

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida ) DOCKET NO. 930944-WS  
Public Service Commission of ) ORDER NO. PSC-94-0976-FOF-WS  
Certificates Nos. 451-W and 382- ) ISSUED: August 11, 1994  
S Issued to SHADY OAKS MOBILE- )  
MODULAR ESTATES, INC. in Pasco )  
County, Pursuant to Section )  
367.111(1), F.S. )

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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
DIANE K. KIESLING

APPEARANCES:

LILA A. JABER, ESQUIRE, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

DAVID SMITH, ESQUIRE, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

FINAL ORDER REVOKING CERTIFICATES

BY THE COMMISSION:

Based on the record created at the hearing held on August 4, 1994, in Zephyrhills, Florida, the Commission decided on that date, to revoke the water and wastewater certificates issued to Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility). We find it appropriate to first set out below the background for this proceeding. Our findings of fact, law, and policy, upon which this decision was based, are provided thereafter.

BACKGROUND

Shady Oaks is a Class C water and wastewater utility located in Pasco County. Based on information contained in the utility's 1993 annual report, the water system generated operating revenues of \$27,311 and incurred operating expenses of \$37,310, resulting in a net operating loss of \$9,999. The wastewater system generated

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operating revenues of \$40,967 and incurred operating expenses of \$42,651, resulting in a net operating loss of \$1,684.

On March 7, 1989, the utility signed a Consent Final Judgment with the Department of Environmental Protection (DEP). Pursuant to the terms of the Consent Final Judgment, the utility agreed to construct an additional effluent disposal system, to eliminate discharge from the plant, and to establish a new percolation pond. The utility agreed to submit an application for a construction permit within 60 days of the date of the order.

On January 10, 1990, Shady Oaks applied for a staff-assisted rate case (Docket No. 900025-WS). On February 8, 1991, the Commission issued proposed agency action (PAA) Order No. 24084, which approved a rate increase and required the utility to do the following:

- 1) File a request for acknowledgement of a restructure and a name change;
- 2) Bring the quality of service to a satisfactory level;
- 3) Spend at least 85 percent of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance;
- 4) Install meters for all of its customers; and
- 5) Escrow a certain portion of the monthly rates.

The utility was also authorized to charge flat rates for six months, at the end of which time the base facility charge rate structure became effective. In that case, the base facility charge rates automatically became effective on October 1, 1991.

On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida, granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida, issued an Order to Show Cause why Shady Oaks should not be punished for contempt of Court for willfully and deliberately violating a 1983 order of the Court that prohibited the utility from charging more than \$25 per month as a service maintenance fee (which included the provision of water and wastewater service). The July 5, 1991, order further enjoined the utility from collecting the utility

rates established by this Commission and ordered that the \$25 per month service maintenance fee be tendered to the Clerk of the Circuit Court. In August 1991, both injunctions were lifted and the utility was able to begin collecting revenues.

The utility never applied for its construction permit as required by the Consent Final Judgment. Therefore, on July 8, 1991, as a result of a stipulated settlement of a motion for contempt brought against the utility by DEP, Judge Lynn Tepper ordered the utility to interconnect its wastewater system with Pasco County, rather than construct new disposal facilities. The utility was given six months from the date of the order to complete the interconnection. The utility failed to interconnect its wastewater system to Pasco County. In addition, the utility was operating without a permit from DEP.

On November 4, 1991, the Commission issued Order No. 25296, which determined the utility's noncompliance with Order No. 24084. Order No. 25296 required the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name;
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance;
- 3) Install water meters for all of its customers; and
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system.

Because numerous customers did not pay their utility bills as a result of a court dispute over the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. Beginning in December 1991, the utility once again began charging flat rates.

By Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission imposed a \$2,000 fine that had been previously suspended, and ordered the utility to show cause why it should not be fined for each item of noncompliance found in Orders Nos. 24084 and 25296. At the utility's request, these matters were set for hearing. By Order No. PSC-92-0356-FOF-WS, also issued May 14, 1992, the Commission ordered the utility to issue credits to those customers who had paid a delinquent purchased power bill for the utility.

