



Public Service Commission

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

DATE: January 6, 1999

TO: Steve Tribble, Director of Administration

FROM: Tim Vaccaro, Division of Legal Services

RE: Docket No. 980287-WS - Initiation of show cause proceedings against Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities for violation of Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

On March 30, 1998, the Commission issued Order No. PSC-98-0444-SC-WS (show cause order), in which it ordered Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities (Turkey Creek or utility) to show cause, in writing within 20 days, why it should not remit a penalty and interest of \$613.50 and \$907.98, respectively, for failure to remit its 1993 regulatory assessment fees. That Order further directed that Turkey Creek immediately remit \$2,454 in delinquent 1993 regulatory assessment fees.

Turkey Creek made a subsequent offer of settlement which was declined by the Commission in Order No. PSC-98-1085-PCO-WS, issued August 11, 1998. That Order also modified Order No. PSC-98-0444-SC-WS to correct an error in the calculation of interest owed by the utility and granted the utility an extra 20 days to respond to the show cause order, as modified. The revised interest calculation was \$1,202.46 at the time of the show cause order. As of the date of the Commission's vote to modify the show cause order, the interest amount had risen to \$1,300.62.

The utility failed to timely respond to the Order, and in accordance with the Order, the penalty and interest were deemed assessed without further action by the Commission. Pursuant to the Order, staff made reasonable collection efforts, consisting of two certified letters requesting payment, dated October 29, 1998 and November 13, 1998. These efforts, however, were unsuccessful.

In light of the foregoing, we submit this matter to your office to forward the account to the Department of Banking and Finance, Office of the Comptroller, for further collection efforts. The events leading to this determination are outlined below for your convenience.

ACK _____
 AFA _____
 APP _____
 CAF _____
 CMU _____
 CTR _____
 EAG _____
 LEG _____
 LIN _____
 OPC _____
 RCH _____
 SEC 1 _____
 WAS _____
 OTH _____

1. Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities (Turkey Creek or utility) was a Class C utility in Alachua County which provided water and wastewater service to approximately 300 customers.

2. On October 26, 1992, Turkey Creek filed an application for a grandfather certificate to provide water and wastewater service pursuant to Section 367.171, Florida Statutes. By Proposed Agency Action (PAA) Order No. PSC-93-0229-FOF-WS, issued February 10,

DOCUMENT NUMBER-DATE

00292 JAN-7 99

FPSC-RECORDS/REPORTING

Continuation of Memorandum to:

Steve Tribble

January 6, 1999

Page 2

- 1993, the Commission granted Turkey Creek its water and wastewater certificates, approved its service territory and reduced its rates to those which were in effect on the date we received jurisdiction of Alachua County - June 30, 1992. Turkey Creek protested the PAA order and, as a result, was never issued its certificates.
3. By Order No. PSC-95-1101-FOF-WS, issued September 6, 1995, in Docket No. 921098-WS, the Commission acknowledged the transfer of Turkey Creek to the City of Alachua. By that Order, the Commission found Turkey Creek responsible for payment of regulatory assessment fees for the period of January through September of 1993, for a total of \$2,454. The amount was estimated because the utility did not file an annual report for 1993.
 4. To date, the utility has failed to remit its regulatory assessment fees. Notices of delinquency for failure to pay regulatory assessment fees were mailed to the utility on May 3, 1994, July 28, 1995, May 21, 1997, November 7, 1997 and January 15, 1998.
 5. On March 30, 1998, the Commission issued Order No. PSC-98-0444-SC-WS (show cause order), in which it ordered Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities (Turkey Creek or utility) to show cause, in writing within 20 days, why it should not remit a penalty and interest of \$613.50 and \$907.98, respectively, for failure to remit its 1993 regulatory assessment fees. That Order further directed that Turkey Creek immediately remit \$2,454 in delinquent 1993 regulatory assessment fees.
 6. Turkey Creek made a subsequent offer of settlement which was declined by the Commission in Order No. PSC-98-1085-PCO-WS, issued August 11, 1998. That Order also modified Order No. PSC-98-0444-SC-WS to correct an error in the calculation of interest owed by the utility and granted the utility an extra 20 days to respond to the show cause order, as modified. The revised interest calculation was \$1,202.46 at the time of the show cause order. As of the date of the Commission's vote to modify the show cause order, the interest amount had risen to \$1,300.62. As of July 31, 1998, the utility owed delinquent 1993 regulatory assessment fees of \$2,454, a penalty of \$613.50 and interest of \$1,300.62.
 7. By letters dated October 29, 1998 and November 13, 1998, we notified Turkey Creek that because of the utility's failure to respond to Order No. PSC-98-0444-SC-WS, the penalty and revised interest had been deemed assessed, and we requested payment. The utility failed to respond to these letters.

Continuation of Memorandum to:

Steve Tribble

January 6, 1999

Page 3

Please find the following attached hereto:

- a. Certified Letter, May 3, 1994
- b. Certified Letter, July 28, 1995
- c. Certified Letter, May 21, 1997
- d. Certified Letter, November 7, 1997
- e. Certified Letter, January 15, 1998
- f. Order No. PSC-93-0229-FOF-WS
- g. Order No. PSC-95-1101-FOF-WS
- h. Order No. PSC-98-0444-SC-WS
- i. Order No. PSC-98-1085-PCO-WS
- j. Certified Letter, October 29, 1998
- k. Certified Letter, November 13, 1998
- l. State of Florida Office of the Comptroller Bureau of Auditing Delinquent Accounts Receivable Transmittal

Turkey Creek's address is:

Mr. Norwood Hope
Turkey Creek Utilities
158 Turkey Creek
Alachua, Florida 32615-9572

TV/dr

cc: Division of Records and Reporting
Division of Water and Wastewater (Chase)
Division of Administration (Lake, Sewell)

State of Florida

Commissioners:

J. TERRY DEASON, CHAIRMAN
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO



STEVE TRIBBLE, DIRECTOR
DIVISION OF ADMINISTRATION
FLETCHER BUILDING
101 EAST GAINES STREET
TALLAHASSEE, FL 32399-0864
(904) 488-4733

Public Service Commission

May 3, 1994

WS689
Turkey Creek Utilities
158 Turkey Creek
Alachua, FL 32615-9572

- DELINQUENT NOTICE - WATER AND WASTEWATER UTILITY -

According to the records in this office, the Florida Public Service Commission has not received your 1993 Regulatory Assessment Fee for the period ending December 31, 1993, which was due on March 31, 1994. This is to advise that pursuant to Florida Law, interest at 12% per annum, plus a 5% penalty for each 30-day period or fraction thereof up to a maximum of 25%, will be assessed against any delinquent amount due.

