BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against WELLAQUA Co. for violation of Rules 25-30.110, F.A.C., Failure to File Annual Report, 25-30.310, F.A.C., Initiation of Service, 25-30.320, F.A.C., Refusal of Service, 25-30.330, F.A.C., Information to Customers, 25-30.355, F.A.C., Complaints, and 25-30.520, F.A.C., Responsibility of Utility to Provide Service.	DOCKET NO. 990872-WU ORDER NO. PSC-00-0105-FOF-WU ISSUED: January 11, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

FINAL ORDER ASSESSING A PENALTY FOR VIOLATION OF RULE 25-30.110, FLORIDA ADMINISTRATIVE CODE, DECLINING TO IMPOSE A FINE FOR VIOLATION OF RULES 25-30.320(4) AND 25-30.355, FLORIDA ADMINISTRATIVE CODE, AND REQUIRING THE UTILITY TO SUBMIT PAGES F-3 AND V-1 OF ITS ANNUAL REPORTS FOR 1995 THROUGH 1998

BY THE COMMISSION:

BACKGROUND

WELLAQUA Co.(WELLAQUA or utility) is a Class C water utility that serves approximately 35 customers in Citrus County. The current utility has operated under Certificate No. 513-W since March 28, 1995. By Order No. PSC-95-0421-FOF-WU, issued March 28,

1995, in Docket No. 940340-WU, we approved the transfer of Certificate No. 513-W from Lucky Hills, Inc. to WELLAQUA and established rate base for purposes of the transfer. This system received an original certificate on March 27, 1989, which was granted to Lucky Hills, Inc.

Lucky Hills, Inc.'s 1994 annual report indicated total gross revenues of $11,044, showing a net operating loss of $1720. However, WELLAQUA has failed to file annual reports for 1995 through 1998. WELLAQUA has paid regulatory assessment fees (RAFs) for 1995 through 1998, but since the utility has not filed annual reports for those years, staff is not certain that the RAFs paid are the correct amounts.

In addition, a potential customer contacted our Division of Consumer Affairs on March 31, 1999, to request assistance in obtaining service from WELLAQUA. Consumer Affairs attempted to reach the utility by phone on April 2, 1999, and April 13, 1999, without success. On May 6, 1999, Consumer Affairs sent a certified letter to Mr. Jerome Salmons, the utility owner, but the letter was returned to the Commission marked "UNCLAIMED". Members of our staff attempted to reach the utility from April through June, without success. As a result, show cause proceedings were initiated addressing delinquent annual reports and the customer's request for service.

By Order No. PSC-99-1609-SC-WU, issued August 17, 1999, in this docket, we ordered WELLAQUA to show cause, in writing, within 21 days of the date of issuance of that Order, why it should not be fined up to $5,000 per day for each day of apparent violation of Rules 25-30.110 (Failure to File Annual Report), 25-30.310 (Initiation of Service), 25-30.320 (Refusal of Service), 25-30.330 (Information to Customers), 25-30.355 (Complaints), and 25-30.520 (Responsibility of Utility to Provide Service), Florida Administrative Code. WELLAQUA was also ordered to notify us of a reasonable time frame for filing the annual reports for 1995 through 1998. On August 30, 1999, the utility timely filed its written response to the Show Cause Order.

On July 27, 1999, pursuant to Section 367.171(1), Florida Statutes, the Citrus County Board of County Commissioners voted to rescind Citrus County Resolution No. 73-97, which rendered Citrus County subject to the provisions of Chapter 367, Florida Statutes. By Order No. PSC-99-1899-FOF-WS, issued September 24, 1999, in Docket No. 990996-WS, we acknowledged the resolution adopted by Citrus County that rescinded our jurisdiction. Therefore, we no longer have jurisdiction over WELLAQUA. However, pursuant to Section 367.171(5), Florida Statutes, this docket shall remain open until all pending matters are resolved.

We addressed this matter at the November 30, 1999 Agenda Conference, and, by our own motion, reconsidered it at the December 21, 1999 Agenda Conference. Our decision is set forth below.

