

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920610-WS
cause proceedings against) ORDER NO. PSC-92-1343-FOF-WS
BUTTONWOOD BAY UTILITIES, INC.) ISSUED: 11/19/92
in Highlands County for)
failure to comply with 1990)
annual report requirements.)
_____)

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

FINAL ORDER FINING BUTTONWOOD BAY UTILITIES,
INC. FOR LATE FILING OF 1990 ANNUAL REPORT

BY THE COMMISSION:

Buttonwood Bay Utilities, Inc. (Buttonwood Bay or utility) is a Class C utility, serving 149 water and wastewater customers in Highlands County. Based on information in the 1989 annual report, the utility reported water system operating revenues of \$24,499 and operating expenses of \$28,657, resulting in a net operating loss of \$4,158. Based on information in the 1989 annual report, the utility reported wastewater system operating revenues of \$13,192 and operating expenses of \$30,935, resulting in a net operating loss of \$17,743.

Buttonwood Bay did not file a timely 1990 annual report, 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 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)(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

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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 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.

Buttonwood Bay Utilities, Inc. responded to the Order to Show Cause issued by this Commission August 11, 1992, Order No. PSC-92-0799-FOF-WS, which ordered the utility to show cause why it should not be fined \$1,392 for filing a delinquent 1990 annual report. The utility's letter in response to the order explained that the 1990 annual report had been completed and mailed on July 26, 1991 and asked that the penalty be waived due to economic hardship. The utility sent another copy of the annual report with its letter. In response to our inquiry, Mr. John J. Greytak, General Manager of the utility, sent a copy of the cover of its working copy of the report, showing a notation that it had been sent July 26, 1991 and the initials of Arlene Skinner, the employee who sent it.

Therefore, the 1990 report was 117 days late and the appropriate penalty, computed according to Rule 25-30.110, Florida Administrative Code, is \$351.

In consideration of the foregoing, we find it appropriate to order Buttonwood Bay to pay the fine of \$351 for its failure to comply with Rule 25-30.110, Florida Administrative Code.

If Buttonwood Bay 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. After referral to the Comptroller's office, the docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Buttonwood Bay Utilities, Inc. shall pay the fine of \$351 for filing a delinquent 1990 annual report. It is further

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ORDERED that if Buttonwood Bay Utilities, Inc. 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. It is further

ORDERED that if Buttonwood Bay Utilities, Inc. does remit payment after reasonable collection efforts, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 19th day of November, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

KAC

by: Kary Flynn
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, 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.