

3/8/14

Mr. Jim Allison, Chairman
Tennessee Regulatory Authority
Fourth Floor, 500 Deaderick Street
Nashville, TN 37243

RECEIVED
2014 MAR 13 AM 9:32
T.R.A. DOCKET ROOM

Dear Mr. Allison:

On March 5th 2014, Henry Walker filed Berry's Chapel's objections to the Advocates Motion for another Round of Discovery and to the Advocates Questions. In that filing Mr. Walker submitted what appeared to be bylaws of the corporation. In reviewing the filing the bylaws contain a document file number on the bottom of the page that corresponds with the original file prepared by Mr. Walker's predecessor Mr. Donald L Scholes. The signature page although left undated states these bylaws were adopted this day of _____ July 2010 and the board members at the time signed them. Hence the bylaws as signed were created and signed in 2010 (**Exhibit A**). Docket 11-00198 response to discovery filed on 2/22/12 pages 95-103/155 pages confirms this time line although bylaws were not attached.

On September 17th, 2010 Mr. Scholes sent a letter to Mary Freeman, Chairman of the TRA stating Lynwood **"became vested in Berry's Chapel Utility, Inc. a Tennessee nonprofit corporation"**. The purpose of the letter was to cancel the certificate of public conveniences and necessity. (**Exhibit B**)

In the TRA docket 11-00198 Discovery request answers filed by Berry's Chapel on 01/22/12 minutes of the board meetings were included. I have included their response in Exhibit C but want to call your attention to their response to page 8/155 question 44 stating they are a not for profit corporation and response to question 47: ***This information is available at the BCUI office for staff review during its onsite visit.*** This would imply that at a future time from 2/22/12 the staff of the TRA would have reviewed the same documents and same set of current bylaws that are in effect today. (**Exhibit C**)

Exhibit C also includes the board minutes as filed with the responses to CAPD request #45. I would like to direct your attention to 11-00198 page 73 and 74/155 minutes dated March 11, 2011 and signed by James B Ford, Secretary on April 13, 2011. In the first paragraph on page 2 (74/155) ***a motion was made by John Ring and seconded by Tyler Ring to amend the corporations charter to a Tennessee Nonprofit Corporation with MEMBERS (my emphasis). Mr. Scholes was directed to prepare and file the amendment and to amend the corporation's bylaws.***

Exhibit C 11-00198 pages 54/155 contains the minutes from April 13, 2011. In the second to last paragraph: ***Mr. Scholes presented a new set of bylaws for the Corporation which revised the existing bylaws to take into account the change in the Corporation from a nonprofit corporation without members to a nonprofit corporation with members A motion was made by Jim Ford and seconded by Tyler Ring to approve the new bylaws. After discussion the motion passed 3-0.*** James B Ford signed and dated the minutes on May 25, 2011

11-00198 Page 55-65/155 includes the bylaws that were approved by the board in the April Board meeting. The 4/13/2011 board minutes were approved on May 25th 2011. James B. Ford signed and dated the minutes on 6/23/11: 11-00198 page 53/155

Exhibit D: 11-00198 Response to CAPD request #47 page 106-122/155 also contains the current bylaws. In addition page 110/155 contains the articles of amendment as filed with the Secretary of State stating:

6. This corporation will have members and the amendment was adopted on March 11th 2011. The filing was signed by Tyler Ring, President. Pages 112-122/155 contain the current bylaws of the corporation that are in effect at this time.

Exhibit E: The response to request # 47 also includes the August 18th 2010 documents referring to the merger and in those documents ***Item 7 action without a meeting Southern Utility Shareholder Plan of Merger***. I have been unable to find the document authorizing the merger by the owners of Southern Utility. This was the company acquired through an agreement between David Terry, Lumberman's Financial and Tenn.Contractors when Terry defaulted on his debt: 99-00507. I can find no public record regarding costs, ownership or contributions to or from Southern Utility.

Exhibit F: 11-00065 filed 3/08/12 as a response of Berry's Chapel Utility to the TRA investigative group pages 1-2/101 on the second page in his letter to Mr. Kettles ***Item 3 addresses the Membership Application. Item 4: there are no owners of BCUI, It is a non-profit corporation for the mutual benefit of it's' customers. See Charter on file with the Secretary of State of TN office.*** The Secretary of State's office confirms the utility is a non-profit member benefit corporation as of 3/3/13 annual report filing.

11-00065 responses filed on 3/08/12 include attachment # 6 pages 54-64/115 containing the exact same bylaws as filed in response 45 and response 47 in 11-00198, the same bylaws that are in effect today.

Exhibit G: Correspondence from the company regarding membership:

July 23, 2012: From Tyler Ring Last paragraph: **Berry's Chapel Utility, Inc. is a member owned not-for profit cooperative. The Utility encourages its customers to become members so you will have a choice in the operation of the sewer system and the selection of the Board of Directors**

November 12 2012: From James B Ford: **Also included is the copy of the membership application filled out and completed by your wife.** (Copy of form attached)

January 8, 2013: From Tyler Ring: **"BCUI will also begin to enroll customers as members of the Utility, Later this year, the membership will elect a new board of directors to run the utility".** Needless to say this meeting never happened even though it was a part of the agreement between Utility Consultants, Inc. Tyler Ring President and Berry's Chapel Utility, Inc. Tyler Ring president according to the CAD Discovery Filing in Docket 14-00004.

We believe there is other correspondence where Mr. Ring and the Board have shown the utility has members and those members are covered under TN Code Annotated section 48 Non-Profit Corporation chapters. In addition, in my very first conversation with Mr. Terry Buckner he stated the company was member owned. My becoming a member in January of 2014 was based on Mr. Buckner's assertion that the company was Member owned. That assertion was validated by Mr. Walker at the Cottonwood HOA Board meeting on January 16th, 2014.

Exhibit H: Docket 11-00068 Attachment 2 and 2a Membership Applications: Attached you will find all of the names and actual forms filled out between March 11th 2011 when the Charter of the Corporation was changed and March 5 2012 when Attachment 2 was prepared to be filed with the TRA. Attachment 2 page 3 totals show 42 customers 29 Members and 9 people willing to serve on the board. Attachment 2a each page clearly states whether a person is a member or not. In addition in the November 12th

letter, Mr. Ford refers to our name change form filled out by my wife as a MEMBESHIP FORM (see Exhibit G above)

In the membership application it clearly states "**as a corporation with members, the board of directors will be elected by members. The corporation's members must be a sewer customer of Berry's Chapel Utility, INC.**" I have found no evidence that James Burton Ford at 9679 Aurora Court, Brentwood TN 37027 is a sewer customer of Berry's Chapel Utility, Inc.

In addition to these membership forms, we have delivered to company's offices on February 19th, 53 forms, February 27th 20 membership forms and on March 4th 33 membership forms. In addition an estimated 11 people sent in their forms directly to the company. At no time did the board contact me to state they were not member owned and member managed or refer to the bylaws.

On February 20th 2014 at 12:27P.M. Fed Ex delivered the petition signed by 56 members. The petition followed all of the bylaws approved by the board of Directors in April 2011. According to the Secretary of State there have been no additional charter amendments at this time and no activity since the annual report was filed in 2013. Each time we delivered forms, petitions or letters to the company we also sent them Fed-Ex to the TRA offices as well as Attorney General Janet Kleinfelter's office. You have all the same information we have.

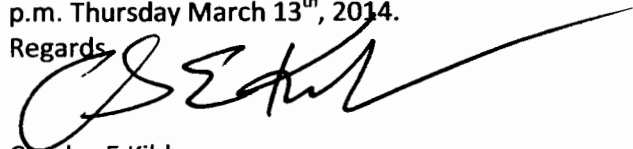
In both the original letter with the dated 2/19/14 and the subsequent letters sent to the board of Directors we have asked to review the books, receive copies of the alphabetical list of members, and for our utility's board to send out notice of the special meeting. Their only response has been to file an unseen until now set of bylaws from 2010. By comparing the document numbers it is obvious the one filed predates the charter amendment in 2011 as well as the bylaws that include membership sections.

Exhibit I: Docket 11-00174: pages 1 and 4/21: Page 4 response 8: *Company is owned by its Customer Base of 843. See BCUI Charter:* Charter pages 8-21/21 are identical to others and in effect today.

While this is a partial review of all the records, I could find no evidence in earlier dockets of bylaws that had been filed as part of any docket at any time to verify the existence of the ones filed by Mr. Henry on March 5th, 2014 in his response to discovery. If the bylaws signed in 2010 have been provided anywhere else in the Pubic record I cannot find them! This is simply a futile attempt to delay the special meeting scheduled for this Thursday March 13th at 6:00 p.m. at the Cottonwood Clubhouse 180 Cottonwood Dr.

We believe both the TRA and the AG's office have the power to intervene on our behalf. The current unelected board has acted in a way that eclipses the oversight of the TRA and now must be dealt with. WHO else can protect the members of and ratepayers to Berry's Chapel Utility? Unless you rule otherwise and inform us, we fully intend to hold the special meeting and elect board members at 6:00 p.m. Thursday March 13th, 2014.

Regards



Charles E Kildgore
116 Cottonwood Circle
Franklin, TN 37069

3/8/14

Mr. Robert Cooper Jr.
State of Tennessee Attorney General
425 Fifth Ave. North
Nashville, TN 37243
615-741-3491

Dear. Mr. Cooper:

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Regards

Charles E Kildgore
116 Cottonwood Circle
Franklin, TN 37069

A

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)
)
PETITION OF BERRY'S CHAPEL)
UTILITY, INC. TO INCREASE RATES)
AND CHARGES; TARIFF TO RECOVER)
THE COST OF FINANCIAL SECURITY) DOCKET NO. 14-00004
IMPLEMENTATION OF PASS)
THROUGHS FOR SLUDGE REMOVAL,)
ELECTRICITY, CHEMICALS AND)
PURCHASED WATER)

**OBJECTIONS TO THE ADVOCATE'S MOTION FOR ANOTHER ROUND OF
DISCOVERY AND TO THE ADVOCATE'S QUESTIONS**

Summary

Berry's Chapel Utility, Inc. ("Berry's Chapel") objects to the request by the Consumer Advocate and Protection Division (the "Advocate") for an additional round of discovery requests beyond the two rounds already agreed to by the parties and approved by the Hearing Officer. Furthermore, Berry's Chapel objects to five of the six questions which the Advocate wants to ask in this new round of questions. The first question asks who at Berry's Chapel authorized the filing of the utility's pending rate case. As the company's witness will testify, the filing of the rate case was authorized by Mr. Tyler Ring, president of Berry's Chapel. The other five questions concern issues of corporate governance raised by at least one customer who has written numerous letters to the Advocate, the Authority, and the company in an effort to prevent any increase in rates. His latest letter questions whether the board of directors or the members of the corporation control the company, issues which are neither relevant to the determination of rates nor within the jurisdiction of the Authority to resolve. Such issues must be raised, if at all, in a

"derivative suit" filed in Chancery Court. In the unlikely event that the members of the corporation file a successful derivative suit, elect a new board, and try to withdraw the rate case—despite the utility's need for additional revenue—the Authority can take appropriate action at that time to insure continued wastewater service and protect the company's customers. There is no reason for the Authority to address these issues now. Finally, as discussed below, the governance issues implicitly raised in the Advocate's filing have no merit under Tennessee law.

Objection to Another Round of Discovery

In an Order issued February 19, 2014, the Hearing Officer issued a procedural schedule which provides the Advocate with two rounds of discovery requests. The Advocate's first round of questions was issued February 12, 2014. The Advocate may issue a second round of questions on April 25, 2014. The Advocate now asks to submit a third round of discovery questions, which are attached to his motion, and asserts that these questions "should be addressed as soon as possible" because they concern the "validity and/or authority to file Berry's Chapel's petition." The Advocate also states that "it is necessary that this information be obtained as soon as possible" in order "to properly develop the record regarding the role and status of the members and directors of Berry's Chapel." Advocate's "Motion for Leave to Ask Additional Discovery Requests" at p. 2.

These assertions that answers are needed "as soon as possible" do not warrant a departure from the procedural schedule issued by the Hearing Officer. Even if these six questions were appropriate, they can just as well be asked during the second round of discovery on April 25, 2014. The company has fully responded to each of the Advocate's first round of questions and will continue to answer all discovery questions relevant to the rate case. If the Hearing Officer finds that one or more of these additional questions are appropriate, there is ample time in the

schedule for the Advocate to file them during the second round of discovery and get answers well prior to the rate hearing in June. There is no reason to believe that giving this information to the Advocate "as soon as possible" will cause this rate case to be litigated in any less time or with any less expense than it will be handled otherwise. More likely, it will have just the opposite effect.

Objections to the Advocate's Questions

In response to the Advocate's first question about who authorized the filing of this rate case, the company will state that Tyler Ring, the President of Berry's Chapel, authorized the filing of this rate case as the President is authorized to do under the company's bylaws. The timing and filing of the case was also discussed at the last meeting of the company's board of directors in December, 2013. Terry Buckner, the company's witness in the rate case, can testify to these facts from his personal knowledge.

The other, additional questions the Advocate wants to ask are: (2) who are the members of the corporation, (3) did the members approve filing the rate case, (4) who are the current directors, (5) how were the directors selected, and (6) whether there have been proxy votes by the directors. In his brief, the Advocate implies that the members did not approve the rate case and may soon elect a new board which could decide to withdraw the rate case.

None of these additional questions concern the determination of just and reasonable rates. Except for the first one, the questions all appear to be about who controls the company, the members or the board of directors. Under Tennessee law, members of a nonprofit corporation seeking to challenge an act or the failure to act of the corporation may file a "derivative suit" under T.C.A. § 48-56-401. Such proceedings must be brought in a court of equity. Bourne v. Williams, 633 S.W. 2d 469 (Tenn. Ct. App. 1981). If the court finds that the suit was brought

"frivolously or in bad faith," the corporation may recover its expenses, including counsel fees, from the plaintiff(s). T.C.A. § 48-56-401(e).

This is a rate case, not a derivative suit. The TRA is not a court of equity and has no jurisdiction to resolve a dispute between the members and the board over who has the authority to run the company.

The Governance Issues Raised by the Advocate Have No Merit

Finally, the implications in the Advocate's brief that the members, not the board, control the company are not supported by state law or the bylaws of the corporation. Copies of the corporation's charter and bylaws are attached. Under the bylaws of Berry's Chapel, "All corporate powers of the Corporation shall be exercised by . . . the Board of Directors." The Directors "shall be elected by the Board of Directors" and each Director "shall be elected to serve a term of three (3) years or until his or her successor is elected and qualifies. . . ." The corporate charter of Berry's Chapel filed with the Secretary of State on July 27, 2010 shows the names and addresses of the three directors. Those directors remain in office since no successors have been elected and qualified. In March, 2011, the corporate charter was amended to state, "This corporation will have members." No other amendments to the charter or bylaws were made. The provisions concerning the selection and duties of the directors have not changed. In short, although the corporation now has members, there is nothing in the charter or bylaws giving the members the authority to manage the company or to elect the directors. Therefore, the members have no such rights except as may be granted by state law.

