

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**STAFF CONFERENCE AGENDA  
MAY 13, 2019**

**COMMISSION STAFF**

NO AGENDA ITEMS

**PUBLIC STAFF**

**E. WATER**

P1. DOCKET NO. W-1160, SUB 34 – KDHWTP, LLC – NOTIFICATION OF INTENTION TO BEGIN OPERATIONS IN CONTIGUOUS SERVICE AREA

EXPLANATION: On April 18, 2018, KDHWTP, LLC (KDH), filed a notification of intention to begin operations in an area contiguous to a present service area. KDH desires to expand sewer utility service in Water Oak Subdivision, Kill Devil Hills, Dare County, North Carolina, where KDH intends to eventually serve 70 lots as shown on the Subdivision Plat filed on June 11, 2018.

On March 18, 2019, KDH filed a revised notification of intention to begin operations in an area contiguous to a present service area. In its revised notification, KDH desires to serve 34 residential customers, lots 14-27 and 51-70, which makes up Phase I of Water Oak Subdivision.

KDH's proposed rates are the same as currently approved in its present franchised service area. KDH states that there are no other sewer service providers, either public utility or municipal, in the location which KDH proposes to serve.

Under Permit No. WQ0002829, dated July 14, 2017, the North Carolina Department of Environmental Quality, Division of Water Resources (DWR) approved modifying the disposal capacity from 500,000 gallons per day (gpd) to 660,000 gpd. On May 29, 2018, Under Permit No. WQ0040028, DWQ approved the wastewater collection extension and pump stations No. 1 and 2 to serve 70 residential, four habitable rooms per lot in Water Oak Subdivision.

KDH has entered a Purchase and Sale Agreement (Agreement) with Water Oak Residential, LLC (Developer) to sell capacity from its wastewater treatment plant at its Commission approved capacity fee of \$12.98 per gallon per day (gpd). Under the Agreement, 16,320 gallons per day (gpd) of capacity is provided to the Developer for a total fee of \$211,833.60. Pursuant to the Agreement, the Developer will install the required wastewater pump stations, the collection system, as well as necessary piping and equipment to connect Water Oak Subdivision, Phase I to the existing KDH collection

system. Upon completion, and upon request of KDH, the pump stations, collection system, and interconnecting pipes will be conveyed to KDH at no cost.

The Public Staff has reviewed the Agreement and recommends that the Commission approve the Agreement provided, that prior to connecting Water Oak Subdivision, Phase I, to KDH's collection system, KDH obtained ownership and operational responsibility for the collection system, the pump stations and lines from the pump stations to the KDH collection system; and that KDH file with the Commission, copies of the pump stations and collection system bill of sale, and the recorded deeds or easements, within 20 days after these requirements have been met.

KDH presently holds a sewer franchise serving approximately 64 customers in Dare County, North Carolina, and its record of service is satisfactory.

The Public Staff recommends a bond in the amount of \$50,000 for all 70 lots in Water Oak Subdivision. On April 25, 2019, KDH posted a bond with Irrevocable Standby Letter of Credit in the amount of \$50,000, which brings the total KDH posted bond amount to \$200,000.

KDH has requested waiver of filing the five year projected income and cash flow statements as the residences to be added will not have a significant impact on KDH's revenues and expenses. The Public Staff supports this request.

The Public Staff is of the opinion that KDH has the technical, managerial, and financial capacity to provide sewer utility service in this contiguous area.

EXHIBIT: A copy of the proposed order is attached as Exhibit No. P-1.

RECOMMENDATION: (Casselberry/Henry/Grantmyre) That the Commission issue the Public Staff's proposed order, approving the Agreement, accepting bond and recognizing the contiguous extension.

P2. DOCKET NO. W-1311, SUB 2 – CBL & ASSOCIATES MANAGEMENT, INC. – APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

EXPLANATION: On June 19, 2018, CBL & Associates Management, Inc. (CBL or Applicant), filed an application with the Commission seeking to acquire a water and sewer franchise for Alamance Crossing West and Alamance Crossing East in Alamance County, North Carolina, and for approval of rates. Alamance Crossing West and Alamance Crossing East together comprise the Alamance Crossing shopping center in Burlington. The Applicant owns Alamance Crossing and leases store space to its tenants.

