

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Investigation into whether Lindrick Service Corporation should be ordered to show cause as to why it should not be fined for its apparent violations of Rules 25-30.250, 25-30.251, 25-30.130, and 25-22.032, Florida Administrative Code, and the requirements of Order No. PSC-99-1883-PAA-SU, issued September 21, 1999 in Docket No. 980242-SU.

DOCKET NO. 060057-WS  
ORDER NO. PSC-06-0349-SC-WS  
ISSUED: April 25, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

ORDER REQUIRING LINDRICK SERVICE CORPORATION TO SHOW CAUSE WHY IT SHOULD NOT BE FINED FOR VIOLATION OF COMMISSION RULES

BY THE COMMISSION:

Background

Lindrick Service Corporation (Lindrick or utility) is a Class B water and wastewater utility providing service in Pasco County. According to its 2004 Annual Report, Lindrick had revenues of \$819,362 for water and \$1,489,680 for wastewater. It also reported a net operating loss of \$6,479 for water and a net operating income of \$158,768 for wastewater. For the year ending 2004, the utility provided water service to 2,739 customers, and wastewater service to 2,324 customers. However, a significant portion of these customers are multi-family dwellings, such as condominiums; therefore, the utility provides water and wastewater service to approximately 9,000 end-users within its service territory.

On July 5, 2005, our staff became aware that all the customers of Lindrick Service Corporation (Lindrick or utility) had experienced water outages on June 29, 2005, and June 30, 2005, and yet this Commission had not received any notification from the utility. Pursuant to Rule 25-30.251(2), Florida Administrative Code (F.A.C.), anytime there is a service interruption which affects ten percent or more of its customers, a utility is required to notify the Commission within one working day.

A staff engineer contacted the utility on July 5, 2005 and spoke to Ms. Helen McNeil, the Utility Manager, about the cause and whether the outages were planned. Sometime later that same day, Mr. Joseph Borda, President of Lindrick, called the staff engineer and discussed the

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outages. Pursuant to Mr. Borda's request, our staff faxed 14 questions to Mr. Borda on July 7, 2005, and Mr. Borda timely responded to those questions on July 12, 2005. Also, on July 18, 2005, our staff mailed a second request for information consisting of 30 questions. Mr. Borda timely responded to that request on July 28, 2005.

A review of the responses by Mr. Borda and the complaints of the customers shows that there is some question about whether the utility violated several rules, a statute, and possibly Proposed Agency Action Order No. PSC-99-1883-PAA-SU, issued September 21, 1999, in Docket No. 980242-SU, In re: Petition for limited proceeding to implement two-step increase in wastewater rates in Pasco County by Lindrick Service Corporation (hereinafter PAA Order).

Also, on July 22, 2005, Representative John Legg and Senator Mike Fasano filed a joint letter requesting this Commission to investigate the business practices of Lindrick. An investigation was conducted by our staff, and in December 2005, the Commission's Division of Competitive Markets and Enforcement Bureau of Performance Analysis issued its *Review of Lindrick Service Corporation* (hereinafter December 2005 Review).

This order addresses whether Lindrick should be made to show cause for any apparent violations of the our rules, statutes, and the above-noted PAA Order. The violations appear to fall into two categories -- notification problems and handling of customer complaints, which are discussed in detail below. We have jurisdiction pursuant to Sections 367.111, 367.121, and 367.161, Florida Statutes.

#### Notification Problems

All of Lindrick's customers experienced water outages on June 29 and 30, 2005. The outage on June 29 lasted approximately eight to nine hours. And the outage on June 30 lasted approximately an hour and one-half to two hours.

In investigating these outages, our staff sent two inquiries, and the utility timely responded. Also, our staff discussed the situation with personnel from DEP. DEP states it became aware of the first outage at about 10:00 a.m., on June 29, 2005, when it began receiving telephone calls from Lindrick's customers. Also, our staff received complaints from customers and information from the Fire Department about the outages and the notice provided.

