

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 09-177**

**BOW LAKE ESTATES WATER WORKS, INC.**

**Investigation into Failure to File Annual Reports**

**Order Imposing Fines**

**ORDER NO. 25,091**

**April 13, 2010**

**I. BACKGROUND**

Bow Lake Estates Water Works, Inc. (Bow Lake Estates) is a regulated public utility that provides water service to 41 customers in a development known as Bow Lake Estates located on Big Kooauke Island on Bow Lake in the Town of Strafford. The Commission approved the franchise request of Bow Lakes Estates' predecessor, North Country Water Supply, Inc., in Docket No. DE 92-076 (November 23, 1992). *North Country Water Supply, Inc.*, Order No. 20,677, 77 NH PUC 732 (1992). North Country subsequently requested permission to transfer the franchise to a newly created entity, Bow Lake Estates. The Commission approved the transfer in Docket No. 93-197 (June 26, 1995). *North Country Water Supply, Inc.*, Order No. 21,709, 80 NH PUC 380 (1995).

On September 10, 2009, Staff filed a letter advising the Commission that Bow Lake Estates had yet to file either its 2007 or 2008 Annual Reports, despite reminders from Staff that the reports were delinquent. The 2007 Annual Report was due on March 31, 2008; the 2008 Annual Report was due March 31, 2009. Staff noted that Bow Lake Estates has a history of failing to timely file reports and to respond to Commission orders, having filed its 2000, 2001, 2002, and 2003 Annual Reports late. Staff stated that because of the failure to file four years of

reports, the Commission opened Docket No. DW 04-010 to investigate Bow Lake Estates' failure to file annual reports as required. In *Bow Lake Estates Water Works, Inc.*, Order No. 24,303, 89 NH PUC 204 (2004), the Commission ordered Bow Lake Estates to pay \$500 pursuant to RSA 374:17 and stated it would no longer sanction such conduct. In light of this history, Staff recommended that the Commission open a proceeding to investigate Bow Lake Estates' failure to file its 2007 and 2008 Annual Reports and to consider placing the utility in receivership pursuant to RSA 374:47-a.<sup>1</sup>

On December 29, 2009, the Commission issued Order No. 25,058, which directed Bow Lake Estates to file its 2007 and 2008 Annual Reports by January 29, 2010, and appear at a hearing on February 25, 2010 to show cause why it should not be ordered to pay a forfeiture and civil penalty for failure to file the required 2007 and 2008 Annual Reports and why it should not be placed in receivership.

The February 25, 2010 hearing took place as scheduled. On March 2, 2010, Staff filed a letter updating the docket on issues raised at the hearing, as well as copies of Bow Lake Estates' 2007 and 2008 Annual Reports, which Bow Lake Estates had filed on February 16, 2010. Staff stated that a Department of Environmental Services (DES) administrative order issued against Bow Lake Estates appeared to be reaching resolution, as Bow Lake Estates had filed a revised emergency plan and that DES expected to issue a Notice of Compliance in the near future. Staff also stated that because Bow Lake Estates had filed its Annual Reports, the Commission could bill Bow Lake Estates for its 2007 and 2008 assessments and would do so when it billed the company for the 2009 assessment.

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<sup>1</sup> The Commission's records also show that the 2004, 2005, and 2006 reports were late. Staff notified the company of its failure to file, but did not seek forfeiture pursuant to RSA 374:17.

## **II. POSITIONS OF THE PARTIES**

### **A. Staff**

Staff stated that Bow Lake Estates had filed its 2007 and 2008 Annual Reports on February 16, 2010, and that Staff was in the process of reviewing them. Staff expressed concern that Bow Lake Estates' failure to file reports had resulted in the utility not being properly assessed for a share of the Commission's expenses in accordance with RSA Chapter 363-A. Staff also provided a copy of an Administrative Order from the DES as an exhibit to the Commission, which indicated the company had failed to file an emergency plan for the utility. Staff stated that while it was no longer recommending the Commission consider placing Bow Lake Estates in receivership, on the condition that Bow Lake Estates file its Annual Reports on time, the Commission should fine the company no less than \$500.

