

**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
Request by Public Staff for Appointment)
of Carolina Water Service, Inc. of North)
Carolina as Emergency Operator of the)
Riverbend Estates Water System, Inc.)
in Macon County, North Carolina)

In the Matter of)
Application for Transfer of Public Utility)
Franchise from Riverbend Estates)
Water System, Inc., to Carolina Water)
Service, Inc. of North Carolina and)
Approval of Rates)

PROPOSED
ORDER APPROVING
TRANSFER, GRANTING
FRANCHISE, APPROVING
RATES, AND REQUIRING
CUSTOMER NOTICE

BY THE COMMISSION: 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 that the Commission issue an order: (1) declaring an emergency, (2) appointing Carolina Water Service, Inc. of North Carolina (Carolina Water) as emergency operator (EO), 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).

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 that an emergency then existed due to the abandonment by Riverbend Estates Water System, Inc. (REWS)

of the water system serving Riverbend Estates, 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 monthly usage charge of \$11.95 per 1,000 gallons.

After carefully considering the May 15, 2017, Commission Regular 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, 2017, adopting the Public Staff's recommendations to appoint Carolina Water as the emergency operator for the Riverbend Estates water system effective on May 16, 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.

On July 10, 2017, the Commission issued Order Scheduling Show Cause Hearing as the Commission found that good cause existed 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 sanctions and/or penalties should not be assessed by the 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.

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 Staff 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.

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

The Show Cause Hearing reconvened as scheduled on October 25, 2017. Public witnesses Ronnie Dills and Lynn Kanakry testified; Mr. Dills read a statement by Beth Curry, who had to leave the hearing due to a prior commitment. The Public Staff and Stuart Sloan advised the Commission that REWS, Public Staff, and Carolina Water had reached a verbal settlement agreement, which--once completed--would resolve all the outstanding issues.

The Public Staff, at this October 25, 2017, hearing, advised the Commission and attending customers of the primary settlement agreement provisions, 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 (5) real property parcels at Riverbend Estates that either were part of the water system or are still 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 recommended that the purchase price of \$53,821.28 plus up to \$3,000 of Stuart Sloan's legal fees for the transfer closing would be included in Carolina Water's rate base as part of Carolina Water's uniform statewide system rate base.

d. The Public Staff recommended that the Riverbend Estates customers in the future pay Carolina Water's uniform rates, which was

expected to be a \$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; all the water is provided by the Town of Franklin. Based on the average monthly usage of 4,200 gallons, the average bill under the new rates would be \$53.25. Currently under the emergency operator provisional rates, the average monthly bill for 4,200 gallons is \$85.19. The proposed new rates would result in a reduction of \$31.94 in the average monthly bill per customer based on 4,200 gallons.

f. The Public Staff recommended that the Commission expedite consideration of the Transfer Application.

g. The Commission-approved rates which became effective on May 16, 2017 for the emergency operator, Carolina Water, are provisional rates subject to refund and audit. The Public Staff will conduct an audit of the EO revenues, expenses, and capital costs and will recommend refunds if Carolina Water collected more than its authorized 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 withdraw 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. Additionally, REWS did not implement the Commission-ordered rate reductions based on the repeal of the gross receipts tax and/or the reductions in the state corporate income tax rates. These overbillings were extensively presented in Charles Junis' supplemental testimony.

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

On December 15, 2017, the Public Staff provided REWS a refund summary, including each active customer's 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.

Carolina Water has advised the Public Staff that it revised 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.

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 assets is 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.

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 filed a Report on January 11, 2018 (Public Staff Report), in which the Public Staff recommended:

- a. 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 for 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.

b. That the Commission approve the inclusion of the \$53,821.28 purchase price plus up to \$3,000 of Stuart Sloan's attorney fees for the transfer closing in Carolina Water's rate base.

c. That after the filing of Carolina Water's closing certification, the Commission close the REWS Show Cause proceeding and not levy either of the Public Staff's previously recommended fines or penalties--- which were for \$84,000 and \$33,000, respectively.

d. That the Public Staff should audit the emergency operator revenues collected with the provisional rates, as well as the expenses and capital expenditures 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.

