

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the effect) DOCKET NO. 871206-PU
of 1986 Federal Tax Reform for 1988.)
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In re: Investigation into the) DOCKET NO. 890430-PU
imposition of a penalty for failure) ORDER NO. 21965
to comply with the provisions of Rule) ISSUED: 9-28-89
25-14.003(4), F. A. C.)
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ALOHA UTILITIES, INC.)
))

The following Commissioners participated in the
disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
JOHN T. HERNDON

ORDER DENYING MOTION FOR RECONSIDERATION
AND DENYING REQUEST FOR ORAL ARGUMENT

BY THE COMMISSION:

In Order No. 21623, issued July 28, 1989, we assessed a fine of \$300.00 against Aloha Utilities, Inc. (Aloha) for failure to timely file its tax savings report, as required by Rule 25-14.003(4), Florida Administrative Code. On August 10, 1989, Aloha filed a motion for reconsideration of Order No. 21623, and a request for oral argument. In support of its motion, Aloha stated that it was not subject to the rule, as there was no tax rate change in 1988; that it was exempt from the rule; and that it did not knowingly or willingly violate the rule.

Rule 25-14.003(4), Florida Administrative Code, states that:

On or before March 1st of every year following a tax rate change, each utility shall furnish a final report, in the form prescribed by the Commission. (Emphasis Supplied) The report shall cover only the prior calendar year during which the tax rate change was effective.

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In 1988, federal tax rates changed from blended rates to the new tax rates, on account of the Tax Reform Act of 1986. Therefore, Aloha was required to file a tax savings report annually until the new tax rates were reflected in its own rates and charges, which have not changed since 1987.

In Order No. 17416, issued April 15, 1987, Aloha was declared exempt from the tax savings proceedings for the 1986 tax year, due to net operating losses. Order No. 17416 does not exempt Aloha from tax savings proceedings in all subsequent years. Therefore, Aloha is not exempt from this tax savings proceeding regarding the 1988 tax year.

Utilities are held responsible for knowledge of Commission statutes, rules, and orders. Therefore, we find Aloha's contention that it did not knowingly or willingly violate Rule 25-14.003(4), Florida Administrative Code, to be unpersuasive.

Upon due consideration, we find it appropriate to deny Aloha's motion for reconsideration and request for oral argument.

It is, therefore,

ORDERED by the Florida Public Service Commission that Aloha Utilities, Inc.'s motion for reconsideration and its request for oral argument are hereby denied.

By ORDER of the Florida Public Service Commission,
this 28th day of SEPTEMBER, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.