In his responses to our staff's inquiries, Mr. Borda states the outage on June 29 was unplanned, and came about when Lindrick attempted to install an eight-inch line which it claims was authorized by DEP. To install this line, Wells No. 2 and 8 were shut down, but both Mr. Borda and his employees thought this could be done without affecting the whole system by keeping Wells Nos. 4 and 5 operating and using the main interconnect valve to isolate Wells No. 2 and 8. Mr. Borda further claims that after they shut the valve, they tested the system and it appeared to be holding pressure. It was only after they cut the pipe to install the eight-inch line that they discovered that the whole system was losing pressure, and, by then, it was too late. Also, after they cut the pipe, the crew discovered that the Reducer Tee to transition the pipe from the existing 14-inch pipe to the eight-inch pipe was not the correct size. Because of the problems

with the Reducer Tee, it appears to have taken over eight hours to repair the cut and bring the system back online.

In addition, there is some question about whether Lindrick improperly attempted to bring additional wells on line and whether it had a valid permit to perform the construction. However, these questions should be handled by DEP, and DEP indicates it is looking closely at any permits.

For the June 29, 2005, outage, the utility admits that there was no advance notice as they thought they could maintain service during the installation of the eight-inch line. Therefore, the outage on June 29, 2005, does not appear to have been a scheduled outage. The outage on June 30, 2005, appears to have been a scheduled outage to allow Lindrick workers to install a valve so that Well No. 2 could be properly isolated (and make a repair on pipe that came apart from the digging).

There is some question whether Lindrick violated Rule 25-30.250, F.A.C. Rule 25-30.250(1), F.A.C., states that the "utility shall make all reasonable efforts to provide continuous service," and, in the event of an interruption, "shall reestablish service with the shortest delay consistent with the safety of its customers and the general public." Rule 25-30.250(2), F.A.C., requires prior notice for scheduled interruptions, and is only applicable to the June 30, 2005 interruption. Rule 25-30.250(3), F.A.C., requires the utility to "notify the Fire Chief or any other public official responsible for fire protection, that an interruption has occurred or will occur," and "when service is or is anticipated to be restored."

As regards Rule 25-30.250(1), F.A.C., Mr. Borda states:

Lindrick's procedure . . . when working with existing piping is to dig around pipe, measure and call the supplier with the measurements. The supplier then matches the pipe (or in this case) the fittings required to the work. Although this was done, after the pipe was cut, we tried to install the fitting, which did not fit. If it had fit, the fitting would have been installed quickly and water would have been restored to the system within one hour.

Moreover, Mr. Borda states that "Lindrick's personnel worked endlessly till dark, as storms inundated them, to complete repiping so that water pressure would be restored that evening." Therefore, for the outage on June 29, 2005, we do not believe Lindrick violated Rule 25-30.250(1), F.A.C., which requires "reasonable efforts to provide continuous service," and, in the event of interruption, the re-establishment of such service as quickly as safety permits. This would also be true of the scheduled outage on June 30, 2005. That outage of approximately one and one-half hours was designed to allow the utility to isolate certain wells so they could be worked on without having to shut down the whole system.

As regards Rule 25-30.250(2), F.A.C., which appears to be applicable to only the June 30, 2005, interruption, Mr. Borda states the customers were provided written notice earlier that day. A copy of the written notice was provided to staff, and stated that the water would be turned off starting at 1:50 p.m. for approximately two hours. It is unclear whether all the

customers received such notice, but we find that a show cause proceeding for violation of this rule shall not be initiated.