Tennessee law expressly provides that if a corporation has members, "all directors (except the initial directors) shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the charter or bylaws provide some other time or method of

election. . . ." T.C.A. § 48-58-104(a), emphasis added. As quoted above, the bylaws of Berry's Chapel provide "some other . . . method of election" of directors other than election by the members. The bylaws provide for a self-perpetuating board. Until the bylaws are changed, the directors, not the members, remain in charge of the company.¹

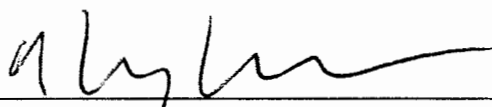
Conclusion

The Advocate has not provided any reason sufficient to warrant amending the procedural order to allow a third round of discovery. Moreover, the questions which the Advocate wants to ask are, with one exception, irrelevant to the determination of rates and raise issues which the Authority has no jurisdiction to resolve. Finally, the Advocate's implicit claim that the members control the company has no legal support.

Respectfully submitted,

BRADLEY ARANT BOULT CUMMINGS LLP

By: _____

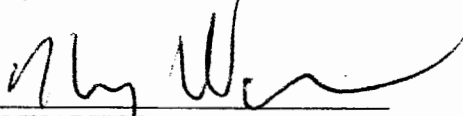

Henry Walker (B.P.R. No. 000272)
Bradley Arant Boult Cummings, LLP
1600 Division Street, Suite 700
Nashville, TN 37203 Phone: 615-252-2363
Email: hwalker@babco.com

¹ As affirmed by the board of directors at its December, 2013 meeting, it is still the intention of the board to recruit all the customers of Berry's Chapel to become members of the corporation and to amend the bylaws to allow the members to elect a new board of directors following the conclusion of this rate case and other pending regulatory dockets. Although the board did not finish this rate case or resolve the other regulatory matters in 2013 as it had hoped to do, the board's intention to turn the company over to its members remains unchanged.

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of March, 2014, a copy of the foregoing document was served on the parties of record, via hand-delivery, overnight delivery or U.S. Mail, postage prepaid, addressed as follows:

Mr. Vance L. Broemel
Senior Counsel
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202-0270



HENRY WALKER

FILED
RECEIVED
STATE OF TENNESSEE

2010 JUL 16 PM 4:08

TRC HARGETT
SECRETARY OF STATE

**CHARTER
OF
BERRY'S CHAPEL UTILITY, INC.**

The undersigned, acting as the incorporator of a corporation under the Tennessee Nonprofit Corporation Act, adopts the following Charter for such corporation:

1. The name of the corporation is Berry's Chapel Utility, Inc.
2. This corporation is a mutual benefit corporation.
3. The initial registered agent for the corporation is Tyler L. Ring whose street address is 321 Billingsly Court, Suite 4, Franklin, Tennessee 37065.
4. The name and address of the incorporator is:

Tyler L. Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065
5. The street address of the principal office of the corporation is 321 Billingsly Court, Suite 4, Franklin, Tennessee 37065.
6. This corporation is not for profit.
7. This corporation is not a religious corporation.
8. This corporation will not have members.
9. This corporation's initial directors and their addresses are:

John Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

Tyler L. Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

James B. Ford
9679 Aurora Court
Brentwood, TN 37027

10. The purpose of the corporation shall be to own and operate a sanitary sewer collection and treatment system and to engage in any other lawful business.
11. Upon dissolution, after all creditors of the corporation have been paid, its assets shall be distributed to any person, partnership, limited partnership, limited liability company or corporation engaged in the sanitary sewer business or to the State of Tennessee or any county, municipality or political subdivision of the State of Tennessee.
12. To the extent allowed by the laws of the State of Tennessee, no present or future director of the corporation (or his or her estate, heirs and personal representatives) shall be liable to the corporation for monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director (or his or her estate, heirs and personal representatives) shall be further eliminated or limited to the fullest extent allowed by the laws of the State of Tennessee, as may hereafter be adopted or amended.
13. With respect to claims or liabilities arising out of service as a director or officer of the corporation, the corporation shall indemnify and advance expenses to each present and future director and officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Dated the 14th day of July, 2010.


Tyler L. Ring, Incorporator

BK/PG:5103/363-365

10024679

CHARTER	
07/27/2010	11:22 AM
BATCH	184116
MTG TAX	0.00
TRN TAX	0.00
REC FEE	5.00
DP FEE	2.00
ARC FEE	0.00
TOTAL	7.00

STATE OF TENNESSEE, WILLIAMSON COUNTY

SADIE WADE
REGISTER OF DEEDS

RECEIVED
STATE OF TENNESSEE
2010 JUL 16 PM 4:08
TRE HARGETT
SECRETARY OF STATE

**ARTICLES OF AMENDMENT TO THE
CHARTER
OF
BERRY'S CHAPEL UTILITY, INC.**

Pursuant to the provisions of Section 48-60-105 of the Tennessee Nonprofit Corporation Act, the undersigned corporation adopts the following articles of amendment to its charter:

1. The name of the corporation is Berry's Chapel Utility, Inc.
2. The text of the amendment to paragraph 6 of the corporation's charter adopted is:
 6. This corporation will have members.
3. This amendment was duly adopted on March 11, 2011 by the board of directors without members' approval, as such was not required.
4. Additional approval of the amendment by anyone other than the board of directors is not required.

DATED this 11th day of March, 2011.



Tyler L. Ring, Director - President

**BYLAWS
OF
BERRY'S CHAPEL UTILITY, INC.**

These Bylaws shall regulate the affairs of the Corporation, subject to the provisions of the Corporation's Charter and any applicable provisions of the Tennessee Nonprofit Corporation Act, *T.C.A. § 48-51-101, et seq.* (the "Act").

SECTION 1 – OFFICES AND REGISTERED AGENT

Section 1.01. *Registered Office.* The Corporation shall designate and continuously maintain a registered office in the State of Tennessee.

Section 1.02. *Principal Office.* The principal office of the Corporation shall be that which is designated as such in its Charter.

Section 1.03. *Other Offices.* The Corporation may also have other offices within and without the State of Tennessee at such places as the Board of Directors may from time to time determine.

Section 1.04. *Registered Agent.* The Corporation shall designate and continuously maintain a registered agent in the State of Tennessee at its registered office.

SECTION 2 – BOARD OF DIRECTORS

Section 2.01. *General Powers and Qualifications.* All corporate powers of the Corporation shall be exercised by an under the authority of, and the affairs of the Corporation shall be managed under the direction of, the Board of Directors. All Directors must be natural persons and shall be at least eighteen (18) years of age.

Section 2.02. *Number of Directors.* The Board of Directors shall be comprised of three (3) Directors, but these Bylaws may be amended from time to time to increase or decrease the number of Directors within the limits provided by law, although at no time shall there be fewer than three (3) Directors.

Section 2.03. *Election and Tenure.* Directors shall be elected by the Board of Directors at a meeting of the Board of Directors to be held at the principal office of the Corporation, or at such other place as may be fixed by the Board of Directors. Each Director shall be elected to serve for a term of three (3) years, or until his or her successor is elected and qualifies, subject, however, to the removal of any Director as allowed by law.

Section 2.04. *Regular Meetings.* Regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time.

Section 2.05. *Special Meetings.* Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

Section 2.06. *Notice of Meetings.* Except as otherwise provided by these Bylaws, the notice requirements for meetings are as follows:

- (a) Regular meetings of the Board of Directors may be held without notice.
- (b) Special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of such special meeting.
- (c) Notwithstanding (a) and (b) just above, any action by the Board of Directors to remove a Director or to approve a matter that would require approval by the members of the Corporation if the Corporation had members shall be preceded by at least seven (7) days' written notice to each Director that the matter will be voted upon at a therein specified meeting of the Board of Directors, unless such notice is waived pursuant to Section 2.07 or Section 5.04 below.

Section 2.07. *Waiver of Notice of Meeting.* If a Director attends or participates in a meeting, he or she waives any required notice to him or her of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 2.08. *Quorum and Voting.* A quorum of the Board of Directors consists of a majority (but no fewer than two (2)) of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of the majority of the Directors present is the act of the Board of Directors, unless these Bylaws, the Charter or the Act require the vote of a greater number of Directors.

Section 2.09. *Vacancy.* If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors or a vacancy resulting from a removal of a Director with or without cause:

- (a) The Board of Directors may fill the vacancy; or
- (b) If the Directors remaining in office somehow constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all Directors remaining in office.

Section 2.10. *Removal of Director Without Cause.* The Board of Directors may remove any Director without cause by the affirmative vote for such removal of two-thirds (2/3) of the Directors then in office.

Section 2.11. *Action Without Meeting.* Action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent

to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent(s) shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Corporation and included in the minutes filed with the corporate records.

Section 2.12. *Indemnification.* With respect to claims or liabilities arising out of service as a Director of the Corporation, the Corporation shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 2.13. *Immunity.* To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Corporation.

SECTION 3 - OFFICERS

Section 3.01. *Required Officers.* The officers of the Corporation shall be a President, Vice-President and Secretary-Treasurer and such other officers as may from time to time be elected or appointed by the Board of Directors. Except for the offices of President and Secretary-Treasurer, the same individual may simultaneously hold more than one (1) office in the Corporation. All officers must be natural persons and shall be at least eighteen (18) years of age.

Section 3.02. *Election.* Each year at a meeting fixed and held by the Board of Directors, the Board shall elect the officers of the Corporation by a majority vote of those Directors present, provided a quorum exists.

Section 3.03. *Term of Office.* The officers of the Corporation shall hold office for one (1) year or until their successors are chosen and qualify in their stead, subject, however, to the right and authority of the Board of Directors to remove any officer at any time with or without cause.

Section 3.04. *Powers and Duties of Officers.* The powers and duties of the officers of the Corporation shall be as follows:

- (a) *President.* The President shall be the Chief Executive Officer of the Corporation, shall have general and active management of the Corporation, and shall see that all orders and resolutions of the Board of Directors are carried into effect, subject, however, to the right of the Board of Directors to delegate any specific powers, unless exclusively conferred upon the President by law, to any other officer(s) of the Corporation.
- (b) *Vice President.* The Vice President shall have such powers and perform such duties as may be assigned to him or her by the Board of Directors or the President. In the absence or disability of the President, the Vice President shall perform the duties and exercise the

powers of the President. The Vice President may sign and execute contracts and other obligations pertaining to the regular course of his or her duties.

- (c) *Secretary-Treasurer.* The Secretary-Treasurer shall attend all meetings of the Board of Directors of the Corporation and shall be responsible for preparing the minutes of such meetings. The Secretary-Treasurer shall be responsible for the care and custody of the minute book of the Corporation and for authenticating records of the Corporation. It shall be his or her duty to give or cause to be given notice of all meetings of the Board of Directors. In the event the Secretary-Treasurer is absent for some reason from any meeting where minutes are to be prepared or is otherwise unable to take such minutes, the presiding officer of such meeting shall appoint another person, subject to the approval of those present and entitled to vote at such meeting, to take the minutes thereof. The Secretary-Treasurer shall have custody of the Corporation funds and securities, shall keep full and accurate account of receipts and disbursements in the appropriate Corporation books, and shall require the deposit of all monies and other valuable assets in the name of and to the credit of the Corporation in such financial institutions as may be designated by the Board of Directors. The Secretary-Treasurer shall require disbursement of the funds of the Corporation as may be ordered by the Board of Directors, and shall render to the President and the Board of Directors, at any time they may require, an account of his or her transactions as Secretary-Treasurer and of the financial condition of the Corporation. The Secretary-Treasurer shall also perform such other duties as may be assigned to him or her by the Board of Directors or by the President, under whose supervision he or she shall act.

Section 3.05. *Removal.* The Board of Directors may remove any officer at any time with or without cause.

Section 3.06. *Vacancies.* Any vacancies occurring in the offices of the President, Vice President, Secretary or Treasurer shall be filled by the Board of Directors as soon as practicable. Vacancies in other offices may be filled at the discretion of the Board of Directors.

Section 3.07. *Delegation of Powers and Duties.* In case of the absence of any officer of the Corporation, or for any reason that the Board of Directors may deem sufficient, the Board of Directors may delegate the powers of such officer to any other officer or to any Director for the time being.

Section 3.08. *Indemnification.* With respect to claims or liabilities arising out of service as an officer of the Corporation, the Corporation shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

SECTION 4 – RECORDS AND REPORTS

Section 4.01. *Corporate Records.* The Corporation shall keep as permanent records minutes of all meetings of its Board of Directors, a record of all actions taken by the Board of Directors without a meeting, and appropriate accounting records.

Section 4.02. *Records at Principal Office.* The Corporation shall keep at all times a copy of the following records at its principal office;

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) These Bylaws and all amendments thereto;
- (c) A list of the names and business or home addresses of its current Directors and officers;
and
- (d) The most recent annual report delivered to the Tennessee Secretary of State.

Section 4.03. *Annual Financial Statements.* The Corporation shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act.

SECTION 5 – MISCELLANEOUS PROVISIONS

Section 5.01. *Fiscal Year.* The fiscal year of the Corporation shall be the calendar year.

Section 5.02. *No Seal.* The Corporation shall have no seal.

Section 5.03. *Notices.* Whenever notice is required to be given to Directors or officers, unless otherwise provided by law, the Charter or these Bylaws, such notice may be given in person, or by telephone, telegraph, teletype or other form of wire or wireless communication, or by mail or private carrier or by electronic mail. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address that appears for each such person on the books of the Corporation. Written notice shall be deemed to have been given at the earliest of the following:

- (a) When received;
- (b) Five (5) days after its deposit in the United States mail if sent first class, postage prepaid;
or
- (c) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, postage prepaid and the receipt is signed by or on behalf of the addressee.

Section 5.04. *Waiver of Notice.* Whenever any notice is required to be given under the provisions of any statute, or of the Charter or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon, and delivered to the Secretary of the Corporation and included in the minutes or corporate records, shall be deemed equivalent thereto.

Section 5.05. *Negotiable Instruments.* All checks, drafts, notes or other obligations of the Corporation shall be signed by such of the officers of the Corporation, or by such other person(s), as may be authorized by the Board of Directors.

Section 5.06. *Deposits.* The monies of the Corporation may be deposited in the name of the Corporation in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

SECTION 6 – AMENDMENT OF BYLAWS

Section 6.01. *By Board of Directors.* By a majority vote of the Directors then in office, the Board of Directors may amend these Bylaws at any meeting of the Board of Directors where a quorum is present, provided that such meeting is preceded by at least two (2) days' notice to each Director of the date, time and place of the meeting. Such notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider a proposed amendment to the Bylaws, and shall contain or be accompanied by a copy or summary of the proposed amendment or state the general nature thereof. These Bylaws may also be amended by the Directors without a meeting in the same manner as provided therefor herein, except that such action to amend must be by a majority vote of the Directors then in office.

Adopted this ____ day of July, 2010


Tyler L. Ring, Director


John Ring, Director


James B. Ford, Director

B

Received
MARY W. FREEMAN

SEP 17 2010

TN Regulatory Authority

BRANSTETTER, STRANCH & JENNINGS, PLLC

ATTORNEYS AT LAW
227 SECOND AVENUE NORTH
FOURTH FLOOR

NASHVILLE, TENNESSEE 37201-1631
TELEPHONE (615) 254-8801
FACSIMILE (615) 250-3837

CECIL D. BRANSTETTER, SR.
C. DEWEY BRANSTETTER, JR.
RANDALL C. FERGUSON
R. JAM JENNINGS *
JOE P. LENISKI, JR.
DONALD L. SCHOLES
JAMES G. STRANCH, III
J. GERARD STRANCH, IV
JANE B. STRANCH

*ALSO ADMITTED IN CA

ASSOCIATES:
B. DENARD MICKENS
STEVEN J. SIMERLEIN *
STACEY K. SKILLMAN **
MIKE STEWART
J. D. STUART
MICHAEL J. WALL

OF COUNSEL
ROBERT L. RICHARDSON, JR. ***

*ALSO ADMITTED IN CA
**ALSO ADMITTED IN KY
***ONLY ADMITTED IN OH

September 17, 2010

Mary W. Freeman, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Via Hand Delivery

Re: Lynwood Utility Corporation - Berry's Chapel Utility, Inc.

