

State of Florida



Public Service Commission

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

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

DATE: January 23, 2015
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Kelley F. Corbari, Senior Attorney, Office of the General Counsel: RAS Section
RE: Docket No. 140031-WS – Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.

Attached please find a copy of a Motion for Intervention and Petition for Enforcement of Agency Action, Declaratory Judgment and Relief from Judgment filed on behalf of the Commission against Country Club Utilities, Inc. in the Circuit Court of Highlands County, pursuant to Commission Order No. PSC-14-0225-AS-WS. Please file the attached documents in above-referenced docket file.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact me.

KFC

IN THE TENTH JUDICIAL CIRCUIT COURT
IN AND FOR HIGHLANDS COUNTY, FLORIDA

HIGHLANDS COUNTY, a political subdivision
of the State of Florida,

Plaintiff,

CASE NO.: GC 14-611

v.

COUNTRY CLUB UTILITIES, INC.,
a Florida Corporation,

Defendant.

_____ /

FLORIDA PUBLIC SERVICE COMMISSION'S
MOTION FOR INTERVENTION

NOW INTO COURT, by and through undersigned counsel, and pursuant to Fla. R. Civ. P. 1.230, comes the FLORIDA PUBLIC SERVICE COMMISSION (“Commission”), who moves this court for leave to intervene in this action to seek enforcement of its agency action, pursuant to §120.69, Fla. Stat, and assert other interests. In support of its Motion, the Commission states as follows:

1. The Commission is a state agency created by Chapter 350, Fla. Stat., with exclusive jurisdiction over any person or entity holding a certificate of authorization from the Commission to provide utility service under Chapter 367, Fla. Stat.

2. The Defendant, Country Club Utilities, Inc., is a Florida for profit corporation, which owns a water and a wastewater utility in Highlands County, Florida,

authorized to provide utility service pursuant to Commission Certificate of Authorization Nos. 540-W and 468-S.

3. On October 22, 2014, the Defendant filed a Notice of Intent to Abandon the utility systems, pursuant to §367.165, Fla. Stat.

4. On December 17, 2014, this Court appointed the City of Sebring Receiver of the Defendant's utility systems and approved an agreement for the sale of Defendant utility systems to Receiver. See, Agreed Order Appointing Receiver and Authorizing Sale, signed by Highlands County Circuit Judge, Peter F. Estrada, on December 17, 2014.

5. On March 17, 2014, prior to the Defendant's abandonment, the Commission brought an administrative complaint and enforcement action against the Defendant for failing to remit statutory fees, penalties and interest in violation of Commission statutes and rules. A copy of the Commission's "Order to Show Cause and Require Payment of Delinquent Regulatory Assessment Fees" is attached as **Exhibit "A."**

6. On May 12, 2014, the Commission approved a Settlement Agreement proposed by the Defendant to resolve the administrative enforcement action against Defendant, and issued an Order Approving Settlement and Finalizing Show Cause Order ("Final Show Cause Order"), pursuant to §120.57(4), Fla. Stat. A copy of the Commission's Final Show Cause Order is attached hereto as **Exhibit "B."**

7. The Commission's Final Show Cause Order is a final agency action of the Commission, pursuant to §120.57, Fla. Stat., and is enforceable pursuant to §120.69 and Chapters 350 and 367, Fla. Stat.

8. The Commission is authorized to enforce Chapters 350 and 367, Fla. Stat., as well as Commission rules and orders, pursuant to §§ 120.69 and 367.121(1)(g) and (j), Fla. Stat.

9. Pursuant to the Final Show Cause Order, the Defendant was required to perform several actions, including, but not limited to:

- a. satisfy its delinquent statutory financial obligation to the Commission timely and in full;
- b. satisfy its 2014 statutory financial obligation to the Commission timely and in full;
- c. notify any prospective operator or purchaser of its statutory financial obligations to the Commission, by providing any prospective operator or purchaser with a copy of the Commission's Final Show Cause Order; and
- d. notify the Court presiding over any abandonment proceeding of its statutory financial obligations to the Commission, by providing the Court with a copy of the Commission's Final Show Cause Order.

See, Exhibit "B," Final Show Cause Order, pgs 3-4 and 9-10.

10. As of this date, the Defendant has not satisfied or complied with the terms of the Commission's Final Show Cause Order and is, thus, in violation of the Commission's Final Show Cause Order.

11. Moreover, neither this Court's Agreed Order Appointing Receiver and Authorizing Sale, nor the purchase agreement approved by, and attached to, this Court's order included or recognized the Commission's enforcement action against Defendant and/or the statutory debt Defendant owes to the Commission and the State of Florida.

12. Fla. R. Civ. P. 1.230 provides that “[a]nyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention . . .” Fla. R. Civ. P. 1.230; Union Cent. Life Ins. Co. v. Carlisle, 593 So. 2d 505, 507 (Fla. 1992)(holding, an interest entitling a party to intervene in an action is one that is created by a claim to some part of the subject of the litigation that is “of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment”).

13. By virtue of its statutory regulatory authority over Defendant, its Final Show Cause Order, and §120.69, Fla. Stat., the Commission clearly has a claim to the subject of this litigation, which, due the abandonment and pending sale of the utility systems, is of “a direct and immediate character” that the right of the Commission and the State of Florida to secure the statutory debt owed by Defendant could be lost by the operation and effect of any final judgment or order concluding this action.

14. Therefore, the Commission requests intervention in this matter for the purposes of enforcing its Final Show Cause Order and Settlement Agreement, obtaining a money judgment and lien for the statutory debt owed by the Defendant, recovering the costs of enforcing its Final Show Cause Order and maintaining its action, and for any other relief this Court deems just and proper.

WHEREFORE, pursuant to Fla. R. Civ. P. 1.230, the FLORIDA PUBLIC SERVICE COMMISSION respectfully requests that this Court enter an Order granting the Commission leave to intervene in this proceeding, and for such other relief as this Court deems just and proper.

Respectfully submitted, this 22nd day of January, 2015.

/s/ Kelley F. Corbari

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION FOR INTERVENTION has been served by electronic mail and/or U.S. Mail to the following, on this 22nd day of January, 2015:

Plaintiff, Highlands County:

Mr. J. Ross Macbeth, Esq.
2543 US 27 South
Sebring, FL 33870
ross@macbethlaw.com

Receiver, City of Sebring:

Mr. Robert S. Swaine, Esq.
SWAINE & HARRIS, PA
425 South Commerce Avenue
Sebring, FL 33870
bob@heartlandlaw.com

Defendant, Country Club Utilities, Inc.

Mr. R. Greg Harris,
President and Registered Agent
COUNTRY CLUB UTILITIES, INC.
3035 Wynstone Drive
Sebring, FL 33875
rgregharris@gmail.com

Defendant, Country Club Utilities, Inc.

Mr. John K. McClure, Esq.
211 S. Ridgewood Drive
Sebring, FL 33870
johnmc@mllaw.net

/s/ **Kelley F. Corbari**

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EXHIBIT “A”

FLORIDA PUBLIC SERVICE COMMISSION’S ORDER TO SHOW CAUSE AND REQUIREMENT PAYMENT OF DELINQUENT REGULATORY ASSESSMENT FEES

Order No. PSC-14-0131-SC-WS

Issued: March 31, 2014

PSC Docket No: 140031-WS

**In Re: Initiation of show cause proceedings against Country Club Utilities, Inc.
in Highlands County for violations of Rule 25-30.120, FAC,
Regulatory Assessment Fees; Water and Wastewater Utilities.**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Country Club Utilities, Inc. in
Highlands County for violations of Rule 25-
30.120, FAC, Regulatory Assessment Fees;
Water and Wastewater Utilities.

DOCKET NO. 140031-WS
ORDER NO. PSC-14-0131-SC-WS
ISSUED: March 17, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

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

BY THE COMMISSION:

CASE BACKGROUND

Country Club Utilities, Inc. (Country Club or Utility) is a Class C water and wastewater utility providing service in Highlands County. The Utility serves approximately 404 water and 401 wastewater customers in the Country Club of Sebring development located in Highlands County. The Utility's service territory is located in the Southern Water Use Caution Area of the Southwest Florida Water Management District (SWFWMD).

