

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 to) ORDER NO. 21190-A
comply with the provisions of Rule) ISSUED: 6-13-89
25-14.003(4), F. A. C.)
_____)
UTILITY SYSTEMS, INC. - CITRUS)
_____)

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:

On May 11, 1989, Order No. 21190 was sent by certified mail to Utility Systems, Inc. of Citrus County (Utility Systems) at its most recent address of record. The Order was returned to the Commission unclaimed on May 28, 1989. Staff has found another address which it believes to be the utility's current street address. This Amendatory Order is issued to provide Utility Systems notice and a new time limit for a written response to show cause.

Rule 25-14.003(4), Florida Administrative Code, provides that on or before March 1st of every year following a tax rate change, each utility shall furnish a final tax report. By Order No. 20852, issued March 3, 1989, we gave Commission staff authority to administratively grant a sixty-day extension of the filing deadline upon written request received no later than the March 1st filing date.

Utility Systems was mailed a copy of the required report on January 19, 1989. The report was returned by the postal service unclaimed. Utility Systems failed to file its report or request an extension by the March 1st deadline.

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 utilities subject to Commission jurisdiction are charged with knowledge of Commission rules, Utility Systems 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

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follows:

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

Based on the foregoing, we find it appropriate to require Utility Systems, a Class C utility, to show cause, in writing, why it should not be fined \$3.00 for each day that elapses from March 1, 1989, until it files its tax report.

It is, therefore,

ORDERED by the Florida Public Service Commission that Utility Systems, Inc. of Citrus County shall show cause, in writing, why it should not be fined \$3.00 for each day that elapses from March 1, 1989, until it files its tax report as required by Rule 25-14.003(4), Florida Administrative Code. It is further

ORDERED that Utility Systems, Inc. of Citrus County'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 July 5, 1989. It is further

ORDERED that Utility Systems, Inc. of Citrus County's response must contain specific allegations of fact and law. It is further

ORDERED that Utility Systems, Inc. of Citrus County'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 Utility Systems, Inc. of Citrus County 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 13th day of JUNE, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

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