If your Regulatory Assessment Fee Filing is not received in this office by May 18, 1994, your certificate may be canceled and your account referred to the Commission's Division of Legal Services for appropriate action.

Should you have any questions, please contact Mrs. Valorie Moore at Telephone (904) 488-4733

ST:ml:rafn.mts

State of Florida

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



DIVISION OF WATER &
WASTEWATER
CHARLES HILL
DIRECTOR
(904) 413-6900

Public Service Commission

July 28, 1995

Mr. Norwood W. Hope, President and Director
Turkey Creek Utilities
158 Turkey Creek
Alachua, Florida 32615-9572

CERTIFIED RECEIPT NO. P731432403

RE: 1993 Delinquent Regulatory Assessment Fees

Dear Mr. Hope:

We have not received the Regulatory Assessment fees for 1993 in the amount of \$3,600.01. As a result, your utility is in violation of Rule 25-30.120, Florida Administrative Code.

If the 1993 regulatory assessment fees are not paid by August 15, 1995, this matter will be referred to the Division of Legal Services for initiation of show cause proceedings and possible assessment of fines. If you have any questions regarding this matter please contact Jackie Gilchrist of this office at (904) 413-7019.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Hill".

Charles H. Hill
Director

CHH/JG/tyg I:HOPE.TV

cc: Division of Legal Services (Jaber, [REDACTED])
Division of Water and Wastewater (Gilchrist)
Regulatory Assessment Fee File

STATE OF FLORIDA

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



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(904) 413-6199

Public Service Commission

May 21, 1997

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
P 407 857 563**

Turkey Creek Utilities
158 Turkey Creek
Alachua, FL 32615-9572

In re: Turkey Creek Utilities

To Whom it May Concern:

According to our records, Turkey Creek Utilities has not paid regulatory assessment fees (RAFs) for 1993, as required by Section 367.145, Florida Statutes. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Turkey Creek Utilities owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1993	\$2,535.22	\$444.29	\$2,979.51

Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before June 2, 1997, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

Turkey Creek Utilities
Page 2
May 21, 1997

Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Turkey Creek Utilities has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. Please be aware that the above-referenced amounts have been calculated as of June 1, 1997. The amounts owed are subject to change and increase over time, and any delay in payment past June 2, 1997, may subject you to a greater amount. Furthermore, if payment is not made by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (904) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,



Tim Vaccaro
Senior Attorney

TV:mw

cc: Division of Administration (Sewell)
Division of Water & Wastewater (Gilchrist)

STATE OF FLORIDA

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



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

November 7, 1997

Turkey Creek Utilities
158 Turkey Creek
Alachua, Florida 32615-9572

VIA CERTIFIED MAIL
NO. P 263 572 523

RE: Delinquent Regulatory Assessment Fees

To Whom it May Concern:

On May 21, 1997, a letter was sent informing you that Turkey Creek Utilities has not paid regulatory assessment fees (RAFs) for 1993 as required by Section 367.145, Florida Statutes. To date no response to that letter has been received. As of November 1, 1997, Turkey Creek Utilities owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTIES AND INTEREST</u>	<u>TOTAL</u>
1993	\$2,535.22	\$1,774.65	\$4,309.87

Please submit the amount owed by check made payable to the Florida Public Service Commission. Your payment is due on or before November 17, 1997, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

As stated in our May 21, 1997, letter Rule 25-30.120(7)(a)(2), Florida Administrative Code, Turkey Creek Utilities has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the fees. The amount now owed is subject to change and increase over time, and any delay in payment past November 17, 1997, may subject the utility to a greater amount. Furthermore, if payment is not received by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and Turkey Creek Utilities is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Turkey Creek Utilities
Page 2
November 10, 1997

If you have any questions regarding this matter, please do not hesitate to call me at (904) 413-6181.

Sincerely,

A handwritten signature in cursive script that reads "Jim Vaccaro". The signature is written in black ink and is positioned above the printed name and title.

Jim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water & Wastewater (Gilchrist)

STATE OF FLORIDA

Commissioners:
 JULIA L. JOHNSON, CHAIRMAN
 J. TERRY DEASON
 SUSAN F. CLARK
 JOE GARCIA
 E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
 NOREEN S. DAVIS
 DIRECTOR
 (850) 413-6199

Public Service Commission

January 15, 1998

Turkey Creek Utilities
 158 Turkey Creek
 Alachua, Florida 32615-6513

In re: Turkey Creek Utilities

To whom it may concern:

According to our records, Turkey Creek Utilities has not paid regulatory assessment fees (RAFs) for 1993, as required by Section 367.145, Florida Statutes. Pursuant to Rule 25-30.120(2), Florida Administrative Code, RAFs must be paid by March 31st of each year. The Commission may impose administrative penalties plus interest for noncompliance, as provided for under Rule 25-30.120(7), Florida Administrative Code. Staff has determined that Turkey Creek Utilities owes the following:

<u>YEAR</u>	<u>RAFs</u>	<u>PENALTY AND INTEREST</u>	<u>TOTAL</u>
1993	\$2,535.22	\$1,825.36	\$4,360.58

Although the utility has been transferred to the City of Alachua, by Commission Order No. PSC-95-1101-FOF-WS, issued September 6, 1995, the transferor remains responsible for outstanding RAFs. Please submit the balance owed by check made payable to the Florida Public Service Commission. Your payment is due on or before January 26, 1998, and should be mailed with a copy of this letter to the Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

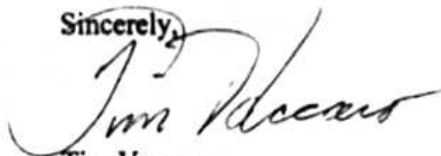
Pursuant to Rule 25-30.120(7)(a)(2), Florida Administrative Code, Turkey Creek Utilities has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of the RAFs. The amounts owed are subject to change and increase over time, and any delay in payment may subject you to a greater amount. Furthermore, if payment is not made by the date indicated in this letter, the Division of Legal Services will initiate show cause proceedings and

Turkey Creek, Inc.
Page 2
January 15, 1998

recommend assessment of fines in excess of the daily rate pursuant to Rule 25-30.120, Florida Administrative Code. If show cause proceedings are initiated, and the utility is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

Please do not hesitate to contact me at (850) 413-6199, if you have any questions regarding the matters discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Vaccaro". The signature is written in a cursive style with a large initial "T".

Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Administration (Sewell)
Division of Water and Wastewater (Gilchrist)

Application

On October 26, 1992, Turkey Creek Utilities (Turkey Creek) filed an application for water and wastewater certificates under grandfather rights pursuant to Section 367.171, Florida Statutes, to provide service in Alachua County. Turkey Creek has been providing service since 1977, prior to this Commission receiving jurisdiction of the water and wastewater utilities in Alachua County. The utility has a water treatment system, a water distribution system, a wastewater treatment system, and a wastewater collection system.