ANNUAL REPORTS

Rule 25-30.110(3), Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31 of each year to file an annual report on or before March 31 of the following year. Requests for extension of time must be in writing and must be filed before March 31. One extension of 30 days is automatically granted. A further extension may be granted upon showing of good cause. WELLAQUA has not filed an annual report for any year since the system was transferred to the current owner in 1995. In addition, WELLAQUA has not requested an extension of time to file any of the outstanding annual reports and has failed to provide any reasonable explanation for its failure until this time.

By letters dated July 28, 1997, November 14, 1997, January 13, 1998, and March 10, 1998, our staff notified Mr. Jerome Salmons, the utility owner, that he was in apparent violation of Rule 25-30.110, Florida Administrative Code, because he had not filed the utility's annual reports. Repeated attempts to contact the utility during March through July 1999, were also unsuccessful. As a result, show cause proceedings were initiated by Order No. PSC-99-1609-SC-WU, issued August 17, 1999, in this docket.

On August 30, 1999, the utility timely filed its written response to the Show Cause Order. In its response, the utility acknowledges that it has not submitted annual reports for 1995 through 1998, contending that it has been in the process of trying to reconstruct its records for over two years. The utility also lists several factors that contributed to its failure to file annual reports for 1995 through 1998. These include: (1) computer storage drive failures; (2) failure of the previous owner of the utility to relinquish records of the operations; (3) a catastrophic fire in which nearly all efforts to reconstruct records directed toward establishing a basis for fulfilling the requirements of the 1995 annual report were irretrieveably lost; and (4) the death of Jerome C. Salmons, Sr., who, although not the owner of the utility, was the principal force within the company as well as the principal decision maker and one who was helping to prepare, maintain, and reconstruct records.

Also in its response, the utility maintains that efforts would be aided immensely if it could get copies of Lucky Hills, Inc.'s annual submissions for two or three years prior to 1995. In addition, the utility requests that we provide it with those records. The utility has not previously requested or made a public records request for copies of Lucky Hills, Inc.'s annual reports for the years prior to 1995. If this information was essential in the utility's efforts to complete its annual reports for 1995 through 1998, the utility should have requested it prior to this date. The utility was also ordered to give a reasonable timeframe for filing its delinquent annual reports, but no such timeframe was given in the utility's response. At the utility's request, on September 23, 1999, we provided WELLAQUA with a copy of Lucky Hills, Inc.'s 1993 and 1994 Annual Reports.

Moreover, the utility should have had access to the records discussed above at the time the transfer to the current owner occurred in 1995. Pursuant to Rule 25-30.037(2)(n), Florida Administrative Code, each application for a transfer of certificate of authorization must contain a statement regarding the books and records of the seller. This section states:

> If the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records.

In its application for transfer, WELLAQUA indicated that it made reasonable efforts to obtain the books and records of Lucky Hills, Inc. WELLAQUA also stated that it was relying upon rate case Order No. PSC-93-0741-FOF-WU, issued July 1, 1993, in Docket No. 920961-WU, for the rate base valuation of the system. At the time the transfer application was filed in April 1994, no adjustments had been made to the rate base since it was established in the above order. Additionally, in a letter to the seller of the system, dated March 3, 1994, WELLAQUA requested a copy of the federal income tax returns as part of the transfer process. It is not known whether the tax returns were provided by the seller.

By Order No. PSC-95-0421-FOF-WU, issued March 28, 1995, in Docket No. 940340-WU, by proposed agency action, we approved the transfer of Certificate No. 513-W from Lucky Hills, Inc. to WELLAQUA. In that Order, we found that, with the exception of the transfer prior to Commission approval, the application was in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules.

Wellaqua's response fails to adequately address why the utility failed to file annual reports for 1995 through 1998. While factors listed in the utility's response may have provided sufficient justification for an extension of time to file its annual reports, no such request was ever made.

