

RAR



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

**DATE:** February 11, 1998  
**TO:** Evelyn H. Sewell, Chief of Fiscal Services, Division of Administration  
**FROM:** Division of Legal Services (Vaccaro) *OV*  
**RE:** Docket No. 930944-WS - Revocation by Florida Public Service Commission of Certificates Nos. 451-W and 382-S issued to SHADY OAKS MOBILE-MODULAR ESTATES, INC. in Pasco County, pursuant to Section 367.111(1), F.S.

On May 15, 1995, the Commission issued Order No. PSC-95-0603-FOF-WS, in which it ordered that the collection of regulatory assessment fees in the amount of \$13,126.87 and fines in the amount of \$62,572 from Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) be referred to the Comptroller's Office for further collection efforts.

By Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission imposed a \$2,000 fine originally set in Order No. 24084, that had been suspended by Order No. 25296. By Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, the Commission fined the utility in the amount of \$60,572 for failure to comply with Orders Nos. 24084 and 25296 regarding timely installation of water meters; to implement specific directives to improve quality of service; to file appropriate name change and restructuring documents; to meet preventative maintenance requirements; and to meet escrow requirements. In Order No. PSC-94-0976-FOF-WS, issued August 11, 1994, the Commission ordered Shady Oaks to remit delinquent regulatory assessment fees, plus penalties and interest in the total amount of \$13,126.87 for the years 1990, 1991, 1992, and 1993. Shady Oaks failed to make the payment of the fines or the fees, as ordered. Thereupon, Commission staff sent the utility a letter by certified mail on February 8, 1995, and a second letter by certified mail on March 15, 1995, requesting that the utility remit \$75,699, then the total amount of the outstanding fines and fees. The utility paid \$400 of its 1992 regulatory assessment fee. Beyond that, the utility responded in no way to these collection measures, which we determine have exhausted a reasonable collection effort. The following

is a breakdown of the utility's outstanding regulatory assessment fees, penalties and interest:

		<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
ACK _____					
AFA _____					
APP _____					
CAF _____					
CMU _____	Regulatory Assessment Fee	\$ 1,914.11	\$ 2,923.70	\$ 2,941.47	\$ 3,072.51
CTR _____					
EAG _____	Penalty and Interest	\$ 149.29	\$ 1,010.41	\$ 1,058.92	\$ 806.46
LEG _____	Payments	\$ (750.00)*	\$ (400.00)		
LIN _____					
OPC _____	Amounts Due	\$ 2,063.40	\$ 3,184.11	\$ 3,600.39	\$ 3,878.97
YLI _____					
EC _____	Total Amounts Due				<u>\$12,726.87</u>

\* payment prior to Order No. PSC-95-0603-FOF-WS

DOCUMENT NUMBER-DATE

02178 FEB 12 88

FPSC-RECORDS/REPORTING

Evelyn H. Sewell, Chief of Fiscal Services  
Division of Administration  
February 11, 1998  
Page 2

Hence, we submit this matter to your office for approval to forward the account to the Department of Banking and Finance, Comptroller's Office, for further collection efforts or permission to write-off the account. According to the records of the Secretary of State, Division of Corporations, Shady Oaks has been an inactive-status corporation since August 23, 1996.

The events leading to the Commission's referral order are outlined below for your convenience.

1. On January 10, 1990, Shady Oaks applied for a staff-assisted rate case. In Docket No. 900025-WS, on February 8, 1991, the Commission issued Proposed Agency Action Order No. 24084, approving a rate increase and requiring the utility to do the following:
  - a. file a request for acknowledgment of restructuring and name change;
  - b. improve the quality of service to a satisfactory level;
  - c. expend at least 85 percent of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance;
  - d. install meters for all of its customers; and
  - e. escrow a certain portion of the monthly rates.
  