As regards Rule 25-30.250(3), F.A.C., requiring notice to the Fire Department, our staff contacted Fire Chief Anthony F. Lopinto, Emergency Services Director, and he provided information concerning the chain of events and the notice received by the Fire Department. It appears that the June 29, 2005 outage occurred sometime around 10:00 a.m., and that the Fire Department first became aware of the outage by customer complaints and the fact that County (Fire) Station 19 had no water. An Inspector/Investigator D. Campbell states that he went by Lindrick at "approximately 1230 hours," and was told by the receptionist "that the water was off due to break near the intersection of U.S. 19 and Mary Ann Drive." Investigator Campbell also spoke to Brent Hopkins, a Lindrick field superintendent, who said he had notified County (Fire) Station 19 between 10:30 and 11:00 the morning of the outage. However, the Station 19 Captain stated that the "Water Dept. never advised us of the water being shut off till well after the fact," and that he had attempted to call Lindrick several times but the telephone line was always busy. He further states that his first contact with the utility was when one of its workers came in at about 1700 (5 p.m.) to advise the problem had been fixed, but that it might take up to 12 hours to rebuild pressure. Based on the above, it appears that there was possibly some delay in noticing the Fire Chief on June 29, 2005, and this could be considered a violation of Rule 25-30.250(3), F.A.C. However, that rule does not state a specific timeframe as to when notice must be provided. As regards the outage on June 29, 2005, there is some question whether notice was provided as early as 10:30 a.m., and that, at the latest, it was provided by no later than 12:30 p.m. Because of the unclear facts concerning the timing of the notification, we find that Lindrick shall not be made to show cause for this possible violation.

Regarding the June 30, 2005 outage, it appears that Lindrick did not notify the Fire Chief or County Station 19 of that scheduled outage. In an e-mail dated June 30, 2005, Mr. Larry E. Davis, Public Safety Answering Point Manager (i.e., 911 service), stated that when Lindrick was contacted about the second outage and the provision of notice to the Fire Department, a Lindrick employee said, "Oh yea we did not call." However, Mr. Borda disagrees with this characterization, and states that the Fire Department was notified, but just not the Dispatch Section, which was the appropriate section. Mr. Borda states that they now have the correct telephone number. Based on our staff's discussions with the Fire Department, it appears that proper notice was not provided in advance of the scheduled outage for June 30, 2005. Therefore, we find that Lindrick shall show cause in writing within 21 days why it should not be fined \$125 for this apparent violation of Rule 25-30.250(3), F.A.C.

When there is an outage which affects ten percent or more of a utility's customers, Rule 25-30.251(2), F.A.C., requires the utility to notify the Commission within one work day of the date it becomes aware of such outage. As stated above, our staff first became aware of the outages on July 5, 2005, well after the notice date required by the rule. On that same day, our staff called Ms. McNeil, the Utility Manager, who had Mr. Borda call staff later that day.

Pursuant to Rule 25-30.251(2), F.A.C., Lindrick should have notified the Commission of the two outages on June 30 and July 1, 2005, respectively. Therefore, Lindrick appears to have violated that rule twice for its failure to timely report either outage. Based on these two apparent violations, Lindrick shall show cause in writing within 21 days why it should not be fined a total of \$250 for these two violations.

Also, as noted on page 37 of the December 2005 Review, Lindrick "does not maintain written contingency procedures identifying specific employee responsibilities, local and state points of contact, critical telephone or fax numbers, and mandated requirements or standards applicable to notification events." The December 2005 Review concluded this lack of written procedures diminished "Lindrick's ability to accurately and fully respond during an event requiring notification."

Lindrick states that it "does maintain written responses for authorities with phone and fax numbers," and that, until the June 29, 2005 outage, its "Mom and pop' approach has achieved excellent results." In its initial response to the December 2005 Review, Lindrick concedes:

However, a written document listing specific responsibilities for each individual (and a control log with more formal internal review) may be helpful in management performing and documenting its overview responsibilities efficiently (may help in preventing slippage.) Lindrick is willing to work with the PSC in this regard and shall review the other issues of concern and upgrade its lists as required.

In that regard, Lindrick contacted our staff to set up a meeting to discuss actions that Lindrick could take to improve its service and to specifically address the deficiencies noted in the December 2005 Review.