In June 1992, the utility completed the installation of all of the required water meters. By Order No. PSC-92-0723-FOF-WS, issued July 28, 1992, the Commission ordered the utility to implement the

base facility and gallonage charge rates that had been approved in Order No. 24084. The utility implemented the new rates effective September 25, 1992.

In July 1992, the utility requested that the escrow requirements set forth in Orders Nos. 24084 and 25296 be suspended for a period of several months. By Order No. PSC-92-1116-FOF-WS, issued October 5, 1992, the Commission denied the utility's request to suspend the escrow account requirements. On October 26, 1992, the utility timely filed a protest to that Order.

A hearing regarding the utility's noncompliance with Orders Nos. 24084 and 25296 was held on January 7, 1993 in Zephyrhills, Florida. The utility, although it requested the hearing, did not attend the hearing. By Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, the Commission:

- 1) Fined the utility in the amount of its rate base, or \$60,572;
- 2) Ordered that a proceeding be initiated to reduce the utility's rates by the amount of pro forma plant not constructed and the amount of preventative maintenance not spent; and
- 3) Ordered that revocation proceedings be initiated.

The utility filed a Motion for Reconsideration of Order No. PSC-93-0542-FOF-WS. By Order No. PSC-93-1396-FOF-WS, issued September 27, 1993, the Commission denied the Motion for Reconsideration and ordered the utility to sell or transfer the utility within 120 days of the issuance date of the order. The Commission also voted to suspend the fine if a completed application for a transfer was timely submitted. The utility failed to transfer or interconnect the system within the 120 days. Therefore, the \$60,572 fine is due and payable. On October 19, 1993, the utility filed a Notice of Administrative Appeal of Order No. PSC-93-0542-FOF-WS.

In preparation for the prehearing relating to the escrow requirements, Commission staff met with the utility in an attempt to resolve certain concerns of the utility. Specifically, the utility contended that it was unable to meet its escrow requirements due to a shortfall in revenues collected. This Commission agreed to have staff review the utility's contended revenue shortfall within the context of the proceeding to reduce the utility's rates. Consequently, the utility withdrew its escrow-related protest. Therefore, the prehearing and hearing relating to the escrow accounts were cancelled by Order No. PSC-93-0777-PCO-WS, issued May 20, 1993. By Order No. PSC-93-1733-FOF-WS,

issued December 1, 1993, the Commission reduced Shady Oaks' rates to reflect removal of proforma plant not constructed and preventative maintenance not spent and required a refund.

On September 23, 1993, the Commission, pursuant to Section 367.111(1), Florida Statutes, and in accordance with Order No. PSC-93-0542-FOF-WS, noticed its Intent to Initiate Revocation of Certificates Nos. 451-W and 382-S issued to Shady Oaks. On October 18, 1993, Shady Oaks timely filed an objection to the Notice. Accordingly, this matter was scheduled for an administrative hearing. This Order reflects our final decision in this revocation proceeding.

By a February 18, 1994 Agreed Order Granting DEP's Motion for Contempt, Judge Lynn Tepper ordered Shady Oaks to interconnect its wastewater treatment facility with Pasco County or sell the system within 120 days of the date of the Order, or June 18, 1994. On June 15, 1994, Judge Lynn Tepper granted in part and denied in part Shady Oaks' Motion for Extension of Time to Comply With Court Order. Judge Tepper ordered Shady Oaks to sell or convey its wastewater treatment facility free and clear of any encumbrances by July 18, 1994. The utility's request to extend the date on the option of the utility's interconnecting the system was denied.

On July 19, 1994, Attorney Gerald T. Buhr filed a Notice of Withdrawal of Counsel, wherein Mr. Buhr notified the Commission that his firm no longer represents Shady Oaks. Further, Mr. Buhr notified the Commission that Shady Oaks filed for bankruptcy on July 14, 1994, in the Tampa Division of the United States District Court for the Middle District of Florida, under Case No. F94-6876-8G1. By Order No. PSC-94-0809-PCO-WS, the Prehearing Officer ordered Shady Oaks to file a status report on the Circuit Court action by July 20, 1994. To date, the status report has not been filed.

