

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause )	DOCKET NO. 890700-WU
proceedings against SUN COUNTRY )	
ESTATES UTILITY, INC. in Marion )	ORDER NO. 21400
County for failure to comply with )	
1987 annual report requirements )	ISSUED: 6-19-89

The following Commissioners participated in the disposition of this matter:

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

ORDER TO SHOW CAUSE

BY THE COMMISSION:

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 31. 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 allowed in which to supply the missing information.

The extent and nature of a utility's reporting requirement varies with its class, which is determined by its gross annual revenues. Under 25-30.110(4), Florida Administrative Code, a Class A utility is one with gross annual revenues greater than \$750,000, a Class B utility is one with gross annual revenues between \$150,000 and \$750,000, and a Class C utility is one with gross annual revenues of \$150,000, or less.

Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, any utility that fails to timely file its annual report is subject to penalties absent demonstration of good cause for noncompliance. The schedule of penalties is set out in Rule 25-30.110(7), Florida Administrative Code: \$25.00 per day for Class A utilities; \$13.50 per day for Class B utilities; \$3.00 per day for Class C utilities. The penalty is based on the number of days elapsed between March 31 or the approved extension date and the actual date of filing. The date of filing is included in computing the days elapsed. The Commission has determined that \$2500.00 is the total maximum penalty which will be imposed for failure to timely file an annual report.

Sun Country Estates Utility, Inc. (Sun Country) a Class C utility, has not timely filed a 1987 annual report as required by Rule 25-30.110, Florida Administrative Code. On May 19, 1988, a certified warning letter was posted to Sun Country. The utility responded in a letter posted on May 31, 1988. The May 31, 1988 letter stated that the annual report form was never received by the parent company, Phoenix West, Inc. On

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. 21400  
DOCKET NO. 890700-WU  
PAGE 2

March 20, 1987, Consolidated Vista Development Corporation bought the stock of Phoenix West, Inc. The May 31, 1988 letter stated that the utility was again in the process of being transferred. Also, the May 31, 1988 letter requested an extension for filing. In a letter dated June 10, 1988, Staff denied the extension request and reminded the utility that penalties were accruing.

On June 3, 1989, Ensign Bank posted a letter to the Commission which stated Sun Country Estates/Paddock Downs (Phoenix West, Inc.) was in the process of being foreclosed. The bank requested a blank report form and also requested all future correspondence concerning the utility be directed to them. A blank form was mailed to Ensign Bank on June 8, 1988. On July 22, 1988, a warning letter was posted to Ensign Bank by certified mail.

Because Sun Country was an operating utility as of December 31, 1987, it is the entity responsible for filing the 1987 annual report. Based on the foregoing, it appears that Sun Country has failed to comply with the 1987 annual report requirements and is in violation of Rule 25-30.110, Florida Administrative Code. We, therefore, find it appropriate to require the utility to show cause, in writing, why it should not be fined at least \$3.00 per day, up to \$2500.00, for each day that its annual report is delinquent.

In the event that Sun Country fails to file a timely response to the Commission's show cause order, we authorize Staff to assess the fine pursuant to the above-cited rule. If Sun Country fails to respond to reasonable collection efforts made 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 the conclusion that such further efforts by this Commission would not be cost effective. Two certified letters requesting payment shall constitute reasonable collection efforts.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that Sun Country Estates Utility, Inc. shall show cause, in writing, why it should not be fined at least \$3 per day for each day that its 1987 annual report was delinquent. It is further

ORDERED that Sun Country Estates Utility, Inc.'s 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 July 10, 1989. It is further

ORDERED that Sun Country Estates Utility, Inc.'s response must contain specific allegations of fact and law. It is further

ORDER NO. 21400  
DOCKET NO. 890700-WU  
PAGE 3

ORDERED that Sun Country Estates Utility, Inc.'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, as required under Rule 25-30.110(6)(c), Florida Administrative Code. 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 Sun Country Estates Utility, Inc. 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. It is further

ORDERED that if Sun Country Estates Utility, Inc. fails to make a timely response to the show cause order, staff is authorized to assess the fine pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if a fine is assessed and Sun Country Estates Utility, Inc. does not remit payment, after reasonable collection efforts we deem the fine to be uncollectible and authorize referral to the Comptroller's Office for further disposition.

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



STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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