

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-390, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

<p>In the Matter of Request by Public Staff for Appointment of Carolina Water Service, Inc. of North Carolina as Emergency Operator of the Riverbend Estates Water System in Macon County</p>	<p>) ) ) ) ) )</p>	<p>PETITION TO APPOINT EMERGENCY OPERATOR AND INCREASE RATES</p>
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NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission by and through David T. Drooz as Acting Executive Director<sup>1</sup> and moves the Commission pursuant to G.S. 62-116(b) and G.S. 62-118(b), to issue an order: (1) declaring an emergency, (2) appointing Carolina Water Service, Inc. of North Carolina (Carolina Water) as emergency operator, and (3) approving an emergency rate increase on a provisional basis for the water system serving Riverbend Estates in Macon County, North Carolina.

In support of this petition, the Public Staff shows as follows:

1. On February 22, 1973, in Docket No. W-390, Sub 0, the Commission issued a Show Cause Order to Calvin Henson, the original developer of the Riverbend Estates Subdivision, for failure to obtain a franchise for the Riverbend Estates water utility system in Macon County. Subsequently, Calvin Henson did file an application for a certificate of public convenience and

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<sup>1</sup> Prior to assuming the position of the Executive Director of the Public Staff, Christopher J. Ayers represented Carolina Water Service, Inc. of North Carolina. In order to avoid any conflict of interest or the appearance of a conflict of interest, Mr. Ayers has recused himself from participation in this matter and has designated the Public Staff Chief Counsel to serve as Acting Executive Director of the Public Staff for purposes of this docket.

necessity in Docket No. W-390, Sub 1, and on April 1, 1974, the Commission issued an Order Dismissing Show Cause Order.

2. The Commission by Order dated July 9, 1974, in Docket No. W-390, Sub 1, required additional information to support the franchise application filed by Riverbend Estates, Inc. T/A Riverbend Estates Water System, Finding of Fact No. 2 stated:

"2. The water system in Riverbend Estates as it now exists does not meet the Standards of the Division of Health Services. The Applicant has not received approval of its water system plans from the State Division of Health Services."

The Commission issued Order Granting Temporary Operating Authority to Riverbend Estates, Inc., T/A Riverbend Estates Water System dated December 4, 1974, which ordered the applicant to complete system improvements to bring the water system up to Division of Health Service (DHS) standards.

3. The Commission in Docket No. W-390, Sub 2, by Order dated September 15, 1978, approved the transfer of the Riverbend Estates water system to Sportsland, Inc. T/A Riverbend Estates Water System (Sportsland) and also granted Sportsland temporary operating authority. Sportsland obtained the water system as part of the purchase of Riverbend Estates Subdivision.

4. By order dated December 10, 1982, in Docket No. W-390, Sub 4, the Commission approved the transfer of the water system from Sportsland to Riverbend Water System, Inc., whose President was Albert Rudisill, who operated a local pump service and well supply business and had previously made improvements to the water system for Sportsland. The system was

experiencing excessive iron in a new well and engineering plans for the system improvements made by Sportsland had not been submitted for approval to the North Carolina Department of Human Resources. Riverbend Water System, Inc., was granted temporary operating authority and Riverbend Water System, Inc., was ordered to

“proceed with measures to correct the excessive iron problem and ... obtain approval of the Riverbend Estates Water System from the Department of Human Resources.”

5. On February 25, 1987, in Docket No. W-390, Sub 5, the Commission issued an order in the complaint proceeding filed by a customer alleging the water system was rundown and in need of immediate repair, that there were frequent service interruptions, that the water quality was poor due to a high iron content, and that Riverbend Water System, Inc., had not made the system corrections ordered by the Commission in Docket No. W-390, Sub 4. In addition, Albert Rudisill, the President of Riverbend Water System, Inc., had moved to Florida, and it had been difficult for customers to contact him when problems were encountered. The water system still had not received DHS approval even though the Commission's Order dated December 10, 1982, required upgrading so that the water system would satisfy DHS standards. The only DHS approval was for the original system approved to serve only 28 connections, but in 1987 the system was serving 90 connections. No plans had been approved by DHS since the Commission's December 10, 1982 Order, in Docket No. W-390, Sub 4, nor had the iron problem been corrected.

The Hearing Examiner's Order dated February 25, 1987, ordered Riverbend Water System, Inc., to

- a. obtain DHS plan approval and construct system improvements to comply with the DHS approved plans;
- b. provide the local qualified operator authority to repair or replace broken water lines and pumps to avoid pressure problems or loss of water to customers;
- c. provide adequate storage capacity, well yield, water quality, and flushing to remove accumulated iron deposits in the mains; and
- d. there be no new service connections until authorized by DHS.

6. On October 7, 1987, in Docket No. W-390, Sub 6, the Commission issued Order Approving Stock Transfer approving Albert Rudisill transferring his 100% of the stock in Riverbend Water System, Inc., 50% to Ronald L. Hardegree, and 50% to Geraldine M. Hardegree (Hardegrees). The Hardegrees stated they would make the improvements as required in the February 25, 1987, Order as follows:

- a. Have engineers update as-built plans and get them approved by DHS;
- b. Filter the high yield well for iron or drill another well if iron filtering cannot feasibly be done;
- c. Install 20,000 gallons more storage (in addition to the current 20,000 gallons);
- d. Install new main as needed (as engineer recommends);

e. Provide 24 hour service man and truck using Rudisill Pump Service or other qualified sub-contractors having specialty equipment that would not be feasible for the Hardegrees to own (when needed); and

f. Meter all customers.

