

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920689-WS
cause proceedings against) ORDER NO. PSC-92-1123-FOF-WS
AQUARINA DEVELOPMENTS, INC. in) ISSUED: 10/06/92
Brevard County for failure to)
remit penalty fee for filing)
delinquent 1989 and 1990)
annual reports)

The following Commissioners participated in the disposition of this matter:

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

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Aquarina Developments, Inc. (Aquarina or utility), is a Class C utility, serving 46 water and wastewater customers in Brevard County. Aquarina has not timely filed its 1989 and 1990 annual reports, as required by 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 a 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)(c), 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

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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.

The utility's 1989 annual report was due March 31, 1990, but it was not received until April 17, 1990. On February 4, 1992, we sent a certified letter to Mr. James Bates, a representative of the utility, which stated that a penalty of \$51 would be due for a delinquency of 17 days at \$3 per day. In the letter, we requested that the \$51 fine be paid on or before March 5, 1992.

On May 20, 1991, we sent a certified letter to Mr. Bates, stating that the 1990 annual report had not yet been received. The letter stated that if Aquarina did not file its 1990 annual report by May 30, 1991, show cause proceedings may be initiated. The 1990 annual report was received on May 31, 1991. On February 11, 1992, we mailed a certified letter to Mr. Bates stating that a fine of \$183 would be due for a delinquency of 61 days at \$3 per day. In the letter, we requested that the \$183 fine be paid on or before March 12, 1992. No response has been received from Aquarina regarding either of the outstanding fines.

In consideration of the foregoing, it appears that Aquarina has failed to comply with the 1989 and 1990 annual report filing requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Aquarina to show cause, in writing, within 20 days why it should be fined \$51 and \$183 for its failure to timely file its 1989 and 1990 annual reports.

If the utility fails to respond in writing within twenty days of the issuance of this Order, the penalties of \$51 and \$183 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 Aquarina 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

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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 \$51 and \$183 penalties, no further action is required and this docket may be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Aquarina Developments Inc., in Brevard County, shall show cause, in writing, within twenty days, why it should not be fined \$51 and \$183 for failure to file its 1989 and 1990 annual reports as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Aquarina Developments 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 26, 1992. It is further

ORDERED that Aquarina Developments, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Aquarina Developments, Inc.'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 the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that in the event that Aquarina Developments, 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 Aquarina Developments, Inc., fails to file a timely response to this show cause order, the fines of \$51 and \$183 shall be imposed without further action by this Commission. It is further

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ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fines 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 6th day of October, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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