Dear Chairman Freeman:

Effective September 1, 2010, the ownership of the sewer treatment and collection system of the Lynwood Utility Corporation became vested in Berry's Chapel Utility, Inc., a Tennessee nonprofit corporation. On September 1, 2010, Lynwood Utility Corporation merged into Berry's Chapel Utility, Inc. with Berry's Chapel Utility, Inc. assuming all of the assets and liabilities of Lynwood Utility Corporation. Lynwood Utility Corporation ceased to exist on the effective date of the merger. I have enclosed copies of the charter of Berry's Chapel Utility, Inc. and the Articles of Merger of Lynwood Utility Corporation into Berry's Chapel Utility, Inc. as filed with the Tennessee Secretary of State.

Pursuant to T.C.A. § 65-4-101(6)(E), Berry's Chapel Utility, Inc. is a nonutility because it is a nonprofit corporation. Under the T.C.A. § 65-4-112(b), the merger of Lynwood Utility Corporation into Berry's Chapel Utility, Inc. did not require any approval by the Authority since Berry's Chapel Utility, Inc. is a nonutility.

Please cancel the certificate of public convenience and necessity issued to Lynwood Utility Corporation. Thank you for your assistance in this matter.

RECEIVED

Sincerely yours,

SEP 20 2010

Donald L. Scholes
DONALD L. SCHOLES by (P)

TN REGULATORY AUTHORITY
Enclosures UTILITIES DIVISION
c: General Ryan McGehee
Tyler Ring
Jim Ford

**CHARTER
OF
BERRY'S CHAPEL UTILITY, INC.**

FILED
REGISTERED
STATE OF TENNESSEE

2010 JUL 16 PM 4:08

TRE HARGETT
SECRETARY OF STATE

The undersigned, acting as the incorporator of a corporation under the Tennessee Nonprofit Corporation Act, adopts the following Charter for such corporation:

1. The name of the corporation is Berry's Chapel Utility, Inc.
2. This corporation is a mutual benefit corporation.
3. The initial registered agent for the corporation is Tyler L. Ring whose street address is 321 Billingsly Court, Suite 4, Franklin, Tennessee 37065.
4. The name and address of the incorporator is:

Tyler L. Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

5. The street address of the principal office of the corporation is 321 Billingsly Court, Suite 4, Franklin, Tennessee 37065.
6. This corporation is not for profit.
7. This corporation is not a religious corporation.
8. This corporation will not have members.
9. This corporation's initial directors and their addresses are:

John Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

Tyler L. Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

James B. Ford
9679 Aurora Court
Brentwood, TN 37027

6745-2519

6745-2528

10. The purpose of the corporation shall be to own and operate a sanitary sewer collection and treatment system and to engage in any other lawful business.
11. Upon dissolution, after all creditors of the corporation have been paid, its assets shall be distributed to any person, partnership, limited partnership, limited liability company or corporation engaged in the sanitary sewer business or to the State of Tennessee or any county, municipality or political subdivision of the State of Tennessee.
12. To the extent allowed by the laws of the State of Tennessee, no present or future director of the corporation (or his or her estate, heirs and personal representatives) shall be liable to the corporation for monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director (or his or her estate, heirs and personal representatives) shall be further eliminated or limited to the fullest extent allowed by the laws of the State of Tennessee, as may hereafter be adopted or amended.
13. With respect to claims or liabilities arising out of service as a director or officer of the corporation, the corporation shall indemnify and advance expenses to each present and future director and officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Dated the 14th day of July, 2010.


Tyler L. Ring, Incorporator

BK/PG:5103/363-365

10024679

CHARTER	
07/27/2010	11:22 AM
RANGE	196116
REG TAX	0.00
NEW TAX	0.00
REC FEE	5.00
DP FEE	2.00
ARC FEE	0.00
TOTAL	7.00

STATE OF TENNESSEE, WILLIAMSON COUNTY

SADIE WADE
REGISTRAR OF DEEDS

RECEIVED
STATE OF TENNESSEE
2010 JUL 16 PM 4:08
TRE HARGETT
SECRETARY OF STATE

FILED

STATE OF TENNESSEE

**ARTICLES OF MERGER OF LYNWOOD UTILITY CORPORATION
INTO BERRY'S CHAPEL UTILITY, INC.**

2010 AUG 20 PM 3:13

THE COMPTROLLER
SECRETARY OF STATE

Pursuant to the provisions of Section 48-21-107 of the Tennessee Business Corporation Act and Section 48-61-104 of the Tennessee Nonprofit Corporation Act, the undersigned domestic corporations hereby submit these Articles of Merger and state as follows:

5759.0426

1. The Plan of Merger is attached hereto and was approved by each of the herein named corporations in the manner prescribed by Section 48-21-104 of the Tennessee Business Corporation Act and Section 48-61-103 of the Tennessee Nonprofit Corporation Act.
2. As to Lynwood Utility Corporation, approval of the Plan by its shareholders is required by Section 48-21-101, *et seq.*, of the Tennessee Business Corporation Act, and the Plan was duly approved by the affirmative vote of all of the votes entitled to be cast, there being no voting by voting group.
3. As to Berry's Chapel Utility, Inc., which is the surviving corporation of the merger, the Plan was duly approved by a unanimous vote of its board of directors. Berry's Chapel Utility, Inc. has no members; therefore, no vote by the corporation's members was required.
4. These Articles of Merger shall not be effective upon filing by the Secretary of State, but the delayed effective date and time they are to become effective, and the merger is to take effect, is September 1, 2010, at 12:00 a.m.

Dated this 18th day of August, 2010.

LYNWOOD UTILITY CORPORATION

By: 

Tyler L. Ring, President

BERRY'S CHAPEL UTILITY, INC.

By: 

Tyler L. Ring, President

Bandella
X



STATE OF TENNESSEE
Tre Hargett, Secretary of State
Division of Business Services
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

Berry's Chapel Utility, Inc.
321 Billingsly Court
Suite 4
Franklin, TN 37065 USA

July 16, 2010

Filing Acknowledgment

Please review the filing information below and notify our office immediately of any discrepancies.

Control #:	635712	Formation Locale:	Williamson County
Filing Type:	Corporation Non-Profit - Domestic	Date Formed:	07/16/2010
Filing Date:	07/16/2010 4:08 PM	Fiscal Year Close:	12
Status:	Active	Annual Rpt Due:	04/01/2011
Duration Term:	Perpetual	Image #:	6745-2519
Public/Mutual Benefit:	Mutual		

Document Receipt

Receipt #: 221470
Payment-Check/MO - BRANSTETTER STRANCH & JENNINGS, PLLC, NASHVILLE, TN
Filing Fee: \$100.00
\$100.00

Registered Agent Address
Tyler L. Ring
321 Billingsly Court
Suite 4
Franklin, TN 37065 USA

Congratulations on the successful filing of your Charter for Berry's Chapel Utility, Inc. in the State of Tennessee which is effective on the date shown above. You must also file this document in the office of the Register of Deeds in the county where the entity has its principal office if such principal office is in Tennessee.

You must file an Annual Report with this office on or before the Annual Report Due Date noted above and maintain a Registered Office and Registered Agent. Failure to do so will subject the business to Administrative Dissolution/Revocation.

Tre Hargett, Secretary of State
Business Services Division

Processed By: Cheryl Donnell

11-00005

STATE OF TENNESSEE

Office of the Attorney General



LUCY HONEY HAYNES
CHIEF DEPUTY ATTORNEY GENERAL

LAWRENCE HARRINGTON
CHIEF POLICY DEPUTY

ROBERT E. COOPER, JR.
ATTORNEY GENERAL AND REPORTER
CORDELL HULL AND JOHN SEVIER STATE
OFFICE BUILDINGS

MAILING ADDRESS
P.O. BOX 20207
NASHVILLE, TN 37202

MICHAEL E. MOORE
SOLICITOR GENERAL

TELEPHONE (615) 741-3491
FACSIMILE (615) 741-2009

December 29, 2010

Donald L. Scholes, Esq.
Branstetter, Stranch & Jennings, PLLC
227 Second Avenue North
Fourth Floor
Nashville, TN 37201-1631

CO
TRA. Received from
2011 JAN 18 PM 3:08
REPLY

Re: Lynwood Utility Corporation – Berry’s Chapel Utility, Inc.

Dear Mr. Scholes:

In the last week the Consumer Advocate and Protection Division has received complaints about Berry’s Chapel Utility, Inc.’s announcement that it is increasing rates by \$20.00 per month. In a letter dated September 17, 2010, to the Tennessee Regulatory Authority (“TRA”) you informed the TRA of the merger of Lynwood Utility Company into Berry’s Chapel Utility, Inc. In that same letter you requested the TRA to “cancel the certificate of public convenience and necessity issued to Lynwood Utility Corporation.” I have enclosed a copy of your letter for your reference.

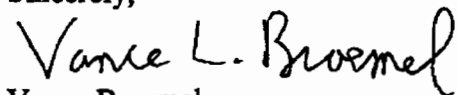
Based on the announcement of the \$20.00 per month increase without TRA approval, it appears that you consider that Berry’s Chapel is no longer regulated by the TRA on the ground that it is a “non-profit corporation” as you referred to it in your letter to the TRA. The Consumer Advocate and Protection Division has seen nothing to indicate the non-profit status of Berry’s Chapel other than papers which merely show that Berry’s Chapel has been incorporated as a non-profit corporation. Furthermore, we disagree with your interpretation of Tenn. Code Ann § 65-4-101(6)(E) as exempting Berry’s Chapel from TRA supervision. Accordingly, we are prepared to challenge the alleged non-profit status of Berry’s Chapel and the recent rate increases.

Donald L. Scholes, Esq.
December 29, 2010
Page 2 of 2

In an effort to avoid litigation in this matter, we are requesting a meeting with Berry's Chapel within 10 days in order to discuss Berry's Chapel's asserted status as a non-profit corporation and the withdrawal of the recent rate increase which was made without TRA approval. If Berry's Chapel is unwilling to engage in such discussions, please inform us immediately.

We look forward to hearing from you.

Sincerely,



Vance Broemel
Senior Counsel
(615) 741-8733

Enclosure

cc: TRA Directors
Tyler Ring
John Ring
James Ford
Wade Murphy

C

11-00198
PS 1/155

filed electronically in docket office on 02/22/12

**IN THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE**

RE:

**BERRY'S CHAPEL UTILITY, INC.'s
PETITION FOR ADJUSTMENT OF
RATES**

)
)
) **DOCKET NO. 11-00198**
)
)

**DISCOVERY REQUEST OF THE CONSUMER ADVOCATE AND PROTECTION
DIVISION TO BERRY'S CHAPEL UTILITY, INC.**

To: Berry's Chapel Utility Inc.
c/o Henry Walker, Esq.
Bradley Arant Boult Cummings LLP
1600 Division Street, Suite 700
PO Box 340025
Nashville, Tennessee 37203

DISCOVERY REQUESTS

1. The Consumer Advocate incorporates the Data Request filed by the TRA Staff on January 10, 2012, in this Docket No. 11-00198 as if fully stated herein, and expressly reserves the right to seek supplemental responses and/or file a motion to compel if the Consumer Advocate determines that any responses to the Data Request are inadequate or incomplete.

RESPONSE: Noted.

2. Please provide electronic copies (preferably in Microsoft Excel format) of any and all exhibits filed with, or in relation to, Lynwood's Petition to Change and Increase Rates and Charges, as well as the testimony of Tyler Ring and James B. Ford.

RESPONSE: Noted. Berry's Chapel Petition as Lynwood is no longer a corporate entity. Will also provide Scott Davis Information. See: COMPANY STATEMENT ON DATA attached.

3. Identify any and all expert witnesses the Company intends to call in support of the petition in this docket, and for each expert witness:

- (a) Identify the field in which the witness is to be offered as an expert;
- (b) Provide complete background information, including the witness's current employer, as well as his or her educational, professional and employment history, and qualifications within the field in which the witness is expected to testify;

11-00190
8/15/11
P7

44. Please produce a copy of Berrys' Chapel's mission statement.

RESPONSE: MISSION STATEMENT: BERRYS' CHAPEL UTILITY, INC., A NOT FOR PROFIT CORPORATION, WAS ESTABLISHED TO PROVIDE QUALITY WASTEWATER TREATMENT SERVICES TO THE BERRYS' CHAPEL COMMUNITY WHILE ENVIROMENTALY PROTECTING THE HARPETH RIVER WATERSHEAD.

45. For Berry's Chapel, please produce a copy of each document with respect to each meeting, whether regular, special, or otherwise, of the board of directors or any committee or sub-committee thereof, including:

- a. the announcement and the persons to whom the announcement was sent;
the agenda; the minutes and/or resolutions of meeting;
each written report or document provided to those in attendance, including but not limited to any committee report or expert report; and each presentation made at the meeting.

SEE ATTACHMENT # 45
RESPONSE: This information will be provided during the staff's on-site visit.

46. For Berry's Chapel and Lynwood, if separate audited financial statements or opinions have been prepared since 2010, including the October 2011 work by Lattimore Black Morgan & Cain, PC, please provide a copy of those audits or opinions and all working papers prepared by the auditors.

RESPONSE: A copy of the BCUI 6/30/2011 Audit Report dated October 2011 from LBMC is attached as RESPONSE TO REQUEST #46. Audit work papers are the property of the auditors and BCUI does not have a copy.

47. Please provide all documents evidencing the merger of Lynwood and Berry's Chapel, including all corporate documents of either entity as well as any notes, memoranda or the like evidencing the relevant discussions or deliberations leading up to or after the merger.

SEE ATTACHMENT # 47
RESPONSE: This information is available at the BCUI office for staff review during its onsite visit.

RESPECTFULLY SUBMITTED,

11-00198
PS 9/15/

RESPONSE TO CAPD REQUEST #45

11-00198
PS 10/155

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY, INC.
DECEMBER 20, 2011**

A MEETING OF THE Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30 am on Tuesday, December 20, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of November 21, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors for the four (4) months ended October 31, 2011. Copy of report is attached.

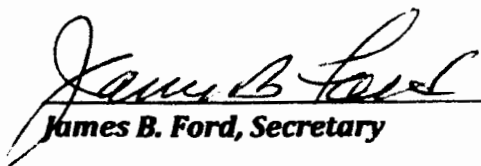
Mr. Ford also reported that all filing needed to request the rate increase (i.e. Flood damage, \$190,000, Rate increase \$398,000, and emergency rate relief, \$108,000) had been filed with the TRA.

Mr. Ford noted that without these increases in place very soon the Company would not have the funds to pay its taxes (both State and Local of \$37,000) and fund ongoing operations and payments to local vendors that are being held as long as possible.