2. The utility did not apply for a construction permit as required by a March 7, 1989, Department of Environmental Protection (DEP) Consent Final Judgment, under which the utility agreed to construct an additional effluent disposal system, to eliminate discharge from its plant, and to establish a new percolation pond. Therefore, on July 8, 1991, based on a stipulated settlement of a motion for contempt brought against the utility by DEP, the circuit court ordered the utility to interconnect its wastewater system with Pasco County, rather than construct new disposal facilities.
  
3. On November 4, 1991, the Commission issued Order No. 25296, which determined the utility's noncompliance with Order No. 24084. Order No. 25296 required the utility to:
  - a. submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name;
  - b. immediately place in the escrow account all funds necessary to bring said account to its proper balance;
  - c. install water meters for all of its customers; and

- d. improve the quality of service and interconnect with the Pasco County wastewater treatment system;
4. By Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission imposed a \$2,000 fine, which it had first imposed in Order No. 24084 for unsatisfactory quality of service but suspended, and ordered the utility to show cause why it should not be fined for each item of noncompliance found in Orders Nos. 24084 and 25296. At the utility's request, these matters were set for hearing.
  5. A hearing regarding the utility's noncompliance with Orders Nos. 24084 and 25296 was held on January 7, 1993 in Zephyrhills, Florida. The utility, although it requested the hearing, did not attend the hearing. By Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, the Commission:
    - a. fined the utility in the amount of its rate base, or \$60,572;
    - b. ordered that a proceeding be initiated to reduce the utility's rates by the amount of pro forma plant not constructed and the amount of preventative maintenance not spent; and
    - c. ordered that revocation proceedings be initiated.
  6. On September 23, 1993, the Commission, pursuant to Section 367.111(1), Florida Statutes, and in accordance with Order No. PSC-93-0542-FOF-WS, noticed its Intent to Initiate Revocation of Certificates Nos. 451-W and 382-S issued to Shady Oaks, Docket No. 930944-WS, to which Shady Oaks timely objected.
  7. By Order No. PSC-93-1396-FOF-WS, issued September 27, 1993, the Commission denied the utility's motion for reconsideration of Order No. PSC-93-0542-FOF-WS and ordered Shady Oaks to sell or transfer the utility within 120 days of the issuance date of the Order. The Commission also voted to suspend the fine if a completed application for a transfer was submitted. The utility failed to transfer or interconnect the system within the 120 days.
  8. On October 19, 1993, the utility filed a Notice of Administrative Appeal of Order No. PSC-93-0542-FOF-WS, ultimately alleging that the Commission exceeded its discretionary bounds in fining the utility an amount equal to its rate base, \$60,527.

9. By Order No. PSC-93-1733-FOF-WS, issued December 1, 1993, the Commission reduced Shady Oaks' rates to reflect removal of proforma plant not constructed and preventative maintenance not spent and required a refund.
10. On February 19, 1994, the circuit court ordered Shady Oaks to interconnect its wastewater treatment facility with Pasco county or sell the system within 120 days of the date of the Order, or June 18, 1994. On June 15, 1994, the court modified its order to require Shady Oaks to sell or convey its wastewater treatment facility free and clear of any encumbrances by July 18, 1994.
11. On June 10, 1994, Commission staff sent the utility a collection letter requesting payment of the \$60,572 fine and the earlier \$2,000 fine imposed by Order No. PSC-92-0367-FOF-WS.
12. On June 29, 1994, Shady Oaks filed with the Commission a Motion for Stay Pending Review. The utility requested a stay of the provision imposing the \$60,572 fine in Order No. PSC-93-0542-FOF-WS, until final disposition of its appeal.
13. On July 14, 1994, the utility filed a Chapter 11 bankruptcy petition.
14. On August 11, in Order No. PSC-94-0976-FOF-WS, the Commission revoked the utility's certificates, Certificates Nos. 451-W and 382-S, and once again ordered the facility to remit its delinquent regulatory assessment fees, \$13,126.87, and outstanding fines, \$62,572.
15. In Order No. PSC-94-1015-FOF-WS, issued August 23, 1994, the Commission denied the utility's motion for stay of the fine provision in Order No. PSC-93-0542-FOF-WS.
16. On September 1, 1994, the circuit court appointed Pasco county temporary receiver for Shady Oaks.
17. On January 4, 1995, the bankruptcy court dismissed the utility's Chapter 11 petition.
18. Commission staff sent the utility two collection letters by certified mail, requesting that the utility remit the total amount owed of \$75,699, the first on February 8, 1995, P 407 857 499, and the second on March 15, 1995, P 931 359