7.a. Riverbend Water System, Inc., filed a general rate case in 1989, being Docket No. W-390, Sub 8. The Hearing Examiner in the Order dated April 24, 1989, stated in finding of fact no. 5 that

"The Company is presently providing adequate service to its customers."

b. Andy Lee, the Director of the Public Staff Water Division, testified that the Hardegrees had completed all the Commission required improvements in the Order dated October 7, 1987, with the exception of metering all the customers. Andy Lee testified

"As built plans specifying improvements have been submitted and approved by the Department of Health Services (DHS). The high yield well has been recased and berm filters have been installed to remove excess iron. An additional 20,000 gallons of ground storage has been added bringing the total storage to 40,000 gallons. New mains have been installed to tie all wells directly to the storage tanks. A new electrical control system has been installed to operate and control the well and filtering system more efficiently. Twenty-four hour service is being provided. Five meters have been installed leaving 92 meters to be installed.

At the end of the test year period, September 30, 1988, the Hardegrees had invested \$41,781 in capital for improvements to the system."

8. In the general rate case Order dated July 9, 1998, Docket No. W-390, Sub 9, Hearing Examiner Stallings found in finding of fact no. 2 that Riverbend Water System, Inc., was providing adequate service. However,

customers testified that at certain times their water was red or brown. Andy Lee outlined in his affidavit how improved filter operations and distribution system flushing could improve the water quality. Andy Lee stated that the Hardegrees had installed well filters and began flushing the system, both of which had improved the water quality.

9. In the next general rate case in Docket No. W-390, Sub 10, with hearing held on July 23, 2002, several customers testified they had experienced episodes of brown or discolored water coming from their faucets and other plumbing fixtures. Riverbend Water System, Inc., had installed an iron removal filter and was flushing the distribution system monthly. Hearing Examiner Stallings found in the Order dated September 12, 2002, in finding of fact no. 14

"The water utility system serving Riverbend Estates Subdivision is compliant with the NC Department of Environment and Natural Resources Division of Environmental Health, and the Applicant is providing adequate water utility service. However, customers are continuing to experience slugs of brown water on a periodic basis, primarily the result of sediment build-up in the distribution mains. The Company should investigate and report to the Commission on the practicability, effectiveness and cost of remedying this problem through each of the following approaches; (1) sequestration; (2) scouring or cleaning the mains; and (3) purchasing water from the Town of Franklin."

10.a. In the summer of 2012, the Town of Franklin bulk purchased water interconnection was completed and the Town of Franklin began to sell bulk metered water to the Riverbend Estates water system. Prior to the interconnection, the customers continued to experience discolored water and staining from iron. In addition, the wells had struggled to meet the demand. The Hardegrees had transferred the water system to a newly formed corporation

Riverbend Estates Water System, Inc. (REWS), in which the Hardegrees owned 100% of the stock.

b. The Order Granting Franchise, Granting Partial Rate Increase and Requiring Customer Notice dated February 26, 2013, in Docket No. W-390, Sub 11, granted a certificate of public convenience and necessity to REWS and a rate increase to include the expenses relating to purchased bulk water from the Town of Franklin. Riverbend Estates is located outside the Town of Franklin. No customers protested the applied for increase.

c. The Commission approved the metered rates as follows:

Monthly base charge, zero usage:	\$19.52
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Usage charge, per 1,000 gallons:	\$5.00
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The annual purchased water expense included in this rate case was \$40,228, based upon average residential customer usage of 4,200 gallons per month, plus 10% water loss, and the Town of Franklin's water usage rate of \$5.00 per 1,000 gallons, plus a monthly base charge for a four-inch water meter of \$440.

11. The current bulk water rate the Town of Franklin charges REWS is a monthly base charge \$589.70, which includes 24,000 gallons minimum, and usage charge per 1,000 gallons of \$6.60. The Public Staff Water Division on two occasions advised and provided instructions with a sample filing to Ronald Hardegree for the filing of a purchased water pass through rate increase. However, REWS has not filed for a pass through.

12. Beginning in August 2015, REWS only made partial purchased bulk water payments each month to the Town of Franklin. The past due balances increased monthly, with only a few exceptions. As of June 10, 2016, REWS was indebted to the Town of Franklin in the amount of \$13,995 of which \$11,347 was past due. Mrs. Hardegree executed a payment agreement with the Town of Franklin dated June 10, 2016, with an agreed upon payment plan to pay the current bill each month plus \$500 each week of the arrearage (Exhibit 1). However, REWS did not comply with the agreement.

13. By letter dated October 10, 2016, the Town of Franklin advised Mr. and Mrs. Hardegree that they owed the town \$27,987, and the bulk water would be disconnected if the account was not paid in full by November 10, 2016 (Exhibit 2). The Town of Franklin's bulk water is the only water source for the Riverbend Estates water system as the wells were disconnected in the summer of 2012.

14. REWS sent to the 131 residential customers a letter dated October 31, 2016 (Exhibit 3), stating that the company was at risk of closing in the next 30 days. The letter stated customers should make arrangements to start a personal account with the Town of Franklin, and if that is not an option, to drill a water well for their residences.

15. An emergency exists in the Riverbend Estates water system as REWS has threatened abandonment and should the Town of Franklin discontinue for non-payment the bulk water deliveries, the 131 residential customers would be completely without water utility service.



