

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show) DOCKET NO. 920695-WS
Cause Proceedings Against BCD) ORDER NO. PSC-93-0018-FOF-WS
Industries, Inc. in Osceola) ISSUED: 01/05/93
County for Failure to Remit)
Penalty 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 CLOSING DOCKET

BY THE COMMISSION:

BCD Industries, Inc. (BCD or utility), is a Class C utility, serving seven water and six wastewater customers in Osceola County. Based on information in the 1991 annual report, the utility reported water system operating revenues of \$83,614 and operating expenses of \$96,895 resulting in a net operating loss of \$13,281. The utility reported wastewater system operating revenues of \$85,252 and operating expenses of \$94,670, resulting in a net operating loss of \$9,418.

BCD 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)(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

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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.

Pursuant to Order No. PSC-92-1126-FOF-WS, issued October 6, 1992, we ordered BCD to show cause why it should not be fined \$75 for failure to timely file its 1990 annual report as required by Rule 25-30.110, Florida Administrative Code. On October 19, 1992, we received a timely response to the show cause in the form of a letter from the utility which requested that the penalty be waived due to Mr. Thomas E. Chalifoux's, the utility's owner's, involvement in the Gulf War crisis. In his response, Mr. Chalifoux asserts that he was notified on January 19, 1991, to report to active duty on January 21, 1991, to Fort Stewart, Georgia. Mr. Chalifoux adds that, due to the urgency of these events, he believes it was unrealistic for him to think of or have time to file an extension for filing the annual report. Finally, Mr. Chalifoux asserts that his wife, Ms. Carolyn Chalifoux, had no role or responsibility in the daily operations of the utility.

We believe that BCD has shown adequate cause why it should not be fined for not timely filing the 1990 annual report. Therefore, we find it appropriate not to fine the utility. This docket is, therefore, closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 5th day of January, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.