The application is complete with the exception of adequate evidence that the utility owns the land upon which the utility's facilities are located, as required by Rule 25-30.035(6), Florida Administrative Code. The applicant filed a copy of a tax bill as evidence of land ownership. We find this to be inadequate.

The rules and statutes do not require noticing for grandfather certificate applications. The applicant paid a filing fee in the amount of \$2,250. In addition, adequate service territory and system maps and a territory description have been provided as prescribed by Rules 25-30.035(9), (10), and (11), Florida Administrative Code. A description of the territory we are authorizing the utility to serve is appended to this Order as Attachment A, which by reference is incorporated herein. The territory includes only the territory actually being served by the utility prior to our receiving jurisdiction.

Turkey Creek requested more territory than is currently being served by the utility. The additional territory being requested is adjacent to the Turkey Creek subdivision; however, according to the utility, there are no immediate plans for development of the area. According to Section 367.171, Florida Statutes, a utility is entitled to a grandfather certificate for "the area served by such utility on the day this chapter becomes applicable to it." Although the additional territory being requested is adjacent to the area the utility is currently serving, because the utility is not currently serving the area, we do not find it appropriate to grant the utility that territory with the grandfather certificate. In the future, the utility may file for an amendment of certificate pursuant to Section 367.045(2), Florida Statutes, when it wants to serve the territory not granted in this case.

We have contacted the Department of Environmental Regulation (DER) and learned that there are no outstanding notices of violation against this utility.

Based on the above information, we find it in the public

interest to grant the utility's application for grandfather certificates. Accordingly, Turkey Creek Utilities is hereby granted Certificates Nos. 550-W and 480-S to serve the territory described in Attachment A. In addition, we hereby find that the utility shall file within 30 days of the effective date of this order a recorded warranty deed as evidence of ownership of the utility land.

Rates And Charges

The utility has increased its rates twice since June 30, 1992, the date on which the Commission received jurisdiction over the privately owned water and wastewater utilities in Alachua County. The utility stated that it increased the rates to implement the rate increase approved by the City of Alachua (the City) on August 27, 1991. Upon investigation, the City confirmed to our Staff that the current rates were never approved by the City. The City has been regulating water and wastewater utilities within its city limits since it passed an ordinance on October 7, 1991. Prior to that time, the City entered into an agreement with Turkey Creek in which Turkey Creek agreed to regulation of its rates and charges by the City. Between the time of the agreement and October 7, 1991, Turkey Creek was to advise the City of any rate increase. However, Turkey Creek did not advise the City of the rate increase on August 27, 1991. In fact, the City was not aware of the August 27, 1991, rates until our Staff brought these rates to the City's attention at a meeting with the City in early December, 1992. Additionally, Turkey Creek did approach the City for another rate increase on August 27, 1992 (after the Commission received jurisdiction), but this increase was never implemented.

Upon our examination of the books and records of Turkey Creek, we have determined that the rates that were being charged on June 30, 1992, were those in effect on December 26, 1990. These are the rates the City of Alachua has indicated were approved for the utility. Therefore, we find that the rates that should be approved are the rates that were in effect on December 26, 1990, and were being charged on June 30, 1992.

Turkey Creek's approved rates are as follows:

WATER SYSTEM

Residential and General Service

Monthly Rates

Minimum Charge by Meter Size:

Meter Size

5/8 x 3/4" (includes 4,000 gal.)	\$ 10.35
1" (includes 6,000 gal.)	12.05
1 1/2" (includes 20,000 gal.)	23.95
2" (includes 40,000 gal.)	40.95

Gallage Rates: \$.85
(over 4000 gallons consumption)

General Service

Two unmetered locations: \$ 21.40 per month

WASTEWATER SYSTEM

Residential Service

Monthly Rates

Minimum Monthly Charge: \$ 23.75
(includes 4 000 gallons consumption)

Usage between 4,000
and 7,000 gallons: 3.90
(per 1,000 gallons)

Maximum Monthly Charge: \$ 35.45

There are five general service customers who receive wastewater service from Turkey Creek Utilities. All of these customers pay the above-noted rates for service. However, for two customers, the utility adjusts the amount of water to which the rates apply to reflect that not all water usage is returned to the wastewater system. The utility applies the rates to 75% of the water consumption of the clubhouse of the Turkey Creek Country Club and to 30% of the water consumption of the maintenance house of the Turkey Creek Country Club.

The utility shall file a tariff reflecting the above rates. The effective date of the tariff will be the stamped approval date.

Refund

Turkey Creek increased its rates twice since the Commission received jurisdiction in Alachua County, once in September 1992, and again in November 1992. While the utility maintains that it was authorized by the City of Alachua to charge its current rates, these rates were not in effect on June 30, 1992. Additionally, the City informed our Staff that the current rates were never approved by the City. Therefore, we find that the utility shall cease collecting rates implemented in November 1992 and shall begin charging the rates as approved and set forth in the body of this Order, and shall refund to its customers the monies collected in excess of those rates, including interest.

The utility shall refund the unauthorized rate increases within 90 days of the effective date of this Order. As this refund is a result of specific rate changes, it shall be calculated on a per customer basis. Thus, every customer receiving service during the time the rates were increased shall receive a refund of the amount he or she overpaid. This is consistent with Rule 25-30.360,

ORDER NO. PSC-93-0229-FOF-WS
DOCKET NO. 921098-WS
PAGE 6

Florida Administrative Code, regarding the timing and basis for refunds. In addition, the utility shall refund any interest that has accrued from the collection of the charges to the date of the refund. Pursuant to Rule 25-30.360, Florida Administrative Code, the amount of interest shall be based on the 30-day commercial paper rate. We will provide the utility with the commercial paper rate for the appropriate period of time. The utility shall file refund reports consistent with the rule. If any refunds are unclaimed, we find that these unclaimed amounts should be treated as cash contributions-in-aid-of-construction (CIAC).