16. Carolina Water has approximately 40 years experience managing and operating water systems in the North Carolina mountains. Currently, Carolina Water manages and operates mountain water systems in the following North Carolina counties: Alleghany, Avery, Buncombe, Cherokee, Henderson, Jackson, Madison, Macon, Rutherford, Transylvania, Watauga, and Yancey. The Public Staff believes Carolina Water is well qualified to be the emergency operator and is willing to perform the emergency service.

17. REWS has advised the Public Staff that REWS consents to Carolina Water being appointed emergency operator.

18. Carolina Water has agreed to be appointed emergency operator effective May 16, 2017. However, Carolina Water has requested that the Commission's order appointing Carolina Water emergency operator clearly state:

a. That Carolina Water as emergency operator shall not be responsible for, or liable for, any acts, omissions, system operations and maintenance, or system installations, occurring prior to the date of the appointment as emergency operator, with the exception of payments to the Town of Franklin for the purchased bulk water arrearage.

b. That Carolina Water as emergency operator may petition the Commission at any time to be discharged as the emergency operator, which discharge the Commission shall approve.

The Public Staff fully supports the inclusion of both those provisions in the Commission's order appointing Carolina Water emergency operator. These

provisions are included in the attached Public Staff's proposed order in ordering paragraphs 4.n. and 4.o.

19.a. The REWS customer rates for the Riverbend Estates system including purchased water from the Town of Franklin were approved in general rate case order dated February 13, 2013, Docket No. W-390, Sub 11, and were:

Metered Monthly Rates (Residential Service)

Base charge, zero usage	\$19.52
Usage charge, per 1,000 gallons	\$ 5.00

b. The Commission approved rates for REWS were reduced by Order dated October 13, 2015, Docket No. W-390, Sub 12, for the repeal of the gross receipts tax, by Order dated May 26, 2016, Docket No. W-390, Sub 12, for the reduction to 4% of the North Carolina corporate income tax rate, and by Order dated December 12, 2016, in Docket No. W-390, Sub 12, for the reduction in the North Carolina corporate income tax rate to 3%. The current Commission approved rates for REWS are:

Metered Monthly Rates (Residential Service)

Base charge, zero usage	\$18.67
Usage charge, per 1,000 gallons	\$ 4.79

The average monthly residential customer water bill is \$38.79 based upon the REWS current rates and the 4,200 gallons average monthly consumption from the most recent REWS general rate case decided in 2013.

20. The REWS 2016 Annual Report reflects for 2016 the net operating loss of \$735, excluding accrued interest, and also excluding arrearage owed to the Town of Franklin for purchased bulk water.

21.a. The Public Staff believes the expenses listed on the REWS 2016 Annual Report do not include all the operational costs necessary to provide adequate service and for the Riverbend Estates water system to be operated in compliance with the Rules Governing Public Water Systems. The Public Staff believes the net operating losses in 2016 were significantly larger than the listed net loss of \$735. The price for purchased water from the Town of Franklin increased on July 1, 2016, and there has probably been a substantial increase in unaccounted for water.

b. The REWS 2016 Annual Report income statement appears to be on a modified cash basis rather than a more accurate accrual basis. For example, the 2016 Annual Report lists the purchased bulk water expense at \$26,500. However, the Town of Franklin billed REWS for purchased bulk water during calendar year 2016 a total of \$67,465, and the Town of Franklin received purchased water payments from REWS during calendar year 2016 totaling \$44,471.

22. The Public Staff recommends the Commission approve a significant immediate emergency rate increase so the emergency operator, Carolina Water, will have adequate funds to operate the system, perform necessary administrative functions, provide the necessary supplies, repair parts, replacement meters, limited system improvements, pay the Town of Franklin for

the purchased bulk water, perform a distribution audit to reduce the unaccounted for water, and have reserves for emergencies.

23.a. The Public Staff recommends the Commission approve on a provisional basis, an emergency rate increase with the following rates:

Metered Rates (Residential Service)

Monthly base charge, zero usage	\$35.00
Usage charge, per 1,000 gallons	\$11.95

b. The Public Staff recommended rates include a 7.5% operating margin on operating revenue deductions.

c. These Public Staff recommended rates will increase the average monthly residential bill 120% from \$38.79 to \$85.19 based upon the average monthly residential consumption of 4,200 gallons.

24. The most recent REWS purchased water indebtedness to the Town of Franklin dated April 27, 2017, reflects a balance due of \$46,995, which includes the April 21, 2017, billing of \$4,433 to REWS. After consultations with the Public Staff in October 2016, the Town of Franklin after learning the Public Staff would recommend to the Commission the appointment of an emergency operator, suspended the process to discontinue for non-payment the bulk water deliveries to the Riverbend Estates water system (the only source of potable water to the customers).

25. The Public Staff recommends in order to ensure continued water service to the 131 residential customers, that the Commission order the emergency operator to make installment monthly payments of \$1,500 on the

arrears to the Town of Franklin, beginning on November 15, 2017, which payments would continue until the purchased water arrears is paid in full. The Public Staff believes the six month delay in the commencement of payments should enable Carolina Water to complete its distribution system unaccounted for water audit and make the necessary repairs, renovations and replacements which should materially decrease the amounts of monthly purchased bulk water deliveries from the Town of Franklin. The Public Staff recommends that the funds for these arrears payments be included in the Commission approved customer rates. If there is later appointed a successor emergency operator, then that emergency operator would continue the \$1,500 monthly purchased water arrears payments until the arrears is paid in full.

