

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920775-WS
cause proceedings against PPW) ORDER NO. PSC-92-1039-FOF-WS
WATER AND PPW SEWER COMPANY,) ISSUED: 09/23/92
INC. in Pasco County for)
failure to remit penalty fee)
for filing delinquent 1989)
annual report)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

PPW Water and PPW Sewer Company, Inc. (PPW or utility) is a Class C utility, serving 745 water and 720 wastewater customers in Pasco County. Based on information in the 1989 annual report, the utility reported water system operating revenues of \$63,815 and operating expenses of \$96,774, resulting in a net operating loss of \$32,929. The utility reported wastewater system operating revenues of \$56,006 and operating expenses of \$49,678, resulting in a net operating income of \$6,328.

PPW filed a delinquent 1989 annual report, in violation of Rule 25-30.110, Florida Administrative Code. Rule 25-30.110, Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31st each year to file an annual report on or before March 31st of the following year. Requests for extension must be in writing and must be filed before March 31st. One extension of 30 days is automatically granted. Longer extensions may be granted upon showing of good cause. Incomplete or incorrect reports are considered delinquent, with a 30-day grace period in which to supply the missing information.

Pursuant to Rule 25-30.110(6)(a), Florida Administrative Code, any utility that fails to file a timely, complete annual report is subject to penalties, absent demonstration of good cause for noncompliance. The penalty set out in Rule 25-30.110(7), Florida Administrative Code, for Class C utilities is \$3 per day. The

DOCUMENT NUMBER DATE
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PSC-RECORDS/REPORTING

penalty calculation is based on the number of days elapsed since March 31st, or the approved extension date, and the actual date of filing. The date of filing is included in computing the number of days elapsed. This Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

PPW filed a delinquent 1989 annual report. On January 31, 1990, a letter was received from Mr. O. Don Lauher, Vice President of Finance for the Major Group, Inc., parent company to PPW, which requested a 30-day extension for filing its 1989 annual report. On February 2, 1990, we sent a letter to Mr. Lauher approving the requested 30-day extension, and allowing PPW until April 30, 1990, to file its 1989 annual report.

On July 2, 1990, we mailed a certified letter to Mr. Lauher indicating that PPW had failed to file its 1989 annual report in violation of Rule 25-30.110, Florida Administrative Code, and was accruing penalties. The letter stated that if PPW did not file its 1989 annual report on or before July 31, 1990, we might initiate show cause proceedings and the possible assessment of fines in excess of the daily rate against PPW.

The 1989 annual report was received July 31, 1990. On September 23, 1991, we mailed a certified letter to Mr. Kyle S. Meyer, Controller of PPW, which assessed a penalty of \$276 for a delinquency of 92 days at \$3.00 per day. In the letter, we requested that the \$276 fine be paid on or before October 24, 1991. PPW has failed to respond to our request for payment to date.

We researched the history of this utility and discovered that it has a pattern of delinquency. PPW filed its 1987 annual report on May 31, 1988. On July 28, 1988, a certified letter was sent to the utility regarding the penalty due for the untimely filing of the 1987 annual report. The report was filed 61 days late and this utility was fined \$3.00 per day for a total of \$183. The penalty was due on or before August 12, 1988, but the penalty was not paid until September 13, 1988.

In consideration of the foregoing, it appears that PPW Water and PPW Sewer Company has failed to comply with the 1989 annual report requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order PPW to show cause,

in writing, within twenty days, why it should not be fined \$276 for its failure to comply with the 1989 annual report requirements.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$276 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to this show cause order shall constitute both an admission of the facts alleged and a waiver of any right to a hearing.

If PPW fails to respond to reasonable collection efforts by this Commission, we deem the fine to be uncollectible and hereby authorize referral of this matter to the Comptroller's office for further collection efforts based on this Commission's finding that, under the aforesaid circumstances, further collection efforts by this Commission would not be cost effective. Reasonable collection efforts shall consist of two certified letters requesting payment.

If, however, the utility responds to the show cause by remitting the \$276 penalty, no further action is required, and this docket shall be closed administratively.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that PPW Water and PPW Sewer Company, Inc., in Pasco County, shall show cause, in writing, within twenty days, why it should not be fined \$276 for failure to file its 1989 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that PPW Water and PPW Sewer Company, Inc.'s written response must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 13, 1992. It is further

ORDERED that PPW Water and PPW Sewer Company, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that PPW Water and PPW Sewer Company, Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission, as required under Rule 25-30.110(6)(c), Florida Administrative Code. It is further

ORDER NO. PSC-92-1039-FOF-WS
DOCKET NO. 920775-WS
PAGE 4

ORDERED that a failure to file a timely 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 PPW Water and PPW Sewer Company, Inc. files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that if PPW Water and PPW Sewer Company, Inc. fails to file a timely response to this show cause order, the fine of \$276 shall be imposed, pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fine shall be forwarded to the Comptroller's Office and this docket shall be closed. It is further

ORDERED that if the utility responds to the show cause by remitting the penalty, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 23rd day of September, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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