

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause	)	DOCKET NO. 890680-WU
proceedings against WILDWOOD WATER	)	ORDER NO. 21805
CO., INC., for failure to comply with	)	ISSUED: 8-29-89
1987 annual report requirements	)	
	)	

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, CHAIRMAN  
 THOMAS M. BEARD  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER CLOSING DOCKET

BY THE COMMISSION:

Wildwood Water Co., Inc., ("Wildwood"), a Class C utility, did not timely file a complete 1987 annual report as required by Rule 25-30.110, Florida Administrative Code. Pursuant to Rule 25-30.110(6)(c), any utility that fails to timely file a complete annual report is subject to fines absent demonstration of good cause for noncompliance. Rule 25-30.110(7), Florida Administrative Code, establishes a penalty of \$3.00 per day for Class C utilities. The Commission may, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, impose lesser or greater penalties.

Order No. 21409, issued June 19, 1989, directed Wildwood to show cause why it should not be fined at least \$3.00 a day for failure to file its 1987 annual report. That order states that failure to file a written response on or before July 10, 1989 would constitute an admission of facts alleged and a waiver of any right to a hearing. Wildwood's 1987 annual report was filed on June 30, 1987. The utility's 1988 annual report has also been filed. On July 11, 1989, Wildwood filed a written Response to Order to Show Cause and a Motion to Permit Late Filing of Response ("Motion").

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Wildwood's response to the show cause order states that the report was not timely filed in that the owner/operator of the utility was accidentally shot and grievously injured by an acquaintance. Following the injury, the owner/operator spent months in the hospital and is currently in rehabilitative therapy. Since the accident, the utility has been managed by the owner/operators' son and daughter-in-law. The warning letters of May 19, 1988 and July 19, 1988 were not discovered until after the time within which to respond. The present management has initiated a program for maintaining current information needed to prepare the annual report in order to prevent reoccurrence of late filings of the annual report. The response further notes that Wildwood admits that the report was not timely filed and does not request a hearing.

Wildwood's Motion requests permission to late file a response in that its preparation of response was delayed by the time necessary to prepare and file its 1987 Annual Report and the impact of the July 4 holiday weekend on the response period. The Motion also notes that the attorney for Wildwood contacted staff by telephone on July 10, 1989 to secure a one day extension. After being informed that the extension request must be in writing, said request, along with the Response to the Show Cause Order was sent by Federal Express that same day.

We find that the utility has made reasonable efforts to file a timely response to the Commission's show cause order. Although the response was filed one day late, the utility did try to secure an extension by telephone. The response was delayed by preparation of the report. Under these circumstances we find it appropriate to consider the utility's response to the show cause order.

The 1987 annual report was 455 days late and the fine, computed according to Rule 25-30.110(7), Florida Administrative Code, is \$1,365. However, in view of the accident and injuries of the owner/operator of the utility, and subsequent efforts to ensure that future reports will be timely filed, we do not find it appropriate to fine the utility for failure to timely file its 1987 annual report.

For the above reasons, we find that no further action is required and this docket should be closed.

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It is, therefore,

ORDERED by the Florida Public Service Commission that  
Docket No. 890689-WU is hereby closed.

By ORDER of the Florida Public Service Commission  
this 29th day of AUGUST, 1989.

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STEVE TRIBBLE, DIRECTOR  
Division of Records and Reporting

( S E A L )

DAS

by: Kay Ferguson  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric,

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gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.