

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings)	DOCKET NO. 890684-SU
against FIRST COAST UTILITIES in)	ORDER NO. 21402
Duval County for failure to comply)	ISSUED: 6-19-89
with 1987 Annual Report requirements)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER TO SHOW CAUSE

BY THE COMMISSION:

First Coast Utilities, ("First Coast"), a Class C utility, has not timely filed a complete 1987 annual report as required by Rule 25-30.110, Florida Administrative Code. Rule 25-30.110 requires utilities subject to the Commission's jurisdiction as of December 31st each year to file an annual report on or before March 31st 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 timely file a 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 \$3.00 per day. The penalty calculation is based on the number of days elapsed since 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, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, impose lesser or greater penalties.

First Coast operated a utility system subject to this Commission's jurisdiction as of December 31, 1987. First Coast requested an extension to file its 1987 annual report for the period through July 30, 1988. However, because of First Coast's history of extensions until July 30 of each year, and because the reports with the extended deadlines were filed late, the extension was granted through May 30, 1988 only. When the report had not been received after the extension date, two warning letters were sent and received by certified mail, posted on June 9, 1988 and July 20, 1988. The June 9, 1988 letter directed a response by June 24, 1988, and the July 20, 1988 letter directed a response by August 10, 1988. First Coast has not responded to the letters or filed the 1987 annual report. The value of that report to this Commission is approximately \$2,500.

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In addition, First Coast has delinquent regulatory fees of \$3,130.00. Collection of delinquent regulatory fees has been referred to the Comptroller for further disposition in that further collection efforts by this Commission would not be cost effective.

Based on the foregoing, it appears that First Coast has failed to comply with the 1987 annual report requirements and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we find it appropriate to order First Coast to show cause why it should not be fined \$3 per day for each day that its 1987 annual report is delinquent, up to a total of \$2,500. In the event that First Coast fails to file a timely response to this show cause order, we authorize Staff to assess the fine pursuant to the above-cited rule. If First Coast fails to respond to reasonable collection efforts by this Commission, we deem the fine 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 by this Commission would not be cost effective. Two certified letters requesting payment shall constitute reasonable collection efforts.

Wherefore, in consideration of the foregoing, it is:

ORDERED by the Florida Public Service Commission that First Coast Utilities shall show cause, in writing, why it should not be fined at least \$3 per day for each day that its 1987 annual report is delinquent, to a total of \$2,500. It is further

ORDERED that First Coast Utilities' 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 July 10, 1989. It is further

ORDERED that First Coast Utilities' response must contain specific allegations of fact and law. It is further

ORDERED that First Coast Utilities 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), F.A.C. 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 First Coast Utilities files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, F.S., further proceedings may be scheduled before a final determination on these matters is made. It is further

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ORDERED that in the event First Coast Utilities fails to file a timely response to this show cause order, Staff is authorized to assess the fine pursuant to Rule 25-30.110, Florida Administrative Code.

ORDERED that if a fine is assessed and First Coast Utilities does not remit payment after reasonable collection efforts, we deem the fine to be uncollectible and authorize referral to the Comptroller's Office for further disposition.

By ORDER of the Florida Public Service Commission,
this 19th day of JUNE, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

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