

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

In re: Investigation into the) DOCKET NO. 890430-PU
imposition of a penalty for failure) ORDER NO. 21191-A
to comply with the provisions of Rule) ISSUED: 5/24/89
25-14.003(4), F. A. C.)
KEMPLE WATER COMPANY)

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. 21191 was mailed to Kemple Water Company (Kemple) at their address of record. The order was returned by the postal service, as Kemple had changed their address. Since the date the order was sent, Kemple has notified the Commission of its new address. This amendatory order is issued to provide Kemple with notice and a new time limit for 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, utilities 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.

Kemple was sent a certified letter on March 21, 1989, communicating that its tax report was late and needed to be filed. Kemple filed its tax report on March 29, 1989. Since the utility violated a rule of the Commission by filing its tax report after the March 1 deadline in Rule 25-14.003(4), Florida Administrative Code, it will be penalized as set forth below.

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 a utility subject to Commission jurisdiction is charged with knowledge of Commission rules, Kemple is 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 penalty is based on a classification system related to annual revenues as follows:

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\$25.00 per day for a Class A utility;
\$13.50 per day for a Class B utility;
\$ 3.00 per day for a Class C utility.

Accordingly, we find it appropriate to require Kemple, a Class C utility, to show cause in writing why it should not be fined \$84.00 for failure to comply with Rule 25-14.003(4), Florida Administrative Code.

It is, therefore,

ORDERED by the Florida Public Service Commission that Kemple Water Company shall show cause in writing why it should not be fined \$84.00 for failure to timely file the report required by Rule 25-14.003(4), Florida Administrative Code. It is further

ORDERED that Kemple Water Company's written response 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 13, 1989. It is further

ORDERED that Kemple Water Company's response must contain specific allegations of fact and law. It is further

ORDERED that Kemple Water Company's opportunity to file a written response shall constitute its 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 Kemple Water Company files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes (1987), further proceedings may be scheduled before a final determination on these matters is made.

By ORDER of the Florida Public Service Commission,
this 24th day of MAY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

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