Regulatory Assessment Fees and Annual Report

Pursuant to Rule 25-30.120(2), Florida Administrative Code, "any utility which is subject to this Commission's jurisdiction on or before December 31 of that year or for any part of that year, whether or not the utility has applied for or been issued a certificate" is required to pay regulatory assessment fees. Additionally, Rule 25-30.110(3), Florida Administrative Code, states that "(t)he 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." We hereby find that Turkey Creek is required to pay Regulatory Assessment Fees and file an Annual Report from the jurisdictional date, which is June 30, 1992. The utility has been sent an annual report form. Regulatory assessment fee forms will be sent by our Staff when they are mailed to all other utilities.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application of Turkey Creek Utilities for grandfather water and wastewater certificates is hereby granted. It is further

ORDERED that all of the provisions of this Order are issued as proposed agency action and shall become final unless an appropriate petition in the form provided by Rule 25-22.025, Florida Administrative Code, is received by the Director of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that Certificates Nos. 550-W and 480-S shall be issued to Turkey Creek Utilities. It is further

ORDERED that Turkey Creek Utilities' service territory shall be that described in Attachment A, appended hereto. It is further

ORDER NO. PSC-93-0229-FOF-WS
DOCKET NO. 921098-WS
PAGE 7

ORDERED that Turkey Creek Utilities' rates and charges shall be those set forth in the body of this Order. It is further

ORDERED that Turkey Creek Utilities shall file within 30 days of the effective date of this Order a recorded warranty deed as evidence of ownership of utility land. It is further

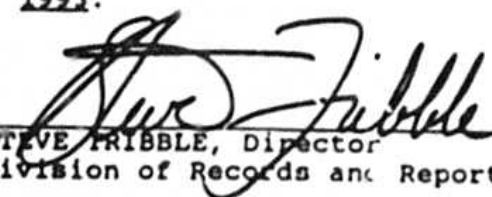
ORDERED that Turkey Creek Utilities shall refund to its customers the amount collected since June 30, 1992, in excess of the rates set forth in the body of this Order, plus interest. The refund shall be made within 90 days of the effective date of this Order and shall be consistent with Rule 25-30.360, Florida Administrative Code. The utility shall file refund reports consistent with this rule. It is further

ORDERED that Turkey Creek Utilities shall pay regulatory assessment fees for the period June 30, 1992, through December 31, 1992, by March 31, 1992. It is further

ORDERED that Turkey Creek Utilities shall file an annual report for the period June 30, 1992, through December 31, 1992, by March 31, 1993. It is further

ORDERED that this docket shall remain open pending our investigation and analysis of other policies, procedures, and charges of Turkey Creek Utilities, and pending a timely protest from a substantially affected person by the expiration of the protest period.

By ORDER of the Florida Public Service Commission this 10th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
KAC

ORDER NO. PSC-93-0229-FOF-WS
DOCKET NO. 921098-WS
PAGE 7

ORDERED that Turkey Creek Utilities' rates and charges shall be those set forth in the body of this Order. It is further

ORDERED that Turkey Creek Utilities shall file within 30 days of the effective date of this Order a recorded warranty deed as evidence of ownership of utility land. It is further

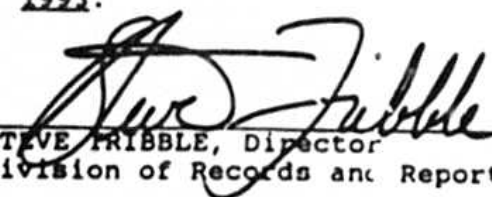
ORDERED that Turkey Creek Utilities shall refund to its customers the amount collected since June 30, 1992, in excess of the rates set forth in the body of this Order, plus interest. The refund shall be made within 90 days of the effective date of this Order and shall be consistent with Rule 25-30.360, Florida Administrative Code. The utility shall file refund reports consistent with this rule. It is further

ORDERED that Turkey Creek Utilities shall pay regulatory assessment fees for the period June 30, 1992, through December 31, 1992, by March 31, 1992. It is further

ORDERED that Turkey Creek Utilities shall file an annual report for the period June 30, 1992, through December 31, 1992, by March 31, 1993. It is further

ORDERED that this docket shall remain open pending our investigation and analysis of other policies, procedures, and charges of Turkey Creek Utilities, and pending a timely protest from a substantially affected person by the expiration of the protest period.

By ORDER of the Florida Public Service Commission this 10th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
KAC

ORDER NO. FSC-93-0229-FOF-WS
DOCKET NO. 92109C-WS
PAGE 8

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on MARCH 4, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

SERVICE TERRITORY DESCRIPTION - TURKEY CREEK, INC.

ALACHUA COUNTY

A part of Sections 27, 28, 32, 33, and 34, Township 8 South, Range 19 East, Alachua County, Florida; being more particularly described as follows:

Commence at the northwest corner of said Section 28 and run South 00° 42' 41" East, along the west line of said Section 28, 1315 +/- feet, to the Point of Beginning; thence South 89° 21' 23" East, 675 +/- feet; thence South 00° 58' 16" East, 275 +/- feet; thence easterly the following courses: North 89° 01' 44" East, 867 +/- feet; North 87° 08' 10" East, 50 +/- feet; South 87° 42' 54" East, 593 +/- feet; thence southerly the following courses: South 04° 23' 10" West, 253 +/- feet; South 04° 32' 21" West, 137 +/- feet; South 29° 43' 19" West, 142 +/- feet; South 11° 49' 06" East, 305 +/- feet; South 11° 49' 06" East, 110 +/- feet; South 08° 32' 03" East, 71 +/- feet; South 17° 14' 50" East, 27 +/- feet; thence easterly the following course: North 88° 38' 16" East, 516 +/- feet; North 88° 29' 14" East, 1387 +/- feet; thence North 01° 55' 03" West, 985 +/- feet; to the southerly right-of-way line of U.S. - 441; thence southeasterly along said right-of-way line 712 +/- feet, thence South 9° 30' West, 550 +/- feet; thence South 12° West, +/- 780 feet; thence North 87° 07' 53" East, 811 +/- feet; South 77° 30' 53" East, 304 +/- feet; South 12° 29' 07" West, 899 +/- feet; South 01° 08' 58" East, 1345 +/- feet; South 15° 11' 38" East, 544 +/- feet; South 19° 38' 13" East, 148 +/- feet; thence South 58° 28' 37" West, 493 +/- feet; thence North 34° West, 117 +/- feet; thence South 57° 44' 07" West, 110 +/- feet; thence South 27° East, 700 +/- feet; thence South 11° East, 280 +/- feet; thence South 9° West, 390 +/- feet; thence North 70° West, 105 +/- feet; thence North 10° West, 52 +/- feet; thence North 79° West, 585 +/- feet; thence South 19° 48' 00" West, 201 +/- feet to the centerline of a creek; thence westerly along said centerline 2056 +/- feet, (or approximately North 82° West, 2050 +/- feet); thence North 34° West, 150 +/- feet; thence South 75° West, 450 +/- feet; thence South 24° West, 225 +/- feet; thence South 87° 08' 39" West, 319 +/- feet; thence North 02° 51' 21" West, 1515 +/- feet; thence North 73° 34' 38" West, 1284 +/- feet; thence North 29° 14' 16" East, 1719 +/- feet; thence South 89° 12' 04" West, 399 +/- feet; thence North 25° 30' 30" East, 300 +/- feet; thence North 56° West, 290 feet; thence North 42° West, 241 feet; thence South 67° West, 200 feet; thence South 86° West, 210 feet; thence South 00° 42' 41" East, 410 +/- feet; thence South 89° 17' 19" West, 150 +/- feet; thence North 00° 42' 41" West, 18 +/- feet; thence South 89° 17' 19" West, 100 +/- feet; thence North 00° 42' 41" West, 2524 +/- feet to the Point of Beginning. Containing 580 Acres, more or less.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 921098-WS
certificates to provide water) ORDER NO. PSC-95-1101-FOF-WS
and wastewater service in) ISSUED: September 6, 1995
Alachua County under grandfather)
rights by TURKEY CREEK, INC. &)
FAMILY DINER, INC. d/b/a TURKEY)
CREEK UTILITIES.)

