

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 930823-WS
proceedings against TERRA MAR) ORDER NO. PSC-94-1448-FOF-WS
VILLAGE (River Park) in Volusia) ISSUED: November 28, 1994
County for failure to file 1991)
and 1992 annual reports.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER PERMANENTLY SUSPENDING FINE AND CLOSING DOCKET

BY THE COMMISSION:

Terra Mar Village (Terra Mar or utility) is a Class C utility, serving 259 water and wastewater customers in Volusia County. The utility became a Commission regulated utility by Order No. 11267, issued October 26, 1982.

Terra Mar failed to file its 1991 and 1992 annual reports, in violation of Rule 25-30.110, Florida Administrative Code. At the September 9, 1993, Agenda Conference, we ordered Terra Mar to show cause why it should not be fined. On September 10, 1993, Terra Mar was forced to abandon the utility by the Circuit Court in Volusia County. The abandonment was a result of foreclosure proceedings against its current owners and operators. The Circuit Court appointed a receiver, Mr. Gerald Potts, pursuant to Section 367.165, Florida Statutes. On September 29, 1993, the Commission issued Order No. PSC-93-1413-FOF-WS, which ordered Terra Mar to show cause, within twenty days, why it should not be fined \$2,055 in total for failing to file its 1991 and 1992 annual reports. Failure to respond would result in an imposition of the fine. Terra Mar failed to respond and the fines became due and payable.

Three collection letters were sent to the utility, dated November 8, 1993, March 30, 1994, and June 7, 1994, requesting payment of the fines. The utility did not respond to any of the letters. By letter dated July 12, 1994, the utility, through Contemporary Property Management, Inc., responded to the collection

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letters by requesting that the Commission "relieve the Receiver from fines perpetrated by the previous owner." The letter also stated that "lack of records" made it impossible to file any reports for prior years. Mr. Potts, as receiver, followed all of the rules and regulations of the Commission, including the timely filing of the 1993 regulatory assessment fees and annual report.

On July 15, 1994, the Circuit Court of Volusia County appointed Mr. Frank Uddo as successive receiver for the utility. Since Mr. Uddo took over as receiver, he has invested over \$25,000 into the system, and has plans to invest an additional \$55,000. Mr. Uddo has also complied with a separate show cause Order against Terra Mar for failure to provide adequate water service. By Order No. PSC-94-0265-FOF-WU, issued March 8, 1994, we stated that the fine imposed from Order No. PSC-93-1414-FOF-WU, was suspended for twelve months to allow the utility to satisfy the Volusia County Public Health Unit (VCPHU) requirements. Mr. Uddo received a letter on August 9, 1994, from the VCPHU rescinding the bottled water notice in effect since December 2, 1993, because of satisfactory chemical tests.

This case is similar to other show cause proceedings in that the utility was abandoned and receivers were appointed. Both receivers complied with Commission rules and regulations. We believe that going forward with collection efforts against Terra Mar is neither cost-effective nor necessary. Based on the foregoing, we hereby permanently suspend the fine imposed by Order PSC-93-1413-FOF-WS, and this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the fine imposed by Order No. PSC-93-1413-FOF-WS shall be permanently suspended. It is further

ORDERED that Docket No. 930823-WS shall be closed.

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By ORDER of the Florida Public Service Commission, this 28th
day of November, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

MSN

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 wastewater 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.