388. The utility responded to neither one. In Order No. PSC-95-0603-FOF-WS, issued May 15, 1995, the Commission, as already noted, ordered that the collection of the delinquent regulatory assessment fees in the amount of \$13,127 and the outstanding fines in the amount of \$62,572 be referred to the Comptroller's Office for further collection efforts.

19. On May 22, 1995, the First District Court of Appeal, in Case No. 93-3339, in an opinion written by Zehmer, J., and concurred in by Davis, J., and Wentworth, S.J., affirmed the Commission's order imposing the fine of \$60,527 on the utility.

Please find the following attached hereto:

- a. Order No. 24084
- b. Order No. 25296
- c. Order No. PSC-92-0367-FOF-WS
- d. Order No. PSC-93-0542-FOF-WS
- e. Order No. PSC-93-1396-FOF-WS
- f. Order No. PSC-93-1733-FOF-WS
- g. Certified Letter, June 10, 1994, Receipt No. P 407 857 479
- h. Order No. PSC-94-0976-FOF-WS
- i. Order No. PSC-94-1015-FOF-WS
- j. Order No. PSC-95-0603-FOF-WS
- k. Certified Letter, February 8, 1995, Receipt No. P 407 857 499
- l. Certified Letter, March 15, 1995, Receipt No. P 931 359 388
- m. *Shady Oaks Mobile Modular Estates, Inc. v. Florida Public Service Commission*, 654 So.2d 678, (Fla. 1st DCA, 1995)
- n. State of Florida Office of the Comptroller Bureau of Auditing Delinquent Accounts Receivable Transmittal

Shady Oaks' last known mailing address is:

Mr. Richard Sims  
Shady Oaks Mobile Modular Estates, Inc.  
1315 Eckles Drive  
Tampa, Florida 33612

TV/dr

cc: Division of Records and Reporting  
Division of Water and Wastewater (Bethea)

ORDER NO. 24083  
DOCKET NO. 900983-90  
PAGE 2

Under the above definition, to be a utility a wastewater facility must provide service for compensation. Here no customers are charged for service.

Upon consideration of the foregoing, we find that Gato Petroleum Company is not a utility as defined in Section 367.021(12), Florida Statutes, because it does not provide wastewater service to the public for compensation. We therefore find that this facility is not subject to the jurisdiction of this Commission. We further find that Gato Petroleum Company or its successor in interest should inform this Commission of any change in circumstances or method of operation within thirty days of such change so that we may review the matter to determine whether nonjurisdictional status is still appropriate.

It is therefore

**ORDERED** by the Florida Public Service Commission that, based on the facts as represented, Gato Petroleum Company's wastewater facility is not a utility within the definition of Section 367.021(12), Florida Statutes, and is therefore not subject to this Commission's jurisdiction. It is further

**ORDERED** that, should there be any change in circumstances or method of operation of this facility, Gato Petroleum Company or its successor in interest shall inform this Commission within thirty days of such change. It is further

**ORDERED** that this docket is closed.

By **ORDER** of the Florida Public Service Commission this 12th day of FEBRUARY, 1991.