On the basis of the verified Transfer Application, the evidence presented at the hearings on August 15, 2017 and October 25, 2017, the Public Staff Report, and the records of the Commission, the Commission makes the following:

FINDINGS OF FACT

1. Carolina Water has more than 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.

2. 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.

3. The Riverbend Estates water system currently has approximately 131 metered customers in single-family residential homes.

4. The Riverbend Estates water system is a purchased water system; all water is purchased from the Town of Franklin.

5. Carolina Water was appointed EO for the Riverbend Estates water system by Commission Order dated May 16, 2017, in Docket No. W-390, Sub 13. The balance owed by REWS to the Town of Franklin for bulk water purchases, on May 16, 2017, was \$53,821.28.

6. The APA filed with the Transfer Application provides a purchase price of \$53,821.28 for the Riverbend Estates water system, which will be paid directly by Carolina Water to the Town of Franklin.

7. The Public Staff has recommended that the \$53,821.28 purchase price, plus up to \$3,000 of REWS attorney Stuart Sloan's fees for the transfer closing, be included in Carolina Water's rate base as part of Carolina Water's uniform statewide system rate base.

8. The Public Staff in its EO petition filed on May 9, 2017, recommended the Commission approve for the EO, an emergency rate increase with provisional rates of base monthly charge, zero usage, of \$35.00 and usage charge per 1,000 gallons of \$11.95, which the Commission did approve as provisional rates.

9. Carolina Water has requested the Commission approve, effective on the water system transfer closing date, Carolina Water's uniform statewide monthly base charge for zero consumption of \$24.44 and a commodity charge of \$6.86 per 1,000 gallons, which is the exact usage amount per 1,000 gallons that the Town of Franklin charges to Carolina Water for the purchased bulk water. The Public Staff recommended the Commission approve the Carolina Water requested rates which are a significant reduction from the EO provisional rates.

10. REWS has refunded with interest the overbillings of customers as detailed in the supplemental testimony filed by Public Staff Engineer Charles Junis on September 22, 2017, and as calculated by the Public Staff.

11. There is no need for another hearing in Franklin, North Carolina. The customers attending the October 25, 2017, hearing expressed approval for the Commission approving the transfer to Carolina Water and the rate reduction.

12. It is reasonable and prudent to include in Carolina Water's statewide uniform rate base the \$53,821.28 purchase price paid to the Town of Franklin plus up to \$3,000 of Stuart Sloan's attorney fees for the transfer closing.

13. The Public Staff recommended that a \$10,000 bond be posted for the Riverbend Estates water system. Carolina Water has \$3,730,000 of bonds

posted with the Commission. Of this amount, \$3,690,000 of the bond amount is assigned to specific subdivisions, and \$40,000 of the bond amount is unassigned.

14. Carolina Water has the technical, managerial, operational, and financial capacity to provide water utility service in this service area.

CONCLUSIONS

Based upon the foregoing, and the recommendations of the Public Staff, the Commission concludes that the transfer of the Riverbend Estates water system and franchise to Carolina Water should be approved, that the \$53,821.28 purchase price plus up to \$3,000 of the REWS attorney's transfer closing fees should be included in Carolina Water's statewide uniform rate base, that the rates proposed by Carolina Water should be approved, and that \$10,000 of Carolina Water's unassigned bond should be assigned to this system.

IT IS, THEREFORE, ORDERED as follows:

1. That \$10,000 of the Carolina Water \$40,000 unassigned bond shall be assigned to Riverbend Estates Subdivision. The remaining unassigned bond surety shall be \$30,000.
2. That Carolina Water is granted a certificate of public convenience and necessity to provide water utility service in Riverbend Estates Subdivision in Macon County, North Carolina, effective upon the closing of the transfer of the water utility system assets to Carolina Water.
3. That Appendix A constitutes the Certificate of Public Convenience and Necessity.

4. The Schedule of Rates attached as Appendix B is approved for water utility service in Riverbend Estates Subdivision, effective for service rendered on and after the date of closing of the transfer of the water utility system assets to Carolina Water.

