities Commission Rules R1-6, R1-7, and R1-19, on or before Friday, December 27, 2019. Any such motion should be filed with the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300.

The details of the applications for transfer of two wastewater utility systems, the public utility franchises, and the continuation of the existing Commission-approved customer service rates, have been filed with the North Carolina Utilities Commission. Copies of the applications and all filings in this matter are available for review by the public at the Commission Office of the Chief Clerk, 430 North Salisbury Street, Raleigh, North Carolina. Information regarding these proceedings can also be accessed from the Commission's website at www.ncuc.net under the docket numbers of these proceedings.

This the 14th day of October, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive, flowing style.

Kimberley A. Campbell, Chief Clerk

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 Nos. W-1320, Sub 0, W-1300, Sub 55, W-1320, Sub 2, and W-661, Sub 9, and the Notice was mailed or hand delivered by the date specified in the Order.

This the ____ day of _____, 2019.

By:

Signature

Name of Utility Company

The above named Applicant, ONSWC-Chatham North, LLC, by _____, 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 Nos. W-1320, Sub 0, W-1300, Sub 55, W-1320, Sub 2, and W-661, Sub 9.

Witness my hand and notarial seal, this the ____ day of _____, 2019.

Notary Public

Printed or Typed Name

(SEAL)

Commission Expires: _____
Date