On September 5, 2018, and October 23, 2018, the Applicant filed amendments to its application clarifying the proposed rates.

CBL purchases water and sewer service from the City of Burlington (City). Currently, CBL provides water and sewer service to its tenants without any direct charge, but its leases provide for both a fixed monthly rental and an additional charge based on an estimate of the tenant's water usage. The estimate is based upon data obtained from the tenant's plans and specifications, as verified by a survey of the tenant's premises following the completion of its construction work. Upon approval of its application, CBL proposes to determine its tenants' actual water usage by installing submeters. Currently, CBL provides water and sewer service to 62 retail customers, water service to 6 common areas and sewer service to 3 common areas.

On February 22, 2019, the Applicant filed a letter with the Commission withdrawing its request to recover the original cost of plant in service for water and sewer and accepted the Public Staff's recommended rates.

On March 25, 2019, the Commission issued an order requiring customer notice, specifying that the matter may be decided without a public hearing if no significant protests were received from consumers by April 30, 2019. On April 5, 2019, CBL filed the certificate of service as required. The notice period expired and no protests were received.

CBL's originally proposed rates and the Public Staff's recommended rates which CBL has agreed to, are as follows:

<u>Monthly Metered Water Service:</u>	<u>CBL's Originally Proposed Rates</u>	<u>CBL's Agreed to and the PS's Recommended Rates</u>
Base charge, zero usage	\$ 35.00	
< 1" meter		\$ 3.90
1" meter		\$ 9.75
1.25" meter		\$14.63

1.5" meter		\$19.50
2" meter		\$31.20
Usage charge, per 1,000 gallons		\$ 3.38
1,000 gallons minimum		\$ 8.37
1,001 up to 10,000 gallons		\$ 8.37
10,001 up to 100,000 gallons	\$ 7.93	
100,001 up to 1,000,000 gallons	\$ 7.48	
All gallons over 1,000,000		\$ 6.17

	<u>Applicant's Proposed Rates</u>	<u>Public Staff's Recommended Rates</u>
<u>Monthly Metered Sewer Service:</u>		
Base charge, zero usage	\$ 35.00	
< 1" meter		\$ 5.10
1" meter		\$12.75
1.5" meter		\$25.50
2" meter		\$40.80
Usage charge, per 1,000 gallons		\$ 4.97
1,000 gallons minimum	\$ 9.37	
1,001 up to 10,000,000 gallons	\$ 9.37	
All gallons over 10,000,000	\$ 7.35	

CBL has filed all exhibits required with the application.

The Public Staff is of the opinion that CBL has the technical, managerial, and financial capacity to provide water and sewer utility service in the service area. The Public Staff recommends that the Commission require posting of a bond in the amount of \$20,000.

On January 24, 2019, CBL posted a surety bond in the amount of 20,000.

The Public Staff recommends that the Commission issue the Public Staff's proposed order accepting and approving bond, approving franchise, approving rates and requiring customer notice.

EXHIBIT: A proposed order is attached as Exhibit No. P-2.

RECOMMENDATION: (Casselberry/Chiu/Grantmyre) That the Commission issue the proposed order accepting and approving bond, approving transfer, approving rates, and requiring customer notice.

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1160, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Notification by KDHWTP, LLC, Post Office )	
Box 3629, Kill Devil Hills, North Carolina 27948, )	
of Intention to Begin Operations in an Area )	ORDER RECOGNIZING
Contiguous to a Present Service Area to )	CONTIGUOUS EXTENSION
Provide Sewer Utility Service in Water Oak )	
Subdivision in Dare County, North Carolina )	

BY THE COMMISSION: On April 18, 2018, KDHWTP, LLC (KDH), filed a notification of intention to begin operations in an area contiguous to a present service area. KDH desires to expand sewer utility service to Water Oak Subdivision in Dare County, North Carolina, where KDH intends to eventually serve 70 lots as shown on the Subdivision Plat filed on June 11, 2018.