26. That as the Public Staff recommends that the emergency operator pay the significant bulk water arrears to the Town of Franklin, the Public Staff further recommends that all Riverbend Estates water system accounts receivable from customers, both billed and accrued but not yet billed on the effective date of Commission Order appointing Carolina Water as the emergency operator, should be received and retained by the emergency operator and used for the payment of the Town of Franklin purchased water arrears.

27. The emergency operator will also pay the Town of Franklin each month the current purchased bulk water bill.

28. Riverbend Estates Water System, Inc., does not have a bond posted with the Commission.

29. a. Carolina Water at the request of the Public Staff is evaluating the acquisition of the Riverbend Estates water system. The Public Staff has advised Carolina Water that should Carolina Water in the future acquire this water system, the Public Staff would recommend that the Commission approve for Carolina Water in the transfer order a Reverse Acquisition Incentive Account.

b. Simply stated, the Reverse Acquisition Incentive Account would be equal to the reasonable and prudent investments Carolina Water makes for capital improvements for the Riverbend Estates water system. The Reverse Acquisition Incentive Account would be converted to rate base upon Carolina Water's acquisitions of Commission regulated water and/or wastewater systems where Carolina Water's prudent purchase price exceeds the selling utility's original cost net investment, but the acquisition does not meet the criteria for Commission approval of a positive acquisition adjustment, where the excess purchase price would be included in rate base.

c. The Public Staff mentions the future recommended Reverse Acquisition Incentive Account only for informational purposes, and is not requesting Commission approval at this time.

Therefore, the Public Staff recommends that the Commission issue the Public Staff's proposed order that includes the following:

1. The Commission finds an emergency exists and appoint Carolina Water Service, Inc. of North Carolina as emergency operator effective May 16, 2017, for the Riverbend Estates water system in Macon County.

2. That the Commission approve on a provisional basis the following rates as an immediate emergency rate increase effective for service provided on and after May 16, 2017:

Water Utility Service (Residential)

Monthly base charge, zero usage	\$35.00
Usage charge per 1,000 gallons	\$11.95

3. That the Commission order the emergency operator to begin on November 15, 2017, \$1,500 monthly payments to the Town of Franklin and continue until paid in full, on the purchased bulk water arrearage incurred by REWS. Should a successor emergency operator be later appointed, that successor emergency operator shall continue the \$1,500 monthly payments to the Town of Franklin until the arrearage is paid in full.

4. That Carolina Water as emergency operator shall collect and retain all Riverbend Estates water system customers' accounts receivable, both billed and accrued but not yet billed, on the effective date of this Order. That Carolina Water as emergency operator utilize these accounts receivable funds for the payment of the Town of Franklin purchased water arrearage.

5. For such other relief as may be just and proper.

Respectfully submitted this 9<sup>th</sup> day of May, 2017.

PUBLIC STAFF  
David T. Drooz  
Acting Executive Director

Electronically submitted  
/s/ William E. Grantmyre  
Staff Attorney

4326 Mail Service Center  
Raleigh, North Carolina 27699-4300  
Telephone: (919) 733-6110  
[william.grantmyre@psncuc.nc.gov](mailto:william.grantmyre@psncuc.nc.gov)

CERTIFICATE OF SERVICE

I certify that a copy of this Petition has been served on Stuart Sloan, the attorney for Riverbend Estates Water System, Inc., by electronic delivery upon agreement of the receiving party.

This the 9<sup>th</sup> day of May, 2017.

Electronically submitted  
/s/ William E. Grantmyre



PAYMENT AGREEMENT

Docket No. W-390, Sub 13  
Petition - Exhibit No. 1

I, Don Hardacre, a utility customer of the Town of Franklin, acknowledge that, as of 10.10.16, I am indebted to the Town in the amount of \$ 13995.32. The debt arose as a result of my failure to pay one or more utility bills for utility services or as the results of a water leak causing excessive usage provided on account # 11538 at the following service address: Riverbend Estates Water System

I hereby certify that I am financially unable to repay the debt in full in a single payment, and request to be allowed to repay it in installments, pursuant to the following schedule:

For open accounts: the current amount due each month, plus the additional amount of \$ 7 by the due date for the current bill each month.

\$500.00 each week.

For final bills, discontinued accounts, or other accounts: the amount of \$ 2,000.00 due by the 15<sup>th</sup> day of each month.

I agree that payments must be made by the date indicated in the foregoing repayment schedule, and that failure to remit any payment on time will result in the repayment agreement being declared in default. In the event of default, the Town may proceed with whatever remedies it deems appropriate, including but not limited to disconnection of utility service.

I have read the above repayment agreement and I understand and agree to its terms and conditions as witnessed here by my signature.

Diane Hardacre  
Customer's Signature

10.10.16  
Date

PO Box 419  
Current Address

OTTO NC 28763  
City, State, Zip Code

I hereby approve the repayment of the above cited debt by installments.

[Signature]  
Town Manager

10-20-16  
Date



# TOWN OF FRANKLIN

Post Office Box 1479  
Franklin, North Carolina 28744  
(828) 524-2516

October 10, 2016

Mr. and Mrs. Hardegree  
Riverbend Estates Water System  
PO BOX 419  
Otto, North Carolina 28763

Ref: Town of Franklin Utility Bill for Riverbend Estates Water System

Dear Mr. and Mrs. Hardegree,

The Town of Franklin has been diligently working with you since February 2016 to resolve your outstanding water bill. The Town of Franklin entered into two (2) payments agreement with you. The first payment agreement was February 4, 2016 and the second payment agreement was June 10, 2016. You have failed to abide by both payment agreements. As of October 10, 2016 Riverbend Estates Water System owes the Town of Franklin \$27,987.05.