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 forth in Rule 25-30.110(7), Florida Administrative Code, for Class C utilities is $3 per day. We have the authority to impose lesser or greater penalties, pursuant to

Rule 25-30.110(6)(c), Florida Administrative Code. Our calculation of the penalty for Wellaqua's failure to file annual reports through July 27, 1999, is $7,986 ($3,639 for 1,213 days x $3.00 per day for 1995; $2,544 for 848 days x $3.00 per day for 1996; $1,449 for 483 days x $3.00 per day for 1997; and $354 for 118 days x $3.00 per day for 1998). Therefore, WELLAQUA shall be required to pay a penalty of $7,986 for violation of Rule 25-30.110, Florida Administrative Code, within 30 days of the issuance date of this Order.

Rule 25-30.110(6)(d) provides:

> Any utility which fails to pay a penalty within 30 days after its assessment by the Commission (the date of issuance of the order) shall be subject to interest applied to the penalty up to and including the date of payment of the penalty. Such interest shall be compounded monthly, based on the 30 day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of $1,000 as regularly published in the Wall Street Journal.

If the utility fails to remit the penalty amount listed above, and fails to respond to our reasonable collection efforts, the outstanding penalty amount shall be referred to the Comptroller's Office for further collection efforts. Reasonable collection efforts shall consist of two certified letters, sent by our Division of Legal Services, requesting payment of the $7,986 penalty imposed. Referral to the Comptroller's Office will be based upon the conclusion that further collection efforts by this Commission would not be cost effective.

Additionally, although the utility has not filed annual reports for 1995 through 1998, the utility has paid RAFs for those years. However, we use a utility's annual reports, among other things, to verify that the amount of RAFs paid are correct. Therefore, because the full annual reports are not needed on a forward going basis, other than to verify the appropriate amount of regulatory assessment fees, WELLAQUA shall only be required to file pages F-3 and V-1 of the annual reports for 1995 through 1998 for

the purpose of certifying revenues for each year. This will allow us to verify the amount of regulatory assessment fees already paid for the years listed above. The partial annual reports shall be filed within 30 days of the issuance date of this Order. In the event we determine that the RAFs paid by the utility were insufficient, the utility shall be required to remit the balance due within 15 days of receipt of written notification of the outstanding balance. In the event we determine that the utility overpaid RAFs, any amount overpaid will be refunded to the utility. RAFs for January through July 27, 1999, the portion of 1999 during which we had jurisdiction over WELLAQUA, shall be remitted on or before March 31, 2000.

RULE VIOLATIONS

Mr. Ray Murrin is a homeowner in the Lucky Hills subdivision in Wellaqua's certificated territory. Mr. Murrin has stated that he made several attempts to contact the utility regarding initiation of water service to his property, but was unsuccessful. Mr. Murrin also indicated that he relied on contacting the utility by telephone because he lives out of state.

Although it is not clear when Mr. Murrin's first attempt to contact the utility occurred, Mr. Murrin contacted our Division of Consumer Affairs on March 31, 1999, to request assistance in getting water service from WELLAQUA. As previously noted, neither Consumer Affairs nor members of our staff were successful in contacting the utility.

On June 22, 1999, a staff engineer visited the residence of Mr. Murrin. According to the tenants at the residence, water service was not being provided from the utility. Instead, the only source of water being provided to Mr. Murrin's home was a connection to a private well, which is located on the property of Mr. Murrin's sister, who lives next door, and was connected to Mr. Murrin's home via a garden hose.

In its response to the Show Cause Order, the utility stated that a prior owner of Mr. Murrin's residence, who was receiving service from the utility, was notified in writing approximately two

years ago that a private well connected to the residence was improper. Apparently, the well remained connected to the residence, and the utility sought assistance from the County health department to have the well disconnected. When the health department was unable to provide assistance, the utility removed the water meter from the residence in order to remove potential backflow into the water system from the private well. At the time the meter was removed, the residence was vacant.

