

DW 01-196

Rolling Ridge Water System

Receivership Proceedings

**Order Authorizing Receiver to Impose a Surcharge to Customers to
Pay for Emergency Improvements**

O R D E R N O. 24,178

May 23, 2003

APPEARANCES: Donald M. Kreis, Esq. for the Staff of the New Hampshire Public Utilities Commission and Thomas Mason for LRW Water Services, Inc.

I. PROCEDURAL HISTORY

On October 4, 2001, the New Hampshire Public Utilities Commission (Commission) exercised its authority under RSA 374:47-a to place Rolling Ridge Water System (Rolling Ridge) in receivership on an emergency basis. *Rolling Ridge Water System*, Order No. 23,794, 86 NH PUC 636 (2001). Rolling Ridge is a water utility in Bartlett serving approximately 30 customers. The Commission determined that Rolling Ridge was failing to provide adequate and reasonable service to its customers, and that such failure was a serious and imminent threat to the health and welfare of the utility's customers. LRW Water Services, Inc. (LRW) was appointed as the utility's receiver. An emergency rate increase was granted, consistent with determinations made in a previous rate case, *Rolling Ridge Water Company*, 84 NH PUC 114 (1999). Testimony in that earlier case

had, as referenced in the Commission's October 4, 2001 order, noted significant problems with the system's pump station, storage, pumping and electrical facilities, well location, water quality and distribution system.

On November 2, 2001, the Commission extended the receivership "until further Order of the Commission, in Docket DW 99-166 or otherwise." *Rolling Ridge Water System*, Order No. 23,836, 86 NH PUC 740 (2001). Docket DW 99-166 involved competing franchise requests by Lower Bartlett Water Precinct and Bartlett Village Water Precinct that potentially involved providing service to Rolling Ridge customers. Efforts in that docket failed to produce a resolution of issues regarding service to the area, and the docket was closed on January 24, 2003.

On March 17, 2003, the Commission's Executive Director and Secretary, Debra A. Howland, sent a letter to all Rolling Ridge customers, advising them that the receivership statute does not contemplate the Commission operating any utility on a permanent basis. It advised customers that the Commission was aware that there had been recent efforts to organize a homeowner's association to assume long term responsibility for providing water service to the Rolling Ridge subdivision. The letter also advised customers that Staff of the Commission was available to assist them in a transition of the water system

from a public utility to whatever entity they might choose to provide service.

On April 14, 2003, LRW informed the Commission that the Rolling Ridge system was experiencing significant operational problems. Subsequent investigation revealed that the yield of the system's single well had dropped to only 1 to 2 gallons per minute, and that the system's pressure storage had failed. On April 28, 2003, LRW recommended the deepening of the well and installation of a new pressure tank. LRW estimated the cost of well deepening at \$10,000 to \$15,000, and of tank replacement at about \$1,500. LRW further indicated that "[t]hese updates must be done as soon as possible as there continue to be daily outages of water". In addition, LRW indicated that a balance of \$1,853.98 remained available in the Rolling Ridge account.

On May 1, 2003, the Commission issued an Order of Notice establishing a hearing on May 14, 2003. The Order of Notice indicated that the purpose of the hearing was to "consider whether to impose a one-time per customer surcharge of \$500.00 to pay for the needed improvements". In addition, the Commission indicated that it would also consider at the hearing the merits of imposing a surcharge "in light of the long term prospects for the Rolling Ridge system and facilities". On May 14, 2003, the hearing was held as scheduled.

II. POSITIONS OF THE PARTIES AND STAFF

A. Staff and LRW Water Services, Inc.

Staff member Douglas Brogan and LRW owner Thomas A. Mason provided testimony on the current condition of the Rolling Ridge system. Mr. Mason indicated that the system is in very poor condition. The pump station is immediately adjacent to a road, with the well just on the other side. Mr. Mason said that the underground station is tiny, perhaps 6 feet by 6 or 7 feet in size. He said the well is producing just 1 to 2 gallons of water per minute, and that the pressure storage had completely failed. The distribution system also has considerable problems, with frequent leaks which caused service outages.

Mr. Mason indicated that his recommendation was a deepening of the existing well, and replacement of the pressure storage, in order to increase the well yield and insure that customers of the system would continue to have water service. He further noted that a \$500 per customer surcharge to each of the 31 Rolling Ridge customers would raise in excess of \$15,000, an amount that he believes is adequate to pay for the needed improvements.

Mr. Brogan produced copies of photographs he had taken on a recent visit to Rolling Ridge. He also described the system as poor, with limited options for improvements considering the location of the pump station and well. He

described other deficiencies in the system, including high levels of fluoride and beryllium in the water. He noted that all of the system's deficiencies had been noted in previous proceedings in this docket.

Mr. Brogan also described options for Rolling Ridge, including a possible interconnection with Crawford Hills, a system adjacent to Rolling Ridge. However, his conversation with a representative of that system led him to believe that the potential was greater for purchase of water from that system rather than for a take-over. The cost of an interconnection including the needed land, as well as additional pumping and storage facilities, would be an impediment to such an arrangement. Mr. Brogan also discussed the possibility of individual wells for customers in Rolling Ridge, but indicated that lot sizes were not likely adequate. The best possibility for individual wells would be if customers shared a well.