Additionally, the utility owner, Richard D. Sims, failed to attend his deposition, which was noticed on July 11, 1994, to be taken at 10:00 a.m. on July 22, 1994, at the Florida Public Service Commission in Tallahassee, Florida. The utility also failed to attend the Prehearing Conference held on Friday, July 22, 1994, in Tallahassee, Florida. As a result, at the Prehearing Conference, the Commission Staff made an ore tenus Motion for Sanctions, wherein it requested that the utility's prefiled testimony for Richard D. Sims be stricken. On July 26, 1994, Staff filed a written motion consistent with the ore tenus Motion. Staff's Motion for Sanctions was granted.

The revocation hearing was held on August 4, 1994, in Zephyrhills, Florida. Approximately forty customers attended the hearing. Five customers testified at the hearing. Six customers represented that they agreed with the previous customer testimony. Although the utility owner was present at the hearing, he refused to cross-examine any customers or any of the three staff witnesses. After hearing all of the evidence presented at the hearing, we found that it was appropriate to make a bench decision regarding this matter. All of our findings are discussed in greater detail below.

#### FINDINGS OF FACT, LAW, AND POLICY

Having considered the evidence presented, we hereby enter our findings of fact, law, and policy.

#### TECHNICAL ABILITY

As stated earlier in the background, five customers testified at the hearing. One of the customers testified that: 1) water service was shut off to the entire community four times during January and February, 1994, with no prior notice; 2) the customers have reported leaks to the utility, which has not responded; 3) office hours are not observed by utility personnel; 4) Mr. Sims' manner is often insulting, confrontational, intimidating, rude, and on occasion, vulgar and profane; and 5) the utility does not offer adequate means for emergency communications and response. The other four customers supported the comments discussed above.

Staff witness Burghardt, an Environmental Specialist in DEP's Domestic Wastewater Section testified that he visited the utility plant site four times in his official capacity with DEP. He testified that the utility's wastewater quality of service remains unsatisfactory. Further, Mr. Burghardt testified that, on October 21, 1986, the utility signed a consent order, included in Composite Exhibit 16, with DEP that specified timeframes for making necessary improvements to the wastewater facility. Those timeframes were not adhered to.

Mr. Burghardt further testified that, On March 7, 1989, Shady Oaks and DEP entered into a Consent Final Judgement which established deadlines for the utility to eliminate unauthorized discharge from the plant site. This was to be accomplished by way of constructing additional effluent disposal capacity. Failing to comply with that judgment, a motion for contempt was filed and the utility was again taken back to circuit court.

On July 8, 1991, another stipulated settlement was reached and the utility was ordered to remove its sewage treatment plant from operation and divert all of its flow to Pasco County's sewage collection system within six months of that order. Witness Burghardt testified that despite the utility's promises, compliance was not reached and DEP was forced to file another motion for contempt of a court order in December, 1993. The Agreed Order Granting DEP's Motion for Contempt, dated February 18, 1994, hereinafter referred to as "Agreed Order," ordered the utility to remove the plant from service, took notice that the Commission has ordered that a revocation proceeding be initiated to revoke the utility's certificates for failure to comply with, among other things, the court's order, and found the utility's president, Richard D. Sims, as the person responsible for complying with the court's order. Mr. Burghardt testified that the Agreed Order, included in Composite Exhibit 16, provided that the utility may purge itself from contempt by complying with one of the following options: connect with the Pasco County collection system in 120 days and decommission the plant within 30 days after the connection; sell or convey ownership to a non related party within 120 days; or, if failing to do the above mentioned options, the Court shall order the Sheriff to incarcerate Mr. Sims in the county jail until such time as the utility complies.

Mr. Burghardt testified that near the expiration of the 120 days, the utility requested an extension of time to comply with the Agreed Order. The Court granted in part and denied in part. The Court stated in this Order, dated June 23, 1994, that Mr. Sims had to sell or convey the utility by July 18, 1994, and interconnection was no longer an option. As of the date of the hearing, Mr. Sims still had not complied with the Court's June 23, 1994, Order.

