



Public Service Commission

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

DATE: December 10, 1999
TO: Steve C. Tribble, Director, Division of Administration
FROM: Jennifer Brubaker, Division of Legal Services
RE: Docket No. 980586-WS - Initiation of show cause proceedings against Tropical Mobile Home Park in Polk County for violation of Section 367.171, F.S., and Rule 25-30.035, F.A.C., Application for Grandfather Certificate.

On May 10, 1999, the Commission issued Final Order No. PSC-99-0932-FOF-WS, in which it declined to initiate a show cause proceeding against Tropical Mobile Home Park (Tropical or utility) for failure to pay regulatory assessment fees (RAFs) for 1996 and 1997 and associated penalty and interest, and ordered the referral of \$AMOUNT in unpaid 1996 and 1997 RAfs, penalty and interest to the Comptroller's Office for permission to write off the account as uncollectible. Due to the fact that the utility ceased operation in August 1998, we have been unable to determine the whereabouts of the utility's owner, and no funds are available from which the utility may pay outstanding regulatory assessment fees, penalties and interest, the collection of the penalties and interest associated with RAfs would not be cost effective.

The events leading to this determination are outlined below for your convenience:

- 1. On May 14, 1996, the Polk County Commission transferred jurisdiction to this Commission with respect to the regulation of investor-owned water and wastewater utilities within the county. The Public Service Commission recognized this action in Order No. PSC-96-0896-WS-FOF, issued July 11, 1996.
2. Tropical is a small utility located in Polk County, which served approximately 42 mobile home park customers and 22 customers outside the park. The customers outside the park were both residential and commercial customers. The park was franchised by Polk County; however, the franchise agreement expired in 1994, and had not been renewed by May 14, 1996, which is the date the county transferred regulation of investor-owned utilities to this Commission. The utility was operating near capacity with respect to its water system and over capacity with respect to its wastewater system during the peak winter season. The system was not operating in compliance with the Florida Department of Environmental Protection (FDEP) rules and regulations. Consequently, FDEP did not reissue the utility's permit.

Staff initially believed that Tropical would qualify for dual exemptions pursuant to Sections 367.022(5) and (6), Florida Statutes (landlord/tenant and small system exemptions). This was based on information received from the county and several

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conversations with the park owner, Mr. Don Gugel. However, staff later received information indicating that the well capacity of the system was in excess of the level that would qualify for a small system exemption. A site visit in August 1997 also confirmed the need for a certificate, pursuant to Section 367.171(2)(b), Florida Statutes (grandfather certificate).

4. After months of trying to assist the owner in the completion of the certificate application, by Order No. PSC-98-0761-SC-WS, issued June 2, 1998, Tropical was ordered to show cause, in writing, within 20 days of the issuance of the Order, why it should not be fined \$5,000 for failing to file an application for a grandfather certificate in accordance with Section 367.171, Florida Statutes, and Rule 25-30.035, Florida Administrative Code. Further, Tropical was ordered to file an application for a grandfather certificate in compliance with Section 367.171, Florida Statutes, and Rule 25-30.035, Florida Administrative Code, by the close of business on June 12, 1998.
5. In addition, Order No. PSC-98-0761-WS recognized that, as an entity subject to the Commission's jurisdiction, Tropical had the obligation to file annual reports and remit regulatory assessment fees from the jurisdictional date, May 14, 1996, in accordance with Rules 25-30.110 and 25-30.120, Florida Administrative Code. To date, the utility has not filed the 1996 or 1997 annual reports or paid regulatory assessment fees for those years.
6. Because Tropical had only recently been given official notification of its obligation to remit regulatory assessment fees and file annual reports from the jurisdictional date, no show cause proceedings were initiated pursuant to Order No. PSC-98-0761-SC-WS. Rather, it was ordered that if the utility did not file its annual report and regulatory assessment fees for the period of May 14, 1996, through calendar years 1996 and 1997, by May 25, 1998, staff would present a subsequent recommendation in another docket that show cause proceedings should be initiated.
7. On June 15, 1998, Mr. Don Gugel, the owner of the utility, filed a letter stating that he was no longer able to financially run the system, and that he was returning the property to the mortgagor, L & M Mortgage Service. Shortly after the receipt of this letter, we were no longer able to contact Mr. Gugel, who remains inaccessible and whose whereabouts are unknown.
8. Commission staff contacted and arranged to meet with the mortgage holders and their attorney on September 18, 1998. Also present at the meeting was the former water plant operator and various representatives from the Polk County Health Department. The regional FDEP person was invited but was unable to attend. The meeting clarified the areas where some additional information was needed in order to verify whether the plant was actually providing service outside of the mobile home park, what fees were being

collected for such service, and whether the mortgage holders intended to sell their interest or move forward to foreclosure proceedings.