  
STEVE TRINKLE, Director  
Division of Records and Reporting

( S R A L )

MJL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-	}	DOCKET NO. 900925-MS
assisted rate case in Pasco		ORDER NO. 24084
County by SHADY OAKS MOBILE-		ISSUED: 2-8-91
MODULAR ESTATES, INC.	}	

The following Commissioners participated in the disposition of this matter:

THOMAS N. BEARD, Chairman  
BETTY EASLEY  
GERALD L. GUNTER  
FRANK S. HESSERSMITH  
MICHAEL MC. WILSON

**FINAL ORDER GRANTING TEMPORARY RATES  
IN EVENT OF PROTEST**

AND

**NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING INCREASED RATES AND CHARGES, AND  
REQUIRING IMPROVEMENTS AND REPORTS**

BY THE COMMISSION:

**NOTICE IS HEREBY GIVEN** by the Florida Public Service Commission that the actions discussed herein, except the granting of increased rates on a temporary basis in the event of a protest, are preliminary in nature, and as such, will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 28-22.029, Florida Administrative Code.

**CASE BACKGROUND**

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 243 lot mobile-modular home park developed in 1971. Its service area is approximately 1-1/2 miles south of the City of Seffville.

On July 11, 1979, the provisions of Chapter 367, Florida Statutes, became applicable in Pasco County, Florida, whereby those utilities not qualifying for exemption from regulation became subject to the Commission's jurisdiction. Order No. 14540, issued on July 8, 1989, found Shady Oaks subject to the Commission's

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff- )  
assisted rate case in Pasco County )  
by SHADY OAKS MOBILE-MODULAR )  
ESTATES, INC. )

DOCKET NO. 900025-WS  
ORDER NO. 25296  
ISSUED: 11/04/91

The following Commissioners participated in the disposition of this matter:

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

ORDER DETERMINING NONCOMPLIANCE WITH  
PRIOR COMMISSION ORDER AND APPROVING  
TEMPORARY RATES IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION ORDER  
APPROVING CHANGE IN RATES AND RATE STRUCTURE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein regarding changing rates and rate structure is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. By resolution of the Pasco County Commission, the provisions of Chapter 367, Florida Statutes, became effective in Pasco County as of July 11, 1972. By Order No. 14540, issued July 8, 1985, this Commission found that Shady Oaks was subject to Commission jurisdiction.

DOCUMENT NUMBER-DATE

10955 NOV-4 1991

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-) DOCKET NO. 900025-WS  
assisted rate case in Pasco ) ORDER NO. PSC-92-0367-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: 05/14/92  
MODULAR ESTATES, INC. )  
\_\_\_\_\_ )

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

AND

FINAL ORDER IMPOSING FINE

BY THE COMMISSION:

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, this Commission issued proposed agency action (PAA) Order No. 24084, wherein we approved a rate increase for Shady Oaks. In that Order, we also required Shady Oaks to do the following: file a request for acknowledgement of a restructure and a name change, improve its unsatisfactory quality of service, expend 85% of the allowance for preventative maintenance on systems maintenance or provide written explanation for not doing so, provide a detailed record of what monthly maintenance will be implemented, install meters for all of its customers, and escrow a certain portion of the approved monthly rates to account for a fine and pro forma plant allowances. By Order No. 24409, issued April 22, 1991, we dismissed a timely protest to the PAA Order and revived Order No. 24084, making it final and effective.

After the new rates became effective, the homeowners in the Shady Oaks park filed suit against Shady Oaks in Circuit Court complaining of, among other things, the increased water and

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for staff- ) DOCKET NO. 900025-WS  
assisted rate case in Pasco ) ORDER NO. PSC-93-0542-FOF-WS  
County by Shady Oaks Mobile- ) ISSUED: 04/09/93  
Modular Estates, Inc. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
SUSAN F. CLARK  
JULIA L. JOHNSON

Pursuant to notice, an administrative hearing was held on January 7, 1993, in Zephyrhills, Florida, before Commissioner Thomas M. Beard, sitting as Hearing Officer.