Commission staff opened the instant docket to initiate show cause proceedings against Country Club for apparent violations of Florida Statutes and Commission rules and regulations in failing to remit payment of its annual Regulatory Assessment Fees (RAFs) for the years 2010, 2011 and 2012.

Country Club's President and owner is Mr. R. Greg Harris. Mr. Harris and his wife, Janet B. Harris (Secretary), are the Utility's only officers. Mr. Harris purchased the Utility in 2004, from his father, Roland A. Harris.

Country Club has been in existence since 1989 and came under the jurisdiction of the Commission in 1992, when the Commission granted the Utility water and wastewater certificates and set initial rates and charges.¹ From 1989 to 2003, the utility operated under the corporate

¹ See Order No. 25788, issued February 24, 1992, in Docket No. 190792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring.

name Country Club of Sebring, Inc. In 2003, the Utility changed its name to alleviate confusion with a golf facility with a similar name. On June 20, 2006, the Utility filed an application for name change and to transfer of majority organizational control from Mr. Roland A. Harris to Mr. R. Greg Harris.² On February 12, 2007, we issued Order No. PSC-07-0121-FOF-WS, Authorizing Utility Corporate Reorganization, Name Change and Transfer of Majority Ownership Control.³ The Order also provided that, because the new owner did not request a change in rates, the Utilities' rates and charges established in 1992, by Order No. 25788, would "continue until authorized to change by the Commission in a subsequent proceeding."⁴

In September 2011, Country Club filed an application for staff-assisted rate case (SARC), which it subsequently withdrew in December 2011.⁵ Country Club again filed an application for staff-assisted rate case in June 2012.⁶ At the March 13, 2014, Agenda Conference, Country Club agreed to waive the fifteen month statutory provision of Section 367.0814(2), F.S., in Docket No. 120172-WS.

During the processing of Country Club's SARC application, our staff learned that Country Club had failed to remit payment of its regulatory assessment fees (RAFs) for the years 2010, 2011 and 2012, totaling \$33,310.28, as required by Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C. Our staff made several attempts to work with Country Club regarding payment of the outstanding RAFs. In March 2013, Country Club agreed to a payment plan with Commission staff, wherein Country Club would pay \$500 per month toward its past due RAFs and pay the balance if the Utility were sold.⁷ Between March and August 2013, Country Club remitted five payments of \$500. Country Club did not remit a payment in July 2013. After not receiving Country Club's monthly payment in September 2013, our staff contacted the Utility's owner, Mr. Harris, to inquire whether Country Club would be submitting its monthly RAF payment. On September 27, 2013, Country Club informed our staff that it would not be making its September payment and would no longer be making monthly payments as required by the agreed upon payment plan.⁸

² Id.

³ See, Order No. PSC-07-0121-FOF-WS, issued February 12, 2007, in Docket No. 060352-WS, In re: Application for transfer of majority organizational control of Country Club of Sebring, Inc. in Highlands County and for name change on Certificate Nos. 540-W and 468-S to Country Club Utilities, Inc.

⁴ Id.

⁵ See, Docket No. 110266-WS, In re: Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

⁶ See, Docket No. 120172-WS, In re: Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

⁷ See, Document No. 00853-14, in Docket No. 120172-WS, Email exchange between our staff and Country Club, dated March 6, 2013; and Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Email exchange between our Staff and Country Club, dated March 17, 2013, attached to Staff's demand letter of January 9, 2014.

⁸ See, Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Email exchange between our Staff and Country Club, dated September 27, 2013, attached to our demand letter of January 9, 2014.

By certified letter, dated January 9, 2014, Country Club was notified of apparent violations of Sections 350.113, 367.145 and 367.161, F.S., and Rule 25-30.120, and possible initiation of a show cause proceeding against the Utility for failing to pay its regulatory assessment fees for the years 2010, 2011, 2012.⁹ Country Club's owner, Mr. Harris, was advised in the January 9, 2014, letter that Section 367.161, F.S., provides in pertinent part:

- (1) If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission. . . . Each day that such refusal or violation continues constitutes a separate offense. . . .
- (2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. . . .

