

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 900909-WS
proceedings against Terra Mar)	
Village (River Park) in Volusia)	ORDER NO. 24658
County for failure to file 1988)	
annual report in compliance with)	ISSUED: 6/11/91
Rule 25-30.110, F.A.C.)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL McK. WILSON

ORDER FINDING LACK OF
 COMPLIANCE WITH PRIOR COMMISSION ORDER

BY THE COMMISSION:

Terra Mar Village (Terra Mar or utility) is a class "C" utility located in Volusia County. By Order No. 23849, issued December 10, 1990, this Commission ordered Terra Mar to show cause why it should not be fined for failing to file for 1988 an Annual Report as required by Rule 25-30.110, Florida Administrative Code. Terra Mar filed a timely response to the Show Cause Order on December 31, 1990. Attached to the response was the 1988 Annual Report. In its response, the utility did not request a hearing.

By Order No. 24243, issued March 18, 1991, this Commission fined Terra Mar \$3 a day for each day that the report was late, as prescribed by the above-quoted rule, for a total of \$1,920. However, we suspended \$1,280, or two-thirds of the fine, provided Terra Mar submitted a its 1990 Annual Report and paid the applicable portion of the fine, \$640, on or before the date the 1990 report was due, March 31, 1991. If Terra Mar did not meet both of these conditions, we ordered that the portion of the fine which was suspended was reinstated.

While Terra Mar did submit its 1990 annual report on time; it did not pay the unsuspended portion of the fine when it was due. It submitted the check some eighteen days late. The check came with a letter in which the utility asks that the Commission find the utility in substantial compliance with Order No. 23849. The

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utility explains that it thought it would receive a bill for the fine and that the check, once written, was delayed in the mail.

We have considered Terra Mar's request, but we will not grant it. Terra Mar has exhausted the patience and generosity of this Commission. It asked for leniency to have the fine reduced and then did not make timely payment once its request was granted. The excuses the utility sets forth in its letter evoke little sympathy considering the lenient treatment the utility has received thus far. Accordingly, we find that the utility is not in substantial compliance with the conditions set forth in Order No. 23849 and that, pursuant to that Order, the unpaid portion of the fine, \$1,280, is immediately due and payable.

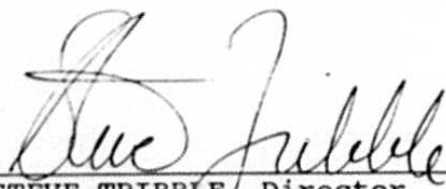
The docket should remain pending our collection efforts as set forth in Order No. 23849, after which time, the docket should be closed administratively.

It is, therefore,

ORDERED by the Florida Public Service Commission that the request by Terra Mar Village that it be found in substantial compliance with Order No. 23849 is denied and that, pursuant to Order No. 23849, Terra Mar Village must pay the \$1,280 portion of the fine assessed. It is further

ORDERED that the docket shall remain open pending the collection efforts set forth in Order No. 23849.

By ORDER of the Florida Public Service Commission this 11th
day of JUNE, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.