The Town of Franklin will be forced to take appropriate action if this matter is not resolved. The Town of Franklin is willing to give Riverbend Estates Water System until Thursday November 10, 2016 to pay the outstanding balance and current bill in full. No further extensions will be granted after this date. Riverbend Estates Water System will be disconnected if the account is not paid in full by 5:00 p.m. Thursday November 10; 2016.

If you have any questions please feel free to contact me at 828-524-2516 ext 305.

Sincerely,

Summer Woodard  
Town Manager

Cc: Jay Gibson, Public Works Director  
Sabrina Scruggs, Administrative Assistant

OFFICIAL COPY

May 09 2017

**Riverbend Estates Water System Inc**

PO Box 419

Otto NC 28763

828-524-9700

Docket No. W-390, Sub 13  
Petition – Exhibit No. 3

October 31, 2016

Dear Valued Customer,

Riverbend Estate Water Systems (REWS) would like to make you aware of **Immediate future changes**. We, REWS are at risk of Closing in the next 30 days.

REWS is for sale @ \$69,900 if you as a community would like to purchase the water system.

If this is NOT an option, then each Individual should make arrangements to start your personal account with the Town of Franklin.

If this is NOT an option, two well-known Well Drillers are Holland Well Drilling 828-524-3260, and Hedden Brothers Well Drilling 828-369-9591.

In closure, REWS would like to thank each 1 of you that paid your water bill faithfully. And give you our sincere apology for the changes.

Riverbend Estates Water System Inc.

Mike Willis  
332-0939  
C.M.

OFFICIAL COPY

May 09 2017

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. W-390, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Request by Public Staff for Appointment	)	ORDER APPOINTING
of Carolina Water Service, Inc. of North	)	EMERGENCY
Carolina as Emergency Operator of the	)	OPERATOR AND
Riverbend Estates Water System in	)	APPROVING
Macon County	)	INCREASED RATES

BY THE COMMISSION: On May 9, 2017, the Public Staff filed a Petition pursuant to G.S. 62-116(b) and G.S. 62-118(b), requesting the Commission issue an order: (1) declaring an emergency, (2) appointing Carolina Water Service, Inc. of North Carolina (Carolina Water) as emergency operator, and (3) approving an emergency rate increase on a provisional basis for the water system serving Riverbend Estates in Macon County, North Carolina.

Based upon the Public Staff's petition and the Commission's records, the Commission makes the following

FINDINGS OF FACT

1. On February 22, 1973, in Docket No. W-390, Sub 0, the Commission issued a Show Cause Order to Calvin Henson, the original developer of the Riverbend Estates Subdivision, for failure to obtain a franchise for the Riverbend Estates water utility system in Macon County. Subsequently, Calvin Henson did file an application for a certificate of public convenience and necessity in Docket No. W-390, Sub 1, and on April 1, 1974, the Commission issued an Order Dismissing Show Cause Order.

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c. provide adequate storage capacity, well yield, water quality, and flushing to remove accumulated iron deposits in the mains; and

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8. In the general rate case Order dated July 9, 1998, Docket No. W-390, Sub 9, Hearing Examiner Stallings found in finding of fact no. 2 that Riverbend Water System, Inc., was providing adequate service. However,



customers testified that at certain times their water was red or brown. Andy Lee outlined in his affidavit how improved filter operations and distribution system flushing could improve the water quality. Andy Lee stated that the Hardegrees had installed well filters and began flushing the system, both of which had improved the water quality.

9. In the next general rate case in Docket No. W-390, Sub 10, with hearing held on July 23, 2002, several customers testified they had experienced episodes of brown or discolored water coming from their faucets and other plumbing fixtures. Riverbend Water System, Inc., had installed an iron removal filter and was flushing the distribution system monthly. Hearing Examiner Stallings found in the Order dated September 12, 2002, in finding of fact no. 14

"The water utility system serving Riverbend Estates Subdivision is compliant with the NC Department of Environment and Natural Resources Division of Environmental Health, and the Applicant is providing adequate water utility service. However, customers are continuing to experience slugs of brown water on a periodic basis, primarily the result of sediment build-up in the distribution mains. The Company should investigate and report to the Commission on the practicability, effectiveness and cost of remedying this problem through each of the following approaches; (1) sequestration; (2) scouring or cleaning the mains; and (3) purchasing water from the Town of Franklin."

10.a. In the summer of 2012, the Town of Franklin bulk purchased water interconnection was completed and the Town of Franklin began to sell bulk metered water to the Riverbend Estates water system. Prior to the interconnection, the customers continued to experience discolored water and staining from iron. In addition, the wells had struggled to meet the demand. The Hardegrees had transferred the water system to a newly formed corporation

Riverbend Estates Water System, Inc. (REWS), in which the Hardegrees owned 100% of the stock.

b. The Order Granting Franchise, Granting Partial Rate Increase and Requiring Customer Notice dated February 26, 2013, in Docket No. W-390, Sub 11, granted a certificate of public convenience and necessity to REWS and a rate increase to include the expenses relating to purchased bulk water from the Town of Franklin. No customers protested the applied for increase.

c. The Commission approved the metered rates as follows:

Monthly base charge, zero usage:	\$19.52
Usage charge, per 1,000 gallons:	\$5.00

The annual purchased water expense included in this rate case was \$40,228, based upon average residential customer usage of 4,200 gallons per month, plus 10% water loss, and the Town of Franklin's water usage rate of \$5.00 per 1,000 gallons, plus a monthly base charge for a four-inch water meter of \$440.

