

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings )  
 against BEACON TWENTY-ONE DEVELOP- )  
 MENT CORP. in Martin County for )  
 failure to comply with 1987 annual )  
 report requirements. )

DOCKET NO. 890675-WS  
 ORDER NO. 21446  
 ISSUED: 6-26-89

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 TO SHOW CAUSE

BY THE COMMISSION:

Beacon Twenty-One Development Corp., ("Beacon"), 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 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.

Beacon is in bankruptcy and no longer owns or operates the utility. It was dissolved as a corporation on November 16, 1987. On June 28, 1988, the bankruptcy trustee issued a quit claim deed on the utility property in favor of Chicago Title. The property was sold by Chicago Title to Mr. and Mrs. Burges on that same day. The property has since been transferred to Lanieger Enterprises of America, Inc. The transfer to Lanieger is being handled in Docket No. 881500-WS. Lanieger is currently operating the utility.

Beacon or its principals held title to the utility assets as of December 31, 1987. On request, an automatic extension of the time for filing its 1987 annual report was granted to Beacon through April 30, 1988. Two warning letters were sent

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and received by certified mail, posted on May 17, 1988 and July 22, 1988. The May 17 letter directed a response by May 30, 1988. The July 22 letter directed a response by August 12, 1988. Beacon has not filed the report or responded to the warning letters. The value of the 1987 annual report to this Commission is approximately \$2,500.

Also, Docket No. 880665-WS was opened to initiate show cause proceedings against Beacon for not filing its 1986 annual report. In that docket, Beacon was fined \$2,500 for failure to file its 1986 report. By Order No. 21125, the unpaid fine was declared uncollectible by this Commission in that further collection attempts would not be cost effective. The matter was referred to the Comptroller's office for further collection efforts.

Based on the foregoing, it appears that Beacon 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 Beacon 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 Beacon 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 Beacon 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 Beacon Twenty-One Development Corp., 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 Beacon Twenty-One Development Corp.'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 Beacon Twenty-One Development Corp.'s response must contain specific allegations of fact and law. It is further

ORDERED that Beacon Twenty-One Development Corp.'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

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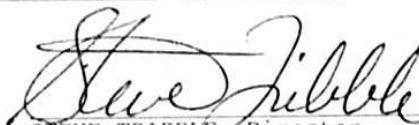
alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that, in the event that Beacon Twenty-One Development Corp., 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 Beacon Twenty-One Development Corp., 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.

ORDERED that if a fine is assessed and Beacon Twenty-One Development Corp., 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

( S E A L )

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