

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Offer of payment of) DOCKET NO. 891338-SU
 negotiated penalty by COLONY PARK) ORDER NO. 22343
 UTILITIES, INC. in Brevard County) ISSUED: 12-26-89
 for failure to timely file its)
 1987 annual report.)
 _____)

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 APPROVING UTILITY'S OFFER OF PAYMENT
OF PENALTY FOR UNTIMELY FILING OF
1987 ANNUAL REPORT

BY THE COMMISSION:

Colony Park Utilities, Inc. (Colony Park or utility) is a privately-owned, Class "C" utility providing sewer service to the public in Brevard County. The utility failed to timely file its 1986 annual report as required by Rule 25-30.110, Florida Administrative Code. Consequently, in Order No. 19738, issued July 27, 1988, we directed the utility to "show cause" why it should not be fined \$3 per day for each day the 1986 annual report was delinquent. The owner of the utility, Mrs. Lenore Warren, filed a timely response to our Order, explaining that the primary reason that the report had been filed late was that her late husband, who was the manager of the utility, was ill during 1986 and 1987. In Order No. 20105, issued October 3, 1988, we granted Mrs. Warren's request for a 30-day extension of time to file the delinquent 1986 annual report, and she was given until November 2, 1988 to file the subject report. No report was filed, therefore in Order No. 20505, issued December 22, 1988, we directed that the utility be fined \$3 per day for each day after November 2, 1988 that the 1986 report remained delinquent.

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Subsequently, on February 6, 1989, the utility filed its 1986 annual report and the \$3 per day penalty was assessed from November 2, 1988 to February 6, 1989 (96 days x \$3.00 = \$288.00). On March 3, 1989, we received the \$288.00 penalty payment from Mrs. Lenore Warren and the docket was closed through Order No. 21126, issued April 25, 1989.

The utility also failed to timely file its 1987 annual report as required by the above-cited rule. Such report was filed on February 6, 1989, 312 days late. Mrs. Warren was informed by our Staff that pursuant to Commission rule, a penalty of \$936 would be assessed against the utility due to the late filing of the 1987 report. In response, Mrs. Warren informed our Staff that her husband's extended illness and eventual death in November, 1987, had disrupted the record keeping of the utility, therefore there was a delay in preparing the annual report for 1987, as there had been for 1986, previously discussed herein. Subsequently, on November 17, 1989, Mrs. Warren submitted a check in the amount of \$288.00 with a letter requesting that the Commission accept this lesser amount in payment of the penalty for the utility's late filing of its 1987 annual report.

Conclusion

Upon due consideration, we find the reason advanced by the utility for the late filing on the 1987 annual report justifies our acceptance of the proffered \$288.00 as full payment for the penalty for such late filing.

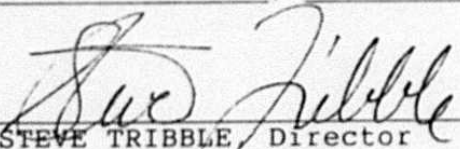
It is, therefore,

ORDERED by the Florida Public Service Commission that the offer of payment of \$288.00 by Colony Park Utilities, Inc. in Brevard County for failure to timely file its 1987 annual report is hereby approved. It is further

ORDERED that this docket is hereby closed.

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


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JRF

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, 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.