Prior to the meeting held on March 1, 2006, Lindrick provided staff with four documents that were designed to correct the deficiencies, and ensure that Lindrick maintained "written contingency procedures identifying specific employee responsibilities, local and state points of contact, critical telephone or fax numbers, and mandated requirements . . . applicable to notification events." The first document set forth the procedures for repair and notification of water outages with specific responsibilities and duties delineated, with a section for initialing by the responsible individual upon that action being taken. A second document entitled Water Outage Notification List listed all entities with their telephone numbers and facsimile numbers<sup>1</sup> who had to be notified, with a section for initialing when such notice was provided and the means of providing such notice. To update its customer complaint tracking mechanism, Lindrick

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<sup>1</sup> Four entities out of 25 had no facsimile number.

proposes to use both a new Incident Report/Comments Form and a new Quality of Service Survey Form. The latter form is designed to ensure all complaints are properly addressed and categorized, such that trends and problem areas can be tracked and more easily identified. Also, noting the finding in the December 2005 Review that the work orders did not designate what was an actual complaint, Lindrick is looking into designating each work order such that it shows whether it was generated as a standard work order requiring routine actions, or whether it was either a customer complaint filed with the utility, or a customer complaint that had been forwarded to the utility by the Commission.

Lindrick has agreed to use the four forms noted above in handling outage events and customer complaints. The use of these forms should reduce the likelihood of future rule violations. Therefore, we shall require the utility to use these forms in their handling of any such events in the future.

We appreciate the utility's actions in attempting to respond to the deficiencies noted in the December 2005 Review, and believe that cooperation with our staff should be encouraged. Prior to the March 1, 2006 meeting, our staff had been considering recommending that the utility be made to show cause why it should not be fined \$750 for these three apparent noticing violations. Based on the utility's cooperation and its attempt to improve its noticing procedures, we find that the utility should be made to show cause why it should not be fined \$375 for these three apparent violations.

Finally, as regards Section 367.111, Florida Statutes, which refers to compliance with part VI of chapter 403 and parts I and II of chapter 373, which are enforced by DEP and the Water Management Districts, DEP is conducting its own investigation on both outages. By letter dated July 18, 2005, DEP advised Lindrick of possible violations of Florida Statutes and Rules, and specifically cited the following rules as having possibly been violated:

1. Rule 62-555.520, F.A.C. (requires validated permit from DEP before beginning construction, or alteration of any drinking water system);
2. Rule 62-555.345, F.A.C. (requires that no public water system components constructed or altered under a permit granted by DEP shall be placed into operation without prior DEP approval); and
3. Rule 62-555.350(11), F.A.C. (requirement to issue "boil water" notices as required or recommended in the Department of Health's "Guidelines for the Issuance of Precautionary Boil Water Notices" as adopted in Rule 62-555.335 – i.e., under what conditions they must be issued and what must be contained in the notice).

We find that DEP is best suited to investigate on whether Lindrick has complied with Chapters 403 and 373, Florida Statutes, and decline to initiate any show cause proceeding based on any apparent violation of those Chapters, which would also be a violation of Section 367.111, Florida Statutes.

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). Section 367.161(1), Florida Statutes, authorizes the 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 of the Commission. By failing to comply with the above-noted requirements of Rules 25-30.250(3) and 25-30.251(2), F.A.C., in a timely manner, the utility's acts were "willful" in the sense intended by Section 367.161, Florida Statutes. In Commission 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.

As stated above, the circumstances in this case are such that show cause proceedings shall be initiated. The Fire Department must know if it can rely on the fire hydrants or must make special provisions for a tanker. Although the utility claims that it notified DEP, the Fire Department, and its customers, the Fire Department states that it received no notification of the planned outage on June 30, 2005. Also, our staff only became aware of both outages through other sources on July 5, 2005. This continued pattern of disregard for our rules warrants more than just a warning. However, as noted above, the utility has taken a proactive approach in addressing all deficiencies noted in the December 2005 Review. Accordingly, we find that Lindrick shall show cause in writing, within 21 days, why it should not be fined a total of \$375 for its apparent failure to timely comply with the noticing requirements of Rules 25-30.250(3) and 25-30.251(2), F.A.C.