Mr. Ford also stated that without the requested rate relief, the Company will have to seek protection under the bankruptcy laws. Based on discussions with attorneys, the Company could file under Chapter 11 and ask the court to set the rates in order to operate and pay all of its bills.

Mr. Ford also discussed his ongoing meetings with 5th/3rd Bank related to obtaining a USDA Insured loan of \$3,500,000 to pay off current bank debt and fund new TDEC requirements.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.


James B. Ford, Secretary

1/24/2012
Date

11-00196
PS 11/15/11

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY, INC.
NOVEMBER 21, 2011**

A MEETING OF THE Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30 am on Monday, November, 21, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of October 18, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors for the three (3) months ended September 31, 2011. Copy of report is attached.

Mr. Ford also reported that a filing has been made with the TRA to recover \$43,963.04 of odor control cost on November 4, 2011. In addition a filing has been with the TRA to recover \$190,237.00 of flood damage due to the May 1, 2010 flood in the service areas. The company has proposed to offset the \$69,866 of facilities charges collected disputed by the CAD. This proposal is under study by the AG; CAD.

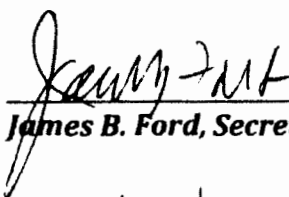
On November 15, 2011 the company directed our attorney to file for an increase in general rates of \$398,853 with the Tennessee Regulatory Authority.

On November 21, 2011, the company also directed our attorney to file for emergency rate relief for lost volumes from the 2008 rate case in the amount of \$108,000. This should be done by November 30, 2011.

Mr. Tyler Ring made a motion to ratify and approve the above rate actions taken by the company, seconded by Mr. Ford and motion passed 3-0.

Mr. Ford then reported that he and Mr. Tyler Ring had entered into discussion with USDA for possible grants and loans to support the company's needs to capital requirements set forth in Mr. Scott Davis report on improvements needed to meet TDEC requirements totaling \$2,235,000 attached.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.



James B. Ford, Secretary

12/20/2011

Date

11-00198
PS 32/153

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY, INC.
OCTOBER 28, 2011**

A MEETING OF THE Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30 am on Tuesday, October 18, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of September 22, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

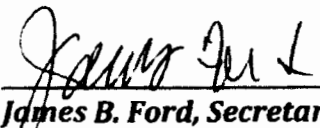
Mr. Ford gave a financial report to the Board of Directors and the status of the rate case. The report related to Financial Security was filed with the TRA on 10/13/2011. The Company was preparing filing related to Odor Control and Flood Damage recovery to be filed in early November.

The Company has received the audit report from Lattimore Black Morgan Cain PC for the 10 months ended June 20, 2011 dated October 21, 2011. The Company has reported a loss for this period of \$341,181. The Auditor stated The Company's significant operating losses and capital deficiency at June 30, 2011 raise substantial doubt about its ability to continue as a going concern.

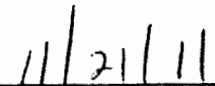
The Auditor also delivered a report stating that no significant errors or irregularities were noted during the audit. A copy of both reports are attached.

The Auditor did note that HB & TS has not paid the Company some \$30,000 due in the computer conversion to BCUI doing the customer billing. Mr. Tyler Ring was directed to discuss this matter with the General Manager of HB & TS Utility District and report to the board.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.



James B. Ford, Secretary



Date

11-0498
8549/155

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY, INC.
SEPTEMBER 22, 2011**

A MEETING OF THE Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30 am on Thursday, September, 22, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of August 16, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors and the status of the rate case.

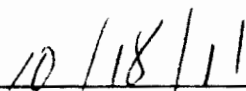
Mr. Ford indicated that he had met with A/G office again since the last Board Meeting and was still trying to resolve issues related to the Odor Control amounts, deferred Flood Expenses and other matters in an effort to increase the rates via settlement for the TRA.

Mr. Ford reported that the final audit work was being completed by Lattimore Black Morgan & Cain, PC. The audit and report would be ready by mid October.

The Company has directed its Attorney to file an appeal in the courts to the TRA ruling related to illegal collection of Facility charges by the Company.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.


James B. Ford, Secretary


Date

11-00198
PS 50/155

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY, INC.**

AUGUST 16, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30am on Tuesday, August 16, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of July 27, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors as to the status of the rate case.

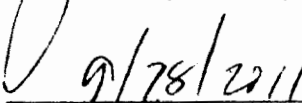
Mr. Ford indicated that he had met with A/G office twice since the last Board Meeting and was trying to resolve issues related to the Odor Control amounts and deferred Flood Expenses and other matters in an effort to increase the rates via settlement for the TRA.

Mr. Ring reported the receipt of a letter from HB & TS Utility District dated August 10, 2011 informing the company that the bills rendered on August 25, 2011 will be the last processed by their system provider. As a result of this the company (BCUI) has moved forward in its study to do its own billing and has contracted with Logics to assist with the computer system installation. Total hard cost of \$17,500.00 which includes out of pocket expenses. Mr. Ford commented that the internal cost for additional personnel items related to the conversion would be \$20,000.00 and an there will be ongoing operational cost for additional personal, supplies, postage and outside billing expenses. Logics is same company that Mallory Valley Utility District uses.

Motion by Mr. Ford and seconded by Mr. Tyler Ring to approve contract with Logics. Motion approved 3-0.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.


James B. Ford, Secretary


Date 9/28/2011

11-00198
pg 51/65

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY, INC.**

JULY 27, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30am on Wednesday, July 27, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of June 23, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors. The ten (10) months ended reflect a loss of \$291,462.33. This loss includes in revenue \$84,350.00 of facility charges. If this is required to be refunded the loss will be \$375,842.00. As a result of this Mr. Ford recommended that a rate case be filed as soon as possible.

Mr. Ford reported that the annual audit was underway and should be completed in September, 2011.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.


James B. Ford, Secretary

8/16/11
Date

11-00199
PS 5/2/11

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY**

JUNE 23, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30am on Wednesday, June 23, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of May 25, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors.

The Board reported that a meeting was held with Mr. Henry Walker and he was retained to replace Mr. Don Scholes.

Mr. Ford reported that he had a detailed meeting relating to proposed rate filing and discussions were planned with the AG office to see if a settlement could be reached on a rate increase. The amount of the rate increase could be as much as \$450,000 to \$500,000 annually.

Mr. Tyler Ring reported on the TRA Action as it relates to regulation of the Company. He recommends that the \$20.00 facilities charge be deleted from billing until a settlement is reached on rates. This would be effected on the rendered for May usage this month. Motion seconded by Mr. Ford and passed 3-0.

Mr. Tyler Ring reported that the TN Legislator had passed a bill putting the company under the TRA and The Governor had signed it on June 6, 2011.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.


James B. Ford, Secretary

7/27/2011
Date

11-00196
PS 53/154

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY DISTRICT Inc**

May 25, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 7:30 a.m. on May 25, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Other meeting attendees: Don Scholes.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of April 13, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors.

Mr. Scholes gave the Board a report on the status of the entry of the order in the Petition for Declaratory Ruling before the Tennessee Regulatory Authority (TRA) and discussed the specifics of any appeal of this decision to the Tennessee Court of Appeals once the order was entered. Mr. Scholes informed the Board that in his opinion the opportunity for the Utility to obtain a finding that the Utility was not regulated after September 1, 2010, was better in appealing the decision in the Petition for Declaratory Ruling to the Court of Appeals than in the pending lawsuit filed in the Davidson County Chancery Court for a declaratory judgment that that the Utility was not subject to regulation by the TRA. The Board agreed and authorized Mr. Scholes to file a voluntary dismissal of this case.

Mr. Scholes gave the Board an update on the legislation which would bring the Utility back under regulation by the TRA even as a cooperative. Mr. Scholes informed the Board that the bill had passed.

Mr. Scholes informed the Board that he needed to withdraw from representing the Utility because of the time commitment in caring for his wife and the amount of work which would be required over the next few months in representing the Utility, especially before the TRA. Mr. Scholes informed the Board that he had met with Henry Walker and discussed his representing the Utility in the future. The Board agreed to meet with Mr. Walker soon about representation.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.



James B. Ford, Secretary

6/23/11

Date

11-00198
PS 547155

**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY DISTRICT INC**

April 13, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 10:00 a.m. on April 13, 2011 at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Other meeting attendees: Don Scholes.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of March 11, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

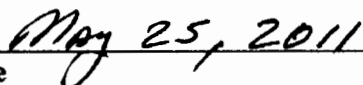
Mr. Ford gave a financial report to the Board of Directors.

Mr. Scholes gave an update on the status of the Petition for Declaratory Ruling filed by the Consumer Advocate with the Tennessee Regulatory Authority.

Mr. Scholes presented a new set of bylaws for the Corporation which revised the existing bylaws to take into account the change in the Corporation from a nonprofit corporation without members to a nonprofit corporation with members. A motion was made by Jim Ford and seconded by Tyler Ring to approve the new bylaws. After discussion the motion passed 3-0.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.


James B. Ford, Secretary


Date

11-02-98
PS 55/155

**BYLAWS
OF
BERRY'S CHAPEL UTILITY, INC.**

These Bylaws shall regulate the affairs of the Corporation, subject to the provisions of the Corporation's Charter and any applicable provisions of the Tennessee Nonprofit Corporation Act, *T.C.A. § 48-51-101, et seq.* (the "Act").

SECTION 1 – OFFICES AND REGISTERED AGENT

Section 1.01. *Registered Office.* The Corporation shall designate and continuously maintain a registered office in the State of Tennessee.

Section 1.02. *Principal Office.* The principal office of the Corporation shall be that which is designated as such in its Charter.

Section 1.03. *Other Offices.* The Corporation may also have other offices within and without the State of Tennessee at such places as the Board of Directors may from time to time determine.

Section 1.04. *Registered Agent.* The Corporation shall designate and continuously maintain a registered agent in the State of Tennessee at its registered office.

SECTION 2 MEMBERS

Section 2.01. *Eligibility.* Any natural person, firm, association, corporation, cooperative, business trust, partnership, federal, state or local government, or departments, agencies or any other political subdivision thereof (each hereinafter referred to as "person," "applicant," "him" or "his") that receives sewer service from Berry's Chapel Utility, Inc. (hereinafter called the "Corporation") at one or more premises owned or directly occupied or used by the person is eligible to become a member of the Corporation.

Section 2.02. *Admission of Members.* An eligible person shall become a member upon completing and executing an application for membership and delivering it to the Corporation.

Section 2.03. *Rights and Obligations.* Except as set forth in Section 2.04, each member shall have one (1) vote and shall have the same rights and obligations with respect to voting, dissolution, redemption, transfer and all other matters as all other members.

Section 2.04. *Joint Membership.* A husband and wife, by specifically so requesting in writing, may be accepted into joint membership or, if one of them is already a member, may automatically convert such membership into a joint membership. The words "member," "applicant," "person," "his," and "him," as used in these Bylaws, shall include a husband and wife applying for or holding a joint membership, unless otherwise clearly distinguished in the text; and all provisions relating to the rights, powers, terms, conditions, obligations,

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56/155
PS responsibilities and liabilities of membership shall apply equally, severally and jointly to them. Without limiting the generality of the foregoing:

- (a) the presence at a meeting of either or both shall constitute the presence of one member and a joint waiver of notice of the meeting;
- (b) the vote of either or both shall constitute, respectively, one joint vote; provided, if both be present but in disagreement on such vote, each shall cast only one-half (1/2) vote;
- (c) notice to, or waiver of notice signed by, either or both shall constitute, respectively, a joint notice or waiver of notice; and
- (d) suspension or termination in any manner of either shall constitute suspension or termination of the joint membership.

Section 2.05. *Excess Payments to be Credited as Member-Furnished Capital.* All amounts paid for sewer service in excess of the cost thereof shall be treated as member-furnished capital as provided in Section 7 of these Bylaws.

Section 2.06. *Resignation.* A member may resign at any time by delivering to the Secretary of the Corporation a written notice of such resignation signed by the member which shall be included in the corporate records. A resignation shall not be effective before the date and time the Secretary actually receives written notice of it. A person's membership shall be terminated upon his death.

Section 2.07. *Termination by Withdrawal.* A member may withdraw from membership upon such generally applicable conditions as the Board of Directors shall prescribe and upon either (a) ceasing to (or, with the approval of the Board of Directors resigning his membership in favor of a new applicant who also shall) own or directly occupy or use all premises being furnished sewer service, or (b) totally and permanently abandoning the use of sewer service on such premises.

Section 2.08 *Expulsion or Suspension.* A member may be expelled or suspended by the Board of Directors, but notice and an opportunity to be heard shall first be given to the member as set forth below, and the expulsion or suspension procedure shall be fair, reasonable and carried out in good faith:

- (a) The member shall be given not less than fifteen (15) days' prior written notice of the expulsion or suspension, and the reason(s) therefor; and
- (b) The member must be given the opportunity to be heard, orally or in writing, by the Board of Directors not less than five (5) days before the effective date of the expulsion or suspension.

For purposes of this Section 2.08 only, any written notice given by mail shall be sent postage prepaid by first class United States mail or by certified United States mail, return receipt requested, and sent to the last address of the member shown on the Corporation's records.

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Section 2.09. *Effect of Death, Legal Separation or Divorce Upon a Joint Membership.* Upon the death of either spouse of a joint membership, such membership shall continue to be held solely by the survivor, in the same manner and to the same effect as though such membership had never been joint; Upon the legal separation or divorce of the holders of a joint membership, such membership shall continue to be held solely by the one who continues directly to occupy or use the premises covered by such membership in the same manner and to the same effect as though such membership had never been joint.

Section 2.10. *Transfers and Encumbrances.* No member shall transfer, by operation of law or otherwise, or encumber in any way his membership or any right arising therefrom.

Section 2.11. *Annual Meeting.* The annual meeting of the members of the Corporation shall be held at such date, time and place as fixed by the Board of Directors. At the annual meeting, the members shall elect Directors, receive reports on the activities and financial condition of the Corporation, and transact such other business as may properly come before the meeting.

Section 2.12. *Special Meetings.* A special meeting of the members may be called by the Board of Directors, by that number of directors that is one (1) less than a majority of the directors in office, or by a petition signed by no fewer than ten (10%) percent of the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided in Section 2.13. The notice of a special meeting shall include the purpose or purposes of the meeting.

Section 2.13. *Notice of Meetings.*

(a) The Corporation shall notify its members of the date, time and place of each annual and special meeting of members no fewer than ten (10), nor more than forty-five (45) days before the meeting date. Notice of a meeting shall be by mail (and, in the case of a special meeting, at the direction of those calling the meeting). Any such notice may be included with member service billings or as an integral part of the Corporation's monthly publication. Such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Corporation, with postage thereon prepaid and mailed not later than or earlier than the required days prior to the meeting date.

(b) The incidental and non-intended failure of any member to receive such notice shall not invalidate any action which may be taken by the members at any such meeting, and the attendance in person of a member at any meeting of the members shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or one or more items of business, on the ground that the meeting shall not have been lawfully called or convened. Any member attending any meeting for the purpose of making such objection shall notify the Secretary prior to or at the beginning of the meeting of his objection. Appearance at meeting is waiver of notice.

Section 2.16. *Quorum.* A quorum for the transaction of business at meetings of the members shall be five percent (5%) of all members.

