

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceeding against Kemple Water Company for violation of Rule 25-30.110, Florida Administrative Code.	DOCKET NO. 040087-WU ORDER NO. PSC-04-0331-FOF-WU ISSUED: March 30, 2004
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The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER DECLINING TO INITIATE SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Kemple Water Company (Kemple or utility) is a Class C water utility located in Pasco County. Kemple became subject to Commission jurisdiction and was granted a certificate of operation by Order No. 6901, on September 12, 1975. As of September 30, 2002, Kemple owed Regulatory Assessment Fees (RAFs), along with associated penalties and interest, for 1996 through 2001. Since then, the utility has paid its delinquent RAFs and paid off the related penalties and interest.

Until 1997, Kemple timely filed its annual reports. The 1997 through 2000 annual reports were filed late on April 5, 2002. For 2002, Kemple filed its annual report on time. We will address below whether Kemple should be assessed penalties for filing its annual reports late. We have jurisdiction pursuant to Section 367.161, Florida Statutes.

Rule 25-30.110(3), Florida Administrative Code, requires utilities subject to Commission jurisdiction as of December 31 of each year to file an annual report on or before March 31 of the following year. Annual reports are considered filed on the day they are postmarked or received by the Commission. According to our records, this utility failed to file an annual report for the years 1997-2001 in a timely manner. Kemple was responsible for filing those annual reports in a timely manner, and because it failed to do so, is in apparent violation of Rule 25-30.110(3), Florida Administrative Code.

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, based on the number of calendar days elapsed from March 31, or

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from an approved extended filing date. Using this \$3 figure and multiplying by the number of days from the time the annual reports were due through the time the annual reports were filed, the total penalty for the delinquent 1997-2001 annual reports is set out below.

YEAR	CALCULATION	AMOUNT
1997	1,434 x \$3/day	\$4,302
1998	1,069 x \$3/day	\$3,207
1999	703 x \$3/day	\$2,109
2000	338 x \$3/day	\$1,014
2001	246 x \$3/day	\$738
	<b>TOTAL DUE</b>	<b>\$11,370</b>

Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, the Commission may, in its discretion, impose greater or lesser penalties for such noncompliance.

We find that the circumstances in this case are such that show cause proceedings shall not be initiated. The utility's annual reports for the years 1997-2001 have now all been filed. Kemple filed its 2002 annual report on time and we believe that the utility will continue to file its annual reports in a timely manner. Furthermore, Kemple has been cooperative with our staff and paid off its delinquent RAFs for 1996 through 2001, and related penalties and interest.

Accordingly, show cause proceedings shall not be initiated against Kemple for its apparent violation of the aforementioned statutes and Commission rules. We exercise our discretion as stated in Rule 25-30.110(6)(c), Florida Administrative Code, by not assessing the penalties set forth in Rule 25-30.110(7), Florida Administrative Code, for delinquent annual reports, for the reasons stated above.

Based on the foregoing, it is

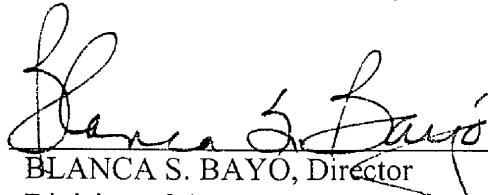
ORDERED by the Florida Public Service Commission that show cause proceedings shall not be initiated against Kemple Water Company for violation of Rule 25-30.110, Florida Administrative Code. It is further

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ORDERED that the penalties set against Kemple Water Company, pursuant to Rule 25-30.110(7), Florida Administrative Code, for delinquent annual reports, shall not be assessed. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 30th day of March, 2004.

  
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BLANCA S. BAYO, Director  
Division of the Commission Clerk  
and Administrative Services

( 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard,

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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 the Commission Clerk and Administrative Services 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.