

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920692-WS
cause proceedings against) ORDER NO. PSC-92-1122-FOF-WS
HIDEAWAY SERVICE, INC. in Levy) ISSUED: 10/06/92
County for failure to remit)
penalty fee for filing)
delinquent 1988 and 1990)
annual reports)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER CANCELLING FINE AND
DISMISSING SHOW CAUSE PROCEEDING
AND CLOSING DOCKET

BY THE COMMISSION:

Hideaway Service, Inc. (Hideaway or utility) is a Class C water and wastewater utility, serving 107 customers in Levy County. Hideaway did not timely file its 1988 and 1990 annual reports, as required by 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 a 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)(c), 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 Administrative Code, for Class C utilities is \$3.00 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

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the number of days elapsed. This Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

Regarding the 1988 annual report, the report was due March 31, 1989, but it was not received until May 30, 1989. On December 7, 1989, we sent a certified letter to Mrs. Margaret W. McKechnie, a former representative of the utility, which indicated a penalty of \$180 would be due for a delinquency of 60 days at \$3 per day. In the letter, we requested that the \$180 be paid on or before December 22, 1989.

Regarding the 1990 annual report, a letter was received on March 28, 1991, from Mr. Bill McKechnie, a former representative of the utility, which requested a 30-day extension for filing its 1990 annual report. On March 29, 1991, we sent a letter to Mr. McKechnie approving the requested 30-day extension, and indicating that the 1990 annual report would be due on or before April 30, 1991, unless a further extension was granted. The 1990 annual report was received on July 18, 1991.

On February 4, 1992, a certified letter was sent to Mrs. McKechnie which indicated a fine of \$237 would be due for a delinquency of 79 days at \$3 per day. In the letter, we requested that payment of \$237 was due on or before March 5, 1992. Hideaway has failed to remit either payment to date.

In response to our letter of February 4, 1992, Mrs. McKechnie, by letter dated February 11, 1992, requested that the penalty be waived due to financial hardship and stated that her husband's sudden death in April, 1987, left her unprepared to run the utility and she was unaware of the annual report requirements. Further, she stated in the letter that the utility had been foreclosed upon.

On December 13, 1990, we learned that Florida Investors Mortgage Corporation (FIMC) had foreclosed on Hideaway Service, Inc. Subsequently, in Order No. 25584, issued January 8, 1992, we approved the transfer of Certificates Nos. 426-W and 362-S from Hideaway Service Inc. to FIMC. Even though Mrs. McKechnie no longer owns Hideaway Service Inc., it was her responsibility to timely file the 1988 and 1990 annual reports. Specifically, Rule 25-30.110(3), Florida Administrative Code provides as follows:

The obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year,

whether or not the utility has actually applied for or been issued a certificate.

Prior to our September 15, 1992, Agenda Conference, we received another letter from Mrs. McKechnie, in which she again requested that the penalties for untimely filing the 1988 and 1990 annual reports be waived due to financial hardship.

In her letter, Mrs. McKechnie, who is 76-years-old, states that her only income is a modest amount she receives from social security each month. Mrs. McKechnie also stated she has been in poor health.

We believe that Mrs. McKechnie has shown adequate cause why she should not be fined for not timely filing the 1988 and 1990 annual reports. Therefore, we find it appropriate to cancel the fines.

Based upon the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Hideaway Service Inc.'s penalties of \$180 and \$237 for filing delinquent 1988 and 1990 annual reports are hereby canceled. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 6th day of October, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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

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