

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a staff-) DOCKET NO. 940973-WU
assisted rate case in Alachua)
County by LANDIS ENTERPRISES,)
INC.)

In Re: Application for a staff-) DOCKET NO. 940974-WU
assisted rate case in Putnam) ORDER NO. PSC-94-1464-FOF-WU
County by LANDIS ENTERPRISES,) ISSUED: November 29, 1994
INC.)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER ESTABLISHING PAYMENT SCHEDULE FOR
APPLICATION FILING FEES AND
DELINQUENT REGULATORY ASSESSMENT FEES,
INCLUDING PENALTIES AND INTEREST

BY THE COMMISSION:

On September 14, 1994, Water Spectrum, Inc. (WSI) filed staff assisted rate cases for Landis Enterprises, Inc. (Lake Alto Water System) in Docket No. 940973-WU (Lake Alto or utility), and Landis Enterprises, Inc. (Port Buena Vista Water System) in Docket No. 940974-WU (PBV or utility). WSI and Landis Enterprises, Inc. are affiliated through a common owner and president, Hank Landis.

Lake Alto is a Class C water utility operating in Alachua County. Mr. Landis became the appointed receiver of Lake Alto on June 30, 1992, and subsequently purchased the system on March 8, 1993. The Commission granted Lake Alto a certificate by Order No. PSC-93-1550-FOF-WU, issued October 21, 1993. Lake Alto reported revenues of \$10,749 and an operating loss of \$24,126 in its 1993 annual report.

PBV is a Class C water utility operating in Putnam County. Mr. Landis became the appointed receiver of PBV in 1993 and subsequently purchased the system on June 3, 1993. The Commission granted PBV a certificate by Order No. PSC-94-0804-FOF-WU, issued

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FPSC-RECORDS/REPORTING

June 29, 1994. PBV reported revenues of \$14,299 and an operating loss of \$16,816 in its 1993 annual report.

On September 16, 1994, we received WSI's request for a payment plan for the staff assisted rate case application filing fees and delinquent regulatory assessment fees. WSI also requested a waiver of all penalties and interest associated with the delinquent payment of the regulatory assessment fees. Specifically, WSI requested a twelve month period within which to pay the delinquent regulatory assessment fees. In support of its request, WSI emphasized the poor condition of Lake Alto and PBV, which required a substantial amount of WSI's capital resources and resulted in depletion of these resources. WSI has made efforts and expenditures that demonstrate its good faith in attempting to turn around these troubled systems. Without an authorized payment schedule for application fees and regulatory assessment fees, Lake Alto and PBV would likely be abandoned, resulting in further deterioration of utility plant and quality of service.

We find that WSI's request for a payment plan for the staff assisted rate case application filing fees, which amount to \$200 for each utility, is appropriate, notwithstanding the provisions of Rule 25-30.455(9), Florida Administrative Code. We find that a payment schedule of eight (8) monthly installments of \$25 for each utility is appropriate. The first payment shall be due on December 8, 1994. The following seven (7) payments shall be due on the first working day of each month. Final rates shall not be implemented until the entire filing fee for each utility is paid. If WSI fails to make a monthly payment by the first working day of the month, the docket for the utility failing to make payment shall be closed.

We find that WSI's request to pay delinquent regulatory assessment fees within a twelve month period from the date of request should be denied. However, a payment plan with a different time span is appropriate, notwithstanding the provisions of Rule 25-30.120, Florida Administrative Code. We find that the twelve month period for paying delinquent regulatory assessment fees should begin from the date the regulatory assessment fees were due, which was March 31, 1994, and not from the date of the request. Therefore, Lake Alto and PBV shall have all delinquent regulatory assessment fees paid by March 31, 1995. The delinquent 1993 regulatory assessment fees for Lake Alto amount to \$643.32 with penalty and interest. The delinquent 1992 and 1993 regulatory assessment fees for PBV amount to \$1,788.88 with penalty and interest. The total of delinquent regulatory assessment fees for both utilities is \$2,432.20. Therefore, we find that a payment schedule of four (4) monthly payments of \$608.05 is appropriate.

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The first payment shall be due on December 8, 1994. The following payments shall be due on the first working day of each month. If WSI fails to make a monthly payment by the first working day of the month, the docket for the utility failing to make payment shall be closed.

We must deny WSI's request to waive all penalties and interest for delinquent payment of regulatory assessment fees. Pursuant to Sections 350.113(4) and (5), and Section 367.161, Florida Statutes, and Rule 25-30.120(5), Florida Administrative Code, we are required to collect interest, penalties and collection costs from a delinquent regulatory company. Neither the Florida Statutes nor the Commission Rules provide us with discretion to waive fees, penalties and interest. Since the penalties and interest due for delinquent payment of regulatory assessment fees cannot be waived, we find that WSI must pay the penalties and interest associated with all past due regulatory assessment fees.

It is, therefore,

ORDERED by the Florida Public Service Commission that Water Spectrum, Inc.'s request for implementation of a payment plan for staff assisted rate case application fees is granted. It is further

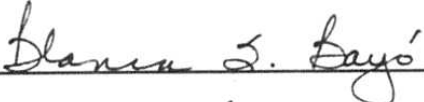
ORDERED that Landis Enterprises, Inc., shall pay the staff assisted rate case application filing fees in accordance with the payment schedule set forth in the body of this Order. It is further

ORDERED that Landis Enterprises, Inc., shall pay the delinquent regulatory assessment fees for Lake Alto Water System and Port Buena Vista Water System in accordance with the payment schedule set forth in the body of this Order. It is further

ORDERED that Water Spectrum, Inc. shall pay all penalties and interest for delinquent payment of regulatory assessment fees. It is further

ORDERED that these dockets shall remain open pending payment of the fees as set forth in the body of this Order. If Water Spectrum Inc. does not make a payment in accordance with the schedules set forth in the body of this Order, the docket for the utility failing to make payment shall be closed.

By ORDER of the Florida Public Service Commission, this
29th day of November, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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Commissioner Kiesling dissented without opinion on the issue
of the payment plan for staff assisted rate case application filing
fees.

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 and/or
wastewater 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.