In addition, Country Club was advised that Commission staff would open a docket to initiate a show cause proceeding if Country Club did not correct the violations and remit payment of the delinquent RAFs, penalties and interest by January 15, 2014. Country Club did not remit any payment in response to our letter.

On January 16, 2014, Commission staff counsel was contacted by John "Bart" Allen with the law firm of Peterson & Myers, in Lake Wales, Florida, on behalf of Country Club. Mr. Allen advised our staff that Country Club was seeking to negotiate the possible sale of the utility to the City of Sebring. Mr. Allen inquired whether the Commission would extend Country Club additional time prior to initiating a show cause proceeding in order to allow the utility to negotiate a possible sale. Staff counsel requested that Mr. Allen submit Country Club's request for additional time in writing for consideration. Mr. Allen advised staff counsel he would submit the written request for additional time the next day. Our staff did not receive any correspondence from Mr. Allen or Country Club, nor did Mr. Allen return staff counsel's telephone calls.

⁹ See. Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Demand for payment of past due RAFs, dated January 9, 2014; and, Document No. 00192-14, in Docket 140000 and Document No. 00682-14, in Docket No. 140031-WS, Certified Return Receipt signed by R. Harris on January 11, 2014, evidencing receipt by Utility of Staff's certified demand letter of January 9, 2014.

By certified letter dated February 11, 2014, the Commission's Office of the General Counsel notified Country Club of the Commission's intent to initiate a show cause proceeding for the Utility's apparent statute and rule violations.¹⁰

Country Club recently concluded litigation with the State of Florida, Department of Environmental Protection (DEP)¹¹ for violating DEP standards. In addition, Country Club faces possible administrative action/litigation with the South West Florida Water Management District (SWFWMD) for continued over-pumping violations.¹²

We have jurisdiction pursuant to Sections 350.113, 367.121, 367.145, 367.161, F.S., and Rule 25-30.120, F.A.C.

REGULATORY ASSESSMENT FEES

Factual Allegations

Pursuant to Section 367.145(1), F.S., and Rule 25-30.120(1), F.A.C., each utility shall pay a RAF in the amount of 4.5 percent of its gross revenue derived from intrastate business. Subsection (2)(b) requires small utilities with annual revenues of less than \$200,000, such as Country Club, to file RAFs with this Commission on or before March 31 for the preceding calendar year. Subsection (7)(a) permits the Commission to assess a penalty against any utility that fails to pay its RAFs on time.

Pursuant to Section 350.113(4), F.S., and Rule 25-30.120(7)(a), F.A.C., a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its RAFs, in the following manner:

¹⁰ See, Document No. 00695-14, in Docket No. 140031-WS, Letter notifying utility of establishment of a docket to initiate show cause proceeding, dated February 11, 2014; and Document No. 00891-14, in Docket No. 140031-WS, Certified Return Receipt signed by R. Harris on February 14, 2014, evidencing receipt by Utility of Staff's certified letter of February 11, 2014.

¹¹ In October 2012, DEP initiated litigation in Highlands County circuit court seeking enforcement for alleged violations of DEP standards by Country Club and civil penalties. State of Florida, Dep't of Env'tl Protection v. Country Club Utilities, Inc., Case No. 12-924 GCS, 10TH Judicial Circuit Court for Highlands County, Florida. On February 3, 2014, DEP and Country Club entered into a Consent Judgment to settle the litigation, which the Court approved on February 20, 2014.

¹² Country Club has been over-pumping in violation of its Water Use Permit for many years. In September 2012, the Governing Board of the SWFWMD authorized its staff to initiate litigation against the utility for the over-pumping violations, including the possible assessment of penalties and costs against the Utility in the amount of \$83,949.00. On February 17, 2014, Country Club submitted a Compliance Report and Water Conservation Plan to SWFWMD. At this time, the SWFWMD is reviewing the information submitted by Country Club on February 17, 2014, in order to determine whether SWFWMD will pursue enforcement action/litigation against the Utility.