On March 18, 2019, KDH filed a revised notification of intention to begin operations in an area contiguous to a present service area. In its revised notification, KDH desires to serve 34 residential customers, lots 14-27 and 51-70, which makes up Phase I of Water Oak Subdivision.

The Public Staff presented this matter at the Commission’s Staff Conference on May 6, 2019.

Based upon the verified notification and the entire record in this matter, the Commission makes the following:

**FINDINGS OF FACT**

1. KDH presently holds a sewer franchise serving approximately 64 customers in Dare County, North Carolina, and its record of service is satisfactory.
2. KDH has an unusual certificate of public convenience and necessity because the service area was defined as customers being served rather than a geographical area.<sup>1</sup> White Oak Subdivision is located close to the existing customers.

<sup>1</sup> See Docket No. W-1160, Sub 0.

KDH states that there are no other sewer service providers, either public utility or municipal, in the location that KDH proposes to serve. In the unusual circumstance of a service area defined by customers rather than geography, and especially given the unusual history of this franchise, and without creating a precedent for other cases, the Commission will treat the matter as a contiguous extension.

3. KDH's proposed rates are the same as currently approved in its present franchised service area. KDH states that there are no other sewer service providers, either public utility or municipal, in the location which KDH proposes to serve.

4. Under Permit No. WQ0002829, dated July 14, 2017, the North Carolina Department of Environmental Quality, Division of Water Resources (DWR) approved modifying the disposal capacity from 500,000 gallons per day (gpd) to 660,000 gpd.

5. Under Permit No. WQ0040028, dated May 29, 2018, the North Carolina Department of Environmental Quality, Division of Water Resources (DWR) approved the wastewater collection extension and pump stations No.1 and No. 2 for 70 residential, four habitable rooms per lot, connections.

6. KDH has entered a Purchase and Sale Agreement dated January 25, 2019, (Agreement) with Water Oak Residential, LLC (Developer) to sell capacity from its wastewater treatment plant at its Commission approved capacity fee of \$12.98 per gallon per day (gpd). Under the Agreement, 16,320 gallons per day (gpd) of capacity is provided to the Developer for a total fee of \$211,833.60. Pursuant to the Agreement, the Developer will install the required wastewater pump stations, the collection system, as well as necessary piping and equipment to connect Water Oak Subdivision, Phase I to the existing KDH collection system. Upon completion, and upon request of KDH, the pump station, collection system and interconnecting pipes will be conveyed to KDH at no cost.

7. The Public Staff has reviewed the Agreement and recommends that the Commission approve the Agreement, provided that prior to connecting Water Oak Subdivision, Phase I to KDH's collection system, KDH obtain ownership and operational responsibility for the pump stations, collection system, and line from the pump stations to the KDH collection system; and that KDH file with the Commission, copies of the pump stations and collection system bill of sale, and the recorded deeds or easements, within 20 days after these requirements have been met.

8. KDH has requested waiver of filing the five-year projected income and cash flow statements, which will not have a significant impact on KDH's revenues and expenses. The Public Staff supported this request, and the Commission finds the request reasonable under the circumstances.

9. KDH has the technical, managerial, and financial capacity to provide sewer utility service for the proposed service connection.

10. The Public Staff recommended a bond in the amount of \$50,000 for all 70 lots in Water Oak Subdivision. On April 25, 2019, KDH posted a bond and an Irrevocable Standby Letter of Credit in the amount of \$50,000, which brings the total KDH posted bond amount to \$200,000.

### CONCLUSIONS

Based on the foregoing and the recommendations of the Public Staff, the Commission is of the opinion that the bond should be accepted as covering all 70 lots in Water Oak Subdivision; that prior to accepting Water Oak Subdivision, Phase I onto the KDH system, KDH shall obtain ownership and operational responsibility for the pump stations, collection system, and line from the pump stations to the KDH collection system; and that KDH file with the Commission copies of the pump stations and collection system bill of sale, and the recorded deeds or easements, within 20 days after these requirements have been met, and that the notification to provide sewer service to Water Oak Subdivision, Phase I, Kill Devil Hills, Dare County, North Carolina should be recognized.