In addition to these possibilities, Mr. Brogan discussed the development of a homeowner's association. Staff has been aware that the Northeast Rural Community Assistance Program (RCAP) has been working with the customers in Rolling Ridge to develop a group to take control of the water system. He also testified that he was aware that by-laws for such a group had been circulated for discussion among the Rolling Ridge customers.

Both witnesses discussed the possibility of the development of adjacent land now owned by a Mr. Berry, and the potential for connecting to that future water system. Also, in response to questions from the bench, both witnesses indicated their understanding that Rolling Ridge remained very high on the list of funding for the State Revolving Loan Fund Program (SRF) administered by the Department of Environmental Services (DES).

With respect to the emergency improvements, Mr. Brogan indicated that he believed that any future alternative outlined above would take time to develop, and that deepening the well and replacing the pressure tank storage was therefore the only viable option at this time to continue water service to customers. Thus, he favored the imposition of a surcharge to raise the necessary funds to begin the work as soon as possible.

B. Mr. Robert Sullivan

Mr. Sullivan is a part-time resident of Rolling Ridge and was the only customer to appear at the hearing. Mr. Sullivan indicated that he was aware of the possible future development of adjacent property to Rolling Ridge, and that such development could be a long-term solution to the current supply problems. He further indicated that he supported the surcharge, but that some customers might have some difficulty paying. Mr. Sullivan also advised the Commission that a meeting has been arranged for Rolling Ridge customers on Memorial Day weekend, in

order to further discuss an organization to take control of the water system. He provided a copy of a notice he had received for that meeting.

III. COMMISSION ANALYSIS

The Commission's responsibility for managing a utility under the receivership statute is clear. We previously appointed a receiver to operate and manage the Rolling Ridge system in order to continue to provide service to customers in accordance with the obligation of Rolling Ridge as a public utility to provide safe and adequate service to its customers. In accordance with RSA 374:47-a, we are authorized to permit our staff or a receiver to "commit additional expenditures as are essential to providing an acceptable level of service, such expenditures to be funded in accordance with generally accepted ratemaking practices. Any costs incurred by the commission, its staff or appointed receiver under this section shall be the responsibility of the utility or its customers."

A surcharge to customers at this time, in order to raise the funds necessary for the emergency repairs, is clearly authorized by the statute. And, it is necessary in order to begin the work as soon as practicable.

Staff has advised us subsequent to the May 14 hearing that SRF funding is not available to the Rolling Ridge system without a party to accept responsibility for the loan. Staff's

information in this regard is the result of a discussion with the administrator of the SRF program at DES.

We are left with little choice but to order a surcharge on customers in order to maintain an acceptable level of service. Our remaining option to shut down the system completely, would put the Rolling Ridge customers in a crisis situation without any water at all. We decline to take that alternative at this time when another exists, although there is no guarantee as to how long the proposed repairs will be effective.

We rely on the testimony of Mr. Mason in setting the surcharge amount at \$500. He believes that this will raise adequate funds to deepen the existing well and to replace the pressure storage. We recognize, however, that this amount may be a burden to some customers to pay in one lump sum. Although we will authorize LRW to issue bills to customers which will be immediately due and payable, we will nonetheless authorize LRW to make payment arrangements with those customers who request them.

We appreciate LRW's efforts to keep this system in operation under difficult circumstances, and to work with customers in collecting this surcharge from all of them. We note that, at hearing, Mr. Mason indicated that he would be willing to perhaps advance some of the funds needed for this

work, but not the entire amount. We sincerely appreciate Mr. Mason's offer in this regard, and will leave it to him to decide at what point he has received sufficient funds to begin the work at Rolling Ridge. Thus, consistent with our authority under RSA 374:47-a, we will approve a surcharge of \$500 to each Rolling Ridge customer in order to provide the funds needed to address the supply emergency that presently exists.

However, this is, at best, a temporary solution. We implore the customers to aggressively pursue other options because the possibility still exists of a system failure which neither LRW nor the Commission could remedy. More specifically, we urge the customers to explore the option of creating a homeowner's association to acquire the system and access available SRF funds so that a permanent solution to this problem can be obtained.

Based upon the forgoing, it is hereby

ORDERED, that the Commission's receiver at Rolling Ridge, LRW Water Services, Inc. is hereby authorized to bill each current customer at the Rolling Ridge system a \$500 surcharge, in order to deepen the existing well and for installation of a new pressure tank in the system; and it is

FURTHER ORDERED, that LRW Water Services, Inc. is authorized to make reasonable payment arrangements with any customer who may request such arrangements, consistent with the

objective of beginning the emergency work at the system as soon as possible; and it is

FURTHER ORDERED, that LRW Water Services, Inc. keep this Commission informed as to the progress of the work, and provide an accounting of the surcharge collected and the expenditures made on the improvements at the Rolling Ridge system.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of May, 2003.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary