

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against S & L Utilities, Inc. for violation of Rule 25-30.110, F.A.C. || DOCKET NO. 050100-SU
ORDER NO. PSC-05-0430-FOF-SU
ISSUED: April 20, 2005

The following Commissioners participated in the disposition of this matter:

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

ORDER DECLINING TO INITIATE SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

S & L Utilities, Inc. (S & L or utility) is a Class C wastewater utility located in Marion County. S & L became subject to Commission jurisdiction and was granted a certificate of operation by Order No. 11662, on March 3, 1983. S & L had routinely filed its annual reports in a timely manner until 2003, with the exception of the 1998 annual report being filed 6 days late. The 2003 annual report was filed on September 21, 2004. The penalty owed for late filing of the annual report on September 21, 2004, is \$522.00.

We will address below whether S & L Utilities, Inc. should be assessed a penalty for filing its annual report 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 year 2003 in a timely manner. S & L was responsible for filing the annual report 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 from an approved extended filing date. Using this \$3 figure and multiplying by the number of days from the time the annual report was due through the time the annual report was filed on September 21, 2004, the penalty for the delinquent 2003 annual report is set out below.

DOCUMENT NUMBER - DATE

03836 APR 20 05

FPSC-COMMISSION CLERK

YEAR	CALCULATION	AMOUNT
2003	174 x \$3/day	\$522.00
	TOTAL DUE	\$522.00

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

We find that the circumstances in this case are such that show cause proceedings shall not be initiated. The 2003 annual report was delinquent due to the deaths of both the utility's bookkeeper and the subsequent death of the utility's owner, Mr. Charles Fletcher. The surviving spouse, Mrs. Teresa Fletcher, is retaining ownership of the utility, but is ill. By letter dated August 23, 2004, our staff learned that a family friend, Mr. Douglas Loudon, volunteered to assist Mrs. Fletcher in completing and filing the delinquent 2003 annual report. By letter dated September 20, 2004, Mr. Loudon requested that the Commission not impose the penalties for late filing the 2003 annual report.

Accordingly, show cause proceedings shall not be initiated against S&L 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. The utility is put on notice that it must file annual reports in a timely manner.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that that show cause proceedings shall not be initiated against S & L Utilities, Inc. for violation of Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that the penalties set against S & L Utilities, Inc., 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 20th day of April, 2005.

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

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 the Commission Clerk and Administrative Services, 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 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.