

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920778-WS
cause proceedings against) ORDER NO. PSC-92-1043-FOF-WS
SATEKE UTILITIES, INC. in) ISSUED: 09/23/92
Marion County for failure to)
remit penalty fees for filing)
delinquent 1988 and 1990 annual)
reports)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Sateke Utilities, Inc. (Sateke or utility), is a Class C utility, serving 29 water and wastewater customers in Marion County. Based on information in the 1991 annual report, the utility reported water system operating revenues of \$2,745 and operating expenses of \$2,874, resulting in a net operating loss of \$129. The utility reported wastewater system operating revenues of \$2,135 and operating expenses of \$2,258, resulting in a net operating loss of \$123.

Sateke filed delinquent 1988 and 1990 annual reports, in violation of Rule 25-30.110, Florida Administrative Code. Rule 25-30.110, Florida Administrative Code, 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 31st. 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)(a), 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

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Administrative Code for Class C utilities is \$3 per day. The penalty calculation is based on the number of days elapsed since March 31st, 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 impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

Sateke, filed delinquent 1988 and 1990 annual reports. Regarding the 1988 report, on January 24, 1990, we notified Mr. Edgar S. Roberts, representative of the utility, by certified letter, that the utility was in violation of Rule 25-30.110, Florida Administrative Code, and that penalties for the failure to timely file the 1988 annual report were accruing. The letter informed the utility that show cause proceedings would be initiated if the annual report was not filed by February 24, 1990. The 1988 annual report was received on February 22, 1990.

On September 23, 1991, we sent a certified letter to Mr. Roberts indicating that the utility had been assessed a penalty of \$984 (328 days delinquency at \$3 per day). The letter stated that payment of \$984 was due on or before October 24, 1991, and warned that failure to remit such payment could result in additional assessments being levied. Sateke has failed to respond to the request for payment of the penalty for the untimely filing of its 1988 annual report.

Regarding Sateke's 1990 annual report, a certified letter was sent to Mr. Roberts on May 20, 1991, indicating that the 1990 annual report had not been filed and that penalties were accruing. On June 14, 1991, the 1990 annual report was received. On February 4, 1992, a certified letter was sent to Mr. Roberts indicating that a penalty of \$225 was owed due to the untimely filing of the 1990 annual report (75 days delinquency at \$3 per day). We stated that payment of \$225 was due on or before March 5, 1992, in order to avoid the potential of additional fines being levied against the utility. Sateke has failed to respond to the request for payment of the penalty for the untimely filing of the 1990 annual report.

The utility has not yet filed its annual report for 1989. At our August 18, 1992, Agenda Conference, we decided to order Sateke to show cause why it should not be fined \$2,500 for failure to file its 1989 annual report.

In consideration of the foregoing, it appears that Sateke Utilities, Inc. has failed to comply with the 1988 and 1990 annual report requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Sateke to show cause, in writing, within twenty days, why it should not be fined \$984 and \$225 for its failure to comply with the 1988 and 1990 annual report requirements, respectively.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalties of \$984 and \$225, for 1988 and 1990, respectively, shall be imposed without further action by this Commission. The failure of the utility to file a timely response to the show cause order shall constitute both an admission of the facts alleged and a waiver of any right to a hearing.

If Sateke fails to respond to reasonable collection efforts by this Commission, we deem the fines to be collectible 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. Reasonable collection efforts shall consist of two certified letters requesting payment.

If however, the utility responds to the show cause by remitting the \$984 and \$225 penalties, no further action is required, and this docket shall be closed administratively.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Sateke Utilities, Inc., in Marion County, shall show cause, in writing, within twenty days, why it should not be fined \$984 and \$225 for failure to file its 1988 and 1990 annual reports, respectively, as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Sateke Utilities, 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 October 13, 1992. It is further

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

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ORDERED that Sateke Utilities, Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalties by this Commission, as required under Rule 25-30.110(6)(c), Florida Administrative Code. 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 if Sateke Utilities, Inc. files a written response that raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that if Sateke Utilities, Inc. fails to file a timely response to this show cause order, the fines of \$984 and \$225 shall be imposed, pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fines shall be forwarded to the Comptroller's Office and this docket shall be closed. It is further

ORDERED that if the utility responds to the show cause by remitting the penalties, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 23rd day of September, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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