

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show ) DOCKET NO. 920776-SU  
cause proceedings against ) ORDER NO. PSC-92-1041-FOF-SU  
PIONEER WOODLAWN UTILITIES, ) ISSUED: 09/23/92  
INC. in Bay County for failure )  
to remit penalty fee for filing )  
delinquent 1990 annual report )  
\_\_\_\_\_ )

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:

Pioneer Woodlawn Utilities, Inc. (Pioneer or utility), is a Class C utility, serving 208 wastewater customers in Bay County. Based on information in the 1990 annual report, the utility reported wastewater system operating revenues of \$53,383 and operating expenses of \$66,589, resulting in a net operating loss of \$13,206.

Pioneer filed a delinquent 1990 annual report, in violation of 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 31st. 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)(a), 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 31st, or the approved extension date, and the actual date of filing. The date of filing is included in computing the number of

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days elapsed. This Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

Pioneer filed a delinquent 1990 annual report. By letter received March 26, 1991, Pioneer requested a 30-day extension in which to file its 1990 annual report. On March 27, 1991, by letter, we informed Pioneer that the 30-day extension requested had been approved and that the 1990 annual report would be due on or before April 30, 1991 unless a further extension was granted.

On May 1, 1991, Pioneer requested a second extension for filing its 1990 annual report. The utility cited recent inspections of the plant conducted by the Department of Environmental Regulation (DER) and the Environmental Protection Agency (EPA), in addition to depositions which had to be taken in preparation for a pending law suit with DER as reasons for a second extension. By letter of May 8, 1991, we granted Pioneer's second 30-day extension. However, we also stated that the report was due on or before May 30, 1991, and no further extensions would be granted. The 1990 annual report was received on January 10, 1992.

On February 18, 1992, we sent a certified letter to Pioneer which assessed a fine of \$675 for 225 days delinquency and at \$3.00 per day. The letter stated that payment of \$675 was due on or before March 19, 1992, and warned that failure to remit such payment could result in additional assessments being levied. Pioneer has failed to make said payment to date.

In consideration of the foregoing, it appears that Pioneer has failed to comply with the 1990 annual report requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Pioneer to show cause, in writing, within twenty days, why it should not be fined \$675 for its failure to comply with the 1990 annual report requirements.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$675 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 constitute both an admission of the facts alleged and a waiver of any right to a hearing.

If Pioneer 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. Reasonable collection efforts shall consist of two certified letters requesting payment.

If, however, the utility responds to the show cause by remitting the \$675 penalty, 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 Pioneer Woodlawn Utilities, Inc., in Bay County, shall show cause, in writing, within twenty days, why it should not be fined \$675 for failure to file its 1990 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Pioneer Woodlawn Utilities, 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 October 13, 1992. It is further

ORDERED that Pioneer Woodlawn Utilities, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Pioneer Woodlawn Utilities, 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 Pioneer Woodlawn Utilities, 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

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ORDERED that if Pioneer Woodlawn Utilities, Inc. fails to file a timely response to this show cause order, the fine of \$675 shall be imposed, pursuant to Rule 25-30.110, Florida Administrative Code. It is further

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

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 23rd day of September, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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