1. Five percent of the fee if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of twenty-five percent.
2. The amount of interest to be charged is one percent for each 30 days or fraction thereof, not to exceed a total of twelve percent per annum

In addition, pursuant to Sections 367.145(1)(b) and 367.161, F.S., and Rule 25-30.120(7)(b), F.A.C., we may impose an additional penalty upon a utility for its failure to pay RAFs in a timely manner.

According to our fiscal records, Country Club has not complied with Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., pertaining to Regulatory Assessment Fees. The Utility has failed to pay its 2010, 2011 and 2012 RAFs, despite having been provided numerous notices that it is delinquent in submitting its RAFs.¹³ Country Club has developed a pattern of disregard for regulatory compliance by not remitting its RAF payments for three consecutive years.

On March 17, 2011, Country Club filed its annual report for 2010, reporting a total gross revenue of \$144,853 for water and \$93,993 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,518.39 for water and \$4,229.69 for wastewater, by March 31, 2011. No payment was received from Country Club. On April 23, 2011, we notified Country Club of its failure to remit its 2010 RAFs.¹⁴ The \$500 monthly payments, totaling \$2,500, remitted by Country Club between March and August 2013 were applied to the Utility's 2010 delinquent RAFs, per Commission practice.

On March 15, 2012, Country Club filed its annual report for 2011, reporting a total gross revenue of \$149,425 for water and \$101,000 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,724.13 for water and \$4,545.00 for wastewater, by March 31, 2012. No payment was received from Country Club. On April 23, 2012, we notified Country Club of its failure to remit its 2011 RAFs.¹⁵

¹³ See, Document No. 00148-14, in Docket No. 140000 and Document No. 00148-14, in Docket No. 140031-WS, Commission correspondence to Country Club regarding outstanding RAFs, penalties and interest, attached to our demand letter of January 9, 2014:

- Letter from Office of General Counsel, dated April 23, 2013, re: notification of failure to submit 2012 RAFs and demand for payment within 15 days.
- Letter from Office of General Counsel, dated April 23, 2012, re: notification of failure to submit 2011 RAFs and demand for payment within 15 days.
- Letter from Office of General Counsel, dated April 20, 2011, re: notification of failure to submit 2010 RAFs and demand for payment within 15 days.
- Letter from Fiscal Services Section, dated May 24, 2013 re: notification of untimely submission of 2010 RAFs and demand for payment by June 7, 2013.

¹⁴ Id.

¹⁵ Id.

On April 18, 2013¹⁶, Country Club filed its annual report for 2012, reporting a total gross revenue of \$151,060 for water and \$99,897 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,797.70 for water and \$4,495.37 for wastewater, by March 31, 2013. No payment was received from Country Club. On April 20, 2013, we notified Country Club of its failure to remit its 2012 RAFs.¹⁷

On February 26, 2014, we received Country Club's 2013 RAF returns for water and wastewater, wherein Country Club reported a total gross revenue of \$147,666.39 for water and \$98,166.94 for wastewater. Country Club, however, did not remit payment of its 2013 RAFs with the RAF forms. Based on its 2013 RAF filing, Country Club is required to remit a RAF payment in the amount of \$6,644.99 for water and \$4,417.51 for wastewater, by March 31, 2014.

Country Club made no effort to fulfill its statutory obligation with regard to its delinquent RAFs, until March 2013, when our staff requested Country Club make payments toward its delinquent RAFs as a condition of proceeding with its SARC application. After remitting five payments, Country Club ceased making its agreed upon monthly payments to the Commission and made no effort to contact our staff prior to, or after, ceasing its payments in September 2013, or to discuss its RAF obligations.