11. The current bulk water rate the Town of Franklin charges REWS is a monthly base charge \$589.70, which includes 24,000 gallons minimum, and usage charge per 1,000 gallons of \$6.60. The Public Staff Water Division on two occasions advised and provided instructions with a sample filing to Ronald Hardegree for the filing of a purchased water pass through rate increase. However, REWS has not filed for a pass through.

12. Beginning in August 2015, REWS only made partial purchased bulk water payments each month to the Town of Franklin. The past due balances increased monthly, with only a few exceptions. As of June 10, 2016, REWS was

indebted to the Town of Franklin in the amount of \$13,995 of which \$11,347 was past due. Mrs. Hardegree executed a payment agreement with the Town of Franklin dated June 10, 2016, with an agreed upon payment plan to pay the current bill each month plus \$500 each week of the arrearage. However, REWS did not comply with the agreement.

13. By letter dated October 10, 2016, the Town of Franklin advised Mr. and Mrs. Hardegree that they owed the town \$27,987, and the bulk water would be disconnected if the account was not paid in full by November 10, 2016. The Town of Franklin's bulk water is the only water source for the Riverbend Estates water system as the wells were disconnected in the summer of 2012.

14. REWS sent to the 131 residential customers a letter dated October 31, 2016, stating that the company was at risk of closing in the next 30 days. The letter stated customers should make arrangements to start a personal account with the Town of Franklin, and if that is not an option, to drill a water well for their residences.

15. An emergency exists in the Riverbend Estates water system as REWS has threatened abandonment and should the Town of Franklin discontinue for non-payment the bulk water deliveries, the 131 residential customers would be completely without water utility service.

16. Carolina Water has approximately 40 years experience managing and operating water systems in the North Carolina mountains. Currently Carolina Water manages and operates mountain water systems in the following North Carolina counties: Alleghany, Avery, Buncombe, Cherokee, Henderson,

Jackson, Madison, Macon, Rutherford, Transylvania, Watauga, and Yancey. The Public Staff advised the Commission that the Public Staff believes Carolina Water is well qualified to be the emergency operator and is willing to perform the emergency service.

17. REWS has advised the Public Staff that REWS consents to Carolina Water being appointed emergency operator.

18. Carolina Water has agreed to be appointed emergency operator effective May 16, 2017. However, Carolina Water has requested that the Commission's order appointing Carolina Water emergency operator clearly state:

a. That Carolina Water as emergency operator shall not be responsible for, or liable for, any acts, omissions, system operations and maintenance, or system installations, occurring prior to the date of the appointment as emergency operator, with the exception of payments to the Town of Franklin for arrearages for purchased bulk water as described in paragraphs 12, 13 and 24.

b. That Carolina Water as emergency operator may petition the Commission at any time to be discharged as the emergency operator, which discharge the Commission shall approve.

The Public Staff stated it fully supports the inclusion of both those provisions in the Commission's Order appointing Carolina Water as emergency operator.

19.a. The REWS customer rates for the Riverbend Estates system including purchased water from the Town of Franklin were approved in general rate case order dated February 13, 2013, Docket No. W-390, Sub 11, and were:

Metered Monthly Rates (Residential Service)

Base charge, zero usage	\$19.52
Usage charge, per 1,000 gallons	\$ 5.00

b. The Commission approved rates for REWS were reduced by Order dated October 13, 2015, Docket No. W-390, Sub 12, for the repeal of the gross receipts tax, by Order dated May 26, 2016, Docket No. W-390, Sub 12, for the reduction to 4% of the North Carolina corporate income tax rate, and by Order dated December 12, 2016, in Docket No. W-390, Sub 12, for the reduction in the North Carolina corporate income tax rate to 3%. The current Commission approved rates for REWS are:

Metered Monthly Rates (Residential Service)

Base charge, zero usage	\$18.67
Usage charge, per 1,000 gallons	\$ 4.79

The average monthly residential customer water bill is \$38.79 based upon the REWS current rates and the 4,200 gallons average monthly consumption from the most recent REWS general rate case decided in 2013.

20. The REWS 2016 Annual Report reflects for 2016 the net operating loss of \$735, excluding accrued interest, and also excluding the arrearage owed to the Town of Franklin for purchased bulk water.

21.a. The Public Staff stated it believes the expenses listed on the REWS 2016 Annual Report do not include all the operational costs necessary to provide adequate service and for the Riverbend Estates water system to be operated in

compliance with the Rules Governing Public Water Systems. The Public Staff stated it believes the net operating losses in 2016 were significantly larger than the listed net loss of \$735, as the price for purchased water from the Town of Franklin increased on July 1, 2016, and the Public Staff stated there has probably been a substantial increase in unaccounted for water.

b. The REWS 2016 Annual Report income statement appears to be on a modified cash basis rather than a more accurate accrual basis. For example, the 2016 Annual Report lists the purchased bulk water expense at \$26,500. However, the Town of Franklin billed REWS for purchased bulk water during calendar year 2016 a total of \$67,465, and the Town of Franklin received purchased water payments from REWS during calendar year 2016 totaling \$44,471.

