

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-390, SUB 13
DOCKET NO. W-390, SUB 14
DOCKET NO. W-354, SUB 358

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application for Transfer of Public Utility)	
Franchise From Riverbend Estates)	REPORT OF THE
Water System, Inc., to Carolina Water)	PUBLIC STAFF
Service, Inc. of North Carolina and)	
Approval of Rates)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission by and through David T. Drooz as Acting Executive Director¹ and files this report with recommendations pursuant the Presiding Commissioner’s instructions at the October 25, 2017 hearing at the Macon County Courthouse, Franklin, North Carolina.

1. On May 9, 2017, the Public Staff – North Carolina Utilities Commission (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. (EO Petition)

¹ 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 David T. Drooz serve as Acting Executive Director of the Public Staff for purposes of this docket.

2. The Public Staff presented the EO Petition to the Commission at the May 15, 2017, Commission Regular Staff Conference. The Public Staff recommended that the Commission issue an order finding an emergency exists due to the abandonment of Riverbend Estates water system by Riverbend Estates Water System, Inc. (REWS), appointing Carolina Water the emergency operator, ordering the emergency operator to make installment payments to the Town of Franklin on the purchased water arrearage, and approving an emergency rate increase at the Public Staff's recommended provisional rates of base monthly charge, zero usage of \$35.00 and usage charge per 1,000 gallons of \$11.95.

3. After carefully considering the May 15, 2017 Staff Conference presentation, the Commission concluded "that an emergency exists for the Riverbend Estates water system which is in imminent danger of losing adequate water utility service." As a result, the Commission issued an Order dated May 16, 2016 adopting the Public Staff's recommendations to appoint Carolina Water as the emergency operator for The Riverbend Estates water system effective on May 17, 2017, approving the Public Staff's recommended provisional rates and requiring that a copy of the order be served on all customers of REWS by Carolina Water no later than 15 days from the date of the Order.

4. On July 10, 2017, the Commission issued Order Scheduling Show Cause Hearing as the Commission found that good cause exists to require REWS and Ronald L. Hardegree, the REWS president, to appear before the Commission on a date certain to provide evidence to rebut the prima facie abandonment conclusion reached by the Commission and/or to show cause why penalties and/or

other remedial remedies should not be assessed by this Commission against REWS and/or Ronald L. Hardegree for abandoning REWS' obligation to provide water utility service in its franchised territory without first securing the Commission's consent as required by G.S. 62-118, and for failing to comply with the Public Utilities Act, the Commission's rules, regulations and orders and the explicit and implicit terms and conditions included in the certificate of public convenience and necessity (Certificate) which the Commission issued to REWS and/or Ronald L. Hardegree.

5. The Show Cause Hearing was held as scheduled on Tuesday, August 15, 2017 at the Macon County Courthouse, Franklin, North Carolina. REWS and Ronald Hardegree appeared with their attorney Stuart Sloan. The Public Staff presented the testimony of Public Utilities Engineer Charles Junis P.E. and public witness Beth Curry. This Show Cause Hearing was adjourned due to a power outage and later rescheduled for October 25, 2017, at the Macon County Courthouse, Franklin, North Carolina.

6. On October 24, 2017, Carolina Water and REWS filed an application with the Commission requesting approval of the transfer of the Riverbend Estates Certificate and water system assets to Carolina Water and approval of reduced rates.

7. The Show Cause Hearing reconvened as scheduled on October 25, 2017. Public witness Ronnie Dills and Lynn Kanakry testified with Mr. Dills reading a statement by Beth Curry, who had to leave the hearing to teach a class at church. The Public Staff and Stuart Sloan advised the Commission that REWS, the Public Staff and Carolina Water had reached a verbal settlement agreement, which once completed would resolve all the outstanding issues.

8. The Public Staff advised the Commission and attending customers of the primary settlement agreement provision, as follows:

a. In the October 24, 2017 transfer application, the franchise to operate the Riverbend Estates water system would be transferred to Carolina Water, which would then be the utility. REWS would no longer be a public utility.

b. The Asset Purchase Agreement (APA) filed with the transfer application provides that Carolina Water would be acquiring all water system assets, including the five real property parcels at Riverbend Estates that were one time part of the water system or still are part of the water system properties.

c. There is a purchase price in the APA of \$53,821.28. The purchase price will be paid directly by Carolina Water to the Town of Franklin to pay the amounts owed to the Town of Franklin as of May 16, 2017, when Carolina Water took over as emergency operator. The Public Staff recommends that the purchase price plus up to \$3,000 of Stuart Sloan's fees for the transfer closing, go into Carolina Water's rate base as part of Carolina Water's uniform statewide system rate base.