IT IS, THEREFORE, ORDERED as follows:

1. That the \$50,000 bond and Irrevocable Standby Letter of Credit surety filed in Docket No. W-1160, Sub 16, is intended to cover all 70 lots in Water Oak subdivision and is hereby accepted and approved.

2. That the Commission approves the Agreement, provided that prior to connecting Water Oak Subdivision, Phase I to KDH's collection system, KDH obtain ownership and operational responsibility for the pump stations, collection system, and line from the pump stations to the KDH collection system; and that KDH file with the Commission, copies of the pump stations and collection system bill of sale, the recorded deeds or easements, within 20 days after these requirements have been met. KDH shall file with the Commission any amendments to the Agreement within 30 days after executing the amendment.

3. That the contiguous extension of sewer utility service from KDH's existing service area to Water Oak Subdivision, Phase I, lots 14-27 and 51-70 , in Kill Devil Hills, Dare County, North Carolina, is hereby recognized.

4. That Appendix A constitutes the Certificate of Public Convenience and Necessity.

5. That the Schedule of Rates previously approved for KDH (see Docket Nos. W-1160, Sub 24 and M-100, Sub 138 Order Approving Tariff Revision and Requiring Customer Notice dated December 7, 2016) are recognized as being applicable for service to a residential customer. These are the same rates approved by the Commission for KDH's other franchised areas.

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_\_\_ day of May, 2019.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, Chief Clerk



**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1160, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

KDHWTP, LLC

is granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide sewer utility service

for

WATER OAK SUBDIVISION, PHASE I, LOTS 14-29 AND 51-70  
KILL DEVIL HILLS

Dare 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 \_\_\_\_ day of May, 2019.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, Chief Clerk

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1311, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
Application by CBL & Associates Management, Inc.,	)	ORDER ACCEPTING AND
2030 Hamilton Place Boulevard, CBL Center, Suite	)	APPROVING BOND,
500, Chattanooga, Tennessee, 37421, for a	)	GRANTING FRANCHISE,
Certificate of Public Convenience and Necessity	)	APPROVING RATES AND
Franchise to Provide Water and Sewer Utility Service	)	REQUIRING CUSTOMER
in Alamance Crossing West and Alamance Crossing	)	NOTICE
East in Alamance County, North Carolina, and for	)	
Approval of Rates	)	

BY THE COMMISSION: On June 19, 2018, CBL & Associates Management, Inc. (CBL or Applicant), filed an application with the Commission seeking to acquire a water and sewer franchise for Alamance Crossing West and Alamance Crossing East in Alamance County, North Carolina, and for approval of rates. Alamance Crossing West and Alamance Crossing East together comprise the Alamance Crossing shopping center in Burlington. The Applicant owns Alamance Crossing and leases store space to its tenants.

On March 25, 2019, the Commission issued an order requiring customer notice, specifying that the matter may be decided without a public hearing if no significant protests were received from consumers by April 30, 2019.

On April 5, 2019, CBL filed the certificate of service as required. The notice period expired and no protests were received.

Based upon the verified application and the entire record in this matter, the Commission makes the following:

**FINDINGS OF FACT**

1. CBL has one other franchise and serves approximately 83 customers.

2. CBL has agreed to the Public Staff's recommended rates as follows:

<u>Monthly Metered Water Service:</u>	<u>Public Staff's Recommended Rates</u>
Base charge, zero usage	
< 1" meter	\$ 3.90
1" meter	\$ 9.75
1.25" meter	\$14.63
1.5" meter	\$19.50
2" meter	\$31.20
Usage charge, per 1,000 gallons	\$ 3.38

<u>Monthly Metered Sewer Service:</u>	
Base charge, zero usage	
< 1" meter	\$ 5.10
1" meter	\$12.75
1.5" meter	\$25.50
2" meter	\$40.80
Usage charge, per 1,000 gallons	\$ 4.97

3. CBL has filed all exhibits required with the application.

4. CBL has the technical, managerial, and financial capacity to provide water and sewer utility service in this service area.

