

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show ) DOCKET NO. 920693-SU  
cause proceedings against ) ORDER NO. PSC-92-1127-FOF-SU  
GREEN ACRES ESTATES in Volusia ) ISSUED: 10/06/92  
County for failure to remit )  
penalty fee for filing )  
delinquent 1988 annual report )  
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Green Acres Estates (Green Acres or utility) is a Class C utility, serving 166 wastewater customers in Volusia County. Green Acres has not timely filed its 1988 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 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(6)(a)(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 31st, or the approved extension date, and the actual date of filing. The date of filing is included in computing the number of days elapsed. This Commission may impose lesser or

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greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

On January 24, 1990, we sent a certified letter to Mr. Joseph Saba, a representative of the utility, indicating that Green Acres had failed to file its 1988 annual report. The letter stated that if Green Acres did not file its 1988 annual report on or before February 24, 1990, show cause proceedings may be initiated.

The 1988 annual report was received on February 22, 1990. On September 20, 1991, we mailed a certified letter to Mr. Saba, which indicated a penalty of \$987 would be due for a delinquency of 329 days at \$3 per day. In the letter, we requested that the \$987 fine be paid on or before October 21, 1991. To date, Green Acres has failed to respond to our request for payment.

We researched the history of this utility and discovered that it has a pattern of delinquency. By Order No. 19571, issued June 27, 1988, this Commission ordered Green Acres to show cause why it should not be fined for its failure to timely file its 1986 annual report. Green Acres failed to respond to the show cause; therefore, in Order No. 19890, issued August 29, 1988, this Commission imposed a fine of \$891 for failure to timely file the 1986 annual report.

Thereafter, we determined that the utility's 1987 annual report had not been timely filed and that a fine of \$369 would be appropriate. On April 26, 1989, an agreement was reached with Green Acres' owner to make twelve monthly payments of \$105 each, totalling \$1,260, covering fines for both the 1986 and the 1987 annual reports. In May, 1989, Joseph Saba returned a signed copy of the agreement with a payment of \$210.

No payments were received between June and August, 1989. After staff counsel sent the owner a certified letter requesting compliance with the agreement, Mr. Saba sent a payment of \$420 in late September, 1989. Because no further payments were made, on March 28, 1990, a second certified letter was sent informing Mr. Saba that under the terms of the agreement, payment had to be completed by April 5, 1990. Mr. Saba did not respond to the second letter. As of April 1991, Green Acres owed the Commission a total of \$683. In April 1991, we referred the matter to the Comptroller's office for collection.

On June 30, 1992, we approved the cancellation of Certificate No. 272-S due to the transfer of ownership of Green Acres to the City of Daytona Beach. However, Green Acres is liable for the

ORDER NO. PSC-92-1127-FOF-SU  
DOCKET NO. 920693-SU  
PAGE 3

outstanding annual reports due as of December 31, 1991. In addition, in Order No. PSC-92-0925-FOF-SU, issued September 3, 1992, we ordered Green Acres to show cause why it should not be fined \$2,500 and \$1,518 for failure to file its 1989 and 1990 annual reports.

In consideration of the foregoing, it appears that Green Acres has failed to comply with the 1988 annual report filing requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Green Acres to show cause, in writing, within twenty days, why it should not be fined \$987 for its failure to timely submit the 1988 annual report.

If the utility fails to respond in writing within twenty days of the issuance of this Order, the penalty of \$987 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to this show cause order shall constitute both an admission of the facts alleged and a waiver of any right to a hearing.

If Green Acres 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 \$987 penalty, no further action is required.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Green Acres Estates, in Volusia County, shall show cause, in writing, within twenty days, why it should not be fined \$987 for failure to file its 1988 annual report as required in Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Green Acres Estates' 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 October 26, 1992. It is further

ORDERED that Green Acres Estates' response must contain specific allegations of fact and law. It is further

ORDER NO. PSC-92-1127-FOF-SU  
DOCKET NO. 920693-SU  
PAGE 4

ORDERED that Green Acres Estates' 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

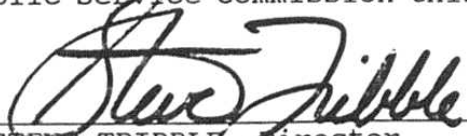
ORDERED that in the event that Green Acres Estates files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that if Green Acres Estates fails to file a timely response to this show cause order, the fine of \$987 shall be imposed, pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fine shall be forwarded to the Comptroller's Office and this 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.

By ORDER of the Florida Public Service Commission this 6th day of October, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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