

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause)	DOCKET NO. 890867-WU
Proceedings against UTILITY SYSTEMS,)	
INC. in Marion and Citrus Counties for)	ORDER NO. 21796
late filing of 1987 Annual Report)	ISSUED: 8-28-89

The following Commissioners have participated in the disposition of this matter:

- MICHAEL McK. WILSON, CHAIRMAN
- THOMAS M. BEARD
- GERALD L. GUNTER
- JOHN T. HERNDON

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Pursuant to Rule 25-30.110(3), Florida Administrative Code, each utility subject to this Commission's jurisdiction as of December 31 of any year is required to file an annual report with the Commission for that year. The annual report is due on or before March 31 of the following year on forms prescribed by the Commission. Pursuant to Rule 25-30.110(3)(c), Florida Administrative Code, "[a] utility may file a written request for an extension of time with the Division of Water and Sewer no later than March 31. One extension of 30 days will be automatically granted upon request. A request for a longer extension must be accompanied by a statement of good cause and shall specify the date by which the report will be filed."

Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, any utility that fails to file its annual report or to request an extension on or before March 31 shall be subject to the penalties, "unless the utility demonstrates good cause for the noncompliance." Under Rule 25-30.110(3)(a), Florida Administrative Code, a utility's failure to receive a report form from the Commission does not constitute good cause for noncompliance. Also, incomplete or incorrect reports are considered delinquent, with a 30 day grace period in which to supply the missing information.

According 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

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cause for noncompliance. The penalty set out for Class C utilities in Rule 25-30.110(7), Florida Administrative Code, 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 when computing the number of days elapsed. Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, the Commission may impose lesser or greater penalties.

Utility Systems, Inc. (utility) failed to file annual reports, or to request an extension therefor, on or before March 31, 1988. The utility was, at all times material hereto, a Class C utility. On May 19, 1988, the Staff of this Commission (Staff) sent two letters, by certified mail, warning the utility that both its Citrus and Marion County 1987 annual reports were overdue. The letters went unanswered.

On June 8, 1988, the utility filed a 1987 annual report for Citrus County; however, it was not complete. The utility did not file a report for Marion County.

On July 19, 1988, Staff sent the utility a second warning letter, by certified mail, regarding its Marion County system. The utility responded to the July 19, 1988, letter by stating that the Marion County facility had been taken over by Barnett Bank "some time ago" and that an operator in Marion County had purchased the facility from the bank.

On September 13, 1988, Staff sent another letter by certified mail to notify the utility that its 1987 annual report for Citrus County was incomplete. Staff requested that the utility file a complete annual report on or before September 30, 1988. The September 13, 1988 letter was returned unclaimed.

As of August 15, 1989, the utility's 1987 annual reports were 502 days late and the appropriate penalty, computed according to Rule 25-30.110(7), Florida Administrative Code, is \$1506. The Commission has determined the maximum value of annual reports to be approximately \$2500.

Based upon the discussion above, we find it appropriate to require the utility to show cause, in writing, why it should not be fined at least \$3.00 per day for each day that its

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report has been delinquent, up to a total of \$2,500. In the event that the utility fails to file a timely response to this Order, a fine will be automatically assessed by a subsequent order. Further, should the utility fail to respond to reasonable collection efforts by Staff, we believe it appropriate to refer the fine to the Comptroller's Office for further collection efforts. Two certified letters requesting payment shall constitute reasonable collection efforts.

It is, therefore,

ORDERED by the Florida Public Service Commission that Utility Systems, Inc. shall show cause, in writing, why it should not be fined \$3 per day for each day that its 1987 annual report is delinquent, up to \$2,500. It is further

ORDERED that Utility Systems, Inc.'s 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 September 18, 1989. It is further

ORDERED that Utility Systems, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Utility Systems, Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to a final determination of noncompliance or assessment of penalty, as required under Rule 25-30.110(6)(c), Florida Administrative Code. It is further

ORDERED that a failure to file a timely written response to this 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

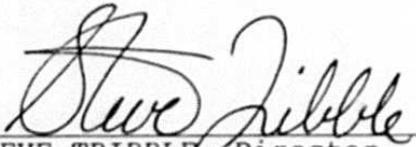
ORDERED that, if Utility Systems, Inc. fails to file a timely written response to this Order, the penalty will be automatically assessed in a subsequent order. It is further

ORDERED that, if a fine is assessed pursuant to the provisions of this Order, and should Utility Systems, Inc. fail to respond to reasonable collection efforts, this matter will be turned over to the Comptroller's Office for further collection efforts and this docket will be closed. It is further

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ORDERED that, in the event that Utility Systems, Inc. files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made.

By ORDER of the Florida Public Service Commission
this 28th day of AUGUST, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP