

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 871308-WU
proceedings against, and investigation)
into possible overearnings by, SEBRING) ORDER NO. 20781
COUNTRY ESTATES WATER COMPANY in)
Highlands County) ISSUED: 2-20-89
)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
JOHN T. HERNDON

ORDER REJECTING SETTLEMENT OFFER
AND REVOKING CERTIFICATE NO. 420-W

BY THE COMMISSION:

By Order No. 18592, issued December 23, 1987, this Commission required Sebring Country Estates Water Company (SCE) to show cause why it should not be fined up to \$5,000 per day for numerous alleged violations of Chapter 367, Florida Statutes. On January 12, 1988, SCE filed a written response to that Order, which raised questions of fact and requested that the Commission either dismiss the show cause proceedings or grant SCE a formal hearing pursuant to Section 120.57, Florida Statutes. A formal hearing was held regarding the alleged violations on July 15, 1988, in Highlands County, Florida.

By Order No. 20137, issued October 10, 1988, the Commission found SCE culpable of three violations of Section 367.111(2), Florida Statutes, one violation of Section 367.171, Florida Statutes, and ordered SCE to pay a total penalty of \$103,000. In addition, SCE was ordered to submit a description of the territory actually served by it as of July 15, 1988, in metes and bounds, and to show cause in writing why the Commission should not revoke Certificate No. 420-W.

On October 25, 1988, SCE timely filed a Motion For Reconsideration of that Order along with a Request For Oral Argument. Its motion for reconsideration did not address the show cause provisions of Order No. 20137. The motion has been held in abeyance pending the outcome of SCE's settlement offer.

On December 22, 1988, SCE filed an offer of settlement. SCE's offer requests that we reduce the fine from \$103,000 to \$3,000 and states that, if the fine were reduced as requested, it would submit a territorial description of its service territory within thirty days of our approval of its offer and have a ground pressure tank installed and operating within sixty days of our approval of its offer. SCE's offer fails to address the show cause provisions of Order No. 20137.

SCE's offer also lists certain "facts" which it believes justify our approval of its settlement offer. First, SCE argues that it has complied in good faith with all Circuit Court orders except for the installation of a ground pressure tank. Second, SCE argues that, due to continued interference by the Sebring Utilities Commission (SUC) in both this and a related transfer case, which is being processed under Docket No. 880459-WU, a proposed sale of SCE to Heartland Utilities,

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Inc. is, at best, in jeopardy. SCE states that SUC's continued interference in SCE's affairs is solely an attempt to gain control of SCE. Third, SCE argues that we should disregard the proposed transfer in our consideration of its settlement offer because SCE, alone, is responsible for all of the necessary system improvements. SCE then lists a number of past and future expenses for which it is liable and argues that, if we reduce the fine as requested, SCE will be able to borrow funds sufficient to make the necessary improvements. Finally, SCE suggests that, if we reject its offer, we will force it into bankruptcy and allow SUC to take over the system.

We decline to accept SCE's offer. We believe that SCE is the sole cause of all of its difficulties. Additionally, based upon our findings at the formal hearing, we believe that SCE has, essentially, run the utility system "into the ground". Further, considering SCE's history in dealing with regulatory agencies, we do not believe that there is any indication that SCE will actually make the DER-required improvements to its system and run it properly on a prospective basis.

Finally, by Order No. 20137, we stated that, "in light of the unsatisfactory quality of service provided by this utility, it may be in the public interest to revoke SCE's certificate." We, therefore, ordered SCE to show cause, in writing, why its certificate should not be revoked. SCE's failure to show cause, by the express terms of that Order, constitutes an admission of the facts as recited therein and a waiver of any further right to be heard on the matter. We hereby find that it is in the public interest to revoke Certificate No. 420-W. SCE shall, therefore, return Certificate No. 420-W to this Commission within twenty days of the date of this Order.

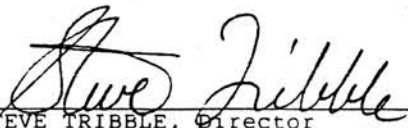
It is, therefore,

ORDERED by the Florida Public Service Commission that Sebring Country Estates Water Company's Offer of Settlement is hereby rejected. It is further

ORDERED that Sebring Country Estates Water Company's certificate is, hereby, revoked. It is further

ORDERED that Sebring Country Estates Water Company shall return Certificate No. 420-W to this Commission within twenty (20) days of the date of this Order.

By ORDER of the Florida Public Service Commission,
this 20th day of FEBRUARY, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.