

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

In re: Investigation into the)
imposition of a penalty for failure)
to comply with the provisions of Rule)
25-14.003(4), F. A. C.)
DOCKET NO. 890430-PU)
ORDER NO. 21189-A)
ISSUED: 5-19-89)
RAVENSWOOD FOREST UTILITIES)
RIVERWOOD ASSOCIATES)

The following Commissioners participated in the disposition of this matter:

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

AMENDATORY ORDER TO SHOW CAUSE

BY THE COMMISSION:

Order No. 21189, issued on May 8, 1989, was inadvertently mailed to Ravenswood Water System instead of Ravenswood Forest Utilities. The order was also incorrectly mailed to Riverwood Associates' old address, though it should have been sent to Rookery Bay Utility Company, the current owner of that utility system. To correct these errors, this amendatory order is issued to provide the utilities listed in the caption with notice and a new time limit to provide a written response to show cause.

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 were mailed a copy 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 they may qualify. The utilities failed to file their reports or request an extension by the March 1st deadline. Staff sent a certified letter on March 21, 1989, reminding the utilities of their obligation to file their tax reports, informing them of the investigation that had been initiated as to failure to file the tax reports, and informing the utilities 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 their tax reports. Still, the utilities did not respond.

DOCUMENT NUMBER-DATE

05011 MAY 19 1989

FPSC-RECORDS/REPORTING

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 with knowledge of Commission rules, the utilities 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 Ravenswood Forest Utilities, a Class C utility, to show cause, in writing, why it should not be fined \$3.00 for each day since the March 1, 1989, filing date until the date it files its report. We find it appropriate to require Riverwood Associates, also a Class C utility, to show cause, in writing, why it should not be fined \$135.00 for filing its tax report late.

It is, therefore,

ORDERED by the Florida Public Service Commission that Ravenswood Forest Utilities shall show cause, in writing, why it should not be fined \$3.00 for each day since March 1, 1989, until the date it files its tax report, for failure to comply with Rule 25-14.003(4), Florida Administrative Code. It is further

ORDERED that Riverwood Associates be fined \$135.00 for failure to timely file its tax report in compliance with Rule 25-14.003(4), Florida Administrative Code. It is further

ORDERED that the utilities' 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 June 8, 1989. It is further

ORDERED that the utilities' responses must contain specific allegations of fact and law. It is further

ORDERED that the utilities' opportunity to file a written response shall constitute their 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 a utility files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes (1987),

ORDER NO. 21189-A
DOCKETS NOS. 871206-PU & 890430-PU
PAGE 3

further proceedings may be scheduled before a final determination on these matters is made.

By ORDER of the Florida Public Service Commission,
this 19th day of May, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DCS

by: Kay Flynn
Chief, Bureau of Records