

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Waiver of) DOCKET NO. 930824-SU
Rule 25-30.110(4) and (9),) ORDER NO. PSC-93-1579-FOF-SU
F.A.C., Annual Reports, by) ISSUED: October 28, 1993
ROOKERY BAY UTILITY COMPANY in)
Collier County.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER REQUIRING CLASS B ANNUAL REPORT FILING FOR 1992

Rookery Bay Utility Company (utility) is a Class B wastewater utility, serving approximately 2,649 wastewater customers in Collier County. Based on the 1992 annual report, the utility reported wastewater operating revenues of \$272,453 and operating expenses of \$256,338, resulting in a net operating income of \$16,115.

According to the utility's annual reports, operating revenues for 1989 through 1991 were \$175,264, \$205,075 and \$272,4523, respectively. The utility filed Class C annual reports for these years and also for 1992. Based on its earnings and pursuant to Rule 25-30.110 (4), Florida Administrative Code, the utility should have filed a Class B annual report for 1992; however, the Commission sent the utility a Class C annual report to complete for 1992. Pursuant to Rule 25-30.110 (4), Florida Administrative Code, the class to which a utility belongs is determined by using the higher of the average of its annual water and wastewater operating revenues for each of the last three preceding years. Further, a utility must file a Class B annual report for gross revenues of \$150,000 to \$750,000. According to the annual reports filed by the utility, the operating revenues were over \$150,000 for each of the last three preceding years. Therefore, we find that the utility is now a Class B utility, pursuant to Rule 25-30.110 (4), Florida Administrative Code.

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On June 3, 1993, the Commission informed the utility in writing that pursuant to Rule 25-30.110 (4), Florida Administrative Code, the utility was required to file a Class B annual report and that the utility should file a Class B annual report for July 20, 1993. On June 24, 1993, the utility responded that it had received the Class C form rather than the correct Class B form and therefore should not be required to file another annual report for 1992. By this letter the utility also requested a waiver of Rule 25-30.110 (4), Florida Administrative Code.

Pursuant to Rule 25-30.110 (9), Florida Administrative Code, the failure of a utility to receive a report form for the correct class does not excuse the utility from its obligation to timely file the annual report for the correct class. Therefore, we find that it is not appropriate to waive the filing requirements of Rule 25-30.110 (9), Florida Administrative Code, under the circumstances. We also find that the utility should have known it was going to change reporting classes since its revenues for the last four years were greater than \$150,000.

At the September 28, 1993, Agenda Conference, the utility offered to complete and file Schedules E-3 through E-10 of the Class B Annual Report. We find that the filing of these additional schedules will constitute substantial compliance with Rule 25-30.110 (9), Florida Administrative Code. Therefore, we find it appropriate to require the utility to file the additional Schedules E-3 through E-10 of the Class B Annual Report within sixty days from the date of this Order.

Upon the utility's timely filing of the additional schedules as described above, and staff's verification of their completeness, this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Rookery Bay Utility Company shall file Schedules E-3 through E-10 of the Class B Annual Report for 1992, within sixty (60) days from the date of this Order. It is further

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ORDERED that this docket shall be closed after Rookery Bay Utility Company timely files Schedules E-3 through E-10 of the Class B Annual Report for 1992, and staff verifies their completeness.

By ORDER of the Florida Public Service Commission this 28th day of October, 1993.



STEVE TRIBBLE Director
Division of Records and Reporting

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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.