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Section 2.17. *Voting Requirements.* Each member shall be entitled to only one vote upon each matter submitted to a vote at any meeting of the members regardless of the number of memberships held. Voting by members other than members who are natural persons shall be allowed upon the presentation to the Corporation, prior to or upon registration at each member meeting, of satisfactory evidence entitling the person presenting the same to vote. At all meetings of the members, all questions shall be decided by a majority of the members voting thereon, except as otherwise provided by law or by the Corporation's Charter or these Bylaws.

Section 2.18. *Action by Written Ballot.* Any action that may be taken at any annual or special meeting of members may be taken without a meeting if the Corporation delivers a written ballot to every member entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

- (a) Indicate the number of responses needed to meet the quorum requirements;
- (b) State the percentage of approvals necessary to approve each matter other than election of Directors; and
- (c) Specify the time by which the ballot must be received by the Corporation in order to be counted.

SECTION 3 BOARD OF DIRECTORS

Section 3.01. *General Powers and Qualifications.* All corporate powers of the Corporation shall be exercised by and under the authority of, and the affairs of the Corporation shall be managed under the direction of, the Board of Directors. All Directors must be natural persons, must receive sewer service from the Corporation at his residence and shall be at least eighteen (18) years of age.

Section 3.02. *Number of Directors.* The Board of Directors shall be comprised of five (5) Directors, but these Bylaws may be amended from time to time to increase or decrease the number of Directors within the limits provided by law, although at no time shall there be fewer than three (3) Directors.

Section 3.03. *Election and Tenure.* Directors shall be elected by the members at each annual meeting of the members, and each Director shall be elected to serve for a term of one (1) year, or until his or her successor is elected and qualifies; subject, however, to the removal of any Director by the members as provided in these Bylaws. The three Directors serving on the Corporation's Board of Directors on the effective date of these bylaws shall continue to serve

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until the first annual meeting of the members. Nominations for members to serve on the Board of Directors shall be submitted to the Corporation before or at the annual meeting.

Section 3.04. *Regular Meetings*. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

Section 3.05. *Special Meetings*. Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

Section 3.06. *Notice of Meetings*. Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in any one (1) adjournment.

Section 3.07. *Waiver of Notice*. If a Director attends or participates in a meeting, he waives any required notice to him of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 3.08. *Quorum and Voting*. A quorum of the Board of Directors consists of a majority (but no fewer than two (2)) of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors, unless these Bylaws, the Charter or the Act require the vote of a greater number of Directors.

Section 3.09. *Vacancy*. If a vacancy occurs on the Board of Directors during the term of a Director, the vacancy shall be filled by the affirmative vote of the remaining Directors until the next annual member meeting.

Section 3.10. *Removal of Directors*. The members may remove any one (1) or more Directors, with or without cause, at any special meeting that is specifically called for that purpose.

Section 3.11. *Action Without Meeting*. Action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Corporation and included in the minutes filed with the corporate records.

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Section 3.12. *Indemnification.* With respect to claims or liabilities arising out of service as a Director of the Corporation, the Corporation shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 3.13. *Immunity.* To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Corporation.

SECTION 4 – OFFICERS

Section 4.01. *Required Officers.* The officers of the Corporation shall be a President, Vice-President and Secretary-Treasurer and such other officers as may from time to time be elected or appointed by the Board of Directors. Except for the offices of President and Secretary-Treasurer, the same individual may simultaneously hold more than one (1) office in the Corporation. All officers must be natural persons and shall be at least eighteen (18) years of age.

Section 4.02. *Election.* Each year at a meeting fixed and held by the Board of Directors, the Board shall elect the officers of the Corporation by a majority vote of those Directors present, provided a quorum exists.

Section 4.03. *Term of Office.* The officers of the Corporation shall hold office for one (1) year or until their successors are chosen and qualify in their stead, subject, however, to the right and authority of the Board of Directors to remove any officer at any time with or without cause.

Section 4.04. *Powers and Duties of Officers.* The powers and duties of the officers of the Corporation shall be as follows:

- (a) *President.* The President shall be the Chief Executive Officer of the Corporation, shall have general and active management of the Corporation, and shall see that all orders and resolutions of the Board of Directors are carried into effect, subject, however, to the right of the Board of Directors to delegate any specific powers, unless exclusively conferred upon the President by law, to any other officer of the Corporation.
- (b) *Vice President.* The Vice President shall have such powers and perform such duties as may be assigned to him or her by the Board of Directors or the President. In the absence or disability of the President, the Vice President shall perform the duties and exercise the powers of the President. The Vice President may sign and execute contracts and other obligations pertaining to the regular course of his or her duties.
- (c) *Secretary-Treasurer.* The Secretary-Treasurer shall attend all meetings of the Board of Directors of the Corporation and shall be responsible for preparing the minutes of such

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meetings. The Secretary-Treasurer shall be responsible for the care and custody of the minute book of the Corporation and for authenticating records of the Corporation. It shall be his or her duty to give or cause to be given notice of all meetings of the Board of Directors. In the event the Secretary-Treasurer is absent for some reason from any meeting where minutes are to be prepared or is otherwise unable to take such minutes, the presiding officer of such meeting shall appoint another person, subject to the approval of those present and entitled to vote at such meeting, to take the minutes thereof. The Secretary-Treasurer shall have custody of the Corporation funds and securities, shall keep full and accurate account of receipts and disbursements in the appropriate Corporation books, and shall require the deposit of all monies and other valuable assets in the name of and to the credit of the Corporation in such financial institutions as may be designated by the Board of Directors. The Secretary-Treasurer shall require disbursement of the funds of the Corporation as may be ordered by the Board of Directors, and shall render to the President and the Board of Directors, at any time they may require, an account of his or her transactions as Secretary-Treasurer and of the financial condition of the Corporation. The Secretary-Treasurer shall also perform such other duties as may be assigned to him or her by the Board of Directors or by the President, under whose supervision he shall act.

Section 4.05. *Removal.* The Board of Directors may remove any officer at any time with or without cause.

Section 4.06. *Vacancies.* Any vacancies occurring in the offices of the President, Vice President, Secretary-Treasurer shall be filled by the Board of Directors as soon as practicable. Vacancies in other offices may be filled at the discretion of the Board of Directors.

Section 4.07. *Delegation of Powers and Duties.* In case of the absence of any officer of the Corporation, or for any reason that the Board of Directors may deem sufficient, the Board of Directors may delegate the powers of such officer to any other officer or to any Director for the time being.

Section 4.08. *Indemnification.* With respect to claims or liabilities arising out of service as an officer of the Corporation, the Corporation shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

SECTION 5 – RECORDS AND REPORTS

Section 5.01. *Corporate Records.* The Corporation shall keep as permanent records minutes of all meetings of its members and Board of Directors, a record of all actions taken by the members or Board of Directors without a meeting, appropriate accounting records, and a list of its members in alphabetical order by class showing their respective addresses and the number of votes each member is entitled to vote.

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Section 5.02. *Records at Principal Office.* The Corporation shall keep at all times a copy of the following records at its principal office:

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) These Bylaws and all amendments thereto;
- (c) Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of members or any class or category of members;
- (d) The minutes of all meetings of members and the records of all actions taken by members without a meeting for the past three (3) years;
- (e) All written communications to members generally within the past three (3) years, including the past three (3) years' annual financial statements;
- (f) A list of the names and business or home addresses of its current Directors and officers; and
- (g) The most recent annual report delivered to the Tennessee Secretary of State.

Section 5.03. *Annual Financial Statements.* The Corporation shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Act.

SECTION 6 – MISCELLANEOUS PROVISIONS

Section 6.01. *Fiscal Year.* The fiscal year of the Corporation shall be July 1 through June 30.

Section 6.02. *No Seal.* The Corporation shall have no seal.

Section 6.03. *Notices.* Whenever notice is required to be given to Directors or officers, unless otherwise provided by law, the Charter or these Bylaws, such notice may be given in person, or by telephone, telegraph, teletype or other form of wire or wireless communication, or by mail or private carrier or by electronic mail. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address that appears for each such person on the books of the Corporation. Written notice shall be deemed to have been given at the earliest of the following:

- (a) When received;
- (b) Five (5) days after its deposit in the United States mail if sent first class, postage prepaid; or
- (c) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, postage prepaid and the receipt is signed by or on behalf of the addressee.

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Section 6.04. *Waiver of Notice.* Whenever any notice is required to be given under the provisions of any statute, or of the Charter or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon, and delivered to the Secretary of the Corporation and included in the minutes or corporate records, shall be deemed equivalent thereto.

Section 6.05. *Negotiable Instruments.* All checks, drafts, notes or other obligations of the Corporation shall be signed by such of the officers of the Corporation, or by such other person(s), as may be authorized by the Board of Directors.

Section 6.06. *Deposits.* The monies of the Corporation may be deposited in the name of the Corporation in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

SECTION 7 – NONPROFIT OPERATION

Section 7.01. *Interest or Dividends on Capital Prohibited.* The Corporation shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Corporation on any capital furnished by its patrons.

Section 7.02. *Disposition of Revenues; Distribution of Excess.* With respect to the Corporation's furnishing of sewer service, the revenues therefrom for any fiscal year, in excess of the amount thereof necessary:

- (a) to defray expenses of the Corporation, including the operation and maintenance of its facilities during such fiscal year;
- (b) to pay interest and principal obligations of the Corporation coming due in such fiscal year;
- (c) to finance, or to provide a reserve to finance, the construction or acquisition by the Corporation of additional facilities to the extent determined by the Board;
- (d) to provide a reasonable reserve for working capital;
- (e) to provide a reserve for the payment of indebtedness of the Corporation maturing more than one year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following year; and
- (f) to comply with any covenant or obligation of the Corporation pursuant to any contract in which it has entered;

Shall be distributed or credited by the Corporation to patrons:

- (a) as patronage refunds prorated in accordance with the patronage of the Corporation by the respective patrons paid for during or with respect to such fiscal year; or
- (b) by way of general reductions of rates or other charges; or
- (c) by any combination of such methods.

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Section 7.03. *Use of Contributed Capital.* The primary purpose of the Corporation is to furnish its patrons with sewer service at the lowest rates and charges consistent with prudent management and sound economy. Therefore, all amounts received and receivable from the furnishing of sewer service to patrons, members and non-members alike, in excess of operating costs and expenses properly chargeable thereto are at the moment of receipt by the Corporation received with the understanding that they are furnished by the patrons as capital. Capital contributed by the patrons shall be used only for capital purposes, including, without limitation, new sewer system improvements, the retirement of sewer system indebtedness at or prior to maturity, and working capital adequate for all purposes, and for facilitation of general rate reductions.

Section 7.04. *Ascertainment of Contributed Capital.* The Corporation shall maintain such books and records as will enable it at any time, upon reasonable notice, to compute the amount of capital contributed during any given accounting period by each of its patrons.

Section 7.05. *Contract.* The patrons of the Corporation, by dealing with the Corporation, acknowledge that the provisions of this Section of the Bylaws shall constitute and be a contract between the Corporation and non-member patrons, and both the Corporation and such patrons are bound by such contract as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provision of this Section of the Bylaws shall be called to the attention of such patrons by being posted in the Corporation's offices.

SECTION 8 - WAIVER OF NOTICE

Any member or director may waive, in writing, any notice of meetings required to be given by these Bylaws or any notice that may otherwise be legally required, either before or after such notice is required to be given.

SECTION 9 - RULES OF ORDER

Parliamentary procedure at all meetings of the members, of the Board of Directors, of any committee provided for in these Bylaws and of any other committee of the members or Board of Directors which may from time to time be duly established shall be governed by the most recent edition of Robert's Rules of Order, except to the extent such procedure is otherwise determined by law or by the Corporation's Charter or Bylaws. This Article shall be subordinate to any other provision of these Bylaws pertaining to the votes required for action by members, directors or committees.

SECTION 10 – RATES AND RULES AND REGULATIONS

The Board of Directors shall set the Corporation's rates and charges for sewer service and shall establish the rules and regulations governing the provision of sewer service by the Corporation. The Corporation's rates and charges and rules and regulations governing the provision of sewer services on the effective date of these Bylaws are attached as Appendix A to these Bylaws. The Board of Directors may change, alter and amend the rates and charges for sewer service and the

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rules and regulations governing the provision of sewer service at any time. The Corporation's rates and charges for sewer service and the rules and regulations governing the provision of sewer services shall become a part of every contract with any patron receiving sewer service from the Corporation.

SECTION 11 – AMENDMENT OF BYLAWS

Section 11.01. *By Members.* The Members may amend or repeal these Bylaws at any annual or special meeting of the members where a quorum is present, provided that the notice of such meeting shall state that the purpose, or one (1) of the purposes, of the meeting is to amend the Bylaws and shall also contain a description of the amendment to be considered. An amendment to these Bylaws must be approved by the members by the lesser of: (a) two-thirds (2/3) of the votes cast, or (b) a majority of the total number of votes entitled to be cast. These Bylaws may also be amended by the members without a meeting in the same manner as provided therefor herein, except that such action to amend must be by: (a) two-thirds (2/3) of the votes cast, or (b) a majority of the total number of votes entitled to be cast, whichever is less.

Section 11.02. *By Board of Directors.* By a majority vote of the Directors then in office, the Board of Directors may amend these Bylaws, including bylaws adopted by the members, at any regular or special meeting of the Board of Directors where a quorum is present, provided that such meeting is preceded by at least two (2) days' notice to each Director of the date, time and place of the meeting. Such notice shall also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the Bylaws, and shall contain or be accompanied by a copy or summary of the proposed amendment or state the general nature thereof. These Bylaws may also be amended by the Directors without a meeting in the same manner as provided therefor herein, except that such action to amend must be by a majority vote of the Directors then in office.

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**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY DISTRICT**

March 11, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 8:00 a.m. at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Other meeting attendees: Don Scholes.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of February 19, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Tyler Ring called the meeting of the Board of Directors to order.

Mr. Ford gave a financial report to the Board of Directors.

Mr. Scholes gave an update on the status of the Petition for Declaratory Ruling filed by the Consumer Advocate with the Tennessee Regulatory Authority.

A motion was made by Jim Ford and seconded by Tyler Ring to approve a Lease Agreement between the Corporation and John and Janice Ring for the lease of 990 square feet of office space at 321 Billingsly Court, Suite 4, Franklin, Tennessee for the Corporation's office with an annual rent of \$20,000 payable in monthly payments of \$1,666.67 for the period from January 1, 2011 through December 31, 2013 and to authorize the Corporation to enter into the Lease Agreement. After discussion the motion passed 2-0 with John Ring abstaining.

A motion was made by Jim Ford and seconded by John Ring to engage Lattimore Black Morgan and Cain, Certified Public Accountants, to audit the statement of financial position of the Corporation as of June 30, 2011 for a fee of \$6,000 and to authorize the Corporation to execute the engagement letter prepared by Lattimore Black Morgan and Cain to perform such audit. After discussion the motion passed 3-0.

A motion was made by Tyler Ring and seconded by Jim Ford authorizing the purchase of a directors and officers liability insurance policy for the Corporation and its directors and officers in the amount of \$1,000,000. After discussion the motion was passed 3-0.

Tyler Ring gave a report of the latest EPA audit of the Corporation's laboratory at the sewer treatment plant and the status of its certified operator, Bobby Winfrey. A motion was made by John Ring and seconded by Jim Ford authorizing Tyler Ring to take appropriate action as he deemed necessary to address the audit finding and the certified operator of the sewer treatment plant. After discussion the motion passed 3-0.