Section 350.113, F.S., and Rule 25-30.120, F.A.C., provide for penalties and interest for failure to pay RAFs. A penalty in the amount of five percent of the fee is assessed for each 30-day period the payment is not received, up to a maximum of twenty-five percent. Since Country Club's failure to pay its 2010, 2011 and 2012 RAFs exceeds five 30-day periods, the maximum twenty-five percent penalty has been assessed to the RAF amounts owed by Country Club for 2010, 2011 and 2012. Further, one percent interest is assessed for each 30-day period, or fraction thereof, the payment is not received, not to exceed a total of twelve percent per annum. As of the date of the Commission's March 13, 2014, Agenda Conference, the amounts owed by Country Club for delinquent RAFs plus statutory penalty and interest, are as follows:¹⁸

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,639.31	\$14,574.41
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,704.59	\$16,791.00
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,355.16	\$15,471.50
TOTALS	\$740,228.00	\$33,310.28	\$2,500.00	\$8,327.57	\$7,699.06	\$46,836.91

We note that the statutory penalties and interest will continue to accrue until Country Club pays the delinquent fees.

¹⁶ Country Club's 2012 annual reports were not filed timely. A utility's annual reports are due on or before March 31st, pursuant to Rule 25-30.110(3)(b), F.A.C.

¹⁷ See, Document No. 00148-14, in Docket No. 140000 and Document No. 00148-14, in Docket No. 140031-WS, Commission correspondence to Country Club regarding outstanding RAFs, penalties and interest, attached to Staff's demand letter of January 9, 2014.

¹⁸ A complete breakdown of the RAF amounts, plus penalties and interest, is attached hereto as Attachment 1.

The Utility's owner indicated that the Utility is unable to pay its RAFs due to the Utility's rates being inadequate. We do not believe that Country Club's assertion of inadequate rates is a valid justification for its failure to remit its RAFs. First, the amount of RAFs owed by a utility each year, is included in a utility's rates. Thus, Country Club has already collected the allocated 2010, 2011 and 2012 RAF amounts owed to this Commission. Second, while Country Club's current rates have remained unchanged since established by this Commission in 1992,¹⁹ Country Club did not contact the Commission regarding a rate increase until 2011, when it filed its first SARC application, which it then withdrew. In fact, Country Club did not request a rate increase when it came to the Commission in 2006 to request approval of name change and transfer.²⁰

Decision

Utilities are charged with the knowledge of the our 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). In making similar decisions, we have repeatedly held that utilities are charged with the knowledge of our Rules and Statutes.²¹

A show cause order is considered our administrative complaint against the utility. If we issue a show cause order, the utility is required to file a written response, which must contain specific allegations of disputed fact. If there are no disputed factual issues, the utility's response should so indicate. The response must be filed within 21 days of service of the show cause order on the respondent.

The utility has two options if a show cause order is issued. The utility may respond and request a hearing pursuant to Sections 120.569 and 120.57, F.S. If the utility requests a hearing, a hearing will be scheduled before we make a final determination on the matter. The utility may respond to the show cause order by remitting the delinquent fees. If the utility pays its delinquent fees, the show cause matter is considered resolved, and the docket is closed.

¹⁹ See, Order No. 25788, Issued February 24, 1992, in Docket No.910792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring, stating, "the schedules have been used only as tools to aid in the establishment of initial rates. They are not intended for use in establishing rate base."

²⁰ See, Order No. PSC-07-0121-FOF-WS, Issued February 12, 2007, in Docket No. 060352-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring, stating, the rates of former owner "must continue unless authorized to change by the Commission. The new owner has not requested a change; therefore, the existing rates and charges will continue until authorized to change by the Commission in a subsequent proceeding."

²¹ See Order No. PSC-11-0250-FOF-WU, issued June 13, 2011, in Docket No. 100104-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.; Order No. PSC-07-0275-SC-SU, issued April 2, 2007, in Docket No. 060406-SU, In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company; and Order No. PSC-05-0104-SC-SU, issued January 26, 2005 in Docket Nos. 020439-SU and 020331-SU; In re: Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation; In re: Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

In the event the utility fails to timely respond to the show cause order, the utility is deemed to have admitted the factual allegations contained in the show cause order and waived its right to a hearing. In addition, a final order will be issued imposing the sanctions set out in the show cause order.

