

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the effect) DOCKET NO. 871206-PU
of 1986 Federal Tax Reform for 1988.)
_____)

In re: Investigation into the) DOCKET NO. 890430-PU
imposition of a penalty for failure)
to comply with the provisions of Rule) ORDER NO. 21187
25-14.003(4), F. A. C.)

) ISSUED: 5-8-89

IMPERIAL BONITA ESTATES)
INDIANTOWN COMPANY, INC.)
INDIANTOWN GAS COMPANY)
J. SWIDERSKI UTILITIES)
KEY HAVEN UTILITY COMPANY)
KING'S POINT UTILITIES, INC.)
LAKE MONROE UTILITIES CORPORATION)
LANIER UTILITY COMMISSION)
LINADALE WATER COMPANY)
LTB UTILITY, INC.)
_____)

The following Commissioners participated in the
disposition of this matter:

THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
JOHN T. HERNDON

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Rule 25-14.003(4), Florida Administrative Code, provides that on or before March 1st of every year following a tax rate change, each utility shall furnish a final tax report. By Order No. 20852, issued March 3, 1989, we gave Commission staff authority to administratively grant a sixty-day extension of the filing deadline upon written request received no later than the March 1 filing date.

The utilities listed in the caption of this Order were mailed copies of the required report on January 19, 1989. The cover letter informed them of the due date, procedure for requesting an extension, and address to which the report must be sent. The letter also provided the names of Commission staff members who could be of assistance, as well as an abbreviated reporting procedure for which some utilities qualify. The utilities failed to file their reports or request extensions by the March 1st deadline. Staff sent certified letters to the utilities on March 21, 1989, reminding them of their obligation to file their tax reports, informing them that an investigation had been initiated as to the utilities' failure to file, and informing them of the maximum penalty that could be imposed. Commission staff again provided the utilities with information and contact persons to aid in the filing of the tax reports. Still, these utilities did not respond.

Section 367.161(2), Florida Statutes (1987), provides that the Commission has the power to impose a fine of up to \$5,000 a day for willful violation of any Commission rule or order. Since utilities subject to Commission jurisdiction are charged

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with knowledge of Commission rules, the aforementioned companies are subject to penalty for failure to comply with Rule 25-14.003(4), Florida Administrative Code. We believe that an appropriate guideline to use in determining the level of the fine for failure to timely file the tax report is the fine schedule set forth in Rule 25-30.110(7)(b), Florida Administrative Code, for failure to timely file annual reports. The penalties are based on a classification system related to annual revenues as follows:

\$25.00 per day for Class A utilities;
 \$13.50 per day for Class B utilities;
 \$ 3.00 per day for Class C utilities.

Based on the foregoing, we find it appropriate to require each of the aforementioned companies to show cause, in writing, why it should not be fined the amount set forth in Schedule A, which is attached to this Order and by reference incorporated herein.

It is, therefore,

ORDERED by the Florida Public Service Commission that each of the utilities listed on Schedule A shall show cause, in writing, why it should not be fined the amount shown therein for failure to timely file the report required by Rule 25-14.003(4), Florida Administrative Code. It is further

ORDERED that each aforementioned utility's written responses shall be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 30, 1989. It is further

ORDERED that each aforementioned utility's responses must contain specific allegations of fact and law. It is further

ORDERED that each aforementioned utility's opportunity to file written responses shall constitute its opportunity to be heard prior to a final determination of noncompliance or assessment of penalty. It is further

ORDERED that a failure to file a timely written 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 any of the aforementioned utilities files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes (1987), further proceedings may be scheduled before a final determination on these matters is made.

By ORDER of the Florida Public Service Commission,
 this 8th day of May, 1989.

 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)

DCS

by: Kay Helton
 Chief, Bureau of Records

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SCHEDULE A

PENALTY SCHEDULE

<u>COMPANY</u>	<u>CLASS</u>	<u>PENALTY</u>
INDIANTOWN COMPANY, INC.	B	\$ 540.00
INDIANTOWN GAS COMPANY	A	875.00
LAKE MONROE UTILITIES CORPORATION	C	123.00

NOTE: The following utilities have not filed their tax reports by the date of this Order. Since their penalties are still accruing, they shall compute their penalties by multiplying the number of days that have elapsed from March 1, 1989 until their tax reports are mailed, by their daily penalty.

PENALTY SCHEDULE

<u>COMPANY</u>	<u>CLASS</u>	<u>DAILY PENALTY</u>
IMPERIAL BONITA ESTATES	C	\$ 3.00
J. SWIDERSKI UTILITIES	C	3.00
KEY HAVEN UTILITY COMPANY	C	3.00
KING'S POINT UTILITIES, INC.	C	3.00
LANIER UTILITY COMMISSION	C	3.00
LINADALE WATER COMPANY	C	3.00
LTB UTILITY, INC.	C	3.00