APPEARANCES:

MATTHEW J. FEIL, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

RICHARD BELLAK, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

The Hearing Officer's Recommended Order was entered on February 11, 1993. No exceptions to the order were filed. After consideration of the evidence, we now enter our Order.

FINAL ORDER FINING UTILITY AND  
ORDERING THAT REVOCATION PROCEEDINGS BE INITIATED

BY THE COMMISSION:

Background

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On January 10, 1990, Shady Oaks applied for

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Staff- ) DOCKET NO. 900025-WS  
Assisted Rate Case in Pasco ) ORDER NO. PSC-93-1396-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: September 27, 1993  
MODULAR ESTATES, INC. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
JULIA L. JOHNSON

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

Shady Oaks Mobile-Modular Estates, Inc., (Shady Oaks or utility) is a class "C" water and wastewater utility serving a 242 lot mobile-modular home park located in Pasco County, south of the City of Zephyrhills. On April 9, 1993, the Commission issued Order No. PSC-93-0542-FOF-WS fining Shady Oaks \$60,572 and ordering that a proceeding to revoke Shady Oaks' water and wastewater certificates be initiated. On April 26, 1993, Shady Oaks filed a Motion for Reconsideration of Order No. PSC-93-0542-FOF-WS.

Shady Oaks' Motion makes one basic argument: the fine imposed was too high. In Order No. PSC-93-0542-FOF-WS, the Commission imposed a fine of \$60,572 which was an amount "equal to rate base." Shady Oaks concedes in its Motion that a fine is appropriate. However, Shady Oaks believes that its conduct was not "egregious" enough to warrant the fine imposed. Specifically, the utility states:

The Commission's decision to fine this utility in an amount "equal to rate base" is grossly disproportionate to any egregious conduct on the part of the utility which was established by the facts in the hearing (which the utility didn't even attend), is contrary to the spirit of Chapter 367, Fla. Stat., and exceeds the Commission's authority. (emphasis added)

Perhaps the most telling statement in Shady Oaks' Motion is the phrase underlined above. The utility did not attend the hearing in this matter--a hearing which the utility had requested. Shady Oaks goes on to state that a much smaller fine would be more appropriate

78 10/14 2-11/93

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Staff- ) DOCKET NO. 900025-WS  
Assisted Rate Case in Pasco ) ORDER NO. PSC-93-1733-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: 12-01-93  
MODULAR ESTATES, INC. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
JULIA L. JOHNSON

FINAL ORDER ALLOWING UTILITY TO COLLECT CURRENT RATES  
IN EVENT OF PROTEST

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER REDUCING RATES TO REFLECT REMOVAL OF PROFORMA PLANT  
NOT CONSTRUCTED AND PREVENTATIVE MAINTENANCE NOT SPENT  
AND REQUIRING REFUND OF ESCROW

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein, except for the allowance of the current rates to remain in effect in the event of a protest, is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. Based on information contained in the utility's 1992 annual report, the water system generated operating revenues of \$21,899 and incurred operating expenses of \$35,756, resulting in a net operating loss of \$13,857. The wastewater system generated operating revenues of \$43,467 and incurred operating expenses of \$38,899, resulting in a net operating income of \$4,568.

20 12 93  
PSC-93-1733-FOF-WS

State of Florida

Commissioners:  
SUSAN F. CLARK  
J. TERRY DEASON, CHAIRMAN  
JULIA L. JOHNSON  
DIANE K. KIESLING



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(904) 487-2740

Public Service Commission

June 10, 1994

ORIGINAL  
FILE COPY

Mr. Richard D. Sims  
c/o Shady Oaks Mobile-Modular Estates, Inc.  
38616 Shady Oaks Drive  
Zephyrhills, Florida 33540-6526

VIA CERTIFIED MAIL NO. P 407 857 479

RE: Docket No. 900025-WS - Application for Staff-Assisted Rate Case in Pasco County by SHADY OAKS MOBILE-MODULAR ESTATES, INC.

and

Docket No. 930944-WS - Revocation by Florida Public Service Commission of Certificates Nos. 451-W and 382-S Issued to SHADY OAKS MOBILE-MODULAR ESTATES, INC. in Pasco County, Pursuant to Section 367.111(1), F.S.