The exact date that Mr. Murrin acquired ownership of the residence is not certain. A meter was installed at the residence in late May, 1999; however, according to the utility, service could not be provided at that time due to the damage to the service line on the customer's side of the meter. The utility claims to have notified the real estate property manager that the problem existed. The utility stated that a check valve would need to be installed and the damaged line repaired. The check valve has now been installed and service is being provided to the residence.

Rule 25-30.310, Florida Administrative Code

Rule 25-30.310(2), Florida Administrative Code, provides: "Upon an applicant's compliance with utility's reasonable rules regarding service initiation, the utility shall initiate service without unreasonable delay." The intent of this rule is to ensure that utilities initiate service expeditiously following a proper request for service.

In its response to the Show Cause Order, the utility lists several reasons as to why service was not provided to Mr. Murrin without unreasonable delay. Specifically, the utility states that Mr. Murrin "would have had no problem at all had he given WELLAQUA a properly enunciated phone message or written a letter." The utility further states that:

> His initial request was taken as a demand for immediate service for a **Mr. Raymon** (who said to call him immediately as he was leaving town- **but he left no phone number**!). Our helper who took this message did not

> bother to make a permanent record as she expected an immediate return call. None came while she monitored the phone. A later call came from an **unidentified** source saying, "maybe it would help if I left my phone number". These calls, taken by different people weren't connected until comparing notes much later.

The above statement shows poor customer service on the part of the utility. The response does not indicate that the utility actually called Mr. Murrin back. The utility owner maintains that he has never even spoken to Mr. Murrin, and, apparently, the utility does not maintain an office, nor is an employee available during normal business hours to answer the phone.

The utility argues that the above complaints did not come from a prospective customer as has been defined in Commission notices as one who has made a written request for service. Although Mr. Murrin was not yet a customer, Chapter 25-30, Florida Administrative Code, applies to applicants as well. In addition, the utility's tariff provides that:

> Water service is furnished only after a signed application or agreement and payment of the initial connection fee is accepted by the Company. The conditions of such application or agreement is binding upon the customer as well as upon the Company. A copy of the application or agreement for water service accepted by the Company will be furnished to the applicant upon request. (emphasis added)

We note that the utility's tariff requires a signed application, but does not specify that a potential customer must provide written notification that it wishes to request such application. Because Mr. Murrin lives out of state, he relies upon the telephone to reach the utility in his efforts to obtain service. Had WELLAQUA returned any of Mr. Murrin's phone calls, the utility could have informed Mr. Murrin, a potential customer who was requesting service, that an application was required in accordance with utility policy. At that time, the utility could have obtained an address for Mr. Murrin, who lives out of state,

and sent an application for service to him. Although miscommunication between the utility and Mr. Murrin is evident, absent a written application for service, in accordance with the utility's rules, there is not sufficient information to indicate that the utility violated Rule 25-30.310, Florida Administrative Code.

Additionally, we have reviewed the utility's application for service form contained in its tariff (Original Sheet No. 26.1) and note that the form contains the statement that a plant capacity charge of $300 is required to be paid before the application will be processed. Upon reviewing this provision, it appears that the utility would only collect the plant capacity charge from the initial owner of the dwelling for the first time service was initiated to that dwelling. Rule 3.0 on Original Sheet No. 7.0 states that water service is furnished only after a signed application or agreement and payment of the initial connection fee is accepted by the company. A similar tariff sheet (Original Sheet No. 27.1) addresses an Application for Meter Installation. This sheet refers to a meter installation fee of $200 that is required prior to the application being processed. Similarly, a review of this tariff page contemplates that the meter installation fee would only be paid by the first owner of the dwelling.

Based upon the foregoing, we find that there is not sufficient information to indicate that the utility violated Rule 25-30.310, Florida Administrative Code.

Rule 25-30.320, Florida Administrative Code

Rule 25-30.320(5)(a), Florida Administrative Code, provides that a delinquent payment by a previous occupant of the premises is not sufficient cause for a utility to refuse to provide service to a customer within its certificated territory.