The following Commissioners participated in the disposition of this matter:

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

ORDER ACKNOWLEDGING TRANSFER

AND

INITIATING SHOW CAUSE PROCEEDING

BY THE COMMISSION:

Background

Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities (Turkey Creek) was a Class C utility in Alachua County which provided water and wastewater service to approximately 300 customers. On October 26, 1992, Turkey Creek filed an application for a grandfather certificate to provide water and wastewater service pursuant to Section 367.171, Florida Statutes. By Order No. PSC-93-0229-FOF-WS, issued February 10, 1993, this Commission granted Turkey Creek its water and wastewater certificates, approved its service territory and reduced its rates to those which were in effect the date we received jurisdiction of Alachua County, June 30, 1992. Turkey Creek protested the proposed agency action order and, as a result, was never issued its certificates. We reviewed Turkey Creek's rates and charges in a second order, Order No. PSC-93-0816-FOF-WS, issued May 27, 1993, but Turkey Creek protested this order as well. We required Turkey Creek to make refunds in each of these orders because it illegally increased its rates and charges after we assumed jurisdiction over Alachua County on June 30, 1992.

DOCUMENT NO. 95-1101-DATE

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FPSC-REGO US/REPORTING

We set the case for a November 3, 1993, hearing. Prior to the scheduled hearing, Turkey Creek withdrew its protests. By Order No. PSC-93-1769-FOF-WS, issued December 3, 1993, we made the two prior orders final and effective. On September 23, 1993, the City of Alachua (City) purchased Turkey Creek. On January 6, 1994, Turkey Creek appealed Order No. PSC-93-1769-FOF-WS to the First District Court of Appeal (1st DCA). On March 27, 1995, the 1st DCA affirmed our decision regarding this order.

Transfer

As stated earlier, on September 23, 1993, the City purchased Turkey Creek. But, due to Turkey Creek's protest and its subsequent appeal, the City did not file a transfer application. Now that the appeal has been completed, the City has submitted the appropriate documentation for a transfer to a governmental authority, pursuant to Section 367.071, Florida Statutes. In accordance with Rule 25-30.037(4), Florida Administrative Code, the City has submitted the name and address of the utility, and its authorized representative; the name of the governmental authority and its authorized representative's name and address; a copy of the contract which transferred the utility system to the governmental authority; and the date on which the governmental authority took official action to acquire the utility, which was September 23, 1993. Pursuant to Subsection 367.071(4)(a), Florida Statutes, we forwarded to the City, Turkey Creek's most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes and contributions-in-aid-of-construction. In addition, the City stated that it received Turkey Creek's customer deposits when it purchased Turkey Creek. To date, the City has refunded 85% of these deposits.

Although the City purchased Turkey Creek in September 1993, pursuant to Section 367.071, Florida Statutes, Turkey Creek remains liable for all outstanding regulatory assessment fees due for the period January through September 1993. We have estimated the regulatory assessment fees to be \$2,454. The collection of those fees will be handled in a separate docket. We hereby require Turkey Creek to refund to its customers any excess amounts that it has received as a result of the two unapproved increases in its rates and service availability charges. We had previously required Turkey Creek to make these refunds in Order No. PSC-93-1769-FOF-WS, issued December 3, 1993. As of this date, Turkey Creek has not completed its refund requirements. Subsection 367.071(4)(a), Florida Statutes, states that the sale of facilities, in whole or in part to a governmental entity, shall be approved as a matter of right. Therefore, pursuant to the cited section, we hereby acknowledge the transfer of Turkey Creek to the City.

Show Cause

As mentioned earlier, on December 3, 1993, by Order No. PSC-93-1769-POF-WS, we voted to make Orders Nos. PSC-93-0229-FOF-WS and PSC-93-0816-POF-WS, final and effective. These orders required Turkey Creek to refund any excess amount, including interest, that it had received that was related to the two unapproved increases in its rates and service availability charges. On January 6, 1994, Turkey Creek appealed Order No. PSC-93-1769-FOF-WS to the 1st DCA. On March 27, 1995, the 1st DCA affirmed our order.

By letter dated April 6, 1995, we informed Turkey Creek of its obligation to complete its refund requirement in accordance with Order No. PSC-93-1769-POF-WS, Subsection 367.071(2), Florida Statutes, and Rule 25-30.360, Florida Administrative Code. Subsection 367.071(2), Florida Statutes, states that "[t]he transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds of the utility."

In a follow-up letter, dated May 26, 1995, we again informed Turkey Creek of its refund obligation and asked Turkey Creek to submit by June 9, 1995, a scheduled date for completing its refund requirements. We also told Turkey Creek that we would pursue show cause proceedings if Turkey Creek did not respond by June 9, 1995. By letter dated June 8, 1995, Turkey Creek stated that it was researching its obligation to make the refunds since it was a "non-utility owner-operator," which it estimated would take two weeks to complete. To date, we have not received any response.

Subsection 367.161(1), Florida Statutes, authorizes this Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, Florida Statutes, or any lawful rule or order by the Commission. Utilities are charged with the knowledge of the Commission's rules and statutes. Subsection 367.161(1), Florida Statutes, also states "[e]ach day that such refusal or violation continues constitutes a separate offense." As stated above, we have, on numerous occasions, informed Turkey Creek of its obligation to comply with Order No. PSC-93-1769-POF-WS. We find that Turkey Creek has been given ample time and sufficient information to comply with our order. Accordingly, based on the above, we hereby order Turkey Creek to show cause, in writing within twenty days, why it should not be fined \$5,000 for not complying with Order No. PSC-93-1769-POF-WS. Docket No. 921098-WS shall remain open pending its final resolution.