Mr. Burghardt further testified that at his last inspection of the utility's wastewater facility, on July 20, 1994, it was still evident to him that no operation and maintenance work was being conducted at the facility. Mr. Burghardt testified that: 1) the area around the pond was overgrown; 2) the effluent was too turbid to do the proper testing for a chlorine residual; 3) the utility did not have a functioning chlorinator; 4) the utility's lift station and collection system did not meet DEP requirements with respect to location, reliability and safety; and 5) the last monthly operating reports were submitted to DEP in December, 1993.

In addition, Mr. Burghardt testified that the utility's operating permit for its wastewater treatment facility expired in March, 1986 and the utility has since been operating without a permit. Witness Burghardt further testified that during his February 17, 1994, and July 20, 1994, inspections, he did not see

any certified operators and the utility had made no log entries since June, 1992.

Staff witness Arnold, a specialist in DEP's water section, testified that at an August 3, 1993, inspection, the overall maintenance of the treatment plant and distribution facility was not satisfactory. However, at her last inspection on July 1, 1994, the overall maintenance of the water facilities appeared satisfactory. However, after hearing the customer testimony, Ms. Arnold testified that she was unaware of some of the concerns and complaints expressed by the customers and requested that, in the future, the Shady Oaks customers should call the DEP office.

Based on the evidence in the record, we find that: 1) the utility has been found in contempt of court regarding noncompliance with DEP's rules and regulations; 2) the utility has not complied with the Commission's prior orders; 3) the wastewater treatment facility has not had a DEP operating permit since March 1986; 4) the utility does not have certified operators as required by Chapter 17-602, Florida Administrative Code; 5) the utility's lift station and collection system does not meet DEP requirements with respect to location, reliability and safety; 6) the overall maintenance of the wastewater treatment plant, collection, and disposal facilities is unsatisfactory; and 7) the overall quality of service of the wastewater system is unsatisfactory. Accordingly, we find that Shady Oaks lacks the technical ability to continue operating as a certificated utility.

#### REGULATORY ASSESSMENT FEES

Sections 350.113 and 367.145, Florida Statutes, require that each regulated utility shall pay to the Commission a fee, based on the utility's gross operating revenues, which shall not exceed 4.5 percent of the utility's gross operating revenues.

Staff witness Lingo testified and Exhibit 15 reflects that the utility owes \$2,063 associated with its 1990 regulatory assessment fees, \$3,184 associated with its 1991 regulatory assessment fees, \$4,000 associated with its 1992 regulatory assessment fees, and \$3,879 associated with its 1993 regulatory assessment fees, for a total amount owed of \$13,127. Ms. Lingo testified that the amounts through 1992 include all penalties and interest calculated through March 31, 1994; and the amounts for 1993 include penalties and interest calculated through July 31, 1994.

Based on the foregoing, we find that Shady Oaks has not complied with Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code. We find that the



total amount of delinquent regulatory assessment fees is \$13,127. Therefore, Shady Oaks shall remit to the Florida Public Service Commission regulatory assessment fees in the amount of \$13,127.

#### ESCROW ACCOUNT BALANCE AND DISPOSITION OF ESCROW

We find that the current balance in the escrow account as of July 22, 1994, the date of the prehearing conference, is \$9,610. The Commission lacks the information necessary to calculate the appropriate balance in the escrow account as of the date of the prehearing conference; however, the appropriate balance at October 31, 1993 was \$33,352. Therefore, Shady Oaks shall provide our Staff with all documents necessary to calculate the appropriate balance in the escrow account as of July 22, 1994. Since we have found it appropriate in a later portion of this Order to revoke Shady Oaks' certificates, the Commission will not authorize the release of the escrow monies until a receiver is appointed. At that time, the Commission will allow the escrow monies to be released to a duly appointed receiver so that the entire balance of all monies currently in the escrow account can be refunded to the customers in accordance with Order No. PSC-93-1733-FOF-WS. The total calculated underfunding of the escrow account, less the share of the escrow requirement relating to the water meters, shall be refunded to the utility's customers in the form of credits on the customers' bills. The refund shall be paid with interest, pursuant to Rule 25-30.360(4), Florida Administrative Code. The share of the escrow requirement relating to the water meters, or \$2,451, shall be credited to the utility to recognize the portion of the escrow requirement relating to those meters. The utility shall apply all of its net operating income each month toward the customer refunds until the appropriate total refund associated with the escrow underfunding has been made.