The show cause proceeding shall incorporate the following conditions:

1. The utility's response to the show cause order shall contain specific allegations of fact and law;
2. Should Lindrick file a timely written response that raises material questions of fact and makes a request for a hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, a further proceeding shall be scheduled before a final determination of this matter is made;
3. 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 on this issue;
4. In the event that Lindrick fails to file a timely response to the show cause order, the fine shall be deemed assessed with no further action required by the Commission;

5. If the utility responds timely but does not request a hearing, a recommendation should be presented to the Commission regarding the disposition of the show cause order;
6. If the utility responds to the show cause order by remitting the fine, this show cause matter shall be considered resolved, and the docket closed administratively.

Further, the utility shall be warned and put on notice that failure to comply with Commission orders, rules, or statutes will again subject the utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues as set forth in Section 367.161, Florida Statutes. This shall include the requirement to use the forms Lindrick has presented to our staff and discussed earlier in this Order.

#### Handling of Customer Complaints

Rule 25-22.032, F.A.C., requires that, for a customer complaint forwarded by staff to the utility, the utility must file a written response to staff within 15 working days. Pursuant to the 2005 Review, the utility failed to comply with this requirement on five separate occasions out of a total of 59 complaints forwarded by staff from November 2004 through August 2005.

The utility argues that it did not timely receive those complaints and so there was a delay in filing any response. However, the December 2005 Review states that on three of the five late responses to complaints, staff had valid timely confirmations of the facsimile having been sent and received. The December 2005 Review further suggests that if Lindrick is having problems receiving and maintaining its Florida Public Service Commission complaints, then “the company management may want to consider working with the Commission to convert to email notification” which would allow the utility to better track and monitor these types of complaints. At the meeting on March 1, 2006, the utility provided our staff with an e-mail address and indicated that this address could be used in addition to the facsimile number for the forwarding of complaints.<sup>2</sup>

The December 2005 Review also found that Lindrick did “not track its complaints independently from generic calls or questions received from customers,” and that the current work order system prevented the utility from accurately monitoring and trending its customer complaints. Using this system, the utility was unable “to provide a breakdown of its complaints by category.” The December 2005 Review concluded that maintenance of more detailed records would allow Lindrick to “categorize, monitor, and trend the type of complaints received by the company,” which would help Lindrick “gain an understanding of its overall customer satisfaction,” and help identify maintenance and operational problems.

Lindrick argues that company management does evaluate and monitor complaints, and that it attempts to take follow-up action to resolve the complaint and implement “changes to

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<sup>2</sup> Mr. Borda has two offices, and the facsimile would go to one office and the e-mail to the other office, such that there would be redundancy in the utility receiving complaints from the Commission.



lessen the probability of re-occurrence.” However, Lindrick agrees with our staff “that a more formal complaint tracking system would be helpful in accurately monitoring the trends in customer complaints,” and has already taken the actions discussed in the section above, and is working with staff to create a more formal complaint tracking system.

In addition to the violations noted above, it appears that Lindrick may have also violated a requirement set forth in Order No. PSC-99-1883-PAA-SU, issued September 21, 1999 (hereinafter PAA Order) in Docket No. 980242-SU. In that PAA Order, this Commission required Lindrick to “respond in writing in six months from the date of this Order as to the progress made in the area of complaint responsiveness.” Lindrick timely filed its objection and request for hearing to this PAA Order on October 11, 1999. As a part of an extensive list of objections, Lindrick specifically objected to the finding in the PAA Order that “the service provided to the customers is deficient in areas of response time and the complaint log.” The Office of Public Counsel (OPC) also filed timely objections to the PAA Order, and, pending the hearing, OPC and Lindrick entered into negotiations to reach a settlement. Based on these objections, the PAA Order was not initially consummated. However, OPC and Lindrick reached a settlement and submitted the Settlement Agreement to the Commission for approval. By Order No. PSC-00-2241-AS-SU, issued November 27, 2000, in Docket No. 980242-SU, this Commission approved the Settlement Agreement and finalized and consummated the original PAA Order. Therefore, the requirement for Lindrick to “respond in writing in six months from the date of this Order as to the progress made in the area of complaint responsiveness” became final as of November 27, 2000.

