

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
Small Water Branch**

**RESOLUTION W-4053
July 16, 1997**

RESOLUTION

**(RES. W-4053), ROSELLA WATER COMPANY
(RWC). ORDER RECOGNIZING PONDEROSA
COMMUNITY SERVICES DISTRICT AS THE
COURT-APPOINTED RECEIVER OF RWC.**

BY LETTER DATED JUNE 3, 1997.

SUMMARY

This Resolution recognizes the Ponderosa Community Services District (District) as the Tulare County Superior Court-appointed receiver for RWC.

BACKGROUND

RWC was certificated by Decision (D.) 66304, November 12, 1963. The certificate was issued to Donald G. and Rosella M. Carter to construct and operate a public utility to serve 36 lots in Tract 391 and to serve a commercial area of 7 acres lying west of the tract, in which stores and rental cabins were located.

On August 12, 1972, this Commission initiated an Order Instituting Investigation (Case No. 9434). D.81122, March 13, 1973, determined that the utility had an adequate supply of water to serve its customers, but that additional investment in utility plant was required. The Commission instituted a service connection moratorium restricting the utility to serve a maximum of 284 services, although at that time the utility had only 39 actual customers.

D.88335, January 1, 1978, was issued in response to two complaints: C.10228, January 10, 1997 and C.10234, January 11, 1997. It determined that the facilities improvements ordered by D. 81122 had not been done, that the system was inadequate to provide year-round service and that preventive maintenance was not being accomplished. It ordered the utility to hire a competent engineer to devise a set of recommended improvements to the system within 30 days. It gave RWC an additional 30 days to install the improvements, including eliminating non-operative valves and non-operative fire hydrants.

RWC filed for an informal General Rate Increase on January 11, 1989. It was converted to a formal application, (A.)89-01-032, due to public outcry and the high increase (100%), on April 18, 1989. D.90-01-022, January 24, 1990 determined that the utility was still providing inadequate service and had not complied with the ordering paragraphs of D.88335. Additionally, the owner of RWC, who was also a developer, had provided substantial free water to construction crews who were working on a new subdivision he was developing adjacent to his existing service area. The utility was ordered to improve its winter service quality, mainly by flushing the mains. The proceeding remained open to determine which improvements were needed to the system and to address the costs and timing of those improvements.

By letter dated June 3, 1997, Thomas T. Watson, District Counsel of the Ponderosa Community Services District, requested that the Commission approve the appointment of the District as receiver for RWC, as set forth in a Stipulation and Order Appointing a Receiver in Case No. 96-175503 of the Superior Court of the State of California In and For the County of Tulare (the Order).

According to the Order, Donald Geoffrey Carter, President and Corporate Agent of RWC, stipulated that:

1. Since September of 1995, RWC had not taken any actions to operate or maintain the system.
2. RWC stopped payment for electrical service to the system resulting in disconnection by Southern California Edison Company on December 1, 1995.
3. RWC had been and continues to be unresponsive to the rules and regulations under the California Safe Drinking Water Act and the orders of the County of Tulare Health and Human Service Agency.
4. RWC had been and continues to be unable and unwilling to serve the customers of the system and had been unable and unwilling to operate the system.

DISCUSSION

Section 116665 of the Health and Safety Code states:

"Whenever the department determines that any public water system is unable or unwilling to adequately serve its users, has been actually or effectively abandoned by its owners, or is unresponsive to the rules or orders of the department, the

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department may petition the superior court for the county within which the system has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon such terms and conditions as the court shall prescribe. The court may require, as a condition to the appointment of the receiver, that a sufficient bond be given by the receiver and be conditioned upon compliance with the orders of the court and the department, and the protection of all property rights involved. The court may provide, as a condition of its order, that the receiver appointed pursuant to the order shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the order."

The Order provides that the receiver will not have to post a bond and will not be held liable for good faith efforts to operate the system.

Section 855 of the Public Utilities Code states:

"Whenever the commission determines, after notice and hearing, that any water or sewer system corporation is unable or unwilling to adequately serve its ratepayers or has been actually or effectively abandoned by its owners, or is unresponsive to the rules or orders of the commission, the commission may petition the superior court for the county within which the corporation has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon such terms and conditions as the court shall prescribe. The court may require, as a condition to the appointment of the receiver, that a sufficient bond be given by the receiver and be conditioned upon compliance with the orders of the court and the commission, and the protection of all property rights involved. The court shall provide for disposition of the facilities and system in like manner as any other receivership proceeding in this state."

Since the Superior Court has already ruled, the Commission's only concern is the suitability of District to act as receiver. On December 19, 1996, Carol S. Risch, Secretary of the District, provided a copy of the Order to the Small Water Branch (Branch) and requested copies of the records of the company, stating that RWC had not to that date provided any records. Branch responded with copies of General Order (G.O.) 103 and G.O. 96-A. On February 14, 1997, Branch mailed a

copy of the Rosella tariff book to the District. Branch has been in verbal contact with the District on various occasions. After investigation of its actions so far,

Branch believes that District has the experience and capability to operate this water system.

As the receiver, District is responsible for the collection of revenues as authorized by D.90-01-033 and must operate the water system in accordance with General Order 103 and the Health and Safety Code. In addition, District will be responsible for protecting and replacing the physical plant as required and protecting and preserving RWC's easements and property rights. District plans to file for a rate increase in the near future.

This Commission will ensure implementation of its regulatory decisions and ensure that District has the resources needed to meet its public utility obligations.

Nothing in this resolution relieves the owners of RWC of any responsibility for their actions nor of any liability of the company.

NOTICE

Notice was provided by the Board of Directors, Ponderosa Community Services District, Tulare County, California by voting on Resolution No. 96-6 to take over the RWC system on November 6, 1996.

FINDINGS

THE COMMISSION FINDS that:

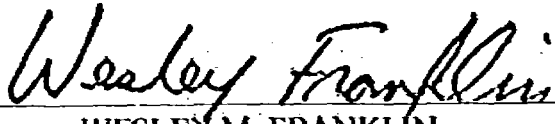
1. Rosella Water Company is a public utility within the jurisdiction of the Commission.
2. The current owners of Rosella Water Company do not wish to continue to operate the water system.
3. Ponderosa Community Services District is the Tulare County Superior Court-appointed receiver to operate RWC.
1. Ponderosa Community Services District should be authorized to operate Rosella Water Company for the good of the customers and in accordance with all regulations and requirements of the California Public Utilities Commission.

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IT IS ORDERED that:

1. Ponderosa Community Services District be recognized as the Tulare County Superior Court appointed receiver for Rosella Water Company under Section 855 of the Public Utilities Code.
2. Ponderosa Community Services District shall assume responsibility for operating and preserving Rosella Water Company's facilities.
3. This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 16, 1997. The following Commissioners approved it:


WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEPPER
RICHARD A. BILAS
Commissioners