In its response to the Show Cause Order, the utility states: "The allegations of denial of service to a new owner for reasons of an outstanding bill owed by the previous owner are untrue." We are satisfied with the utility's response to this issue.

Based upon the utility's response and the facts and circumstances in this case, we find that there is not sufficient information to indicate that the utility violated Rule 25-30.320(5)(a), Florida Administrative Code, by refusing to provide service to a customer within its certificated territory because of a delinquent payment by a previous occupant of the premises. However, we note that had Mr. Murrin, the Division of Consumer Affairs, or our staff been able to reach Mr. Salmons, or had Mr. Salmons returned any of the numerous messages left, this discrepancy could have been resolved at that time.

Rule 25-30.320(2)(b), Florida Administrative Code, provides that a utility may refuse service to a customer for "failure or refusal of the customer to correct any deficiencies or defects in his piping or equipment which are reported to him by the utility." However, Rule 25-30.320(4), Florida Administrative Code, provides that "[i]n case of refusal to establish service, or whenever service is discontinued, the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance."

In its response to the Show Cause Order, the utility contends that denial of service to the address in question was to protect the remaining customers from contamination from an unapproved private well which was improperly connected to the residence in question. The utility goes on to state that a previous owner of the residence in question, "who now lives next door and owns and resides on the property on which the private well is located . . . was notified in writing approximately two years ago that the connection of the private well to the former residence was improper and should be corrected." Despite the fact that the utility admits denial of service to Mr. Murrin, Rule 25-30.320(2)(b), Florida Administrative Code, applies to customers, and Mr. Murrin was not yet a customer. For this reason, we find that, under these circumstances, this provision does not apply.

Additionally, the utility did not advise Mr. Murrin of any plumbing deficiencies or other conditions that would indicate a reason for the utility's inability to provide service without unreasonable delay. The utility maintains that the meter was

"removed from its box to prevent the possibility of backflow from the private well into Wellaqua's system." Apparently, such action was taken due to "tampering to the shut-off valving associated with the meter." The utility goes on to state that:

> At the time of removal, the residence was vacant. The tenant had been refused service for an unpaid bill after he continued use of water from the private well. This occurred about two years ago. Upon notification that a new tenant was in residence a new meter was installed. This was in late May of this year. No connection could be made by WELLAQUA to the residence supply line, because of residence line damage as well as not having an installed back-flow prevention device.

WELLAQUA asserted that the real estate property manager was notified of this condition, but other real estate agents who became involved in the sale of the property were not aware of this condition, and prospective buyers of the property were not apprised of the plumbing deficiency. It is evident that Mr. Murrin was not notified of the plumbing problem, even though a new meter had been installed.

In its response to the Show Cause Order, the utility does not indicate that Mr. Murrin was responsible for tampering with any meter, nor is it evident that Mr. Murrin was even the owner of the residence in question at that time by WELLAQUA. When a staff engineer visited the premises of the residence in question on June 22, 1999, water service was not being provided at that time. The engineer did not inspect the meter box to determine whether a meter was, in fact, installed as the utility stated.

Based upon the foregoing, none of the reasons listed by the utility in its response are sufficient cause for refusal or denial of service to a customer pursuant to the provisions of Rule 25-30.320(2)(b), Florida Administrative Code. Because Mr. Murrin was not yet a customer, we find that there is not sufficient information to show that the utility violated this provision. However, by failing to provide written notification to Mr. Murrin regarding any of the deficiencies listed in its response, we find

that the utility has violated Rule 25-30.320(4), Florida Administrative Code. We do not believe that notifying the real estate agent of the plumbing deficiencies was sufficient. The utility should have made an effort to notify the new owner, when service was requested, of the known deficiencies, especially the potential for contamination of the utility's water system. Therefore, we find that the utility violated Rule 25-30.320(4), Florida Administrative Code.

Rule 25-30.330, Florida Administrative Code

Rule 25-30.330 (1)(a), Florida Administrative Code, provides that a utility shall provide its customers, on at least an annual basis, with regular and after hours telephone numbers.

