

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show ) DOCKET NO. 920779-WU  
cause proceedings against ) ORDER NO. PSC-92-1044-FOF-WU  
SILVER CITY UTILITIES in ) ISSUED: 09/23/92  
Marion County for failure to )  
remit penalty fees for filing )  
delinquent 1989 and 1990 annual )  
reports )  
\_\_\_\_\_ )

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:

Silver City Utilities (Silver City or utility), is a Class C utility, serving 40 water customers in Marion County. Based on information in the 1990 annual report, the utility reported water system operating revenues of \$0 and operating expenses of \$2,979, resulting in a net operating loss of \$2,979.

Silver City filed delinquent 1989 and 1990 annual reports, 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 penalty calculation is based on the number of days elapsed since March 31st, or the approved extension date, and the actual date of

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filing. The date of filing is included in computing the number of days elapsed. The Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

Silver City, a Class C utility, filed a delinquent 1989 and 1990 annual reports. Regarding the 1989 annual report, on July 2, 1990, we informed Mr. David Small, representative of the utility, by certified letter, that it was in violation of Rule 25-30.110, Florida Administrative Code, and that show cause proceedings would be initiated if the annual report was not filed by July 31, 1990. The 1989 annual report was received on August 2, 1990, along with a letter from Mr. Joseph Brannon, the utility's certified public accountant. In his letter of August 1, 1990, Mr. Brannon stated that residents of Canada own the utility, and all utility records are maintained in Canada, making the annual report difficult to prepare in a timely fashion. The appropriate penalty for the delinquent filing of the 1989 annual report is \$372 (124 days delinquency at \$3 per day).

Regarding the 1990 annual report, on May 20, 1991, a certified letter was sent to Mr. Brannon, indicating that penalties were accruing because the 1990 annual report had not been timely filed, and that show cause proceedings would be initiated against Silver City if the annual report was not filed by May 30, 1991. The 1990 annual report was received on May 29, 1991. On February 4, 1992, we mailed a certified letter to Mr. David Small which assessed a fine of \$177 (59 days delinquency at \$3 per day), and indicated that payment was due on or before March 5, 1992. Also, our letter informed him that failure to remit payment may result in additional fines being levied against the utility. No response has been received from Silver City to date regarding either of the outstanding fines.

In consideration of the foregoing, it appears that Silver City has failed to comply with the 1989 and 1990 annual report requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Silver City to show cause, in writing, within twenty days, why it should not be fined \$372 and \$177 for its failure to comply with the 1989 and 1990 annual report requirements, respectively.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalties of \$372

and \$177 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to the show cause order shall both constitute an admission of the facts alleged and waive any right to a hearing.

If Silver City fails to respond to reasonable collection efforts by this Commission, we deem the fines 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 \$372 and \$177 penalties, 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 Silver City Utilities, in Marion County, shall show cause, in writing, within twenty days, why it should not be fined \$372 and \$177 for failure to file its 1989 and 1990 annual reports, respectively, as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Silver City Utilities'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 Silver City Utilities's response must contain specific allegations of fact and law. It is further

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

ORDERED that a failure to file a timely response to this show cause order shall constitute an admission of the facts alleged in

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the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that if Silver City Utilities files a written response that 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 Silver City Utilities fails to file a timely response to this show cause order, the fines of \$372 and \$177 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 penalties, 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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