

**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)
of Carolina Water Service, Inc. of North)
Carolina as Emergency Operator of the)
Riverbend Estates Water System in)
Macon County, North Carolina)
	ORDER SCHEDULING
	SHOW CAUSE HEARING

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 (CWS) 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. The Public Staff scheduled the Petition for consideration before the Commission at the May 15, 2017 Staff Conference.

During Staff Conference, the Public Staff informed the Commission of the following:

1. In an Order Granting Franchise, Granting Partial Rate Increase and Requiring Customer Notice dated February 26, 2013, in Docket No. W-390, Sub 11 (2013 Rate Case Order), the Commission granted a certificate of public convenience and necessity to Riverbend Estates Water System (REWS) "to provide water utility service in Riverbend Estates Subdivision, Macon County, North Carolina, subject to any orders, rules, regulations, and conditions now or hereafter lawfully made by the North Carolina Utilities Commission."¹

2. REWS is currently the sole source of potable water for 131 customers residing in Riverbend Estates. There have been longstanding issues with REWS and/or its predecessor-in-interest with providing potable water to its residential customers including discolored water and staining from iron. In addition, the wells owned and operated by REWS struggled to meet the demand.

¹ At the time of the 2013 Rate Case Order, REWS was owned and operated by Mr. Ronald L. Hardegree and his spouse, Mrs. Geraldine M. Hardegree. Sometime after the issuance of the 2013 Rate Case Order, Mrs. Geraldine Hardegree died and Mr. Hardegree remarried. As a result, REWS is currently owned by Ronald L. Hardegree and operated by Mr. Hardegree and the current Mrs. Hardegree.

3. In the summer of 2012, the Town of Franklin's bulk purchased water interconnection was completed and the Town began to sell bulk metered water to the REWS system which remediated the above referenced problems. The 2013 Rate Case Order granted a rate increase to include the expenses relating to purchased bulk water from the Town of Franklin. No customers protested the applied for increase in the 2012 rate case proceeding.

4. The Commission approved the metered rates as follows:

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

5. The annual purchased water expense included in that 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.

6. The Commission approved rates for REWS were reduced: (1) by Order dated October 13, 2015, in Docket No. W-390, Sub 12, for the repeal of the gross receipts tax, (2) 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 (3) 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

7. 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 a monthly 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 Mr. Hardegree for the filing of a purchased water pass through rate increase. To date, REWS has not filed for a pass through.

8. 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. The current 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. REWS did not comply with the agreement.

9. 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 REWS as the wells were disconnected in the summer of 2012.

10. By letter dated October 31, 2016, REWS notified its customers that the company was at risk of closing in the next 30 days. The letter stated that 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.

11. As a result of the aforementioned actions, the Public Staff became concerned about the continuing ability of REWS to meet the needs of its water utility customers. The Public Staff thereafter spoke with a representative of the Town in October 2016, informed the Town that it would apply to the Commission for the appointment of an emergency operator for REWS and requested that the Town delay disconnection of REWS pending a Commission decision regarding the appointment of the emergency operator. After consultations with the Public Staff in October 2016, the Town of Franklin suspended the process to discontinue for nonpayment the bulk water deliveries to REWS (the only source of potable water for the customers).

12. Since October 2016, the Public Staff has made numerous attempts to secure information from REWS regarding customer information with regard to usage and accounts receivables. More specifically, the Public Staff enlisted the assistance of REWS' lawyer in an attempt to get the most current financial data from the Company. However, all attempts to examine full and complete information in this regard from REWS has proven unsuccessful because REWS has failed to make such information available for examination by the Public Staff during the regular business hours as required by Commission Rule R7-3(a).

13. Although Mr. Hardegree is the owner of REWS, he is unable to provide assistance in retrieving the necessary financial information because of cognitive issues and because he has limited knowledge of the business side of the company. The current Mrs. Hardegree is the business manager for REWS. Mrs. Hardegree refuses to respond to telephone calls from the Public Staff seeking her assistance in locating, reviewing, and examining the financial records of REWS which are located on the company's password protected computer. As a result, the Public Staff was forced to utilize customer data information from the 2012 rate case in their calculations to determine provisional rates that REWS customers would be required to pay to the emergency operator.

