

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Show Cause) DOCKET NO. 930778-WS
Proceedings Against TERRA MAR) ORDER NO. PSC-94-0270-FOF-WS
VILLAGE (River Park) in Volusia) ISSUED: March 9, 1994
County for Failure to Pay)
Regulatory Assessment Fees.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER REFERRING PAYMENT OF THE REGULATORY ASSESSMENT FEES
OWED WITH PENALTIES AND INTEREST TO THE COMPTROLLER'S
OFFICE FOR COLLECTION

BY THE COMMISSION:

Terra Mar Village (Terra Mar or utility) is a Class C utility providing water and wastewater service to 259 customers in Volusia County. On July 7, 1993, Mr. Bernard Covington, the utility's owner, filed a Chapter 11 proceeding in Federal Bankruptcy Court. Subsequently, on September 10, 1993, the court named Mr. Gerald Potts as receiver.

Terra Mar has a history of collecting regulatory assessment fees (RAF) without paying them to the Commission, as required pursuant to Section 367.145(1), Florida Statutes, and Rule 25-30.120(1), Florida Administrative Code. On September 29, 1993, this Commission issued Order No. PSC-93-1412-FOF-WS, requiring the utility to show cause why it should not be fined for failure to pay the delinquent RAFs. A summary of the delinquent RAF amounts, including penalties and interest as described in Schedule No. 1 of this Order, is incorporated by reference herein.

Mr. Covington has failed to respond to the above mentioned Order, and has also failed to pay the RAFs from 1989 to 1992, as well as the penalties and interest he is required to pay. As for the 1993 RAFs, this Commission finds that the receiver, Mr. Potts, is not responsible for those RAFs accrued before his appointment on September 10, 1993. Therefore, the Commission finds that Mr.

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Covington is responsible for the RAFs from January 1, 1993 to September 9, 1993, and Mr. Potts is responsible for the RAFs commencing on September 10, 1993.

On October 18, 1993, Mr. Potts sent a letter urging this Commission to hold the fines ordered in Order No. PSC-93-1412-FOF-WS in abeyance. That Order addressed the previous owner of Terra Mar, Mr. Covington. Also, Mr. Potts has demonstrated his intent to meet all necessary requirements in operating the utility, as well as diligently pursuing compliance with all utility requirements. Therefore, we find that no fine is appropriate.

Based on the foregoing, it is,

ORDERED by the Florida Public Service Commission that the delinquent regulatory assessment fees from January 1, 1989, through September 9, 1993, penalties and interest accrued by Terra Mar Village, 4383 U.S. 1 South, Edgewater, Florida 32141-7346, as shown in Schedule No. 1, which by reference is incorporated herein, be referred to the Comptroller's office for collection. It is further

ORDERED that Mr. Potts, the receiver of Terra Mar Village, is responsible for the regulatory assessment fees commencing September 10, 1993, pursuant to Section 367.145(1), Florida Statutes, and Rule 25-30.120(1), Florida Administrative Code. It is further

ORDERED that Terra Mar Village shall not be fined for failure to pay regulatory assessment fees. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 9th day of March, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
MSN/JBL

by: Kay Flynn

Chief, Bureau of Records

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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.

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SCHEDULE NO. 1

**TERRA MAR VILLAGE
SUMMARY OF DELINQUENT RAF INCLUDING PENALTY AND INTEREST**

<u>YEAR</u>	<u>RAF DUE</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1989	\$ 2,765.60	\$ 691.40	\$1,244.25	\$ 4,701.25
1990	3,933.48	983.37	1,298.05	6,214.90
1991	3,218.83	804.71	679.95	4,703.49
1992	3,204.58	801.15	288.41	4,294.14
EST 1/1 - 9/9/93	<u>2,216.50</u>	<u>0</u>	<u>0</u>	<u>2,216.50</u>
	<u>\$15,338.99</u>	<u>\$3,280.63</u>	<u>\$3,510.66</u>	<u>\$22,130.28</u>