Our staff has reviewed the docket file and its own work papers and cannot find where Lindrick submitted in writing a report on the progress made in the area of complaint responsiveness. Therefore, it appears that Lindrick may have violated the requirement to file a report in writing as to the progress made in the area of complaint responsiveness set forth in the PAA Order. Because it was almost five years before our staff realized that the utility may not have filed a report as to the progress made in the area of complaint responsiveness as required by Order No. PSC-99-1883-PAA-SU, we find that a show cause proceeding for this apparent violation is not warranted.

However, we find that the utility’s failure to file a written response to staff within 15 days of receiving five customer complaints is in apparent violation of Rule 25-22.032, F.A.C., shows a continued pattern of disregard for our rules and warrants more than just a warning. Our staff had originally considered recommending a fine of \$250 or greater. However, based on the utility’s cooperation and its proactive stance in trying to address the deficiencies noted in the December 2005 Review as discussed in the section above, we find that Lindrick shall only be made to show cause why it should not be fined an additional \$125 for these apparent violations of Rule 25-22.032, F.A.C.

The show cause order shall incorporate the same conditions as set forth in the section above.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Lindrick Service Corporation shall show cause in writing within 21 days why it should not be fined \$250 for its apparent failure to timely comply with the requirements of Rule 25-30.251(2), Florida Administrative Code, in that there appears to have been two outages to all its customers, and the utility did not report the outages to this Commission within one working day as required by that rule. It is further

ORDERED that, for the outage on June 30, 2005, it appears that Lindrick did not notify the Fire Chief in advance of that scheduled outage in apparent violation of Rule 25-30.250(3), Florida Administrative Code, and Lindrick shall show cause in writing within 21 days why it should not be fined \$125 for this apparent violation. It is further

ORDERED that Lindrick Service Corporation shall show cause in writing within 21 days why it should not be fined \$125 for its apparent failure to file timely written responses to our staff as required by Rule 25-22.032, Florida Administrative Code, for customer complaints that had been forwarded to the utility by Commission staff. It is further

ORDERED that the show cause proceedings shall incorporate the conditions stated in the body of this Order. It is further

ORDERED that Lindrick Service Corporation shall be required to use as applicable the four forms discussed in the body of this Order in its handling of any outage event or of any customer complaint. It is further

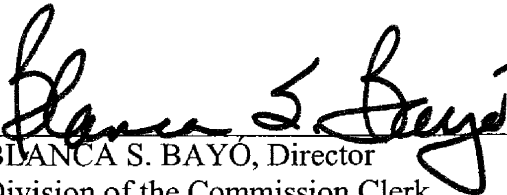
ORDERED that Lindrick Service Corporation shall be warned of the importance of complying with all Commission rules, statutes, and Orders. It is further

ORDERED that as regards Rule 25-30.250(1) and (2), Florida Administrative Code, and Section 367.111, Florida Statutes, which refers to compliance with part VI of chapter 403 and parts I and II of chapter 373, which are enforced by the Department of Environmental Protection (DEP) and the Water Management Districts, we decline to initiate any show cause proceeding. It is further

ORDERED that no enforcement action with respect to Rule 25-30.130, Florida Administrative Code, or Order No. PSC-99-1883-PAA-SU shall be initiated. It is further

ORDERED that If Lindrick Service Corporation pays the \$500 in fines, the docket shall be closed administratively. If the utility timely responds in writing to the Order to show cause, the docket shall remain open to allow for the appropriate processing of the response.

By ORDER of the Florida Public Service Commission this 25th day of April, 2006.

  
BLANCA S. BAYO, Director  
Division of the Commission Clerk  
and Administrative Services

( 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 this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 16, 2006.

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 and a default pursuant to Rule 28-106.111(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 the Commission Clerk, 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.