Dear Mr. Sims:

By Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, this Commission imposed a fine against Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) in the amount of \$60,572 for the utility's failure to comply with Orders Nos. 24084 and 25296. Recognizing that this fine is a large amount, by Order No. PSC-93-1396-FOF-WS, issued September 27, 1993, the Commission agreed to suspend the fine, provided that the utility submit a completed application for transfer or cancellation of its water and wastewater certificates within 120 days of the issuance of that Order, or January 20, 1994. To date, no such transfer has occurred and the fine remains due and payable.

By Order No. 24084, issued February 8, 1991, the Commission imposed a \$2,000 fine against the utility for its unsatisfactory quality of services, but suspended it for a period of nine months, allowing the utility sufficient time to comply with the Department of Environmental Protection requirements. However, by Order No. PSC-92-0367-FOF-WS, issued May 14, 1992, the Commission lifted the suspension of the fine, and the \$2,000 fine is now due and payable.

05840 00174  
RECEIVED

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida ) DOCKET NO. 930944-WS  
Public Service Commission of ) ORDER NO. PSC-94-0976-FOF-WS  
Certificates Nos. 451-W and 382- ) ISSUED: August 11, 1994  
S Issued to SHADY OAKS MOBILE- )  
MODULAR ESTATES, INC. in Pasco )  
County, Pursuant to Section )  
367.111(1), F.S. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
DIANE K. KIESLING

APPEARANCES:

LILA A. JABER, ESQUIRE, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

DAVID SMITH, ESQUIRE, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

FINAL ORDER REVOKING CERTIFICATES

BY THE COMMISSION:

Based on the record created at the hearing held on August 4, 1994, in Zephyrhills, Florida, the Commission decided on that date, to revoke the water and wastewater certificates issued to Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility). We find it appropriate to first set out below the background for this proceeding. Our findings of fact, law, and policy, upon which this decision was based, are provided thereafter.

BACKGROUND

Shady Oaks is a Class C water and wastewater utility located in Pasco County. Based on information contained in the utility's 1993 annual report, the water system generated operating revenues of \$27,311 and incurred operating expenses of \$37,310, resulting in a net operating loss of \$9,999. The wastewater system generated

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Staff- ) DOCKET NO. 900025-WS  
Assisted Rate Case in Pasco ) ORDER NO. PSC-94-1015-FOF-WS  
County by SHADY OAKS MOBILE- ) ISSUED: August 23, 1994  
MODULAR ESTATES, INC. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
DIANE K. KIESLING

ORDER DENYING MOTION FOR STAY

BY THE COMMISSION:

BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. On March 7, 1989, the utility signed a Consent Final Judgment with the Department of Environmental Protection (DEP). The utility agreed to construct an additional effluent disposal system, to eliminate discharge from the plant, and to establish a new percolation pond. The utility agreed to submit an application for a construction permit within 60 days of the date of the order.

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, the Commission issued proposed agency action (PAA) Order No. 24084, which approved a rate increase and required the utility to do the following:

- 1) File a request for acknowledgement of a restructure and a name change;
- 2) Bring the quality of service to a satisfactory level;
- 3) Spend at least 85 percent of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance;
- 4) Install meters for all of its customers; and
- 5) Escrow a certain portion of the monthly rates.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Revocation by Florida ) DOCKET NO. 930944-WS  
Public Service Commission of ) ORDER NO. PSC-95-0603-FOF-WS  
Certificates Nos. 451-W and 382- ) ISSUED: May 15, 1995  
S issued to SHADY OAKS MOBILE- )  
MODULAR ESTATES, INC. in Pasco )  
County, pursuant to Section )  
367.111(1), F.S. )

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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON  
DIANE K. KIESLING

ORDER REFERRING COLLECTION OF FINES AND  
FEES TO THE OFFICE OF THE COMPTROLLER

BY THE COMMISSION:

BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. The utility has provided service since 1971, and currently provides service to 181 customers in a 242-lot mobile-modular home park.

