

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 920557-WS
proceedings against VINEYARDS) ORDER NO. PSC-92-0929-FOF-WS
UTILITY, INC. in Collier County) ISSUED: 09/03/92
for failure to comply with 1989)
annual report requirements)
_____)

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 TO SHOW CAUSE

BY THE COMMISSION:

Vineyards Utility, Inc. (Vineyards or utility) is a Class C utility, serving 237 wastewater customers in Collier County. Vineyards has not timely filed its 1989 annual report, 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 31 each year to file an annual report on or before March 31 of the following year. Requests for extension must be in writing and must be filed before March 31. One extension of thirty days is automatically granted. Longer extensions may be granted upon a showing of good cause. Incomplete or incorrect reports are considered delinquent, with a thirty day grace period in which to supply the missing information.

Pursuant to Rule 25-30.110(6)(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 31, or the approved extension date and the actual date of 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.

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By letter, Vineyards requested a thirty day extension for filing the 1989 annual report. On April 3, 1990, we granted the extension and required the utility to file the annual report on or before April 30, 1990. On April 30, 1990, Vineyards requested an additional extension of time to file the report due to technical problems with the utility's computer accounting system. On May 1, 1990, an additional extension was granted. The utility was informed that the report would be due on or before May 30, 1990, and that no further extensions would be granted. By letter dated July 2, 1990, we informed the utility that it was in violation of Rule 25-30.110, Florida Administrative Code, and that penalties were accruing for its failure to file the 1989 annual report.

As of the date of our vote at the Agenda Conference held on August 18, 1992, Vineyard's 1989 report was 811 days late and the appropriate penalty, computed according to Rule 25-30.110, Florida Administrative Code, was \$2,433.

In consideration of the foregoing, it appears that Vineyards has failed to comply with the 1989 annual report requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Vineyards to show cause, in writing, within twenty days, why it should not be fined \$2,433 for its failure to comply with the 1989 annual report requirements.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$2,433 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to the show cause order shall both constitute an admission of the facts alleged and waive any right to a hearing.

If Vineyards 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 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 \$2,433 penalty, no further action is required.

Based on the foregoing, it is, therefore

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ORDERED by the Florida Public Service Commission that Vineyards Utility, Inc., in Collier County, shall show cause, in writing, within twenty days, why it should not be fined \$2,433 for failure to file its 1989 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Vineyard Utility, 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 September 23, 1992. It is further

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

ORDERED that Vineyard Utility, Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty 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 Vineyard Utility, 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 the utility fails to timely respond to the show cause, the penalty of \$2,433 shall be imposed without further action by this Commission. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fines shall be forwarded to the Comptroller's office and the docket shall be closed. It is further

ORDERED that if the utility responds to the show cause by remitting the penalty, this docket shall be closed administratively.

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By ORDER of the Florida Public Service Commission this 3rd day
of September, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

LAJ

by: Kay Flynn
Chief, Bureau of Records