As previously stated, Mr. Murrin tried to reach the utility, but an answering machine, with no greeting or accompanying message that would indicate the number is in fact associated with the utility, received the calls. Members of our staff also attempted to contact the utility, but reached the same answering machine.

In its response, the utility contends that Mr. Murrin could have:

> called Wellaqua's emergency beeper number which is noted on all customer's bills and was available to him via his sister. Had he but tried the emergency number he would have reached a real estate agent familiar with past service problems at that address and who would have informed him that improper plumbing existed that would forstall resumption of service until corrections were instituted.

While the utility's bills do contain both regular and emergency phone numbers (in Original Sheet No. 28.1 of the utility's tariff), bills are only mailed to customers. However, when we tried to contact the utility at these numbers, although an answering machine received the calls, there was no greeting or accompanying message that would indicate that the number is in fact associated with the utility.

The utility fails to recognize that Mr. Murrin had not yet received service; therefore, he would not have received a bill. Moreover, it is not the responsibility of Mr. Murrin to solicit, from his sister or anyone else, information that the utility has an obligation to provide to customers pursuant to our rules. Mr. Murrin lives out of town and has to rely on the telephone to contact the utility. Moreover, we note that Rule 25-30.330, Florida Administrative Code, applies to customers of the utility rather than to applicants for service. Because Mr. Murrin was not yet a customer, we find that this provision does not apply in Mr. Murrin's situation.

Based upon the foregoing, we find that the utility has not violated Rule 25-30.330, Florida Administrative Code, by its failure to provide information to its customers.

Rule 25-30.355, Florida Administrative Code

Rule 25-30.355(3), Florida Administrative Code, provides: "Replies to inquiries by the Commission's staff shall be furnished within fifteen (15) days from the date of inquiry and shall be made in writing, if requested."

As previously indicated, the utility failed to respond to repeated inquiries from our Division of Consumer Affairs, which attempted to contact the utility by phone on April 2, 1999, and April 13, 1999, without success. When no response was received, a certified letter followed on May 6, 1999. This letter was returned to the Commission marked "UNCLAIMED" on June 3, 1999. Clearly the utility has failed to comply with the fifteen day response time as specified by this rule.

In its response to the Show Cause Order, the utility does not address why it failed to respond to inquiries from Consumer Affairs, by failing to sign for the certified letter, and to the phone calls placed by our staff. The first response we received from the utility was its August 30, 1999, response to the Show Cause Order. We verified that the certified letter sent to WELLAQUA by Consumer Affairs was mailed to the same address as the Show Cause Order. The utility responded timely to the Show Cause

Order, but gave no explanation in its response for its failure to pick up the certified letter or respond the numerous phone messages left by Consumer Affairs and members of our staff.

Based upon the foregoing, we find that the utility violated Rule 25-30.355, Florida Administrative Code, by failing to respond to our inquiries.

Rule 25-30.520, Florida Administrative Code

Rule 25-30.520, Florida Administrative Code, provides: "It is the responsibility of the utility to provide service within its certificated territory in accordance with terms and conditions on file with the Commission."

Rule 25-30.520, Florida Administrative Code, which is located in the Service Availability portion of Rule 25-30, Florida Administrative Code, applies in a situation where we initiate show cause proceedings requiring a utility to change its service availability policy or a service availability charge, or when a utility applies for a change to its service availability charges. Those circumstances do not exist in this case. Additionally, this rule is intended to apply when a utility has undeveloped land in its certificate, and the utility is required under this provision to provide service at the request of a developer. In this case, water lines are already in place in front of Mr. Murrin's residence. Thus, Rule 25-30.520, Florida Administrative Code, is not applicable in this instance.

Moreover, in its response to the Show Cause Order, the utility indicates that service has been initiated to Mr. Murrin's residence. We verified that water service was connected just prior to the July 27, 1999, Agenda Conference, when our staff presented a recommendation to initiate show cause proceedings against WELLAQUA. Based upon the foregoing, we find that the utility has not violated Rule 25-30.520, Florida Administrative Code.

