

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice by WEST ORANGE UTILITY)	DOCKET NO. 881429-SU
(M & M UTILITIES) of intent to abandon)	ORDER NO. 21047
sewer system in Orange County.)	ISSUED: 4-14-89

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, CHAIRMAN
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER INITIATING A SHOW CAUSE PROCEEDING
 AGAINST MICHAEL MINTON D/B/A M & M UTILITIES
 FOR FAILURE TO ESTABLISH ESCROW ACCOUNT

M & M Utilities is a small sewer utility located within the City of Ocoee in Orange County, Florida. M & M Utilities serves approximately 243 equivalent residential connections (ERCs), of which 228 are residential and 15 commercial. On October 17, 1988, this Commission received notice, pursuant to Section 367.165, Florida Statutes, by Michael Minton of his intention to abandon M & M Utilities, effective January 1, 1989.

During the 76-day period before Mr. Minton's abandonment, we received numerous complaints about the operation and maintenance of M & M Utilities. We performed an on-site engineering investigation and found that the treatment plant was not properly functioning due to lack of proper maintenance and effluent disposal difficulties. It was also found that Mr. Minton had been accruing fines levied by Orange County for his failure to make his system comply with local environmental standards.

By Order No. 20532, issued December 28, 1988, we ordered Mr. Minton to escrow all accounts receivable and all other revenues associated with M & M Utilities as of December 6, 1988, and through the appointment of a receiver by the Circuit Court. The money to be escrowed was to be used to financially assist the appointed receiver in making the necessary repairs to bring the treatment plant into compliance with Orange County Environmental Standards.

Subsequently, the Orange County Circuit Court appointed Southern States Utilities as the temporary receiver of M & M Utilities. Southern States has not yet accepted the receivership on a permanent basis, but has been operating the system in conjunction with Orange County.

On March 7, 1989, our Staff contacted Mr. Minton to obtain information on the location and terms of the escrow account that was to be set up pursuant to Order No. 20532. Mr. Minton informed our Staff that he had sent out bills at the end of

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December and, upon the advice of his attorney, decided to disregard our Order to escrow the accounts receivable. Mr. Minton appeared at our April 4, 1989, Agenda Conference, at which we decided to issue this Order. At that time he said that he had never had counsel and that he had not stated to our Staff previously that it was upon the advice of his attorney that he had decided to disregard our Order to establish the escrow account. He admitted that he has not established the escrow account. According to the 1987 Annual Report filed by M & M Utilities, the gross revenue for that year was \$43,392. Since Mr. Minton bills quarterly, we estimate that approximately \$10,848 should have been escrowed.

Therefore, we find it appropriate to order Mr. Minton to show cause in writing within 20 days of the date of this Order why he should not be fined \$2,500 for his failure to comply with Order No. 20532 and \$100.00 per day for each day beyond the date of this Order for which no escrow account is established.

It is, therefore

ORDERED by the Florida Public Service Commission that M & M Utilities shall show cause in writing, within twenty days of the date of this Order, why he should not be fined \$2,500 for failure to establish an escrow account and deposit monies therein pursuant to Order No. 20482, and also why he should not be fined \$100 per day for each day beyond the date of this Order for which no escrow account is established. It is further

ORDERED that the written response of Michael Minton d/b/a M & M Utilities must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-00870, by the close of business on May 3, 1989. It is further

ORDERED that the response of Michael Minton d/b/a M & M Utilities must contain specific allegations of fact and law. It is further

ORDERED that the opportunity of Michael Minton d/b/a M & M Utilities to file a written response shall constitute his opportunity to be heard prior to a final determination of noncompliance or assessment of penalty by this Commission, as required under Rule 25-30.110(6)(c), Florida Administrative Code. It is further

ORDERED that the failure of Michael Minton d/b/a M & M Utilities to file a timely written response to this show cause order within the prescribed time will 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 M & M Utilities files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made.

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By ORDER of the Florida Public Service Commission,
this 14th day of APRIL, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

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