A motion was made by John Ring and seconded by Tyler Ring to hire Dye Van Mol, consultants, for public relations work for the Corporation. After discussion the motion passed 3-0.

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A motion was made by John Ring and seconded by Tyler Ring to amend the Corporation's charter to change the Corporation from an Tennessee Nonprofit Corporation without members to a Tennessee Nonprofit Corporation with members. Mr. Scholes was directed to prepare and file the charter amendment with the Tennessee Secretary of State and to amend the Corporation's bylaws as needed to address this change in the operation of the Corporation.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.


James B. Ford, Secretary

April 13, 2011
Date

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**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY DISTRICT**

February 19, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 8:30 a.m. on February 19, 2011, at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Other meeting attendees: Don Scholes.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of the February 4, 2011 Board of Director's meeting. After discussion the motion passed 3-0.

Mr. Scholes gave a report on the status of the Petition for Declaratory Ruling filed by the Consumer Advocate with the Tennessee Regulatory Authority (TRA), and the Board discussed the Corporation's response to this administrative proceeding with Mr. Scholes. Mr. Scholes suggested that the Corporation file an action in the Davidson County Chancery Court requesting a declaratory order on whether the Corporation was subject to regulation by the TRA since the issue in the TRA Petition was a Tennessee corporate law issue and not an issue in which the TRA had any special expertise. A motion was made by Jim Ford and seconded by Tyler Ring authorizing Mr. Scholes to file the declaratory judgment action in the Davidson County Chancery Court. After discussion the motion passed 3-0.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.



James B. Ford, Secretary

MARCH 11, 2011

Date

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**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY DISTRICT**

February 4, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 8:30 a.m. on February 4, 2011, at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Other meeting attendees: Don Scholes.

Tyler Ring called the meeting of the Board of Directors to order.

A motion was made by Jim Ford and seconded by Tyler Ring to approve the minutes of the August 31, 2010, and January 3, 2011 Board of Director's meetings. After discussion the motion passed 3-0.

Mr. Ford gave a financial report to the Board of Directors of the first four months of the Corporation's operations.

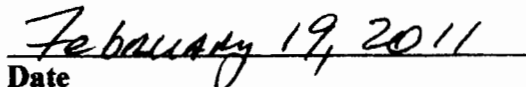
A motion was made by John Ring and seconded by Tyler Ring to approve the Corporation's budget for the year prepared by Mr. Ford. After discussion the motion passed 3-0.

Mr. Scholes gave a report on the status of the Petition for Declaratory Ruling filed by the Consumer Advocate with the Tennessee Regulatory Authority, and the Board discussed the Corporation's response to this administrative proceeding with Mr. Scholes.

A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.



James B. Ford, Secretary



Date

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**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY DISTRICT**

January 3, 2011

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 8:30 a.m. at its office located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Other meeting attendees: Don Scholes.

Tyler Ring called the meeting of the Board of Directors to order.

Mr. Ford gave a financial report to the Board of Directors.

Tyler Ring informed the Board that a Utility customer who has little or no sewer usage on the premises served had requested a reduction in the minimum monthly charge of \$25.00 which recently became effective. A motion was made by Jim Ford and seconded by John Ring to deny the request. Mr. Scholes informed the Board that making an exception for a single customer was probably unjustly discriminatory. After discussion the motion passed 3-0.

A motion was made by Jim Ford and seconded by John Ring to permit a one time adjustment to the customer's sewer bills for 2010 for any flood victim who supplied the Utility with a FEMA number which adjustment will be made by taking the customer's usage from May – October of 2009 and comparing this usage to the customer's usage from May – October of 2010 and reducing the customer's bill by one-half of the difference in the usage between the two years. After discussion the motion passed 3-0.

A motion was made by Tyler Ring and seconded by Jim Ford to hire an independent auditor to audit the Utility's books and records at the end of its fiscal year. After discussion the motion passed 3-0.

A motion was made by Jim Ford and seconded by Tyler Ring for the Utility to enter into a one year lease beginning January 1, 2011 with John Ring and Janice Ring for the Utility's office space at 321 Billingsly Court, Suite in Franklin at the monthly rental rate of \$1,666.67. After discussion the motion was passed 2-0 with John Ring abstaining.

A motion was made by Jim Ford and seconded by Tyler Ring authorizing Tyler Ring to staff the day-to-day operation of the Utility with employees and independent contractors as President of the Utility as he deemed necessary and appropriate. After discussion the motion passed 3-0.

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A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.



James B. Ford, Secretary



Date

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**MINUTES OF MEETING OF THE BOARD OF DIRECTORS OF
BERRY'S CHAPEL UTILITY DISTRICT**

August 31, 2010

A meeting of the Board of Directors of Berry's Chapel Utility, Inc. was held at 2:00 p.m. at its offices located at 321 Billingsly Court, Suite 4, Franklin, Tennessee. The Directors present for the meeting were Tyler L. Ring, John Ring and James B. Ford. Other meeting attendees: Don Scholes.

Tyler Ring called the meeting of the Board of Directors to order.

Mr. Scholes reported on the organization of the Utility to the Board of Directors.

A motion was made by Jim Ford and seconded by John Ring to adopt the rates and charges for the Utility which are attached to these minutes as the rates for the Utility effective September 1, 2010 and to incorporate these rates and charges as a new Section 7 – Utility Rates and Charges to the Utility's bylaws. After discussion the motion passed 3-0.

A motion was made by Jim Ford and seconded by John Ring to adopt the rules and regulations governing sewer service by the Utility effective September 1, 2010, and to incorporate these rules and regulations as a new Section 8 – Rules and Regulations for Sewer Service to the Utility's bylaws. After discussion the motion passed 3-0.

To raise revenue to meet the Utility's operation and maintenance expenses and to pay its debt obligations, a motion was made by Jim Ford and seconded by John Ring: (1) to increase the Utility's minimum monthly bill to \$25.00; (2) to implement a new facility charge of \$20.00 a month for residential customers; (3) to implement a new facility charge of \$30.00 a month for non-residential customers; (4) to incorporate these new rates in the Utility's bylaws; and (5) to make these new rates and charges effective for sewer service rendered after the November billing of the water utilities which bill and collect the Utility's sewer charges. After discussion the motion passed 3-0.

A motion was made by Tyler Ring and seconded by John Ring to hire Laura Morrissey as a part-time secretary for the Utility. After discussion the motion passed 3-0.

A motion was made by John Ring and seconded by Tyler Ring for the Utility to purchase directors and officers insurance for the Utility's directors and officers. After discussion the motion passed 3-0.

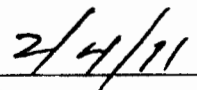
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A motion was made by John Ring and seconded by Tyler Ring to adjourn the Board meeting. After discussion the motion passed 3-0 and the meeting was adjourned.



James B. Ford, Secretary



Date

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**ACTION WITHOUT MEETING BY BOARD OF DIRECTORS BERRY'S CHAPEL
UTILITY, INC.**

Pursuant to the provisions of the Tennessee Nonprofit Corporation Act, the Board of Directors of Berry's Chapel Utility, Inc. hereby resolves to approve and adopt the Agreement and Plan of Merger which is attached hereto merging Lynwood Utility Corporation into Berry Chapel Utility, Inc.

By: John Ring
John Ring, Director

Date: 8-18-2010

By: Erin L. Ring
Erin L. Ring, Director

Date: 8-18-2010

By: James B. Ford
James B. Ford, Director

Date: 8-18-2010

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AGREEMENT AND PLAN OF MERGER

Pursuant to the provisions of Section 48-61-101 of the Tennessee Nonprofit Corporation Act, **Lynwood Utility Corporation (Lynwood)**, and **Berry's Chapel Utility, Inc. (Berry's Chapel)** enter into this AGREEMENT AND PLAN OF MERGER this ____ day of August, 2010.

1. **Merger.**

(a) On the effective date set forth in this section and upon the terms and subject to the conditions set forth in this Agreement, Lynwood shall be merged with and into Berry's Chapel whereupon the separate existence of Lynwood will cease and Berry's Chapel shall be the surviving corporation in the merger (the Surviving Corporation).

(b) As soon as practicable after the satisfaction or waiver of the conditions to obligations of the parties to consummate the Merger, Lynwood and Berry's Chapel will file articles of merger with the Tennessee Secretary of State and make all other filings and recordings required by applicable law in connection with the merger.

(c) The effective date of the Merger is September 1, 2010.

(d) On the effective date of the Merger, Lynwood will no longer exist as a separate corporation, and all responsibility, coverage and liability for the terms and conditions of Lynwood's NPDES Permit TN0029718 shall transfer to Berry's Chapel.

2. **The Surviving Corporation.**

(a) The charter of the Surviving Corporation in effect on the effective date shall be the charter of the Surviving Corporation until amended in accordance with applicable law.

(b) The by-laws of the Surviving Corporation in effect on the effective date shall be the charter of the Surviving Corporation until amended in accordance with applicable law.

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3. Effect of the Merger.

The Merger shall have the effect set forth in T.C.A. § 48-61-105. Upon the Merger, Berry's Chapel, the surviving corporation, shall assume the contracts, obligations and liabilities of every nature of Lynwood and shall thereupon and thereafter possess all rights, privileges, immunities, assets, property, debts, liabilities and choses in action of the merging corporations, without the necessity of any other formal documentation, except as may be required by law.

4. Covenants.

(a) For the Lynwood sewer system, Berry's Chapel shall issue a promissory note to John Ring in the approximate amount of \$1,200,000 and a promissory note to Tyler L. Ring in the approximate amount of \$1,200,000, John Ring and Tyler Ring being the shareholders of Southern Utility Corporation, the sole shareholder of Lynwood, with such promissory notes to be secured by a second mortgage on the real property and a first lien on the personal property of Berry's Chapel. Each promissory note shall have the following terms:

Date of maturity – September 1, 2030

Interest rate 2% for the first two years of the note
 2.5% for the third year of the note
 3.0 % for the remaining 17 years of the note

Payments Beginning on September 1, 2013, an annual payment in the amount of \$50,000 will be due on August 31st of each year with a balloon payment on August 31, 2030.

(b) With the Merger of Lynwood with and into Berry's Chapel, all shares of stock of Lynwood shall thereupon be cancelled and extinguished in all respects.

(c) On the effective date of the Merger, the Lynwood sewer treatment and collection

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system shall be transferred to the books and records of Berry's Chapel at the fair market value on the effective date with an approximate value of \$5,580,000.

IN WITNESS WHEREOF, the parties have caused their names to be subscribed hereto on the day and year first above written.

LYNWOOD UTILITY CORPORATION

By: _____
Tyler L. Ring, President

BERRY'S CHAPEL UTILITY, INC.

By: _____
Tyler L. Ring, President

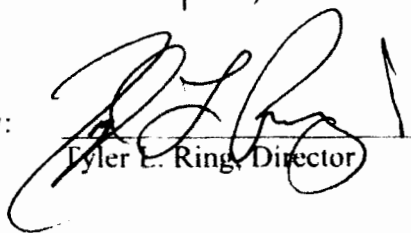
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**ACTION WITHOUT MEETING BY BOARD OF DIRECTORS OF BERRY'S CHAPEL
UTILITY, INC.**

Pursuant to the provisions of the Tennessee Business Corporation Act, the Board of Directors of Berry's Chapel Utility, Inc. hereby resolves to approve and adopt the Agreement attached hereto on the date for the transfer of the responsibility of the NPDES Permit No. TN0029718 from Lynwood Utility Corporation to Berry's Chapel Utility, Inc.

By: 
John Ring, Director

Date: July 21, 2010

By: 
Tyler E. Ring, Director

Date: July 21, 2010

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AGREEMENT

This Agreement (the Agreement) entered into this ____ day of July, 2010 between Lynwood Utility Corporation and Berry's Chapel Utility, Inc.

WITNESSETH:

Whereas, Lynwood Utility Corporation (Lynwood) and Berry's Chapel Utility, Inc. (Berry's Chapel) have entered into an Agreement and Plan of Merger in which the parties have agreed to merge Lynwood into Berry's Chapel with Berry's Chapel being the surviving corporation;

Whereas, the effective date of the merger is September 1, 2010;

Whereas, effective September 1, 2010, Berry's Chapel will assume all of the assets and liabilities of Lynwood including Lynwood's NPDES Permit No. TN0029718; and

Whereas, because Lynwood is simply merging into Berry's Chapel, there will be no modifications to the permitted facility, its operations or any other changes which might affect the permit limits and conditions contained in the permit.

NOW THEREFORE, in consideration of these premises and other good and valuable consideration, the receipt of which is hereby acknowledged, including the mutual covenants, terms, conditions and restrictions in this Agreement, the parties agree as follows.

1. Lynwood Utility Corporation and Berry's Chapel Utility, Inc. agree that on September 1, 2010, Berry's Chapel Utility, Inc. will assume permit responsibility, coverage and liability for NPDES Permit No. TN0029718.

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**ACTIONS OF BOARD OF DIRECTORS WITHOUT MEETING OF BERRY'S CHAPEL
UTILITY, INC.**

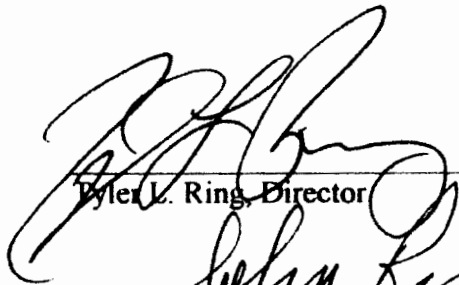
The undersigned, being all of the Directors on the Board of Directors of Berry's Chapel Utility, Inc., do hereby consent to taking the following actions without a meeting in connection with the organization of the corporation and agree and consent to such actions as follows:

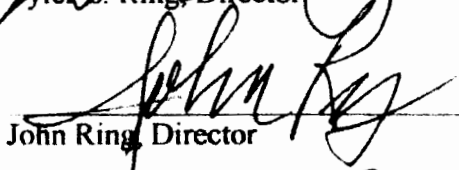
1. That the actions taken by the incorporator be approved, confirmed and ratified.
2. That the Charter of Berry's Chapel Utility, Inc., which has been duly filed and issued by the Tennessee Secretary of State, be accepted on behalf of the corporation and that the same be preserved as a part of the corporate records.
3. That the form of bylaws which has been drafted by legal counsel for the regulation of the affairs of the corporation be adopted as the Bylaws of this corporation.
4. That the following be the duly-elected officers of this corporation to serve during the ensuing year and until their successors are chosen and qualified:

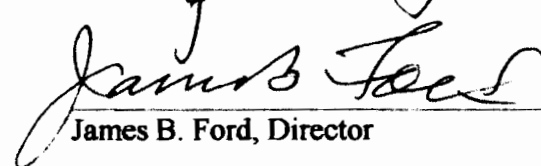
Tyler L. Ring	President
John Ring	Vice President
James B. Ford	Secretary-Treasurer

5. That the fiscal year of the corporation shall be the same period selected as the tax year for the corporation for federal income tax purposes.
6. That the corporation is authorized and directed to pay all fees and expenses incident and necessary to its organization.
7. That the President of this corporation is authorized to enter into and execute on behalf of the corporation all necessary contracts, agreements and other required documents and make all arrangements which may be necessary for the commencement and operation of the business of the corporation.