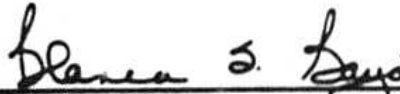
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the transfer of Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities to the City of Alachua is hereby acknowledged. It is further

ORDERED that Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities shall show cause, in writing within twenty days, why it should not be fined \$5,000 for not complying with Order No. PSC-93-1769-POF-WS. It is further

ORDERED that Docket No. 921098-WS shall remain open.

By ORDER of the Florida Public Service Commission, this 6th day of September, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RRJ

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, 2540 Chumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities for violation of Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

DOCKET NO. 980287-WS
ORDER NO. PSC-98-0444-SC-WS
ISSUED: March 30, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER TO SHOW CAUSE AND
REQUIRING IMMEDIATE PAYMENT OF REGULATORY ASSESSMENT FEES

BY THE COMMISSION:

BACKGROUND

Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities (Turkey Creek or utility) was a Class C utility in Alachua County which provided water and wastewater service to approximately 300 customers. On October 26, 1992, Turkey Creek filed an application for a grandfather certificate to provide water and wastewater service pursuant to Section 367.171, Florida Statutes. By Proposed Agency Action (PAA) Order No. PSC-93-0229-FOF-WS, issued February 10, 1993, we granted Turkey Creek its water and wastewater certificates, approved its service territory and reduced its rates to those which were in effect on the date we received jurisdiction of Alachua County - June 30, 1992. Turkey Creek protested the PAA order and, as a result, was never issued its certificates.

By Order No. PSC-95-1101-FOF-WU, issued September 6, 1995, in Docket No. 921098-WS, we acknowledged the transfer of Turkey Creek to the City of Alachua. By that Order, we found Turkey Creek

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responsible for payment of regulatory assessment fees for the period of January through September of 1993, for a total of \$2,454. The amount was estimated because the utility did not file an annual report for 1993. To date, the utility has failed to remit its regulatory assessment fees.

REGULATORY ASSESSMENT FEES

Pursuant to Section 350.113(4), Florida Statutes, and Rule 25-30.120(5)(a), Florida Administrative Code, a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its regulatory assessment fees, in the following manner:

1. 5 percent of the fee if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during the time in which failure continues, not to exceed a total penalty of 25 percent.
2. The amount of interest to be charged is 1% for each 30 days or fraction thereof, not to exceed a total of 12% annum.

In addition, pursuant to Sections 367.145(1)(b) and 367.161, Florida Statutes, and Rule 25-30.120(5)(b), Florida Administrative Code, this Commission may impose an additional penalty upon a utility for failure to pay regulatory assessment fees in a timely manner.

Notices of delinquency for failure to remit regulatory assessment fees were mailed to the utility on May 3, 1994, June 28, 1995, May 21, 1997, November 7, 1997 and January 15, 1998. As of March 31, 1998, the utility owes the following: \$2,454 in regulatory assessment fees, as well as a penalty in the amount of \$613.50 and interest in the amount of \$907.98, for a total of \$3,975.48. We calculated the penalty and interest based on the number of days elapsed since the respective regulatory assessments were due and the date of this agenda. The date of the agenda is included in computing the amount of time elapsed. We note that penalties and interest will continue to accrue until the utility pays the delinquent regulatory assessment fees.

Regulatory assessment fees are intended to defray the costs incurred in our regulation of utilities. Apparently, the utility has no inclination to pay the fees voluntarily, nor does it appear

that the utility is making a good faith effort toward payment. Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's failure to pay regulatory assessment fees, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., this Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6. Accordingly, Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities, 158 Turkey Creek, Alachua, Florida 32615-9572, is ordered to show cause, in writing, why it should not remit a penalty in the amount of \$613.50 and interest in the amount of \$907.98 for its failure to remit its regulatory assessment fees. Further, Turkey Creek is ordered to immediately remit a total of \$2,454 in delinquent regulatory assessment fees for 1993.

RESPONSE TO ORDER TO SHOW CAUSE AND CLOSING THE DOCKET

Turkey Creek's response to this Order must contain specific allegations of fact and law. Should Turkey Creek file a timely written response that raises material questions of fact and makes a request for a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings shall be scheduled before a final determination on this matter is made. If the utility responds timely but does not request a hearing, our staff will prepare and present a recommendation to us regarding the disposition of this proceeding, and the docket shall not be closed. If Turkey Creek responds to this Order by paying 1993 regulatory assessment fees, and remitting all associated penalties and interest, this docket shall be closed administratively.

A failure to file a timely written response to this Order shall constitute an admission of the facts herein alleged and a waiver of the right to a hearing. In the event Turkey Creek fails to file a timely response to this Order, the penalties and interest are deemed assessed with no further action required by the Commission. In that event, if Turkey Creek fails to respond to

ORDER NO. PSC-98-0444-SC-WS
DOCKET NO. 980287-WS
PAGE 4

reasonable collection efforts by Commission staff, the collection of fees, penalties, and interest shall be referred to the Comptroller's office for further collection efforts. Reasonable collection efforts shall consist of two certified letters requesting payment from the utility. Referral of this matter to the Comptroller's office would be based on the conclusion that further collection efforts by this Commission would not be cost effective. After referral of this matter to the Comptroller's office, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities, 158 Turkey Creek, Alachua, Florida 32615-9572, show cause, in writing, within 20 days, why it should not remit a penalty in the amount of \$613.50 and interest in the amount of \$907.98 for violation of Rule 25-30.120(5)(b), Florida Administrative Code. It is further

ORDERED that Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities immediately remit \$2,454 in delinquent regulatory assessment fees for 1993. It is further

ORDERED that any response to this Order to show cause must contain specific allegations of fact and law. It is further

ORDERED that any response to this Order to show cause be filed with the Director of the Division of Records and Reporting within 20 days of this Order. It is further

ORDERED that in the event that Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities 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 is made. It is further

ORDERED that if Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities fails to file a timely response to this Order to show cause, such failure 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 reasonable collection efforts are unsuccessful, the collection of penalties and interest shall be

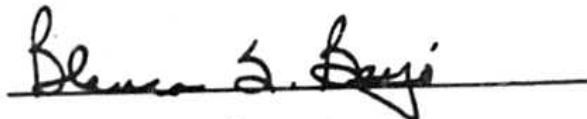
ORDER NO. PSC-98-0444-SC-WS
DOCKET NO. 980287-WS
PAGE 5

forwarded to the Comptroller's office, and the docket shall be closed. It is further

ORDERED that if Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities responds to this Order to show cause by remitting the regulatory assessment fees, penalty and interest, this docket shall be closed administratively. It is further

ORDERED that any payment of the penalty shall be forwarded to the Comptroller's office for deposit in the State General Revenue Fund.

By ORDER of the Florida Public Service Commission this 30th day of March, 1998.



