

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 01-196

ROLLING RIDGE WATER SYSTEM

Receivership Proceedings

Order *Nisi* Exempting Rolling Ridge Water Association from Regulation

ORDER NO. 25,185

December 22, 2010

From October 4, 2001 to December 11, 2006, the Rolling Ridge Water System, the utility that formerly served approximately 31 customers in Bartlett, was in receivership pursuant to RSA 374:47-a. In *Rolling Ridge Water System*, Order No. 24,707, 91 NH PUC 582 (2006) the Commission terminated the receivership, approved a quarterly water service charge of \$139.50 per customer, and transferred the franchise, system and works of the Rolling Ridge Water System to the Rolling Ridge Water Association (RRWA). RRWA has been operating the water system ever since. The Commission noted that it had previously determined that a transfer to “an organized homeowners’ group with the legal standing to address long term solutions to water supply” was the only feasible option to assure continued operation of the Rolling Ridge water system. *Id.* at 584. The Commission also ordered that the docket “remain open for the purposes of winding down the operation of Rolling Ridge Water System in receivership.” *Id.* at 585. The Town of Bartlett and the Bartlett Village Water Precinct intervened in this proceeding.

The Commission also addressed the issue of exemption and stated that the availability of an exemption in RSA Chapter 362 “is premised on the notion that, for small water utilities such as Rolling Ridge, the cost of Commission regulation, or parts of it, can reasonably be determined

to exceed the potential benefits to consumers of such regulation.” The Commission stated that it would seem “to be in the best interests of [RRWA] to consider an exemption request at some point.” *Id.*

On November 9, 2010, Staff filed a letter recommending that the Commission exempt RRWA from further regulation. Staff stated that RRWA’s efforts to seek grant funds from the Rural Development Administration had failed to move forward in part because of RRWA’s reluctance to accept ownership of the water system. RRWA had sought the grant funds in order to interconnect the Rolling Ridge water system with the Bartlett Village Water Precinct. The interconnection was seen as a way for RRWA to comply with the Safe Drinking Water Act (SDWA) requirements since, at present, the system does not meet the requirements.

Staff stated that it met with RRWA, the New Hampshire Department of Environmental Services (DES), and the federal Environmental Protection Agency on September 13, 2010 and discussed options for RRWA to bring its system into compliance. Staff stated that expansion or replacement of the existing pump station to accommodate a treatment facility would be cost-prohibitive absent substantial financing and that, in the alternative, RRWA plans to install Point of Use devices in each customer’s home. RRWA plans to raise revenue from rates to effectuate installation of these devices. RRWA also plans to raise revenue from rates to retire debt pertaining to legal and engineering expenses it incurred associated with the unsuccessful interconnection project. At RRWA’s most recent annual meeting, members voted to raise existing customer rates from \$139.50 per quarter to \$313.00 per quarter, effective January 1, 2011.

In support of its recommendation for exemption, Staff states that traditional cost-of-service ratemaking hampers the Commission's ability to approve RRWA's proposed rates and accommodate RRWA's revenue needs. Staff explained that traditional ratemaking would not allow rates to include amounts to repay debts previously incurred, such as for the legal and engineering expenses, or to include funds intended to pay for future capital, such as the Point of Use devices. Thus, the very expenses for which RRWA needs to raise revenue would not be allowed in rates under traditional ratemaking. To remove this impediment, Staff recommends the Commission exempt RRWA from regulation as contemplated in Order No. 24,707. Staff states that the RRWA concurred with its recommendation. RSA 362:4, I authorizes the Commission to exempt a public utility providing water service from any and all provisions of title 34 of the Commission's regulatory regime. Specifically, if "the whole of such water . . . system shall supply a less number of consumers than 75, each family, tenement, store, or other establishment being considered a single consumer," then the Commission may grant such an exemption upon a determination that it is consistent with the public good. RRWA qualifies for such an exemption because the Rolling Ridge water system serves fewer than 75 consumers. RRWA is a homeowners association serving itself and serves less than 75 non-members. RRWA provides the same level of water service to all of its customers and charges members of the association and non-members the same rates. The water system is one connected system, thus providing the same water quality to its members and non-members.

We understand from Order No. 24,748 (May 4, 2007) that the water system has had a difficult time providing uniform water service to three property owners located at the highest point of the water system and thus the water system reportedly provides service to 25 customers

currently. This is a temporary situation, however, and DES has authorized the temporary use of private wells while this situation exists. RRWA has been operating the water system, billing customers, and seeking improvements notwithstanding that RRWA has no paid officers and uses volunteers. There is no indication that RRWA will cease performing these functions if it is exempted from regulation. The development is almost fully built-out and it is unlikely that the water system will expand.

Having reviewed the record in this proceeding, it appears that there are no other viable alternatives to Staff's recommendation. As a consequence, pursuant to RSA 326:4, I and VII, we find it consistent with the public good to exempt RRWA from further Commission regulation under Title 34. We note the Commission retains the ability to revisit this exemption decision, pursuant to RSA 365:28, should conditions change and warrant regulation. We will issue this order on a *nisi* basis to afford interested parties notice and an opportunity to be heard.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, RRWA is exempt from further Commission regulation under Title 34; and it is

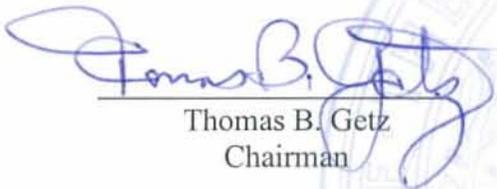
FURTHER ORDERED, that RRWA shall mail a copy of this order by first class mail to all property owners of the Rolling Ridge subdivision as well as to the town clerk for the Town of Bartlett by January 14, 2011; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 24, 2011 for the Commission's consideration; and it is

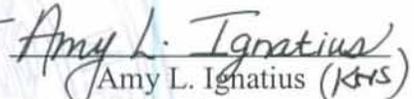
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than January 28, 2011; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective February 1, 2011, unless RRWA fails to mail this order to the Rolling Ridge property owners and the town clerk for the Town of Bartlett or the Commission provides otherwise in a supplemental order issued prior to the effective date.

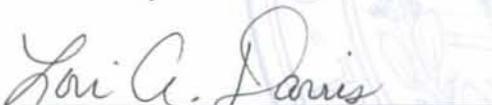
By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius (KRS)
Commissioner

Attested by:


Lori A. Davis
Assistant Secretary