In providing service, the utility has had a history of noncompliance with Commission statutes, rules, and orders. Having failed to comply with Orders Nos. 24084, issued February 8, 1991, and 25296, issued November 4, 1991, the utility requested and was granted a hearing which was held on January 7, 1993 in Zephyrhills, Florida. However, the utility did not attend the hearing, and the Commission, by Order No. PSC-93-0542-FOF-WS, issued April 9, 1993, ordered the utility to pay a fine in the amount of \$60,572, and directed staff to initiate revocation proceedings.

The utility filed a Motion for Reconsideration of this order, but the motion was denied by Order No. PSC-93-1396-FOF-WS, issued September 27, 1993. By this later order the Commission also ordered the utility to sell or transfer the utility within 120 days of the issuance date of the order, and offered to suspend the fine if a completed application for a transfer was timely submitted.

State of Florida

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



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(904) 487-2740

**Public Service Commission**

February 8, 1995

VIA CERTIFIED MAIL  
NO. P 407 857 499

Mr. Richard Sims  
Shady Oaks Mobile Modular Estates, Inc.  
1315 Eckles Drive  
Tampa, Florida 33612

RE: Docket No. 930944-WS - Revocation by Florida Public Service Commission of Certificates Nos. 451-W and 382-S issued to Shady Oaks Mobile Modular Estates, Inc. in Pasco County, Pursuant to Section 367.111 (1), F.S.

Dear Mr. Sims:

On August 11, 1994, the Florida Public Service Commission issued Order No. PSC-94-0976-FOF-WS. By that Order, the Commission required the utility to remit delinquent regulatory assessment fees in the amount of \$13,127. The utility was also required to remit outstanding fines in the amount of \$62,572.

Please submit payments totalling \$75,699 by February 20, 1995 by check made payable to the Florida Public Service Commission. The check should be mailed with a copy of this letter to the Division of Administration, Bureau of Fiscal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0850, Attention, Evelyn Sewell.

If you do not remit payment, by February 20, 1995, the fine will be deemed uncollectible and referred to the Comptroller's Office for collection.

Sincerely,

A handwritten signature in cursive script that reads "Lila A. Jaber".

Lila A. Jaber  
Bureau Chief, Legal Services

cc: Division of Records and Reporting  
Division of Water and Wastewater (Bethea, Galloway, Rieger)

State of Florida

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



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(904) 487-2740

Public Service Commission

ORIGINAL  
FILE COPY

March 15, 1995

VIA CERTIFIED MAIL  
NO. 931 359 388

Mr. Richard Sims  
Shady Oaks Mobile Modular Estates, Inc.  
1315 Eckles Drive  
Tampa, Florida 33612

RE: Docket No. 93094 LWS - Revocation by Florida Public Service Commission of Certificates Nos. 451-W and 382-S issued to Shady Oaks Mobile Modular Estates, Inc. in Pasco County, Pursuant to Section 367.111 (1), F.S.

Dear Mr. Sims:

On August 11, 1994, the Florida Public Service Commission issued Order No. PSC-94-0976-FOF-WS. By that Order, the Commission required the utility to remit delinquent regulatory assessment fees in the amount of \$13,127. The utility was also required to remit outstanding fines in the amount of \$62,572.

Please submit payments totalling \$75,699 by March 27, 1995 by check made payable to the Florida Public Service Commission. The check should be mailed with a copy of this letter to the Division of Administration, Bureau of Fiscal Services, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0850, Attention, Evelyn Sewell.