BLANCA S. BAYÓ, 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 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 19, 1998.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities for violation of Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

DOCKET NO. 980287-WS
ORDER NO. PSC-98-1085-PCO-WS
ISSUED: August 11, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER MODIFYING ORDER NO. PSC-98-0444-SC-WS,
GRANTING UTILITY ADDITIONAL TIME TO RESPOND TO SHOW CAUSE ORDER
AND DECLINING OFFER OF SETTLEMENT

BY THE COMMISSION:

BACKGROUND

Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities (Turkey Creek) was a Class C utility in Alachua County which provided water and wastewater service to approximately 300 customers. On October 26, 1992, Turkey Creek filed an application for a grandfather certificate to provide water and wastewater service pursuant to Section 367.171, Florida Statutes. By Proposed Agency Action (PAA) Order No. PSC-93-0229-FOF-WS, issued February 10, 1993, we granted Turkey Creek its water and wastewater certificates, approved its service territory and reduced its rates to those which were in effect on the date we began regulating utilities in Alachua County - June 30, 1992. Turkey Creek protested the PAA order and, as a result, was not issued its certificates.

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FPSO-RECORDS/REPORTING

By Order No. PSC-95-1101-FOF-WU, issued September 6, 1995, in Docket No. 921098-WS, we acknowledged the transfer of Turkey Creek to the City of Alachua. By that Order, we found Turkey Creek responsible for payment of regulatory assessment fees for the period of January through September of 1993, for a total of \$2,454. The amount was estimated because the utility did not file an annual report for 1993. The utility failed to remit its regulatory assessment fees.

By Order No. PSC-98-0444-SC-WS, issued on March 30, 1998, we ordered Turkey Creek to show cause, in writing within 20 days, why it should not remit a penalty and interest of \$613.50 and \$907.98, respectively, for its failure to pay its 1993 regulatory assessment fees. The order also directed the utility to immediately remit its delinquent fees. Additionally, the order required that the utility's response contain specific allegations of fact and law, and indicated that Turkey Creek's failure to file a timely written response would constitute an admission of the facts therein alleged, a waiver of the right to a hearing, and an automatic assessment of the penalty and interest. Turkey Creek's response was due on April 20, 1998.

On April 17, 1998, we received a request from the utility for an extension of time until May 6, 1998, in which to respond to the show cause order. We received the utility's response on May 4, 1998, which included an offer of settlement. Since that time, the utility and our legal staff have conducted repeated discussions regarding settlement of this docket, but to no avail. Further, the Division of Administration has determined that the interest associated with the utility's failure to pay regulatory assessment fees was miscalculated. This Order addresses the proper amount of interest to be assessed on the delinquent regulatory assessment fees, Turkey Creek's request for extension of time and its offer of settlement.

MODIFICATION OF PRIOR ORDER

Pursuant to Section 350.113(4), Florida Statutes, and Rule 25-30.120(5)(a), Florida Administrative Code, a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its regulatory assessment fees, in the following manner:

1. 5 percent of the fee if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during the time in which failure continues, not to exceed a total penalty of 25 percent.
2. The amount of interest to be charged is 1% for each 30 days or fraction thereof, not to exceed a total of 12% annum.

As discussed earlier, by Order No. PSC-98-0444-SC-WS, we ordered Turkey Creek to show cause why it should not remit a statutory penalty and interest in the amounts of \$613.50 and \$907.98, respectively, for failure to pay its 1993 fees.

During our legal staff's attempts to settle this matter, the Division of Administration discovered that the appropriate amount of interest set forth in the show cause order should have been \$1,202.46. Therefore, Order No. PSC-98-0444-SC-WS shall be amended to reflect this amount. As of the date of our vote on this matter, the utility owed \$1,300.62 in interest. This amount has been calculated through July 31, 1998 and will continue to accrue until the utility pays its delinquent 1993 regulatory assessment fees.

As a result of the miscalculation of interest, the utility shall be granted twenty days from the date of this order to respond to the show cause order, Order No. PSC-98-0444-SC-WS; therefore, Turkey Creek's request for extension of time to respond is moot. The following conditions shall apply to Turkey Creek's response: Turkey Creek's response shall address all issues raised in the show cause order. Turkey Creek's response to the show cause order must contain specific allegations of fact and law. Should Turkey Creek file a timely written response that raises material questions of fact and makes a request for a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings will be scheduled before a final determination on this matter is made. A failure to file a timely written response to the show cause order shall constitute an admission of the facts herein alleged and a waiver of the right to a hearing. In the event Turkey Creek fails to file a timely response to the show cause order, the penalties and interest are deemed assessed with no further action required by this Commission. In that event, if Turkey Creek fails to respond to reasonable collection efforts by Commission staff, the collection of fees, penalties, and interest shall be referred to the

Department of Banking and Finance's Office of the Comptroller for further collection efforts. Reasonable collection efforts shall consist of two certified letters requesting payment. The referral to the Comptroller's office would be based on the conclusion that further collection efforts by this Commission would not be cost effective.

OFFER OF SETTLEMENT

In its initial response to the show cause order, the utility offered to pay \$2,454 in delinquent regulatory assessment fees and \$907.98 for interest associated with its failure to pay those fees. The utility offered to pay the two sums on or before October 10, 1998, with interest accrued until the date of payment. The utility specifically indicated that it did not wish to pay the penalty of \$613.50.

As discussed earlier, Section 350.113(4), Florida Statutes, requires us to collect a statutory penalty against any utility that fails to timely pay its regulatory assessment fees. The Commission is not authorized to waive a statutory mandate. Therefore, the offer of settlement is declined.

CLOSING OF DOCKET

If Turkey Creek responds to the show cause order by paying 1993 regulatory assessment fees, and remitting all associated penalties and interest, this docket shall be closed administratively. If Turkey Creek fails to timely respond to the show cause order and fails to respond to Commission staff's collection efforts, then this matter shall be referred to the Comptroller's office for further collection efforts and this docket shall be closed administratively. If Turkey Creek responds to the show cause order and requests a hearing, this docket shall remain open for final disposition.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-98-0444-SC-WS is modified as set forth in the body of this Order. It is further

ORDER NO. PSC-98-1085-PCO-WS
DOCKET NO. 980287-WS
PAGE 5

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities' offer of settlement is hereby denied. It is further

ORDERED that Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities shall be granted twenty days from the date of this Order to respond to Order No. PSC-98-0444-SC-WS. It is further

ORDERED that Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities' motion for extension of time to respond to Order No. PSC-98-0444-SC-WS is moot. It is further

ORDERED that Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities' response to Order No. PSC-98-0444-SC-WS must contain specific allegations of fact and law. It is further