d. The Public Staff will recommend that the Riverbend Estates customers in the future pay Carolina Water's uniform rates, which is expected to be \$24.44 monthly base facility charge for no usage, and a commodity charge of \$6.86 per 1,000 gallons.

e. The \$6.86 per 1,000 gallons is the exact amount that the Town of Franklin charges to Carolina Water for the purchased bulk water. Riverbend Estates is a bulk water purchase system, with all the water provided by the

Town of Franklin. Based on the average monthly bill for 4,200 gallons, the average bill under the new rates would be \$53.25. Currently under the emergency operator provisional rates, the average bill for 4,200 gallons is \$85.12. There would be a reduction in the average monthly bill per customer based on 4,200 gallons of \$31.87.

f. The Public Staff will be recommending that the Commission have expedited consideration of the transfer application.

g. The Commission approved rates on May 16, 2017 for the emergency operator, Carolina Water, are provisional rates subject to refund and audit. The Public Staff will be doing an audit of the revenues, expenses and capital costs and will be recommending partial refunds if Carolina Water collected more than its costs.

h. The Public Staff, not Carolina Water, calculated the provisional rates.

i. The Public Staff, after the Commission approves the transfer and after the closing of the water system and asset transfer, will delete its previous recommendation for the \$84,000 fine or penalty that was recommended because the Public Staff asserted that REWS abandoned the system.

j. As shown in the supplemental testimony filed by Charles Junis on September 22, 2017, REWS has been overbilling the customers since 2015. Part of the overbilling resulted from REWS' billing higher rates than approved by the Commission for certain months, and also REWS did not implement the Commission ordered rate reductions based on the repeal of the gross receipts tax, and the reductions in the state income tax rates. These overbillings were extensively presented in Charles Junis' supplemental testimony.

k. The Public Staff plans to calculate the refund due to each customer for the overbillings. The Public Staff will then present the refund numbers to REWS along with the Public Staff's calculations, and if REWS and the Public Staff can agree, then REWS would refund each of the customers the appropriate amount. Upon REWS' refunds, the Public Staff will withdraw its recommendation for the \$33,000 penalty the Public Staff recommended due to REWS charging higher rates without Commission approval.

9. On December 15, 2017, the Public Staff provided REWS a refund summary, including each active customer name, mailing address and refund amount including interest at 10%. The refunds totaled \$2,615.96 and were paid from the Kenney, Sloan, Van Hook law firm's trust account, being mailed on December 18, 2017.

10. Carolina Water has advised the Public Staff that it will revise its applied for rates to Carolina Water's uniform rates approved by the Commission in Docket No. W-354, Sub 356, Order dated November 8, 2017, being a monthly base charge for no usage of \$24.44, and the commodity charge of \$6.86 per 1,000 gallons, the same commodity charge to Carolina Water by the Town of Franklin.

11. Carolina Water and REWS attorney Stuart Sloan have advised the Public Staff that all the documentation for the transfer of the Riverbend Estates water system asset are ready, and the transfer closing can take place once the Commission approves the transfer to Carolina Water, approves the rate reduction, and issues a Certificate to Carolina Water.

12. There is no need for another hearing in Franklin, North Carolina. The customers attending the October, 2017, hearing expressed approval of the transfer to Carolina Water and the rate reduction.

Public Staff Recommendations

The Public Staff recommends:

1. That the Commission as expeditiously as reasonably possible approve the transfer to Carolina Water, issue a Certificate to Carolina Water, approve the rates of \$24.44 monthly base charge, no usage and the commodity charge of \$6.86 per 1,000 gallons, and cancel the Certificate previously issued to REWS, all effective upon the filing of a written certification by Carolina Water that the transfer closing took place and the \$53,821.28 purchase price was paid by Carolina Water to the Town of Franklin.
2. That the Commission approve the inclusion of the \$53,821.28 purchase price plus up to \$3,00 of Stuart Sloan's fees for the transfer closing in Carolina Water's rate base.
3. That after the filing of Carolina Water's closing certification, the Commission close the REWS Show Cause proceeding and not levy the Public Staff previously recommended \$84,000 fine or penalty, and not levy the Public Staff's recommended \$33,000 penalty.
4. The Public Staff should audit the emergency operator revenues collected with the provisional rates and expenses incurred and file a report with the Commission within 90 days of the filing of Carolina Water's closing certification, with recommendations as to whether there should be customer refunds and the refund amounts, if any.

Respectfully submitted this the 11th day of January, 2018.

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

CERTIFICATE OF SERVICE

I certify that a copy of this Report has been served on Stuart Sloan, the attorney for Riverbend Estates Water System, Inc., and JoAnne Sanford, the attorney for Carolina Water Service, Inc. of North Carolina, by electronic delivery upon agreement of the receiving party.

This the 11th day of January, 2018.

Electronically submitted
/s/ William E. Grantmyre