ACK \_\_\_\_\_  
AFA \_\_\_\_\_ If you do not remit payment, by March 27, 1995, the fine will  
APP \_\_\_\_\_ be deemed uncollectible and referred to the Comptroller's Office  
CAF \_\_\_\_\_ for collection. Please be aware that this is the last notice you  
will receive from Staff.

GMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG \_\_\_\_\_  
LIN \_\_\_\_\_  
OPC \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC \_\_\_\_\_  
WAS \_\_\_\_\_  
OTH \_\_\_\_\_

Sincerely,

Lila A. Jaber  
Bureau Chief, Legal Services

cc: Division of Records and Reporting  
Division of Water and Wastewater (Bethea, Galloway, Rieger)

DOCUMENT NUMBER-DATE

02834 MAR 16 95

FPSC-RECORDS/REPORTING

----- Page 654 So.2d 678 follows -----

20 Fla. L. Weekly D1265

**SHADY OAKS MOBILE MODULAR ESTATES, INC.,** Appellant,  
v.  
**FLORIDA PUBLIC SERVICE COMMISSION,** Appellee.

No. 93-3339.  
District Court of Appeal of Florida,  
First District.

May 22, 1995.

An appeal from an order of the Florida Public Service Commission.

Robert A. Antista and John L. Wharton of Rose, Sundstrom & Bentley,  
Tallahassee, for appellant.

Robert D. Vandiver, General Counsel, and David E. Smith, Director of Appeals,  
Florida Public Service Com'n, Tallahassee, for appellee.

ZEHMER, Chief Judge.

The final order of the Public Service Commission imposing a fine against the  
appellant utility company is affirmed. See Florida Real Estate Commission v.  
Webb, 367 So.2d 201 (Fla.1978). Although Appellant argues that the final order  
fails to find specifically that Appellant knowingly refused to comply with, or  
willfully violated, a provision of chapter 367 or any lawful rule or order of  
the commission, that issue was never raised in the proceedings before the  
commission or in Appellant's motion for reconsideration of the final order and  
therefore cannot be raised for the first time on appeal.

AFFIRMED.

DAVIS, J., and WENTWORTH, Senior Judge, concur.  
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**STATE OF FLORIDA  
OFFICE OF THE COMPTROLLER  
BUREAU OF AUDITING  
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL**

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION

DATE: 02/12/98

CONTACT: EVELYN H. SEWELL, CHIEF, BUREAU OF FISCAL SERVICES

PHONE NUMBER: 413-6263

SAMAS ACCOUNT CODE: 61 20 2 301001 610000 00 310200  
61 20 2 573003 610000 00 000300  
61 74 1 000331 610000 00 001200

WS417  
930944-WS

SHADY OAKS MOBILE MODULAR ESTATES, INC.

AGENCY REFERENCE #	LAST NAME	FIRST	MIDDLE	SOCIAL SECURITY NUMBER	COMPTROLLER USE ONLY
1315 ECKLES DRIVE, TAMPA, FLORIDA 33612					
LAST KNOWN ADDRESS (INCLUDE ZIP)					
REGULATORY ASSESSMENT FEES		1990:	\$ 1,914.11	\$ 149.29	\$ 2,063.40
		1991:	\$ 2,173.70	\$1,010.41	\$ 3,184.11
		1992:	\$ 2,941.47	\$1,058.92	\$ 3,600.39
		1993:	\$ 3,072.51	\$ 806.46	\$ 3,878.97
				Total	\$12,726.87
FINES		1993:	\$60,572.00		
			\$ 2,000.00	Total	\$62,572.00
TOTAL					\$75,298.87
HOME TELEPHONE	WORK TELEPHONE	PRINCIPLE AMOUNT	PENALTY/INTEREST AMOUNT	TOTAL	

§ 367.145, F.S.

§ 350.113, F.S. Rule 25-30.120, F.A.C.

PENALTY/INTEREST AUTHORITY	DATE DEBT INCURRED	DEBT TYPE
DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE		
ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.		