14. 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.

15. The Public Staff recommended that 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 payments would continue until the purchased water arrearage 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 recommended that the funds for these arrearage payments be included in the Commission approved customer rates. If a successor emergency operator is appointed later, then that emergency operator would continue the \$1,500 monthly purchased water arrearage payments until the arrearage is paid in full.

16. The Public Staff recommended that the emergency operator pay the significant bulk water arrearage to the Town of Franklin, the Public Staff further recommended that all REWS 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 arrearage.

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

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 CWS as the emergency operator for REWS 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 CWS no later than 15 days from the date of the Order.

While the May 16, 2017 Order issued by the Commission ensured that REWS' customers continued to receive safe potable water through the appointment of an emergency operator, it did nothing to address the underlying problems that caused the Commission's need to appoint an emergency operator. The evidence presented during the May 15, 2017 Staff Conference is on its face sufficient to establish a prima facie case unless rebutted that, for all intents and purposes, REWS and/or Ronald L Hardegree abandoned its/his obligation to furnish water utility service to its customers without first securing the consent of the Commission as required by G.S. 62-118, that REWS has failed to comply with the terms and conditions of Commission Rule R7-3, and that these actions violate certain provisions of 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 which the Commission awarded to REWS and/or Ronald L. Hardegree.

Because REWS and Mr. Hardegree consented to the appointment of the emergency operator, neither REWS nor Mr. Hardegree was required to appear at or present any evidence to the Commission during the May 15, 2017 Staff Conference. The only issue raised by the Public Staff's petition in this matter was whether an emergency operator should be appointed. Therefore, neither REWS nor Mr. Hardegree was notified about or given the opportunity to rebut the evidentiary conclusion that the Commission has now drawn from the Public Staff's presentation and/or the potential negative effects that could or would flow from such conclusions.

For this reason, the Commission finds that good cause exists to require REWS and Ronald L. Hardegree to appear before the Commission on a date certain to provide evidence to rebut the prima facie conclusion reached by the Commission in this regard 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 which the Commission awarded to REWS and/or Ronald L. Hardegree.

IT IS, THEREFORE, ORDERED as follows:

1. That a Show Cause Hearing is scheduled for Tuesday, August 15, 2017, at 7:00 p.m. in the Macon County Courthouse, 5 West Main Street, Franklin, North Carolina.
2. That REWS and Ronald L. Hardegree shall appear before the Commission on that date and at that time to provide evidence to rebut the prima facie conclusion reached by the Commission that, for all intents and purposes, REWS and/or Ronald L. Hardegree abandoned its/his obligation to furnish water utility service to its customers without first securing the consent of the Commission as required by G.S. 62-118, that REWS has failed to comply with the terms and conditions of Commission Rule R7-3, and that these actions violate certain provisions of 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 which the Commission awarded to REWS and/or Ronald L. Hardegree.
3. That REWS and Ronald L. Hardegree shall appear before the Commission on that date and at that time to show cause why it/he should not be subject to the sanctions provided by statute G.S. 62-310 *et al*, including monetary penalties for abandoning its/his obligation to provide water utility service in REWS' franchised territory without first securing the Commission's consent as required by G.S. 62-118 and/or for failing to comply with the terms and conditions of Commission Rule R7-3.
4. That a copy of this Order Scheduling Show Cause Hearings be mailed by certified mail and by first class mail with sufficient postage by CWS to all customers of REWS no later than 15 days after the date of this Order; and that CWS submit to the Commission the attached Certificate of Service properly signed and notarized not later

than 21 days after the date of this Order. The Company shall retain the certified mail receipt identifying each customer and the corresponding United States Postal Service tracking number.

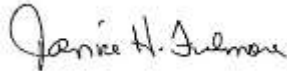
5. That the Public Staff shall participate in the hearing on behalf of the Using and Consuming Public.

6. That the Chief Clerk shall serve a copy of this Order on Ronald Hardegree, REWS and CWS by means of United States Mail, certified receipt requested.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of July, 2017.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Janice H. Fulmore". The signature is written in a cursive, flowing style.

Janice H. Fulmore, Deputy Clerk