ORDERED that Turkey Creek, Inc., & Family Diner, Inc., d/b/a Turkey Creek Utilities' response to Order No. PSC-98-0444-SC-WS must be filed with the Director of the Division of Records and Reporting within 20 days of this Order. It is further

ORDERED that in the event that Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings will be scheduled before a final determination is made. It is further

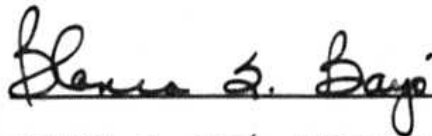
ORDERED that if Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities fails to file a timely response to Order No. PSC-98-0444-SC-WS, such failure shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

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

ORDER NO. PSC-98-1085-PCO-WS
DOCKET NO. 980287-WS
PAGE 6

ORDERED that if Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities responds to Order No. PSC-98-0444-SC-WS by remitting the regulatory assessment fees, penalty and interest, this docket shall be closed administratively. It is further

By ORDER of the Florida Public Service Commission this 11th day of August, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

TV

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

ORDER NO. PSC-98-1085-PCO-WS
DOCKET NO. 980287-WS
PAGE 7

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

October 29, 1998

Mr. Norwood Hope
158 Turkey Creek
Alachua, Florida 32615-9572

**VIA CERTIFIED MAIL
NO. Z 425 829 627**

RE: Docket No. 980287-WS - Initiation of show cause proceedings against Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities for violation of Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Dear Mr. Hope:

By Order No. PSC-98-1085-PCO-WS, issued August 11, 1998, the Florida Public Service Commission declined Turkey Creek Utilities' (Turkey Creek) April 29, 1998 offer of settlement of show cause Order No. PSC-98-0444-SC-WS. By Order No. PSC-98-0444-SC-WS, Turkey Creek was ordered to show cause, in writing, why it should not remit penalty and interest of \$613.50 and \$907.98, respectively, for failure to remit regulatory assessment fees for 1993. By the show cause order, the utility was also directed to immediately remit \$2,454 in delinquent 1993 regulatory assessment fees.

In addition to declining the offer of settlement, the Commission modified the show cause order to reflect the correct interest owed by the utility of \$1,202.46, as of the date of the show cause order. As of the issuance date of Order No. PSC-98-1085-PCO-WS, the amount of interest owed was \$1,300.62. Due to the miscalculation of interest in Order No. PSC-98-0444-SC-WS, the Commission granted Turkey Creek an additional 20 days to respond to that order.

Turkey Creek's response to the show cause order should have been submitted by August 31, 1998. Because the utility did not file a timely response to the show cause order, the total penalty and interest amounts are deemed levied in accordance with Order No. PSC-98-1085-PCO-WS. In addition Turkey Creek's regulatory assessment fees are due pursuant to Order No. PSC-98-0444-PCO-WS.


Please submit payment of these amounts (\$613.50, \$1,300.62 and \$2,454) 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

Mr. Norwood Hope
Page 2
October 29, 1998

Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Payment is due by November 12, 1998. If you do not remit payment on or before this date, the Commission will refer this matter to the Department of Banking and Finance, Office of the Comptroller for further collection efforts.

Sincerely,



Tim Vaccaro
Senior Attorney

TV/lw/dr

cc: Division of Records and Reporting
Division of Administration (Sewell, Knight)
Division of Water and Wastewater (Chase)

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

November 13, 1998

FINAL NOTICE

Mr. Norwood Hope
158 Turkey Creek
Alachua, Florida 32615-9572

VIA CERTIFIED MAIL
NO. Z 425 829 636

RE: Docket No. 980287-WS - Initiation of show cause proceedings against Turkey Creek, Inc. & Family Diner, Inc. d/b/a Turkey Creek Utilities for violation of Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Dear Mr. Hope:

On October 29, 1998, I sent you a letter indicating that the Florida Public Service Commission Order No. PSC-98-1085-PCO-WS, issued August 11, 1998, declined Turkey Creek Utilities' (Turkey Creek) April 29, 1998 offer of settlement of show cause Order No. PSC-98-0444-SC-WS.

In addition to declining the offer of settlement, the Commission modified the show cause order to reflect the correct interest owed by the utility of \$1,202.46, as of the date of the show cause order. As of the issuance date of Order No. PSC-98-1085-PCO-WS, the amount of interest owed was \$1,300.62. Due to the miscalculation of interest in Order No. PSC-98-0444-SC-WS, the Commission granted Turkey Creek an additional 20 days to respond to that order.


Turkey Creek's response to the show cause order should have been submitted by August 31, 1998. Because the utility did not file a timely response to the show cause order, the total penalty and interest amounts are deemed levied in accordance with Order No. PSC-98-1085-PCO-WS. In addition Turkey Creek's regulatory assessment fees are due pursuant to Order No. PSC-98-0444-PCO-WS.

By my October 29, 1998 letter, Turkey Creek was given until November 12, 1998 to pay a penalty of \$613.50, interest of \$1,300.62 and delinquent 1993 regulatory assessment fees of \$2,454, by check made payable to the Florida Public Service Commission. This is your final notice. Please pay these amounts by November 23, 1998. The check should be mailed with a copy of this letter to the Division of Administration, Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, Attention: Evelyn Sewell.

Mr. Norwood Hope
Page 2
November 13, 1998

If you do not remit payment on or before November 23, 1998, the Commission will refer this matter to the Department of Banking and Finance, Office of the Comptroller for further collection efforts.

Sincerely,



Tim Vaccaro
Senior Attorney

TV/dr

cc: Division of Records and Reporting
Division of Administration (Sewell, Knight)
Division of Water and Wastewater (Chase)

13TURKEYOR.TV

**STATE OF FLORIDA
OFFICE OF THE COMPTROLLER
BUREAU OF AUDITING
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL**

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION

DATE: 1/6/99

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

PHONE NUMBER: 413-6263

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

980287-WS TURKEY CREEK, INC. & FAMILY DINER, INC. d/b/a TURKEY CREEK UTILITIES

AGENCY REFERENCE #	LAST NAME	FIRST	MIDDLE	SOCIAL SECURITY NUMBER	COMPTROLLER USE ONLY
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TURKEY CREEK UTILITIES, 158 TURKEY CREEK, ALACHUA, FLORIDA 32615-9572

LAST KNOWN ADDRESS (INCLUDE ZIP)

HOME TELEPHONE	WORK TELEPHONE	PRINCIPLE AMOUNT	PENALTY/INTEREST AMOUNT	TOTAL
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\$2,454

\$613.50/1,300.62

\$4,368.12

§ 367.145, F.S.

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

03/31/94

8

PENALTY/INTEREST AUTHORITY

DATE DEBT INCURRED

DEBT TYPE

1993 REGULATORY ASSESSMENT FEE

DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.