

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

SEPTEMBER 3, 2002

RE: Docket No. 971622-SU - Initiation of show cause proceedings against Landmark Enterprises, Inc. in Highlands County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.

ISSUE 1: Should the Commission modify Order No. PSC-98-0269-FOF-SU and order that the penalties and interest for delinquent annual reports and regulatory assessment fees be a lien on the real and personal property of the utility and its directors?

RECOMMENDATION: Yes. Staff recommends that Order No. PSC-98-0269-FOF-SU be modified and that pursuant to Section 367.161, Florida Statutes, the penalty for delinquent annual reports and regulatory assessment fees assessed in that Order, as set forth in the body of staff's recommendation, be a lien on the real and personal property of the utility, enforceable by the Commission as a statutory lien under Chapter 85, Florida Statutes. Pursuant to Chapter 85, the proceeds of such lien should be deposited by the Commission in the General Revenue Fund Unallocated Account.

Further, staff recommends that Order No. PSC-98-0269-FOF-SU be modified so that delinquent regulatory assessment fees be recorded as a lien on the real and personal property of the utility and its directors, and should be enforceable as a lien upon being duly recorded with the Clerk of the County Court in Highlands County pursuant to Section 55.10, Florida Statutes. The

COMMISSIONERS ASSIGNED: Deason, Baez, Palecki

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures of Michael A. Palecki, Terry Deason, and another commissioner under the MAJORITY column.

Blank lines for DISSENTING signatures.

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

09277 SEP-3 02

FPSC-COMMISSION CLERK

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Commission should provide notice to the utility and its directors of such lien pursuant to Section 55.10, Florida Statutes. The Commission should pursue collection efforts as appropriate pursuant to Section 69.041, Florida Statutes. The proceeds of such lien should be deposited in the Florida Public Service Commission Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes.

**APPROVED**

ISSUE 2: Should Landmark be ordered to show cause, in writing, within 20 days, why it should not remit a penalty in the amount of \$13,296 for violation of Rule 25-30.110, Florida Administrative Code, by failing to file its annual reports from 1997 to 2001; and penalties and interest in the amount of \$6,157.56 for violation of Rule 25-30.120, Florida Administrative Code, by failing to pay its regulatory assessment fees for 1996 through 2001?

RECOMMENDATION: Yes. Staff recommends that Landmark should be ordered to show cause, in writing, within 20 days, why it should not remit a penalty in the amount of \$13,296 for violation of Rule 25-30.110, Florida Administrative Code, by failing to file its annual reports from 1997 to 2001; and penalties and interest in the amount of \$6,157.56 for violation of Rule 25-30.120, Florida Administrative Code, by failing to pay its regulatory assessment fees for 1996 through 2001. The show cause order should incorporate the conditions stated in the analysis portion of staff's August 22, 2002 memorandum. Further, Landmark should immediately file the annual reports from 1997 to 2001, and pay the regulatory assessment fees from 1996 through 2001, and should be put on notice that further violations of Rules 25-30.110 and 25-30.120, Florida Administrative Code, will result in further action by the Commission.

**APPROVED**

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If Landmark responds to the show cause order by paying the penalty and filing the annual reports for 1997 through 2001, and by paying 1996 through 2001 RAFs and remitting all associated penalties and interest, this docket should be closed administratively once the Commission's Order modifying Order No. PSC-98-0269-FOF-SU has been appropriately filed with the Clerk of the County Court of Highlands County and the liens recorded. If Landmark fails to timely respond to the show cause order and fails to respond to Commission staff's reasonable collection efforts, then this docket should be closed administratively once the Commission's order has been appropriately filed with the Clerk of the County Court of Highlands County and the liens recorded with respect to the 1997 through 2001 annual reports and 1996 through 2001 RAFs. If Landmark responds to the show cause order and requests a hearing, this docket should remain open for final disposition.

**APPROVED**