22. The Public Staff recommended that the Commission approve a significant immediate emergency rate increase so the emergency operator, Carolina Water, will have adequate funds to operate the system, perform necessary administrative functions, provide the necessary supplies, repair parts, replacement meters, limited system improvements, pay the Town of Franklin for the purchased bulk water including payments on the arrearage, perform a distribution audit to reduce the unaccounted for water, and have reserves for emergencies.

23. The Public Staff recommended the Commission approve on a provisional basis, an emergency rate increase with the following rates:

Metered Rates (Residential Service)

Monthly base charge, zero usage	\$35.00
Usage charge, per 1,000 gallons	\$11.95

These Public Staff recommended rates include a 7.5% operating margin on operating revenue deductions.

These Public Staff recommended rates will increase the average monthly residential bill 120% from \$38.79 to \$85.19 based upon the average monthly residential consumption of 4,200 gallons.

24. The most recent REWS purchased water indebtedness to the Town of Franklin dated April 27, 2017, reflects a balance due of \$46,995, which includes the April 21, 2017, billing of \$4,433 to REWS. After consultations with the Public Staff in October 2016, the Town of Franklin after learning the Public Staff would recommend to the Commission the appointment of an emergency operator, suspended the process to discontinue for non-payment the bulk water deliveries to the Riverbend Estates water system (the only source of potable water to the customers).

25. The Public Staff recommended in order to ensure continued water service to the 131 residential customers, that the Commission order the emergency operator to make installment monthly payments of \$1,500 on the arrearage to the Town of Franklin, beginning on November 15, 2017, which payment would continue until the purchased water arrearage is paid in full. The six month delay in the commencement of payments, the Public Staff stated should enable Carolina Water to complete its distribution system unaccounted for water audit and make the necessary repairs, renovations and replacements

which should materially decrease the amounts of purchased monthly bulk water deliveries from the Town of Franklin. If there is later appointed a successor emergency operator, then that emergency operator would continue the \$1,500 monthly purchased water arrearage payments until the arrearage is paid in full.

26. The emergency operator will also pay the Town of Franklin each month the current purchased bulk water bill.

27. Riverbend Estates Water System, Inc., does not have a bond posted with the Commission.

### CONCLUSIONS

Based upon the foregoing and the recommendations of the Public Staff, the Commission concludes an emergency exists for the Riverbend Estates water system which is in imminent danger of losing adequate water utility service. The Commission further concludes that Carolina Water System, Inc. of North Carolina should be appointed emergency operator and the Public Staff recommended rate increase on a provisional basis should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That Carolina Water is hereby appointed as emergency operator of the Riverbend Estates water system, effective May 16, 2017.

2. That a copy of this order and Schedule of Rates, attached as Appendix A, shall be mailed with sufficient postage or hand delivered by Carolina Water to all customers served by the Riverbend Estates water system, no later than fifteen days after the date of this Order and that Carolina Water submit to



the Commission the attached Certificate of Service properly signed and notarized not later than twenty days after the date of this Order.

3. That the Schedule of Rates, attached as Appendix A, is approved effective May 16, 2017, on a provisional basis for water utility service provided by Carolina Water as emergency operator of the Riverbend Estates water system, effective the date of this Order and Subject to refund of any amounts found unjust and unreasonable.

4. That the following provisions are adopted by this Order:

a. That the emergency operator shall maintain full records of receipts and expenses and shall file with the Commission and Public Staff, by the end of the subsequent month, a summary financial report on a quarterly basis. The first report shall be filed on or before July 31, 2017.

b. Full records of receipts and expenses shall be made available to the Commission and Public Staff upon request, and include the following:

- i. Copies of receipts and payments for all expenses and capital improvements incurred as part of emergency operation of the system.
- ii. Weekly ledger of field operator time to/from system and time spent on-site.
- iii. Maintenance, repair, and capital improvements labor and material receipts.

c. That the emergency operator shall have charge of the daily operation of the Riverbend Estates water system, and the emergency operator's duties and responsibilities shall include, among others, the following:

- i. Regular inspections and testing of the Riverbend Estates water system in Macon County;
- ii. Billing of all customers and collection of bills;
- iii. Routine and emergency maintenance and repair;
- iv. System renovations and additions necessary to maintain adequate water service;
- v. Quarterly accounting to the Utilities Commission and the Public Staff of all rates collected, expenses incurred, checks written, and all monies spent; and
- vi. Providing a telephone number to customers for routine and emergency calls and a mailing address.

d. That the emergency operator may contract with any person to carry out any of the duties necessary for operation and repair of the water utility system, but the emergency operator shall have the ultimate, sole responsibility to see that such duties are carried out.

e. That the emergency operator in the performance of its duties, shall be free to seek assistance from customers of the water system, plumbers, engineers, attorneys, and such other persons as may be necessary for the performance of its duties and responsibilities.

f. That the emergency operator shall, when it becomes necessary in the performance of its duties, seek the assistance of the Public Water Supply Section of the Department of Environmental Quality, the North Carolina Utilities Commission, the Public Staff of the Utilities Commission, and the Macon County Health Department.

g. That the emergency operator shall collect from the customers of the water system such rates, assessments, and surcharges as may be approved by the North Carolina Utilities Commission and shall be fully authorized to bill and collect those rates, assessments, and surcharges and to disburse those funds as may be necessary to provide safe, reliable, and adequate water utility service to the customers. Any customer who fails to pay the bill(s) authorized by this paragraph shall be disconnected by the emergency operator as provided by the orders, rules, and regulations of the North Carolina Utilities Commission.