9. On January 11, 1999, we received information from the mortgage holder's attorney with respect to these questions. From this information, we were able to verify that the utility does not provide any customers with either water or wastewater service. The mobile home park is used by migrant laborers and no one is in the park at this time. Former water customers of the utility outside of the park are now being served by Wahneta Water System, Inc., which is a non-profit exempt utility serving the community of Wahneta in Polk County. The former wastewater customers have installed septic tanks. The mortgage holder's attorney visited the site with an engineer and confirmed that the wastewater treatment site is not in operation or functional at this time.
10. On May 10, 1999, the Commission issued Final Order No. PSC-99-0932-FOF-WS, in which the Commission ordered that no fine should be imposed against the utility for failure to file for a grandfather certificate. Further, the Commission declined to initiate a show cause proceeding against Tropical Mobile Home Park (Tropical or utility) for failure to file annual reports or pay regulatory assessment fees (RAFs) for 1996 and 1997 and associated penalty and interest, and ordered the referral of \$391.58 in unpaid 1996 and 1997 RAFs, penalty and interest to the Comptroller's Office for permission to write off the account as uncollectible. The Commission determined that the collection of the penalties and interest associated with RAFs would not be cost effective because the utility ceased operation in August 1998, the utility owner's whereabouts are unknown, and no funds are available from which the utility may pay outstanding regulatory assessment fees, penalties and interest.

Please find the following attached hereto:

- a. Order No. PSC-99-0932-FOF-WS
- b. State of Florida Office of the Comptroller Bureau of Auditing Delinquent Accounts Receivable Transmittals

Mr. Donald Gugel's last known mailing address is:

118 Village Road  
Winter Haven, Florida 33880-6144

Tropical Mobile Home Park's mailing address is:

118 Village Road  
Winter Haven, Florida 33880-6144

Steve C. Tribble, Director  
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In light of the foregoing, we submit this matter to your office to forward to the account to the Department of Banking and Finance, Comptroller's Office, for permission to write off the account as uncollectible.

JSB/lw

cc: Division of Water and Wastewater (McNulty, Messer)  
Division of Administration (Knight)  
Division of Records and Reporting

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

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION

DATE: December 10, 1999

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

PHONE NUMBER: 413-6263 (SUNCOM/293-6263)

SAMAS ACCOUNT CODE:

61 20 2 573003 610000 00 000300 (RAF)

61 74 1 000331 610000 00 001200 (Penalties & Interest)

|                   |              |               |           |                        |                      |
|-------------------|--------------|---------------|-----------|------------------------|----------------------|
| <u>980586-WS</u>  | <u>Gugel</u> | <u>Donald</u> | <u>C.</u> |                        |                      |
| AGENCY REFERENCE# | LAST NAME    | FIRST         | MIDDLE    | SOCIAL SECURITY NUMBER | COMPTROLLER USE ONLY |

Tropical Mobile Home Park  
118 Village Road, Winter Haven, Florida 33880-6144  
LAST KNOWN ADDRESS (INCLUDE ZIP)

|  |                |                 |                         |                 |
|--|----------------|-----------------|-------------------------|-----------------|
|  |                | <u>\$293.85</u> | <u>\$97.73</u>          | <u>\$391.58</u> |
| HOME TELEPHONE                                 | WORK TELEPHONE | RAFs            | PENALTY/INTEREST AMOUNT | TOTAL           |
| <u>\$350.127, F.S., \$367.121, F.S.,</u>       |                |                 |                         |                 |
| <u>\$367.161, F.S., Rule 25-30.120, F.A.C.</u> |                |                 | <u>3/31/96</u>          | <u>8</u>        |
| 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.

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