5. The Public Staff recommended that the Commission require posting of a bond in the amount of \$20,000. On January 24, 2019, CBL posted a surety bond in the amount of \$20,000.

### CONCLUSIONS

Based on the foregoing and the recommendations of the Public Staff, the Commission concludes that the \$20,000 surety bond is accepted and approved; that the franchise should be granted; and that the rates should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the surety bond in the amount of \$20,000 is accepted and approved for Alamance Crossing West and Alamance Crossing East.
2. That CBL & Associates Management, Inc., is granted a Certificate of Public Convenience and Necessity to provide water and sewer utility service in Alamance Crossing West and Alamance Crossing East in Alamance County, North Carolina.
3. That Appendix A constitutes the Certificate of Public Convenience and Necessity.
4. That the Schedule of Rates, attached as Appendix B, is approved and deemed to be filed with the Commission pursuant to Gen. Stat. § 62-138. Said Schedule of Rates is authorized to become effective for service rendered on and after the date of this Order.
5. That the Notice to Customers attached as Appendix C be mailed with sufficient postage or hand delivered by CBL to all customers affected by the approved rates; that the Notice to Customers be mailed or hand delivered no later than 10 days after the date of this Order; and that CBL submit to the Commission the attached Certificate of Service properly signed and notarized not later than 15 days after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_\_\_ day of \_\_\_\_\_, 2019.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, Chief Clerk

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1311, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

CBL & ASSOCIATES MANAGEMENT, INC.

is granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water and sewer utility service

in

ALAMANCE CROSSING WEST

and

ALAMANCE CROSSING EAST

Alamance 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 \_\_\_\_ day of \_\_\_\_\_, 2019.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, Chief Clerk

SCHEDULE OF RATES

for

CBL & ASSOCIATES MANAGEMENT, INC.

for providing water and sewer service

in

ALAMANCE CROSSING EAST AND ALAMANCE CROSSING WEST

Alamance County, North Carolina

Monthly Metered Water Service:

Base charge, zero usage	
< 1" meter	\$ 3.90
1" meter	\$ 9.75
1.25" meter	\$14.63
1.5" meter	\$19.50
2" meter	\$31.20
Usage charge, per 1,000 gallons	\$ 3.38

Monthly Metered Sewer Service:

Base charge, zero usage	
< 1" meter	\$ 5.10
1" meter	\$12.75
1.5" meter	\$25.50
2" meter	\$40.80
Usage charge, per 1,000 gallons	\$ 4.97

Reconnection Charges:

If water service is cut off by utility for good cause	\$	15.00
If water service disconnected at customer's request	\$	15.00

Return Check Fee: \$25.00

Bills Due: On billing date

Bills Past Due: 15 days after billing date

Billing frequency: Shall be monthly for service in arrears

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

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**NOTICE TO CUSTOMERS  
DOCKET NO. W-1311, SUB 2  
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

Notice is given that North Carolina Utilities Commission has issued an Order approving the franchise to provide water and sewer utility service in Alamance Crossing West and Alamance Crossing East in Alamance County, North Carolina. The Commission has approved the following rates, effective for service rendered on and after the date of this Order.

Monthly Metered Water Service:

Base charge, zero usage	
< 1" meter	\$ 3.90
1" meter	\$ 9.75
1.25" meter	\$14.63
1.5" meter	\$19.50
2" meter	\$31.20
Usage charge, per 1,000 gallons	\$ 3.38

Monthly Metered Sewer Service:

Base charge, zero usage	
< 1" meter	\$ 5.10
1" meter	\$12.75
1.5" meter	\$25.50
2" meter	\$40.80
Usage charge, per 1,000 gallons	\$ 4.97



EXHIBIT NO. P-2  
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APPENDIX C  
PAGE 2 OF 2

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_\_\_ day of \_\_\_\_\_, 2019.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, 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 No. W-1311, Sub 2, 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, \_\_\_\_\_, 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-1311, Sub 2.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed or Typed Name

(SEAL) My Commission Expires: \_\_\_\_\_  
Date