h. That the emergency operator shall be entitled to all available records relating to the water utility system and those records shall include, but not be limited to, a list of customer names, addresses, and billing records. REWS shall provide to Carolina Water all customer records within five days of the date of this order.

i. That the emergency operator shall keep records of all monies collected through the rates, assessments (if any), and surcharges (if any), and all monies expended in the operation of the water system. In order to protect the customers' interests in the water utility system, the emergency operator is required to keep a separate record of all monies and assessments collected from

customers and expended on improving and upgrading the water utility system, whether performed by the emergency operator or contractor hired by the emergency operator.

j. The emergency operator shall account for any funds advanced by it for operation of the water utility system.

k. That Carolina Water as the emergency operator beginning November 15, 2017, shall make installment monthly payments to the Town of Franklin of \$1,500 on the purchased water arrearage, which payments shall continue until the purchased water arrearage is paid in full. If there is later appointed a successor emergency operator, then that emergency operator shall continue the \$1,500 monthly purchased water arrearage payments until the arrearage is paid in full.

l. The emergency operator each month shall pay the Town of Franklin the current purchased bulk water bill.

m. That as the emergency operator will be paying the significant purchased bulk water arrearages to the Town of Franklin, all Riverbend Estates water system accounts receivable from customers, both billed and accrued and not yet billed on the effective date of this Order, shall be received and retained by the emergency operator and used for the payment of the purchased water arrearage.

n. As stated in paragraph 4.k., the emergency operator shall make payments to the Town of Franklin for purchased bulk water charges incurred prior to the appointment of Carolina Water as emergency operator. With the

exception of the purchased water payments to the Town of Franklin, the emergency operator shall be responsible for and pay only those liabilities arising from the emergency operator's operation of the Riverbend Estates water system pursuant to Commission Order. The emergency operator shall not be responsible for, or liable for, any acts, omissions, system operations and maintenance, or system installations, occurring prior to the date of the appointment as emergency operator. The disbursements by the emergency operator shall be made from the separate account set up by the emergency operator; the emergency operator shall account for any funds advanced by it for the operations.

o. That the emergency operator may petition the Commission at any time to be discharged as the emergency operator of the Riverbend Estates water system, which discharge the Commission shall approve. Prior to its discharge, the emergency operator shall provide an acceptable accounting to the Utilities Commission of all monies collected and disbursed during its tenure as emergency operator, as well as the amounts due and owing the emergency operator at the time of its discharge for its services performed as emergency operator. The emergency operator filing a petition for discharge shall also mail a copy of the petition to the Macon County Health Department, the Town of Franklin, and the Public Water Supply Section (PWSS) of the North Carolina Department of Environmental Quality.

p. That this docket shall remain open for further motions, reports, etc., of the emergency operator, the PWSS, the Public Staff and for further orders of the Commission.

5. That the following items of information shall be provided to Carolina Water within three business days of the effective date of the emergency operator appointment:

a. Customer information for each residence connected to the water system, containing at a minimum, customer name, service address, billing address, contact phone numbers (home and work), and billing records.

6. That the following items of information shall be provided to Carolina Water within ten business days of the effective date of the emergency operator appointment:

a. Copy of the water system plans and specifications.

b. Copies of all monitoring reports and evaluations completed by Riverbend Estates Water System, Inc., or its certified operator for the past 24 months.

c. The names, addresses, and telephone number of all vendors providing materials and supplies for the water system operations.

d. Copies of all 2015 and 2016 property tax bills.

e. Copies of all 2016 and 2017 purchased bulk water bills from the Town of Franklin.

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_\_\_ day of \_\_\_\_\_, 2017.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, Chief Clerk

## APPENDIX A

SCHEDULE OF PROVISIONAL RATES

for

CAROLINA WATER COMPANY, INC. OF NORTH CAROLINAas EMERGENCY OPERATORfor providing water service inRIVERBEND ESTATES WATER SYSTEMWATER RATES AND CHARGESMetered Rates: (Residential Service)

Monthly base charge, zero usage	\$35.00
Usage charge, per 1,000 gallons	\$11.95

Connection Charge:

\$1,000 plus actual cost to connect to the Town of Franklin

Reconnection Charge:

If water service cut off by utility for good cause:	\$27.00
If water service discontinued at customer's request:	\$27.00

If water service is reconnected to the same customer at the same address within nine months of disconnection, then the reconnection charge shall be the base charge times the number of months disconnected.

New Water Customer Charge: \$27.00Bills Due: On billing dateBills Past Due: 25 days after billing dateBilling Frequency: Shall be monthly for service in arrears

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

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Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket No. W-390, Sub 13, on this the \_\_\_\_ day of \_\_\_\_\_, 2017.



CERTIFICATE OF SERVICE

I, \_\_\_\_\_, mailed with sufficient postage or hand delivered to all affected customers a copy of the Order issued by the North Carolina Utilities Commission in Docket No. W-390, Sub 13, and such Order was mailed or hand delivered by the date specified in the Order.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

By: \_\_\_\_\_  
Signature

Carolina Water Service, Inc. of North Carolina  
Name of Utility Company

The above named Applicant, \_\_\_\_\_, personally appeared before me this day and, being first duly sworn, says that the required copy of the Commission Order was mailed or hand delivered to all affected customers, as required by the Commission Order dated \_\_\_\_\_ in Docket No. W-390, Sub 13.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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

\_\_\_\_\_  
Printed Name

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