

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show) DOCKET NO. 920689-WS
Cause Proceedings Against) ORDER NO. PSC-93-0019-FOF-WS
Aquarina Developments, Inc. in) ISSUED: 01/05/93
Brevard County for Failure to)
Remit Penalty Fee for Filing)
Delinquent 1989 and 1990)
Annual Reports)
_____)

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 FINING UTILITY FOR DELINQUENT
FILING OF 1989 AND 1990 ANNUAL REPORTS

BY THE COMMISSION:

Aquarina Developments, Inc. (Aquarina or utility), is a Class C utility serving 46 water and wastewater customers in Brevard County. Based on information in the 1991 annual report, the utility reported water system operating revenues of \$24,854 and operating expenses of \$153,923 resulting in a net operating loss of \$259,703. The utility reported wastewater system operating revenues of \$21,728 and operating expenses of \$281,431, resulting in a net operating loss of \$259,703.

Aquarina filed delinquent 1989 and 1990 annual reports 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.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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 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-92-1123-FOF-WS, issued October 6, 1992, we ordered Aquarina to show cause why it should not be fined \$51 and \$183 for filing delinquent 1989 and 1990 annual reports, respectively. On October 15, 1992, we received a timely response to the show cause order in the form of letter from the utility which requested that no fine be assessed due to extenuating circumstances.

These circumstances included that the utility had just received an original certificate and was newly under the Commission's jurisdiction in 1989 and 1990, the utility had no full time employee for these years, and it had virtually no revenues. The utility asserted that because of these circumstances, it had difficulty understanding Commission-required forms and reports. In addition, the utility contends that it would have been a hardship to hire consultants to prepare these reports and forms. The utility did not request a hearing in its response.

We do not believe that the circumstances cited by the utility are sufficient to warrant not fining the utility. Even though Aquarina had just received an original certificate and was newly under Commission regulation in 1989 and 1990, it was responsible for knowledge of the Commission's statutes, rules and regulations. In addition, the utility's vice-president is an accountant, and we believe he has the expertise to prepare the reports in a timely manner.

In consideration of the foregoing, we find it appropriate to order Aquarina to pay the fines of \$51 and \$183 for filing delinquent 1989 and 1990 annual reports, respectively, in violation of Rule 25-10.110, Florida Administrative Code.

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If Aquarina 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 by remitting the \$51 and \$183 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 Aquarina Developments, Inc., in Brevard County, shall pay the fines of \$51 and \$183, for violation of 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 remits the fines imposed, this docket shall be closed administratively.

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.