Dated the 21st day of July, 2010.


Tyler L. Ring, Director


John Ring, Director


James B. Ford, Director

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RESPONSE TO CAPD REQUEST #47

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**CHARTER
OF
BERRY'S CHAPEL UTILITY, INC.**

FILED
STATE OF TENNESSEE

2010 JUL 16 PM 4:08

TRL HARGETT
SECRETARY OF STATE

The undersigned, acting as the incorporator of a corporation under the Tennessee Nonprofit Corporation Act, adopts the following Charter for such corporation:

1. The name of the corporation is Berry's Chapel Utility, Inc.
2. This corporation is a mutual benefit corporation.
3. The initial registered agent for the corporation is Tyler L. Ring whose street address is 321 Billingsly Court, Suite 4, Franklin, Tennessee 37065.
4. The name and address of the incorporator is:

Tyler L. Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

5. The street address of the principal office of the corporation is 321 Billingsly Court, Suite 4, Franklin, Tennessee 37065.
6. This corporation is not for profit.
7. This corporation is not a religious corporation.
8. This corporation will not have members.
9. This corporation's initial directors and their addresses are:

John Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

Tyler L. Ring
321 Billingsly Court, Suite 4
Franklin, TN 37065

James B. Ford
9679 Aurora Court
Brentwood, TN 37027

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10. The purpose of the corporation shall be to own and operate a sanitary sewer collection and treatment system and to engage in any other lawful business.
11. Upon dissolution, after all creditors of the corporation have been paid, its assets shall be distributed to any person, partnership, limited partnership, limited liability company or corporation engaged in the sanitary sewer business or to the State of Tennessee or any county, municipality or political subdivision of the State of Tennessee.
12. To the extent allowed by the laws of the State of Tennessee, no present or future director of the corporation (or his or her estate, heirs and personal representatives) shall be liable to the corporation for monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director (or his or her estate, heirs and personal representatives) shall be further eliminated or limited to the fullest extent allowed by the laws of the State of Tennessee, as may hereafter be adopted or amended.
13. With respect to claims or liabilities arising out of service as a director or officer of the corporation, the corporation shall indemnify and advance expenses to each present and future director and officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Dated the 14th day of July, 2010.


Tyler L. Ring, Incorporator

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CHARTER	07/27/2010	11:22 AM
BATCH	184116	
MTG TAX	0.00	
TRM TAX	0.00	
REC FEE	5.00	
DP FEE	2.00	
ARC FEE	0.00	
TOTAL	7.00	

STATE OF TENNESSEE, WILLIAMSON COUNTY
SADIE WADE
REGISTER OF DEEDS

FILED
STATE OF TENNESSEE
2010 JUL 16 PM 4:08
TRE HARGETT
SECRETARY OF STATE



STATE OF TENNESSEE
Tre Hargett, Secretary of State
Division of Business Services
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

Berry's Chapel Utility, Inc.
321 Billingsly Court
Suite 4
Franklin, TN 37065 USA

July 16, 2010

Filing Acknowledgment

Please review the filing information below and notify our office immediately of any discrepancies.

Control # :	635712	Formation Locale:	Williamson County
Filing Type:	Corporation Non-Profit - Domestic	Date Formed:	07/16/2010
Filing Date:	07/16/2010 4:08 PM	Fiscal Year Close	12
Status:	Active	Annual Rpt Due:	04/01/2011
Duration Term:	Perpetual	Image # :	6745-2519
Public/Mutual Benefit:	Mutual		

Document Receipt

Receipt # : 221470 Filing Fee: \$100.00
Payment-Check/MO - BRANSTETTER STRANCH & JENNINGS, PLLC, NASHVILLE, TN \$100.00

Registered Agent Address

Tyler L. Ring
321 Billingsly Court
Suite 4
Franklin, TN 37065 USA

Congratulations on the successful filing of your **Charter** for **Berry's Chapel Utility, Inc.** in the State of Tennessee which is effective on the date shown above. You must also file this document in the office of the Register of Deeds in the county where the entity has its principal office if such principal office is in Tennessee.

You must file an Annual Report with this office on or before the Annual Report Due Date noted above and maintain a Registered Office and Registered Agent. Failure to do so will subject the business to Administrative Dissolution/Revocation.

Tre Hargett, Secretary of State
Business Services Division

Processed By: Cheryl Donnell

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**ARTICLES OF AMENDMENT TO THE
CHARTER
OF
BERRY'S CHAPEL UTILITY, INC.**

THE TENSILE
SECRETARY OF STATE

Pursuant to the provisions of Section 48-60-105 of the Tennessee Nonprofit Corporation Act, the undersigned corporation adopts the following articles of amendment to its charter:

1. The name of the corporation is Berry's Chapel Utility, Inc.
2. The text of the amendment to paragraph 6 of the corporation's charter adopted is:
 6. This corporation will have members.
3. This amendment was duly adopted on March 11, 2011 by the board of directors without members' approval, as such was not required.
4. Additional approval of the amendment by anyone other than the board of directors is not required.

DATED this 11th day of March, 2011.


Tyler L. Ring, Director - President

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Branstetter-mail



STATE OF TENNESSEE
Tre Hargett, Secretary of State
Division of Business Services
William R. Snodgrass Tower
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102

Berry's Chapel Utility, Inc.
321 Billingsly Court
Suite 4
Franklin, TN 37065

March 24, 2011

Filing Acknowledgment

Please review the filing information below and notify our office immediately of any discrepancies.

Control # : 635712 **Status: Active**
Filing Type: Corporation Non-Profit - Domestic

Document Receipt

Receipt # : 401534 **Filing Fee: \$20.00**
Payment-Cash - Berry's Chapel Utility, Inc., Franklin, TN **\$20.00**

Amendment Type: Articles of Amendment
Filed Date: 03/24/2011 3:45 PM

Image # : 6857-1015

This will acknowledge the filing of the attached articles of amendment with an effective date as indicated above. When corresponding with this office or submitting documents for filing, please refer to the control number given above.

You must also file this document in the office of the Register of Deeds in the county where the entity has its principal office if such principal office is in Tennessee.

Tre Hargett
Tre Hargett
Secretary of State

Processed By: Cynthia Dunn

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CHARTER	
04/04/2011	02:36 PM
BATCH	211586
MTG TAX	0.00
TRN TAX	0.00
REC FEE	5.00
DP FEE	2.00
REG FEE	0.00
TOTAL	7.00

STATE OF TENNESSEE, WILLIAMSON COUNTY

SADIE WADE
REGISTER OF DEEDS

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**BYLAWS
OF
BERRY'S CHAPEL UTILITY, INC.**

These Bylaws shall regulate the affairs of the Corporation, subject to the provisions of the Corporation's Charter and any applicable provisions of the Tennessee Nonprofit Corporation Act, *T.C.A. § 48-51-101, et seq.* (the "Act").

SECTION 1 – OFFICES AND REGISTERED AGENT

Section 1.01. *Registered Office.* The Corporation shall designate and continuously maintain a registered office in the State of Tennessee.

Section 1.02. *Principal Office.* The principal office of the Corporation shall be that which is designated as such in its Charter.

Section 1.03. *Other Offices.* The Corporation may also have other offices within and without the State of Tennessee at such places as the Board of Directors may from time to time determine.

Section 1.04. *Registered Agent.* The Corporation shall designate and continuously maintain a registered agent in the State of Tennessee at its registered office.

SECTION 2 MEMBERS

Section 2.01. *Eligibility.* Any natural person, firm, association, corporation, cooperative, business trust, partnership, federal, state or local government, or departments, agencies or any other political subdivision thereof (each hereinafter referred to as "person," "applicant," "him" or "his") that receives sewer service from Berry's Chapel Utility, Inc. (hereinafter called the "Corporation") at one or more premises owned or directly occupied or used by the person is eligible to become a member of the Corporation.

Section 2.02. *Admission of Members.* An eligible person shall become a member upon completing and executing an application for membership and delivering it to the Corporation.

Section 2.03. *Rights and Obligations.* Except as set forth in Section 2.04, each member shall have one (1) vote and shall have the same rights and obligations with respect to voting, dissolution, redemption, transfer and all other matters as all other members.

Section 2.04. *Joint Membership.* A husband and wife, by specifically so requesting in writing, may be accepted into joint membership or, if one of them is already a member, may automatically convert such membership into a joint membership. The words "member," "applicant," "person," "his," and "him," as used in these Bylaws, shall include a husband and wife applying for or holding a joint membership, unless otherwise clearly distinguished in the text; and all provisions relating to the rights, powers, terms, conditions, obligations,

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responsibilities and liabilities of membership shall apply equally, severally and jointly to them. Without limiting the generality of the foregoing:

- (a) the presence at a meeting of either or both shall constitute the presence of one member and a joint waiver of notice of the meeting;
- (b) the vote of either or both shall constitute, respectively, one joint vote; provided, if both be present but in disagreement on such vote, each shall cast only one-half (1/2) vote;
- (c) notice to, or waiver of notice signed by, either or both shall constitute, respectively, a joint notice or waiver of notice; and
- (d) suspension or termination in any manner of either shall constitute suspension or termination of the joint membership.

Section 2.05. *Excess Payments to be Credited as Member-Furnished Capital.* All amounts paid for sewer service in excess of the cost thereof shall be treated as member-furnished capital as provided in Section 7 of these Bylaws.

Section 2.06. *Resignation.* A member may resign at any time by delivering to the Secretary of the Corporation a written notice of such resignation signed by the member which shall be included in the corporate records. A resignation shall not be effective before the date and time the Secretary actually receives written notice of it. A person's membership shall be terminated upon his death.

Section 2.07. *Termination by Withdrawal.* A member may withdraw from membership upon such generally applicable conditions as the Board of Directors shall prescribe and upon either (a) ceasing to (or, with the approval of the Board of Directors resigning his membership in favor of a new applicant who also shall) own or directly occupy or use all premises being furnished sewer service, or (b) totally and permanently abandoning the use of sewer service on such premises.

Section 2.08 *Expulsion or Suspension.* A member may be expelled or suspended by the Board of Directors, but notice and an opportunity to be heard shall first be given to the member as set forth below, and the expulsion or suspension procedure shall be fair, reasonable and carried out in good faith:

- (a) The member shall be given not less than fifteen (15) days' prior written notice of the expulsion or suspension, and the reason(s) therefor; and
- (b) The member must be given the opportunity to be heard, orally or in writing, by the Board of Directors not less than five (5) days before the effective date of the expulsion or suspension.

For purposes of this Section 2.08 only, any written notice given by mail shall be sent postage prepaid by first class United States mail or by certified United States mail, return receipt requested, and sent to the last address of the member shown on the Corporation's records.

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Section 2.09. *Effect of Death, Legal Separation or Divorce Upon a Joint Membership.* Upon the death of either spouse of a joint membership, such membership shall continue to be held solely by the survivor, in the same manner and to the same effect as though such membership had never been joint; Upon the legal separation or divorce of the holders of a joint membership, such membership shall continue to be held solely by the one who continues directly to occupy or use the premises covered by such membership in the same manner and to the same effect as though such membership had never been joint.

Section 2.10. *Transfers and Encumbrances.* No member shall transfer, by operation of law or otherwise, or encumber in any way his membership or any right arising therefrom.

Section 2.11. *Annual Meeting.* The annual meeting of the members of the Corporation shall be held at such date, time and place as fixed by the Board of Directors. At the annual meeting, the members shall elect Directors, receive reports on the activities and financial condition of the Corporation, and transact such other business as may properly come before the meeting.

Section 2.12. *Special Meetings.* A special meeting of the members may be called by the Board of Directors, by that number of directors that is one (1) less than a majority of the directors in office, or by a petition signed by no fewer than ten (10%) percent of the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided in Section 2.13. The notice of a special meeting shall include the purpose or purposes of the meeting.

Section 2.13. *Notice of Meetings.*

(a) The Corporation shall notify its members of the date, time and place of each annual and special meeting of members no fewer than ten (10), nor more than forty-five (45) days before the meeting date. Notice of a meeting shall be by mail (and, in the case of a special meeting, at the direction of those calling the meeting). Any such notice may be included with member service billings or as an integral part of the Corporation's monthly publication. Such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Corporation, with postage thereon prepaid and mailed not later than or earlier than the required days prior to the meeting date.

(b) The incidental and non-intended failure of any member to receive such notice shall not invalidate any action which may be taken by the members at any such meeting, and the attendance in person of a member at any meeting of the members shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or one or more items of business, on the ground that the meeting shall not have been lawfully called or convened. Any member attending any meeting for the purpose of making such objection shall notify the Secretary prior to or at the beginning of the meeting of his objection. Appearance at meeting is waiver of notice.

Section 2.16. *Quorum.* A quorum for the transaction of business at meetings of the members shall be five percent (5%) of all members.

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Section 2.17. *Voting Requirements.* Each member shall be entitled to only one vote upon each matter submitted to a vote at any meeting of the members regardless of the number of memberships held. Voting by members other than members who are natural persons shall be allowed upon the presentation to the Corporation, prior to or upon registration at each member meeting, of satisfactory evidence entitling the person presenting the same to vote. At all meetings of the members, all questions shall be decided by a majority of the members voting thereon, except as otherwise provided by law or by the Corporation's Charter or these Bylaws.

Section 2.18. *Action by Written Ballot.* Any action that may be taken at any annual or special meeting of members may be taken without a meeting if the Corporation delivers a written ballot to every member entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

- (a) Indicate the number of responses needed to meet the quorum requirements;
- (b) State the percentage of approvals necessary to approve each matter other than election of Directors; and
- (c) Specify the time by which the ballot must be received by the Corporation in order to be counted.

SECTION 3 BOARD OF DIRECTORS

Section 3.01. *General Powers and Qualifications.* All corporate powers of the Corporation shall be exercised by and under the authority of, and the affairs of the Corporation shall be managed under the direction of, the Board of Directors. All Directors must be natural persons, must receive sewer service from the Corporation at his residence and shall be at least eighteen (18) years of age.

Section 3.02. *Number of Directors.* The Board of Directors shall be comprised of five (5) Directors, but these Bylaws may be amended from time to time to increase or decrease the number of Directors within the limits provided by law, although at no time shall there be fewer than three (3) Directors.

Section 3.03. *Election and Tenure.* Directors shall be elected by the members at each annual meeting of the members, and each Director shall be elected to serve for a term of one (1) year, or until his or her successor is elected and qualifies; subject, however, to the removal of any Director by the members as provided in these Bylaws. The three Directors serving on the Corporation's Board of Directors on the effective date of these bylaws shall continue to serve

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until the first annual meeting of the members. Nominations for members to serve on the Board of Directors shall be submitted to the Corporation before or at the annual meeting.

Section 3.04. *Regular Meetings.* Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

Section 3.05. *Special Meetings.* Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

Section 3.06. *Notice of Meetings.* Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in any one (1) adjournment.

Section 3.07. *Waiver of Notice.* If a Director attends or participates in a meeting, he waives any required notice to him of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 3.08. *Quorum and Voting.* A quorum of the Board of Directors consists of a majority (but no fewer than two (2)) of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors, unless these Bylaws, the Charter or the Act require the vote of a greater number of Directors.

Section 3.09. *Vacancy.* If a vacancy occurs on the Board of Directors during the term of a Director, the vacancy shall be filled by the affirmative vote of the remaining Directors until the next annual member meeting.

