

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920694-SU
cause proceedings against) ORDER NO. PSC-92-1135-FOF-SU
BONITA CENTER TREATMENT PLANT,) ISSUED: 10/06/92
INC. in Lee County for failure)
to remit penalty fee for)
filing delinquent 1990 annual)
report)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Bonita Center Treatment Plant (Bonita Center or utility) is a Class C utility, serving 66 customers in Lee County. Bonita Center has not timely filed its 1990 annual report, 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)(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 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. This Commission may impose lesser or

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greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

The 1990 annual report was received on April 30, 1991, along with a letter from Ms. Debra S. Taaffe, a utility representative. In her letter, Ms. Taaffe requested that any penalties for late filing be waived due to the fact that the utility had relied on assurances from their accountant that the accountant had filed for a 30-day extension for filing the annual report, when the accountant in fact had failed to do so. Ms. Taaffe further states in the letter that when the utility realized that the accountant had failed to file the necessary data for the annual report, the utility compiled the information and filed it.

On February 11, 1992, we mailed a certified letter to Mr. Bruce Kravitz, which indicated a penalty of \$90 would be due for a delinquency of 30 days at \$3 per day. In the letter, we requested that the \$90 fine be paid on or before March 12, 1992. Bonita Center has failed to respond to our request for payment to date.

We find it appropriate to order the utility to show cause why it should not be penalized for not timely filing its annual report. Bonita Center cannot avoid responsibility for failing to timely file its annual report by blaming its accountant. The responsibility for filing the annual report ultimately rests with the utility.

Therefore, in consideration of the foregoing, it appears that Bonita Center has failed to comply with the 1990 annual report filing requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Bonita Center to show cause, in writing, within 20 days, why it should not be fined \$90 for its failure to timely submit the 1990 annual report filing requirements.

If the utility fails to respond in writing within 20 days of the issuance of this Order, the penalty of \$90 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to this show cause order shall constitute both an admission of the facts alleged and a waiver of any right to a hearing.

If Bonita Center fails to respond to reasonable collection efforts by this Commission, we deem the fine to be uncollectible

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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 \$90 penalty, 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 Bonita Center Treatment Plant, Inc., in Lee County, shall show cause, in writing, within twenty days, why it should not be fined \$90 for failure to file its 1990 annual report as required in Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Bonita Center Treatment Plant, 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 26, 1992. It is further

ORDERED that Bonita Center Treatment Plant, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Bonita Center Treatment Plant, Inc.'s 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), 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 in the event that Bonita Center Treatment Plant, Inc. files a written response, which 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

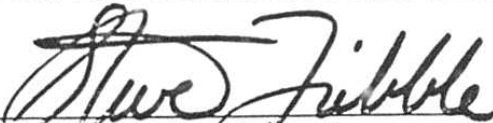
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ORDERED that if Bonita Center Treatment Plant, Inc. fails to file a timely response to this show cause order, the fine of \$90 shall be imposed, pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fine 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 penalty, this docket shall be closed administratively.

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



STEVE TRIBBLE, Director
Division of Records and Reporting

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