#### FINANCIAL ABILITY

Staff witness Lingo testified regarding the history of events involving Shady Oaks, and Shady Oaks' continued areas of noncompliance with Commission statutes, rules and orders, and Shady Oaks' financial ability to operate the utility. Specifically, Ms. Lingo testified that the utility: 1) has a history of misappropriating funds; 2) owes the Commission outstanding fines totalling \$62,572; 3) owes the Commission outstanding regulatory assessment fees of approximately \$13,127; 4) owes its customers approximately \$24,000 associated with underfunding of its escrow account, as of October 31, 1993; 5) has never complied with Orders Nos. 24084 and 25296 with respect to the name change and restructure requirements, or with respect to bringing its quality of service to a satisfactory level; and 6) has never complied with

the preventative maintenance requirements or the escrow requirements established by prior Commission orders.

Ms. Lingo testified that Shady Oaks did fulfill the requirement of installing water meters for all of its customers by June, 1992, a date which was 74 days past an already extended deadline for making the installations. Ms. Lingo further testified that a hearing regarding the utility's noncompliance with Orders Nos. 24084 and 25296 was held on January 7, 1993, in Zephyrhills, Florida. That hearing was requested by the utility, but it chose not to attend.

With respect to misappropriation of funds, Ms. Lingo testified that she discovered that the utility made several nonutility expenditures. Although there had been other nonutility expenditures, as evidenced by Exhibit 14, Ms. Lingo testified that the utility owner paid his home local telephone bill, purchased power at the Shady Oaks recreation center, paid for long distance telephone charges made from the utility owner's home, paid for gas and other consumer credit cards, personal car insurance, newspaper and magazine subscriptions, and made contributions to political organizations, with utility funds. Ms. Lingo testified that the utility expended approximately \$21,000 in monies that were of a nonutility or prior period nature.

Upon consideration of all of the evidence presented at the hearing, we find that Shady Oaks has misappropriated utility funds, underfunded the escrow account established to allow the utility to collect sufficient revenues to make the necessary improvements, and neglected to pay the outstanding Commission fines and regulatory assessment fees. Accordingly, we find that Shady Oaks lacks the financial ability to continue operating as a certificated utility.

#### WILLFUL VIOLATION OF STATUTES, RULES, AND ORDERS

As stated earlier in the background, by Orders Nos. 24084 and 25296, the Commission ordered Shady Oaks to file a request for acknowledgement of a restructure and a name change in accordance with Rule 25-30.037, Florida Administrative Code. Staff witness Lingo testified that Mr. Sims transferred the title of the utility land from Shady Oaks Mobile-Modular Estates, Inc. to Richard D. and Caroline Sue Sims. The utility's name was also changed, from Shady Oaks Mobile-Modular Estates, Inc. to S & D Utility. Ms. Lingo testified that neither the transfer nor the name change was approved by the Commission. To date, the name change and restructure requirements found in Rule 25-30.037 and Orders Nos. 24084 and 25296 have not been met, and we find that Shady Oaks is in violation of Rule 25-30.037, Florida Administrative Code, and

Orders Nos. 24084 and 25296 with respect to all of the name change requirements.

By Order No. 24084, the utility was ordered to bring the quality of service to a satisfactory level, spend at least 85 percent of the allowance in rates for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance, install meters for all of its customers, and escrow a certain portion of the monthly rates for the \$2,000 fine imposed on the utility by the Commission. With the exception of the installation of the meters, to date, the requirements of Order No. 24084 with respect to quality of service have not been fulfilled. As a result, we find that Shady Oaks is in violation of Order No. 24084 with respect to quality of service.