5. That the Riverbend Estates water system shall not be charged the Water System Improvement Charge until being included in Carolina Water's next general rate case.

6. That the \$53,821.28 purchase price paid to the Town of Franklin, plus up to \$3,000 of REWS attorney's transfer closing fees, shall be included in Carolina Water's rate base.

7. That upon the Commission's receipt of Carolina Water's written notification that the closing is completed, the Public Staff's recommended \$84,000 fine or penalty for the Public Staff's assertion that REWS abandoned the system, and also the Public Staff's recommended approval \$33,000 penalty due to REWS charging higher rates without Commission approval, are withdrawn by the Public Staff and there will not be any such Commission-approved fines or penalties.

8. That the Public Staff shall audit revenues Carolina Water received as EO from customers and all expenses and capital expenditures for the Riverbend Estates water system for the EO period of May 16, 2017, through the transfer closing date, and file with the Commission within 90 days of the closing date, the Public Staff's report including recommendations as to the amount of revenues from

the provisional rates that exceeded the EO's expenditures, and that the over-collection amounts, if any, should be refunded to customers.

9. That Carolina Water shall provide written notification to the Commission within three days after the closing that the transfer has been completed and the date of such closing.

10. That the Certificate of Public Convenience and Necessity to provide water utility service granted REWS is cancelled effective on the date which Carolina Water files with the Commission written notification that the closing of the transfer of the system has been completed.

11. That a copy of the Notice to Customers, attached hereto as Appendix C, shall be mailed with sufficient postage or hand delivered by Carolina Water to all its affected customers in the Riverbend Estates Subdivision within 10 business days after the date of the closing of the transfer of the water system to Carolina Water.

12. That Carolina Water shall submit to the Commission the attached Certificate of Service properly signed and notarized not later than 15 days after the closing of the transfer to Carolina Water.

ISSUED BY ORDER OF THE COMMISSION.

This is the _____ day of February, 2018.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, Chief Clerk

APPENDIX A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-354, SUB 358

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

CAROLINA WATER SERVICE, INC. OF NORTH CAROLINA

is granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

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.

ISSUED BY ORDER OF THE COMMISSION.

This is the _____ day of February, 2018.

NORTH CAROLINA UTILITIES COMMISSION

M. Lynn Jarvis, Chief Clerk

SCHEDULE OF RATES

for

CAROLINA WATER SERVICE, INC. OF NORTH CAROLINA

for providing water utility service

in

RIVERBEND ESTATES

WATER RATES AND CHARGES

Monthly Metered Water Service (Residential and Commercial):

Base Facility Charge (based on meter size with zero usage)

< 1" meter	\$ 24.44
1" meter	\$ 61.10
1 1/2" meter	\$ 122.20
2" meter	\$ 195.52
3" meter	\$ 366.60
4" meter	\$ 611.00
6" meter	\$1,222.00

Usage Charge:

Purchased Water for Resale, per 1,000 gallons:

<u>Service Area</u>	<u>Bulk Provider</u>	
Riverbend Estates	Town of Franklin	\$ 6.86

Connection Charge: \$ 1,000.00

Meter Testing Fee: ^{1/} \$ 20.00

New Water Customer Charge: \$ 27.00

Reconnection Charge: ^{2/}

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

Meter Fee:

For <1" meter	\$ 50.00
For meters 1" or larger	Actual Cost

Irrigation Meter Installation: Actual Cost

MISCELLANEOUS UTILITY MATTERS

Charge for processing NSF Checks: \$ 25.00

Bills Due: On billing date

Bills Past Due: 21 days after billing date

Billing Frequency: Bills shall be rendered monthly in all service areas

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

Notes:

^{1/} If a customer requests a test of a water meter more frequently than once in a 24-month period, the Company will collect a \$20.00 service charge to defray the cost of the test. If the meter is found to register more than the prescribed accuracy limits, the meter testing charge will be waived. If the meter is found to register accurately or below prescribed accuracy limits, the charge shall be retained by the Company. Regardless of the test results, customers may request a meter test once in a 24-month period without charge.

^{2/} Customers who request to be reconnected within nine months of disconnection at the same address shall be charged the base facility charge for the service period they were disconnected.

Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket No. W-354, Sub 358, on this the ____ day of _____, 2018.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

**NOTICE TO CUSTOMERS
DOCKET NO. W-390, SUB 14
DOCKET NO. W-354, SUB 358
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has approved the transfer of the Riverbend Estates water system in Macon County, North Carolina, to Carolina Water Service, Inc. of North Carolina (Carolina Water).

The North Carolina Utilities Commission has approved the following new rates which are:

Monthly Metered Water Service (Residential and Commercial):

Base Facility Charge (based on meter size with zero usage)

< 1" meter	\$ 24.44
1" meter	\$ 61.10
1 1/2" meter	\$ 122.20
2" meter	\$ 195.52
3" meter	\$ 366.60
4" meter	\$ 611.00
6" meter	\$1,222.00

Usage Charge:

per 1,000 gallons:	\$ 6.86
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<u>Connection Charge:</u>	\$1,000.00
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<u>Meter Testing Fee:</u> ^{1/}	\$ 20.00
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<u>New Water Customer Charge:</u>	\$ 27.00
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Reconnection Charge: ^{2/}

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

APPENDIX C
PAGE 2 OF 3Meter Fee:

For <1" meter	\$ 50.00
For meters 1" or larger	Actual Cost

Irrigation Meter Installation:

Actual Cost

MISCELLANEOUS UTILITY MATTERS

<u>Charge for processing NSF Checks:</u>	\$ 25.00
<u>Bills Due:</u>	On billing date
<u>Bills Past Due:</u>	21 days after billing date
<u>Billing Frequency:</u>	Bills shall be rendered monthly in all service areas
<u>Finance Charge for Late Payment:</u>	1% per month will be applied to the unpaid balance of all bills still past due 25 days after billing date.

Notes:

^{1/} If a customer requests a test of a water meter more frequently than once in a 24-month period, the Company will collect a \$20.00 service charge to defray the cost of the test. If the meter is found to register in excess of the prescribed accuracy limits, the meter testing charge will be waived. If the meter is found to register accurately or below prescribed accuracy limits, the charge shall be retained by the Company. Regardless of the test results, customers may request a meter test once in a 24-month period without charge.

^{2/} Customers who request to be reconnected within nine months of disconnection at the same address shall be charged the base facility charge for the service period they were disconnected.

The approved rates are effective for water utility service rendered on and after _____, 2018.

Provisional Rates, Public Staff Audit, and Customer Refunds

The Public Staff, in its emergency operator petition filed on May 9, 2017, in Docket No. W-390, Sub 13, recommended that the Commission approve for Carolina Water as emergency operator, an emergency rate increase with **provisional** rates for base monthly charge, zero usage, of \$35.00 and usage charge per 1,000 gallons of \$11.95, which the Commission did approve as **provisional** rates.

The Public Staff will audit the revenues Carolina Water received as emergency operator from customers and all expenses and capital expenditures for Riverbend for the emergency operator period of May 16, 2017, through the transfer to Carolina Water closing date. Within 90 days of the closing date, the Public Staff will file with the Commission an audit report, including recommendations as to the amount of revenues from the **provisional** rates that exceeded the emergency operator's expenses and capital expenditures, and the over-collection amounts, if any, that should be refunded by Carolina Water to each customer.

CERTIFICATE OF SERVICE

I, _____, mailed with sufficient postage or hand delivered to all affected customers the attached Notice to Customers issued by the North Carolina Utilities Commission in Docket Nos. W-390, Sub 14 and W-354, Sub 358, and the Notice was mailed or hand delivered by the date specified in the Order.

This the _____ day of _____, 2018.

By:

Signature

Name of Utility Company

The above named Applicant, _____, personally appeared before me this day and, being first duly sworn, says that the required Notice to Customers was mailed or hand delivered to all affected customers, as required by the Commission Order dated _____ in Docket Nos. W-390, Sub 14 and W-354, Sub 358.

Witness my hand and notarial seal, this the _____ day of _____, 2018.

Notary Public

Printed Name

(SEAL) My Commission Expires: _____

Date