

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the effect ) DOCKET NO. 871206-PU  
of 1986 Federal Tax Reform for 1988. )  
\_\_\_\_\_ )

In re: Investigation into the ) DOCKET NO. 890430-PU  
imposition of a penalty for failure ) ORDER NO. 21179-A  
to comply with the provisions of Rule ) ISSUED: 5-24-89  
25-14.003(4), F. A. C. )  
IMPERIAL MOBILE TERRACE )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
BETTY EASLEY  
GERALD L. GUNTER  
JOHN T. HERNDON

AMENDATORY ORDER TO SHOW CAUSE

BY THE COMMISSION:

Order No. 21179, issued on May 8, 1989, was mailed to Imperial Mobile Terrace (Imperial) at the address in the most recent Commission records. The order was returned because Imperial was no longer listed at that address by the postal service. Southern States Utilities, Inc. (Southern States) had acquired Imperial in July of 1988. Southern States was late in applying for a transfer of the certificate, and the certificate still has not been transferred. Imperial, as the certificated utility, is the entity responsible as set forth below, and is the utility to which this order is directed. This amendatory order is issued to provide Imperial with notice and a new time limit for a written response to show cause. All references to Imperial in this order are intended to refer equally to Mr. Lawrence J. Benson, doing business as Imperial Mobile Terrace.

Imperial was sent a certified letter on March 21, 1989, communicating that its tax report was late and needed to be filed. Imperial filed its tax report on March 30, 1989. Since Imperial violated a rule of the Commission by filing its tax report after the March 1 deadline in Rule 25-14.003(4), Florida Administrative Code, it will be penalized as set forth below.

Section 367.161(2), Florida Statutes (1987), provides that the Commission has the power to impose a fine of up to \$5,000 a day for willful violation of any Commission rule or order. Since a utility subject to Commission jurisdiction is charged with knowledge of Commission rules, Imperial is subject to penalty for failure to comply with Rule 25-14.003(4), Florida Administrative Code. We believe that an appropriate guideline to use in determining the level of the fine for failure to timely file the tax report is the fine schedule set forth in Rule 25-30.110(7)(b), Florida Administrative Code, for failure to timely file annual reports. The penalties are based on a classification system related to annual revenues as follows:

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\$25.00 per day for Class A utilities;  
\$13.50 per day for Class B utilities;  
\$ 3.00 per day for Class C utilities.

Accordingly, we find it appropriate to require Imperial, a Class C utility, to show cause, in writing, why it should not be fined \$87.00 for failure to comply with Rule 25-14.003(4), Florida Administrative Code.

It is, therefore,

ORDERED by the Florida Public Service Commission that Imperial Mobile Terrace shall show cause, in writing, why it should not be fined \$87.00 for failure to timely file the report required by Rule 25-14.003(4), Florida Administrative Code. It is further

ORDERED that Imperial Mobile Terrace's written response shall be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 13, 1989. It is further

ORDERED that Imperial Mobile Terrace's response must contain specific allegations of fact and law. It is further

ORDERED that Imperial Mobile Terrace's opportunity to file a written response shall constitute its opportunity to be heard prior to a final determination of noncompliance or assessment of penalty. It is further

ORDERED that a failure to file a timely written response to this show cause order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that, in the event that Imperial Mobile Terrace files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes (1987), further proceedings may be scheduled before a final determination on these matters is made.

By ORDER of the Florida Public Service Commission,  
this 24th day of MAY, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

DCS