

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Show Cause ) DOCKET NO. 940038-WU  
Proceedings against LAKE OSBORNE ) ORDER NO. PSC-94-0640-FOF-WU  
UTILITIES COMPANY, INC. in Palm ) ISSUED: May 25, 1994  
Beach County for Failure to )  
Remit Penalty Fee for Filing )  
Delinquent 1991 Annual Report )  

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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 TO SHOW CAUSE

BY THE COMMISSION:

Lake Osborne Utilities Company, Inc. (Lake Osborne or utility), is a Class C utility, serving 466 water customers in Palm Beach County. Based on information in the 1991 annual report, the utility reported water system operating revenues of \$74,889 and operating expenses of \$104,655, resulting in a net operating loss of \$29,766.

Lake Osborne filed a delinquent 1991 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 31 each year to file an annual report on or before March 31 of the following year. Requests for extension must be in writing and must be filed before March 31. 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

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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.

Lake Osborne, a Class C utility, filed a delinquent 1991 annual report. On March 25, 1993, we mailed a certified letter to Mr. Barry K. Asmus, the utility's president, informing him that the utility filed its 1991 annual report on October 7, 1992, 190 days after the due date of March 31, 1992, and the resulting fine would be \$570, (190 days x \$3 per day). In the letter, we requested that the \$570 fine be paid on or before April 24, 1993. Lake Osborne has failed to respond to our request for payment to date. It has since become apparent that Mr. Asmus was granted a 30 day extension to file the 1991 annual report. This extension reduces the number of days the annual report was delinquent from 190 days to 160 days. Therefore, the fine was reduced accordingly from \$570, to \$480 (160 days x \$3 per day).

In consideration of the foregoing, it appears that Lake Osborne has failed to comply with Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Lake Osborne to show cause, in writing, within twenty days, why it should not be fined \$480 for its failure to timely file its 1991 annual report.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$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 both constitute an admission of the facts alleged and a waiver of right to a hearing.

If Lake Osborne 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.

If, however, the utility responds to the show cause by remitting the \$480 penalty, no further action is required and this docket shall be closed administratively.

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Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Lake Osborne Utilities Company, Inc., P.O. Box 4118, West Palm Beach, Florida 33402, shall show cause, in writing, within twenty days why it should not be fined \$480 for failure to timely file its 1991 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Lake Osborne Utilities Company, Inc.'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 June 14, 1994. It is further

ORDERED that Lake Osborne Utilities Company, Inc.'s, response must contain specific allegations of fact and law. It is further

ORDERED that Lake Osborne Utilities Company, Inc.'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 25-30.110(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 Lake Osborne Utilities Company, Inc., 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 penalty of \$480 shall be imposed without further action by this Commission. It is further

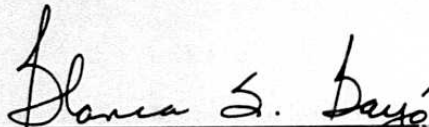
ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fines shall be forwarded to the Comptroller's office and the docket shall be closed. It is further



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

By ORDER of the Florida Public Service Commission, this 25th day of May, 1994.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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