### **B. Bow Lake Estates Water Works, Inc.**

Stanley Oliver, president of the utility, appeared for Bow Lake Estates. He stated that while Bow Lake Estates provides good service to its customers and is conscientious about attending to its field operations, the company does not do well handling its paperwork. He indicated his company operates 15 other systems in addition to the regulated utility. Mr. Oliver stated that it can be burdensome to the accountants who prepare Commission reports to have a due date that nearly coincides with the preparation and filing of tax returns. He stated that his previous accountant had made promises to complete and file the utility's Annual Report but did not do so and he has now retained a new accountant to handle the reports. In response to an inquiry from the bench, Mr. Oliver admitted that he doesn't review the company's mail more than once per week and that the company's "management, is me, which is terrible." Hearing

Transcript of February 25, 2010 (2/25/10 Tr.) at 15 line 9. Mr. Oliver stated he filed the emergency plan with DES and that this issue was resolved. When asked what action he recommended the Commission take with respect to the late Annual Reports, Mr. Oliver stated that he had no recommendation. Mr. Oliver stated that he expects to sell the utility after his daughter is out of college and that he is presently selling his other water utility, North Country Water, in Freedom, New Hampshire. Subsequent to hearing, on February 25, 2010, Mr. Oliver sought an extension to May 31, 2010 to file the 2009 Annual Report.

### **III. COMMISSION ANALYSIS**

Pursuant to RSA 374:15, every public utility must file with the Commission such reports containing facts and statistics as may be required by the Commission. Pursuant to N.H. Code Admin. Rule Puc 609.04, F-16 Annual Report, regulated utilities that keep their books on a calendar-year basis must file Annual Reports with the Commission, on or before March 31. Filing an Annual Report each year is not a mere technicality. "It is an essential component of the rules the Commission has promulgated in the discharge of its statutory duty 'to keep informed as to all public utilities in the state.'" *Riverside Water Works, Inc.*, Order No. 23,875, 86 NH PUC 912, 914 (2001) (quoting *Central Water Co.*, Order No. 23,334, 84 NH PUC 577, 578 (1999) and RSA 374:4). RSA 374:17 provides for the forfeiture of \$100 for each day a public utility fails to file its Annual Report.

Bow Lake Estates has appeared before the Commission previously with respect to its failure to file timely Annual Reports. Bow Lake Estates does not dispute that it failed to timely file its 2007 and 2008 Annual Reports. Mr. Oliver stated that his management of the utility has been substandard. Mr. Oliver placed some of the blame on his previous accountant and indicated

he has now employed a new accountant to prepare and file Annual Reports. Regardless of these circumstances, Bow Lake Estates must file an Annual Report in order for the Commission to keep informed of its operations and financial results and for the Commission to calculate assessments of the Commission's expenses pursuant to RSA Chapter 363-A.

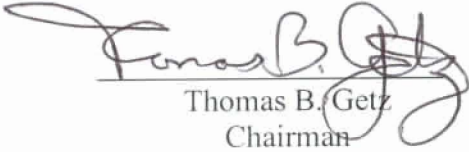
In light of the evidence on the record in this matter, we find that the failure of Bow Lake Estates to file its 2007 and 2008 Annual Reports warrants a forfeiture of \$1,500, \$250 of which will be due no later than April 30, 2010. The remaining \$1,250 of the total will be suspended on the condition that Bow Lake Estates file its 2009 Annual Report by June 1, 2010 and its 2010 Annual Report by March 31, 2011. However, if Bow Lake Estates files its 2009 Annual Report later than June 1, 2010, a \$500 fine will automatically be due, payable by June 15, 2010. In addition, if Bow Lakes files its 2010 Annual Report later than March 31, 2011, a \$750 fine will automatically be due, payable by April 15, 2011. The only deviation from these dates is if Bow Lake Estates seeks and the Commission grants an extension. Bow Lake Estates shall not pass on to its ratepayers the fines imposed by the Commission.

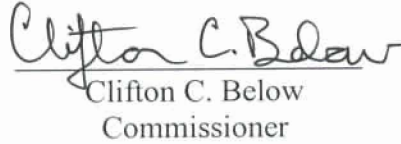
**Based upon the foregoing, it is hereby**

**ORDERED**, that pursuant to RSA 374:17, Bow Lake Estates shall forfeit \$1,500 for failure to timely file its 2007 and 2008 annual reports, \$1,250 of which is suspended on the condition that Bow Lake Estates timely file its annual reports as described above; and it is

**FURTHER ORDERED**, that Bow Lake Estates shall pay \$250 to the Commission in a check made payable to State of New Hampshire-Public Utilities Commission no later than April 30, 2010.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of  
April, 2010.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy L. Ignatius  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