By Order No. 25296, after finding that the utility's quality of service had deteriorated, the Commission required the utility to interconnect its wastewater system with Pasco County as agreed to in the Consent Final Judgment, discussed earlier. As of the date of the hearing, no interconnection has occurred. Therefore, we find that Shady Oaks is also in violation of Order No. 25296 with respect to quality of service.

By Order No. PSC-93-0542-POF-WS, after finding that Shady Oaks was in noncompliance with Commission statutes, rules, and orders, and had failed to improve its quality of service, the Commission fined Shady Oaks \$60,572. By Order No. PSC-93-1396-POF-WS, the Commission stated that it would suspend the fine if the utility submitted a completed transfer application for transfer or cancellation of its water and wastewater certificates within 120 days of the issuance of that Order. Shady Oaks failed to transfer the utility pursuant to an interconnection or sale, and the \$60,572 fine has become due and payable. To date, Shady Oaks has not paid the \$60,572 fine.

Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, require that each utility shall remit regulatory assessment fees based upon 4.5 percent of a utility's gross operating revenues. Ms. Lingo testified that Shady Oaks failed to remit regulatory assessment fees for the years 1990, 1991, 1992 and 1993. Therefore, we find that Shady Oaks is in violation of Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code.

To date, the utility has not complied with Order No. 24084 with respect to the name change and restructure requirements. To date, the utility has not complied with Order No. 25296 with

respect to improving its quality of service, the name change and restructure requirements, and the escrow requirements. We find that the utility has demonstrated a willful and flagrant disregard of Chapter 367, Florida Statutes, Commission rules, and Orders.

#### REVOCATION OF CERTIFICATES

Pursuant to Sections 367.111(1) and 367.165, Florida Statutes, and based upon all of the evidence presented in the record, we find it appropriate to revoke Certificates Nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc. Within ten days of issuance of this Order, the utility shall surrender to the Commission Certificates Nos. 451-W and 382-S. Furthermore, the utility shall make available all utility books and records to a duly appointed receiver to ensure the adequate operation of the utility.

#### CONCLUSIONS OF LAW

1. The Commission has the authority to revoke the certificates held by Shady Oaks Mobile-Modular Estates, Inc., pursuant to Sections 367.111(1) and 367.165, Florida Statutes.
2. The Commission has jurisdiction to determine the water and wastewater rates and charges of Shady Oaks Mobile-Modular Estates, Inc., pursuant to Sections 367.081 and 367.101, Florida Statutes.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Certificates Nos. 451-W and 382-S, issued to Shady Oaks Mobile-Modular Estates, Inc., shall be revoked. The utility, located at 38616 Shady Oaks Drive, Zephyrhills, Florida, 33540-6526, shall surrender its Certificates within ten days of issuance of this Order. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall remit to the Florida Public Service Commission delinquent regulatory assessment fees in the amount of \$13,127. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall remit to the Florida Public Service Commission the amount of outstanding fines, or a total of \$62,572. It is further

ORDERED that Shady Oaks Mobile-Modular Estates, Inc., shall provide our Staff with all documents necessary to calculate the appropriate balance in the escrow account as of July 22, 1994. It is further

ORDERED that the balance in the escrow account will not be released until a receiver is appointed by the Court. At such time, the Commission will authorize the release of the entire amount of escrow monies to the duly appointed receiver so that a refund can be made to the utility customers in accordance with Order No. PSC-93-1733-FOF-WS. The total calculated underfunding of the escrow account, less the share of the escrow requirement relating to the water meters, shall be refunded to the utility's customers in the form of credits on the customers' bills. The refund shall be paid with interest, pursuant to Rule 25-30.360(4), Florida Administrative Code. It is further

ORDERED that the share of the escrow requirement relating to the water meters, or \$2,451, shall be credited to the utility to recognize the portion of the escrow requirement relating to those meters. The utility shall apply all of its net operating income each month toward the customer refunds until the appropriate total refund associated with the escrow underfunding has been made.

By ORDER of the Florida Public Service Commission, this 11th day of August, 1994.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Hegan  
Chief, Bureau of Records

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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.