

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show)
cause proceedings against)
FORTY-EIGHT ESTATES WATER)
SYSTEM in Lake County for)
for failure to comply with)
1989 and 1990 annual report)
requirements)
_____)

DOCKET NO. 920561-WU
ORDER NO. PSC-92-0926-FOF-WU
ISSUED: 09/03/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Forty-Eight Estates Water System (Forty-Eight Estates or utility) is a Class C utility, serving water customers in Lake County. Forty-Eight Estates was granted Water Certificate No. 498-W by the Commission in Order No. 18839, issued February 10, 1988. Forty-Eight Estates has not timely filed its 1989 and 1990 annual reports, 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 31 each year to file an annual report on or before March 31 of the following year. Requests for extension must be in writing and must be filed before March 31. One extension of thirty days is automatically granted. Longer extensions may be granted upon showing of good cause. Incomplete or incorrect reports are considered delinquent, with a thirty-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 file a timely, 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 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

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTS

filing. The date of filing is included in computing the number of days elapsed. The Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

On March 21, 1990, the utility requested an additional extension in which to file the 1989 annual report. The extension was granted on April 4, 1990, and the deadline was extended to May 30, 1990. A certified letter was sent to the utility on July 2, 1990, notifying the utility that the 1989 report still had not been received.

As of the date of our vote at the Agenda Conference held on August 18, 1992, the utility's 1989 report was 811 days late and the appropriate penalty, computed according to Rule 25-30.110, Florida Administrative Code, was \$2,433, while the 1990 report was 506 days late and the appropriate penalty was \$1,518.

In consideration of the foregoing, it appears that Forty-Eight Estates has failed to comply with Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Forty-Eight Estates to show cause, in writing, within twenty days why it should not be fined \$2,433 and \$1,518, respectively, for its failure to file its 1989 and 1990 annual reports.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalties of \$2,433 and \$1,518 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to the show cause order shall both constitute an admission of the facts alleged and waive any right to a hearing.

If Forty-Eight Estates fails to respond to reasonable collection efforts by this Commission, we deem the fines 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 would not be cost effective. Reasonable collection efforts shall consist of two certified letters requesting payment.

If, however, the utility responds to the show cause by remitting the \$2,433 and \$1,518 penalties, no further action is required and this docket shall be closed administratively.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Forty-Eight Estates Water System, in Lake County, shall show cause, in writing, within twenty days why it should not be fined \$2,433 and \$1,518 respectively, for failure to file its 1989 and 1990 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Forty-Eight Estates Water System'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 September 23, 1992. It is further

ORDERED that Forty-Eight Estates Water System's response must contain specific allegations of fact and law. It is further

ORDERED that Forty-Eight Estates Water System'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 Forty-Eight Estates Water System 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 if the utility fails to timely respond to the show cause, the penalties of \$2,433 and \$1,518 shall be imposed without further action by this Commission. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fines shall be forwarded to the Comptroller's office and the docket shall be closed. It is further

DOCKET NO. 920561-WU
ORDER NO. PSC-92-0926-FOF-WU
PAGE 4

ORDERED that if the utility responds to the show cause by remitting the penalty, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 3rd day of September, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

LAJ

by: Kay Lynn
Chief, Bureau of Records