Conclusion

Based upon the information contained in the utility's response to the Show Cause Order, we find that the utility has violated Rules 25-30.320(4) (Refusal or Discontinuance of Service), and 25-30.355 (Complaints), Florida Administrative Code. However, there is insufficient information to find that the utility violated Rules 25-30.310 (Initiation of Service), 25-30.330 (Information to Customers), and 25-30.520 (Responsibility of Utility to Provide Service), Florida Administrative Code.

Section 367.161(1), Florida Statutes, states:

> If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than $5,000, to be fixed, imposed, and collected by the commission ... Each day that such refusal or violation continues constitutes a separate offense.

Although we find that the utility violated the foregoing provisions of Chapter 25-30, Florida Administrative Code, we decline to assess a fine for such violations. We use fines to increase compliance with our rules, orders and statutes. The primary objective for a show cause order is for the utility to achieve compliance. The main purpose of Order No. PSC-99-1609-SC-WU, the Show Cause Order, was to prompt the utility to provide service to Mr. Murrin. We verified that service has been initiated. Additionally, because Citrus County rescinded Commission jurisdiction as of July 27, 1999, we no longer have jurisdiction over WELLAQUA. Therefore, future compliance with our rules is no longer necessary. Moreover, the $7986 penalty assessed for violation of Rule 25-30.110, Florida Administrative Code, is sufficient punishment in these circumstances for non-compliance by this utility.

We note that the circumstances of this case are unique. Normally, utilities strive to initiate service for new customers in order to increase their revenues. In this case we had a potential customer attempting to receive service from the utility, without

success. When this customer came to us for assistance, the utility was completely nonresponsive from March until July, when the customer finally received service. In the future, situations such as these need to be addressed so that potential customers in similar situations have some recourse. We will not tolerate this sort of activity from regulated utilities in the future.

Docket Closure

If the utility remits the penalty of $7,986 assessed herein, within 30 days of the issuance date of this Order, and submits pages F-3 and V-1 of the annual reports for 1995 through 1998 for the purpose of certifying revenues, this docket shall be closed administratively upon verification that the correct amount of RAFs have been paid. The utility shall also file an annual report and pay RAFs for January 1, 1999 through July 27, 1999, the period of time that the utility was subject to our jurisdiction. If the utility fails to remit the penalty amount listed above, and fails to respond to our reasonable collection efforts, the outstanding penalty amount shall be referred to the Comptroller's office for further collection efforts and this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that WELLAQUA Co. has violated Rule 25-30.110, Florida Administrative Code, and shall remit a penalty of $7,986 within 30 days of the issuance date of this Order for such violation. It is further

ORDERED that WELLAQUA Co. shall file pages F-3 and V-1 of the annual reports for 1995 through 1998, within 30 days of the issuance date of this Order. It is further

ORDERED that in the event we determine that the regulatory assessment fees paid by WELLAQUA Co. for 1995 through 1998 were insufficient, the utility shall remit the balance due within 15 days of receipt of written notification of the outstanding balance. It is further

ORDERED that in the event we determine that WELLAQUA Co. overpaid regulatory assessment fees for 1995 through 1998, any overpaid amount will be refunded to the utility. It is further

ORDERED that on or before March 31, 2000, WELLAQUA Co. shall submit an annual report and pay regulatory assessment fees for January through July 27, 1999. It is further

ORDERED that WELLAQUA Co. has violated Rules 25-30.320(4) and 25-30.355, Florida Administrative Code; however, we decline to assess a fine for such violations. It is further

ORDERED that this docket shall be closed administratively upon staff's verification that the correct amount of regulatory assessment fees have been paid and the utility has submitted the penalty assessed. If the utility fails to remit the penalty amount assessed herein, and fails to respond to reasonable collection efforts, the outstanding penalty amount shall be referred to the Comptroller's Office for further collection efforts and this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 11th Day of January, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.