

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920612-WU
cause proceedings against SUN) ORDER NO. PSC-92-1216-FOF-WU
COUNTRY ESTATES UTILITIES, INC.) ISSUED: 10/27/92
in Marion County for failure to)
remit penalty fee for filing)
delinquent 1988, 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 CLOSING DOCKET

BY THE COMMISSION:

Sun Country Estates Utilities, Inc. (Sun Country or utility) is a Class C utility, serving 42 water customers in Marion County. Based on information in the 1990 annual report, the utility reported water system operating revenues of \$8,070 and operating expenses of \$11,968, resulting in a net operating loss of \$3,898.

Sun Country filed delinquent 1988, 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, 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.

Pursuant to our staff's investigation, the following is the chronology of ownership of Sun Country Estates since 1985:

1. Deed from Snowco, Inc. (parent company of Sun Country) to Phoenix West, Inc., dated May 9, 1985.
2. Deed from Phoenix West, Inc. to V.D.C. Acquisition Corporation (wholly owned subsidiary of Ensign Bank), dated September 12, 1988.
3. Certificate of title vesting title in R.T. Boyd, Jr., dated February 19, 1991, pursuant to a foreclosure action.
4. On July 19, 1991, Ensign Bank went into receivership and the Resolution Trust Corporation was appointed receiver.
5. On May 24, 1992, R.T. Boyd, Jr., died.

On February 4, 1992, Robert N. Racciatti of the Resolution Trust Corporation sent a letter to the Commission confirming that V.D.C. Acquisition Corporation, a wholly owned subsidiary of Ensign Bank, had been the owner of Sun Country Estates, but lost the utility in a foreclosure action to R.T. Boyd, Jr. Also, the letter indicated that Ensign Bank went into receivership on July 19, 1991. Therefore, Mr. Racciatti asked the Commission to remove V.D.C. Acquisition Corp.'s name from the utility's records as owner.

Although they were not timely filed, we are in possession of the 1988, 1989, and 1990 annual reports. In addition, the party responsible for filing the annual reports for the years in question, Ensign Bank, is now in receivership. Therefore, in consideration of the foregoing, we find it would serve no purpose to assess penalties, so we will not issue a show cause order.

Since no further action is required, this docket shall be closed.

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Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 27th day of October, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR 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: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.