Section 3.10. *Removal of Directors.* The members may remove any one (1) or more Directors, with or without cause, at any special meeting that is specifically called for that purpose.

Section 3.11. *Action Without Meeting.* Action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Corporation and included in the minutes filed with the corporate records.

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Section 3.12. *Indemnification.* With respect to claims or liabilities arising out of service as a Director of the Corporation, the Corporation shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

Section 3.13. *Immunity.* To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Corporation.

SECTION 4 – OFFICERS

Section 4.01. *Required Officers.* The officers of the Corporation shall be a President, Vice-President and Secretary-Treasurer and such other officers as may from time to time be elected or appointed by the Board of Directors. Except for the offices of President and Secretary-Treasurer, the same individual may simultaneously hold more than one (1) office in the Corporation. All officers must be natural persons and shall be at least eighteen (18) years of age.

Section 4.02. *Election.* Each year at a meeting fixed and held by the Board of Directors, the Board shall elect the officers of the Corporation by a majority vote of those Directors present, provided a quorum exists.

Section 4.03. *Term of Office.* The officers of the Corporation shall hold office for one (1) year or until their successors are chosen and qualify in their stead, subject, however, to the right and authority of the Board of Directors to remove any officer at any time with or without cause.

Section 4.04. *Powers and Duties of Officers.* The powers and duties of the officers of the Corporation shall be as follows:

- (a) *President.* The President shall be the Chief Executive Officer of the Corporation, shall have general and active management of the Corporation, and shall see that all orders and resolutions of the Board of Directors are carried into effect, subject, however, to the right of the Board of Directors to delegate any specific powers, unless exclusively conferred upon the President by law, to any other officer of the Corporation.
- (b) *Vice President.* The Vice President shall have such powers and perform such duties as may be assigned to him or her by the Board of Directors or the President. In the absence or disability of the President, the Vice President shall perform the duties and exercise the powers of the President. The Vice President may sign and execute contracts and other obligations pertaining to the regular course of his or her duties.
- (c) *Secretary-Treasurer.* The Secretary-Treasurer shall attend all meetings of the Board of Directors of the Corporation and shall be responsible for preparing the minutes of such

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meetings. The Secretary-Treasurer shall be responsible for the care and custody of the minute book of the Corporation and for authenticating records of the Corporation. It shall be his or her duty to give or cause to be given notice of all meetings of the Board of Directors. In the event the Secretary-Treasurer is absent for some reason from any meeting where minutes are to be prepared or is otherwise unable to take such minutes, the presiding officer of such meeting shall appoint another person, subject to the approval of those present and entitled to vote at such meeting, to take the minutes thereof. The Secretary-Treasurer shall have custody of the Corporation funds and securities, shall keep full and accurate account of receipts and disbursements in the appropriate Corporation books, and shall require the deposit of all monies and other valuable assets in the name of and to the credit of the Corporation in such financial institutions as may be designated by the Board of Directors. The Secretary-Treasurer shall require disbursement of the funds of the Corporation as may be ordered by the Board of Directors, and shall render to the President and the Board of Directors, at any time they may require, an account of his or her transactions as Secretary-Treasurer and of the financial condition of the Corporation. The Secretary-Treasurer shall also perform such other duties as may be assigned to him or her by the Board of Directors or by the President, under whose supervision he shall act.

Section 4.05. *Removal.* The Board of Directors may remove any officer at any time with or without cause.

Section 4.06. *Vacancies.* Any vacancies occurring in the offices of the President, Vice President, Secretary-Treasurer shall be filled by the Board of Directors as soon as practicable. Vacancies in other offices may be filled at the discretion of the Board of Directors.

Section 4.07. *Delegation of Powers and Duties.* In case of the absence of any officer of the Corporation, or for any reason that the Board of Directors may deem sufficient, the Board of Directors may delegate the powers of such officer to any other officer or to any Director for the time being.

Section 4.08. *Indemnification.* With respect to claims or liabilities arising out of service as an officer of the Corporation, the Corporation shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

SECTION 5 - RECORDS AND REPORTS

Section 5.01. *Corporate Records.* The Corporation shall keep as permanent records minutes of all meetings of its members and Board of Directors, a record of all actions taken by the members or Board of Directors without a meeting, appropriate accounting records, and a list of its members in alphabetical order by class showing their respective addresses and the number of votes each member is entitled to vote.

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Section 5.02. *Records at Principal Office.* The Corporation shall keep at all times a copy of the following records at its principal office:

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) These Bylaws and all amendments thereto;
- (c) Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of members or any class or category of members;
- (d) The minutes of all meetings of members and the records of all actions taken by members without a meeting for the past three (3) years;
- (e) All written communications to members generally within the past three (3) years, including the past three (3) years' annual financial statements;
- (f) A list of the names and business or home addresses of its current Directors and officers; and
- (g) The most recent annual report delivered to the Tennessee Secretary of State.

Section 5.03. *Annual Financial Statements.* The Corporation shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Act.

SECTION 6 – MISCELLANEOUS PROVISIONS

Section 6.01. *Fiscal Year.* The fiscal year of the Corporation shall be July 1 through June 30.

Section 6.02. *No Seal.* The Corporation shall have no seal.

Section 6.03. *Notices.* Whenever notice is required to be given to Directors or officers, unless otherwise provided by law, the Charter or these Bylaws, such notice may be given in person, or by telephone, telegraph, teletype or other form of wire or wireless communication, or by mail or private carrier or by electronic mail. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address that appears for each such person on the books of the Corporation. Written notice shall be deemed to have been given at the earliest of the following:

- (a) When received;
- (b) Five (5) days after its deposit in the United States mail if sent first class, postage prepaid; or
- (c) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, postage prepaid and the receipt is signed by or on behalf of the addressee.

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Section 6.04. *Waiver of Notice.* Whenever any notice is required to be given under the provisions of any statute, or of the Charter or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon, and delivered to the Secretary of the Corporation and included in the minutes or corporate records, shall be deemed equivalent thereto.

Section 6.05. *Negotiable Instruments.* All checks, drafts, notes or other obligations of the Corporation shall be signed by such of the officers of the Corporation, or by such other person(s), as may be authorized by the Board of Directors.

Section 6.06. *Deposits.* The monies of the Corporation may be deposited in the name of the Corporation in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

SECTION 7 – NONPROFIT OPERATION

Section 7.01. *Interest or Dividends on Capital Prohibited.* The Corporation shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Corporation on any capital furnished by its patrons.

Section 7.02. *Disposition of Revenues; Distribution of Excess.* With respect to the Corporation's furnishing of sewer service, the revenues therefrom for any fiscal year, in excess of the amount thereof necessary:

- (a) to defray expenses of the Corporation, including the operation and maintenance of its facilities during such fiscal year;
- (b) to pay interest and principal obligations of the Corporation coming due in such fiscal year;
- (c) to finance, or to provide a reserve to finance, the construction or acquisition by the Corporation of additional facilities to the extent determined by the Board;
- (d) to provide a reasonable reserve for working capital;
- (e) to provide a reserve for the payment of indebtedness of the Corporation maturing more than one year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following year; and
- (f) to comply with any covenant or obligation of the Corporation pursuant to any contract in which it has entered;

Shall be distributed or credited by the Corporation to patrons:

- (a) as patronage refunds prorated in accordance with the patronage of the Corporation by the respective patrons paid for during or with respect to such fiscal year; or
- (b) by way of general reductions of rates or other charges; or
- (c) by any combination of such methods.

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Section 7.03. *Use of Contributed Capital.* The primary purpose of the Corporation is to furnish its patrons with sewer service at the lowest rates and charges consistent with prudent management and sound economy. Therefore, all amounts received and receivable from the furnishing of sewer service to patrons, members and non-members alike, in excess of operating costs and expenses properly chargeable thereto are at the moment of receipt by the Corporation received with the understanding that they are furnished by the patrons as capital. Capital contributed by the patrons shall be used only for capital purposes, including, without limitation, new sewer system improvements, the retirement of sewer system indebtedness at or prior to maturity, and working capital adequate for all purposes, and for facilitation of general rate reductions.

Section 7.04. *Ascertainment of Contributed Capital.* The Corporation shall maintain such books and records as will enable it at any time, upon reasonable notice, to compute the amount of capital contributed during any given accounting period by each of its patrons.

Section 7.05. *Contract.* The patrons of the Corporation, by dealing with the Corporation, acknowledge that the provisions of this Section of the Bylaws shall constitute and be a contract between the Corporation and non-member patrons, and both the Corporation and such patrons are bound by such contract as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provision of this Section of the Bylaws shall be called to the attention of such patrons by being posted in the Corporation's offices.

SECTION 8 - WAIVER OF NOTICE

Any member or director may waive, in writing, any notice of meetings required to be given by these Bylaws or any notice that may otherwise be legally required, either before or after such notice is required to be given.

SECTION 9 - RULES OF ORDER

Parliamentary procedure at all meetings of the members, of the Board of Directors, of any committee provided for in these Bylaws and of any other committee of the members or Board of Directors which may from time to time be duly established shall be governed by the most recent edition of Robert's Rules of Order, except to the extent such procedure is otherwise determined by law or by the Corporation's Charter or Bylaws. This Article shall be subordinate to any other provision of these Bylaws pertaining to the votes required for action by members, directors or committees.

SECTION 10 - RATES AND RULES AND REGULATIONS

The Board of Directors shall set the Corporation's rates and charges for sewer service and shall establish the rules and regulations governing the provision of sewer service by the Corporation. The Corporation's rates and charges and rules and regulations governing the provision of sewer services on the effective date of these Bylaws are attached as Appendix A to these Bylaws. The Board of Directors may change, alter and amend the rates and charges for sewer service and the

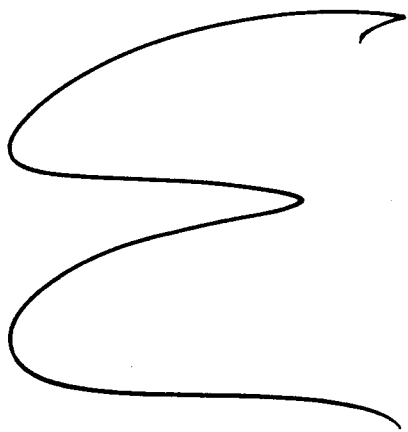
11-02-98
PS 12/15/

rules and regulations governing the provision of sewer service at any time. The Corporation's rates and charges for sewer service and the rules and regulations governing the provision of sewer services shall become a part of every contract with any patron receiving sewer service from the Corporation.

SECTION 11 – AMENDMENT OF BYLAWS

Section 11.01. *By Members.* The Members may amend or repeal these Bylaws at any annual or special meeting of the members where a quorum is present, provided that the notice of such meeting shall state that the purpose, or one (1) of the purposes, of the meeting is to amend the Bylaws and shall also contain a description of the amendment to be considered. An amendment to these Bylaws must be approved by the members by the lesser of: (a) two-thirds (2/3) of the votes cast, or (b) a majority of the total number of votes entitled to be cast. These Bylaws may also be amended by the members without a meeting in the same manner as provided therefor herein, except that such action to amend must be by: (a) two-thirds (2/3) of the votes cast, or (b) a majority of the total number of votes entitled to be cast, whichever is less.

Section 11.02. *By Board of Directors.* By a majority vote of the Directors then in office, the Board of Directors may amend these Bylaws, including bylaws adopted by the members, at any regular or special meeting of the Board of Directors where a quorum is present, provided that such meeting is preceded by at least two (2) days' notice to each Director of the date, time and place of the meeting. Such notice shall also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the Bylaws, and shall contain or be accompanied by a copy or summary of the proposed amendment or state the general nature thereof. These Bylaws may also be amended by the Directors without a meeting in the same manner as provided therefor herein, except that such action to amend must be by a majority vote of the Directors then in office.



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JAMES G. STRANCH, III
J. GERARD STRANCH, IV
JANE B. STRANCH

*ALSO ADMITTED IN CA

ASSOCIATES:
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J. D. STUART
MICHAEL J. WALL

OF COUNSEL:
ROBERT J. RICHARDSON, JR. ***

*ALSO ADMITTED IN CA
**ALSO ADMITTED IN KY
***ONLY ADMITTED IN OH

August 18, 2010

Via Hand Delivery

Tyler Ring, President
Lynwood Utility Corporation
321 Billingsly Court, Suite 4
Franklin, TN 37065

Re: Lynwood Utility Corporation Merger into Berry's Chapel Utility District

Dear Tyler:

I have enclosed the following documents which need to be executed in connection with the merger:

- (1) Agreement and Plan of Merger;
- (2) Articles of Merger;
- (3) Action Without Meeting – Lynwood – NPDES Permit Transfer;
- (4) Action Without Meeting – Berry's Chapel – NPDES Permit Transfer;
- (5) Action Without Meeting – Lynwood Board – Plan of Merger;
- (6) Action Without Meeting – Berry's Chapel Board – Plan of Merger; and
- (7) Action Without Meeting – Southern Utility Shareholder – Plan of Merger.

After these documents are executed, I will then file the Articles of Merger with the Secretary of State. The Articles of Merger have an effective date of September 1, 2010; therefore, the merger will occur by operation of the Articles of Merger on September 1, 2010.

We will need to meet on September 1, 2010, for you and Johnny to sign the loan documents. These will then be sent to Doug Brace for filing.

Sometime in the next couple of weeks, we need to meet to decide a course of action to take as far as a time frame on letting people know about the merger and to officially adopt bylaws with the rates and rules and regulations which Berry's Chapel Utility, Inc. is going to use to provide sewer service.

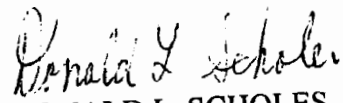


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Tyler Ring, President
August 18, 2010
Page 2

I am hand delivering these to your office.

Sincerely yours,


DONALD L. SCHOLES

Enclosures

c: Jim Ford (without enclosures)

I

11-00174
PS 4/21

BERRYS CHAPEL UTILITY INC.

Response to Data Request Dated 1/20/2012 Docket 11-00174

1. BCUI renewed its Letter of Credit with Tennessee Commerce Bank in 2011.
2. See letter from HB & TS General Manager. Customer Complaints related to BCUI/TRA matters were disrupting HB & TS staff to a level where normal work could not be completed.
3.

HB & TS	484	(2 Off)	Billed by BCUI
MVUD	7		Billed by BCUI
COF	<u>352</u>		Billed by COF
	843		
4.

HB & TS	\$119,327
BCUI	149,943
COF	<u>340,108</u>
Total Revenue December 31, 2011	\$609,378
5. See Letter from FDIC regarding Tennessee Commerce Bank attached.
6. NONE
7. Amounts from September 1, 2010 not possible. The amount of past due amounts of December 31, 2011 is \$72,610.76.
8. Company is owned by its Customer Base of 843. See BCUI Charter.

11-00174
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BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE

2012 FEB 21 PM 3:12

**IN RE: PETITION OF BERRY'S CHAPEL)
TO APPROVE ALTERNATE FORM OF)
FINANCIAL SECURITY UNDER RULE #)
1220-4-13-07)**

DOCKET NO. 11-00174 TRA DOCKET ROOM

PETITION

Attached are the responses to Data Request dated January 20, 2012 from David Foster, Director of Utilities at the TRA.

cc: Henry Walker
Bradley Arant Boult Cummings LLP

Vance Broemel
Consumer Advocate and Protection Division

