

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 930823-WS
proceedings against Terra Mar) ORDER NO. PSC-93-1413-FOF-WS
Village (River Park) for failure) ISSUED: September 29, 1993
to file its 1991 and 1992 Annual)
Reports.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Terra Mar Village (Terra Mar or utility) is a Class C water and wastewater utility, serving 222 water and 231 wastewater customers in Volusia County, Florida. Based on information in the 1990 annual report, the utility reported water system operating revenues of \$66,975 and operating expenses of \$55,829, resulting in a net operating income of \$11,146. Based on information in the 1990 annual report, the utility reported wastewater system operating revenues of \$45,410 and operating expenses of \$46,534, resulting in a net operating loss of \$1,124.

Terra Mar has not timely filed its 1991 and 1992 annual reports as required by Rule 25-30.110, Florida Administrative Code. Pursuant to Rule 25-30.110(6)(c), 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) 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. This Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c).

DOCUMENT NUMBER-DATE

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PSC-93-1413-FOF-WS-REPORTING

On May 7, 1992, a certified letter was sent to the utility providing notice that the 1991 annual report had not been filed, and the utility was in violation of Rule 25-30.110, Florida Administrative Code. On June 17, 1993, another certified letter was sent to the utility which stated that the 1992 annual report had not been filed, and the utility was in violation of Rule 25-30.110, Florida Administrative Code.

As of the date of our vote at the Agenda Conference held on September 7, 1993, the 1991 annual report is 525 days late and the 1992 annual report is 160 days late. The appropriate penalties, computed according to Rule 25-30.110, are \$1,575 and \$480, respectively.

In consideration of the foregoing, it appears that Terra Mar has failed to comply with Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Terra Mar to show cause, in writing, within 20 days of the issuance of this Order, why it should not be fined \$1,575 and \$480, respectively, for its failure to file its 1991 and 1992 annual reports.

If the utility fails to respond to the show cause within 20 days of the issuance of this Order, the penalties of \$1,575 and \$480 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 waiver of any right to a hearing.

If Terra Mar 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. After referral to the Comptroller's office, the docket shall be closed.

If, however, the utility responds to the show cause by remitting the penalties of \$1,575 and \$480, no further action is required and this docket may be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Terra Mar Village, in Volusia County, shall show cause, in writing, within 20 days of issuance of this Order, why it should not be fined \$1,575 and \$480 respectively, for failure to file its 1991 and 1992 annual reports as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Terra Mar Village'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 19, 1993. It is further

ORDERED that Terra Mar Village's response must contain specific allegations of fact and law. It is further

ORDERED that Terra Mar Village'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 25-30110(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 Terra Mar Village 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 \$1,575 and \$480 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

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

By ORDER of the Florida Public Service Commission this 29th day of September, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

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LK

by: Kay Hym
Chief, Bureau of Records