

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings)	DOCKET NO. 890678-WS
against WYNDEMERE SERVICES, INC.,)	ORDER NO. 21439
Collier County for failure to comply)	ISSUED: 6-26-89
with 1987 Annual Report requirements))	

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 TO SHOW CAUSE

BY THE COMMISSION:

Wyndemere Services, Inc., ("Wyndemere"), a Class C utility, has not timely filed a complete 1987 annual report as required by Rule 25-30.110, Florida Administrative Code. 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 in which to supply the missing information.

Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, any utility that fails to timely file a complete annual report is subject to penalties absent demonstration of good cause for noncompliance. The penalty set out in Rule 25-30.110(7), Florida Administrative Code, for Class C utilities is \$3.00 per day. The penalty calculation is based on the number of days elapsed since March 31, or the approved extension date and the actual date of filing. The date of filing is included in computing the number of days elapsed. The Commission may, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, impose lesser or greater penalties.

Wyndemere operated a utility system subject to this Commission's jurisdiction as of December 31, 1987. Wyndemere did not request or receive an extension of time for filing its 1987 annual report. On March 31, 1989, the Commission received a letter from Wyndemere's treasurer stating that it "is preparing" its 1986 report and "will endeavor to prepare and file its 1987 and 1988 reports as soon as is possible." Neither the 1986 nor the 1987 report have been filed. Two warning letters regarding the 1987 report were sent and received, by certified mail, posted on May 19, 1988 and July 19, 1988. The May 19 letter directed a response by June 15, 1988 and the July 19 letter directed a response by August 10, 1988. Wyndemere did not respond to these letters or file the 1987 annual report. The value of the report to this Commission is approximately \$2,500.

Also, Docket No. 880922-WS was opened to initiate show cause proceedings against Wyndemere for not filing its 1986

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annual report. Wyndemere was fined \$2,500 for not filing the 1986 report. By Order No. 21010, this fine was declared uncollectible by this Commission and was referred to the Comptroller's office for further collection efforts.

Based on the foregoing, it appears that Wyndemere has failed to comply with the 1987 annual report requirements and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we find it appropriate to order Wyndemere to show cause why it should not be fined \$3 per day for each day that its 1987 annual report is delinquent, up to a total of \$2,500. In the event that Wyndemere fails to file a timely response to this show cause order, we authorize Staff to assess the fine pursuant to the above-cited rule. If Wyndemere fails to respond to reasonable collection efforts 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 this Commission's finding that, under the aforesaid circumstances, further collection efforts by this Commission would not be cost effective. Two certified letters requesting payment shall constitute reasonable collection efforts. After referral to the Comptroller's Office, this docket should be closed.

Wherefore, in consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that Wyndemere Services, 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 is delinquent, to a total of \$2,500. It is further

ORDERED that Wyndemere Services, 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 17, 1989. It is further

ORDERED that Wyndemere Services, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Wyndemere Services Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission, as required under Rule 25-30.110(6)(c), Florida Administrative Code. It is further

ORDERED that a failure to file a timely 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 Wyndemere Services, Inc., files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that in the event Wyndemere Services, Inc., fails to file a timely response to this show cause order, Staff is authorized to assess the fine pursuant to Rule 25-30.110, Florida Administrative Code. It is further

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ORDERED that if a fine is assessed and Wyndemere Services, 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 and this docket shall be closed.

By ORDER of the Florida Public Service Commission,
this 26th day of JUNE, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

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