Pursuant to Section 367.161(1), F.S., we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$5,000 for each day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367, F.S. Each day a violation continues is treated as a separate offense. Each penalty is a lien upon the real and personal property of the utility and is enforceable by the Commission as a statutory lien. As an alternative to the above remedies, Section 367.161(2), F.S., permits us to amend, suspend, or revoke a utility's certificate for any such violation.

Willfulness is a question of fact.²² Therefore, part of the determination we must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to "willfully violate" a rule or order. 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., the Commission stated that "willful implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." The plain meaning of "willful" typically applied by the Courts in the absence of a statutory definition, is an act or omission that is done "voluntarily and intentionally" with specific intent and "purpose to violate or disregard the requirements of the law." Fugate v. Fla. Elections Comm'n, 924 So. at 76.

By knowingly failing to comply with the provisions of Section 367.145, F.S., Country Club's acts were "willful" in the sense intended by Section 367.161, F.S., and Fugate. Accordingly, we believe that Country Club has not complied with Sections 350.113 and 367.145, F.S., or Rule 25-30.120, F.A.C. Therefore, we order Country Club to show cause, in writing within 21 days, why it is not obligated to remit payment in the amount of \$46,836.91, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011 and 2012 on or before April 17, 2014. Furthermore, Country Club is ordered to pay its delinquent RAFs in the amount of \$8,248.08 for 2010, \$11,269.13 for 2011, and \$11,293.07 for 2012, including statutory interest and penalties in the amounts of, \$6,326.33 for 2010, \$5,521.87 for 2011, and \$4,178.43 for 2012, on or before April 17, 2014.

At this time, we shall not impose an additional penalty, pursuant to Sections 367.145 and 367.161, F.S., and Rule 25-30.120, F.A.C., for Country Club's failure to comply with statutes and rules. Section 350.113, F.S., and Rule 25-30.120, F.A.C., already impose statutory penalty and interest upon RAFs that are not submitted timely. At this time, we believe the imposition of an additional penalty is not likely to further efforts to bring the Utility into compliance.

²² Fugate v. Fla. Elections Comm'n, 924 So. 2d 74, 75 (Fla. 1st DCA 3006), citing, Metro. Dade County v. State Dep't of Env'tl. Prot., 714 So. 2d 512, 517 (Fla. 3d DCA 1998).

RESPONSE TO ORDER TO SHOW CAUSE AND CLOSING THE DOCKET

This show cause order is an administrative complaint by the Florida Public Service Commission, as petitioner, against Country Club Utilities, Inc., as respondent. Country Club shall respond to this Order within 21 days of service on the Utility, and the response shall reference Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.

Country Club has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative. A request for hearing shall comply with Rule 28-106.2015, F.A.C.

Country Club's response to this Order must contain specific allegations of fact and law and shall identify those material facts that are in dispute. If there are no material facts in dispute, the response must so indicate. If Country Club files 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, F.S., a further proceeding shall be scheduled before a final determination of this matter is made.

If Country Club responds to this Order by remitting its delinquent RAFs, in the amount of \$30,810.28, plus penalties and interest in the amount of \$16,026.63, by April 17, 2014, this show cause matter will be considered resolved, and the 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 on this issue. In the event that Country Club fails to file a timely response to this Order, the fees and penalties are deemed assessed and a final order will be issued.

Finally, should Country Club fail to remit payment of its delinquent RAFs, penalties and interest by April 17, 2014, we authorize our Office of the General Counsel to pursue all reasonable means necessary to collect the amounts owed by Country Club, including, but not limited to, initiating action in circuit court, pursuant to Section 367.121(1)(g) and (j).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Country Club Utilities, Inc. show cause, in writing, within 21 days, why it is not obligated to remit payment in the amount of \$46,836.91, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011 and 2012. Country Club Utilities, Inc.'s response shall reference Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities. It is further,

ORDERED that Country Club Utilities, Inc.'s response to this Order to Show Cause shall contain specific allegations of fact and law and shall identify those material facts that are in dispute. If there are no material facts in dispute, the response must so indicate. It is further,

ORDERED that, should Country Club Utilities, Inc. 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, F.S., a further proceeding shall be scheduled before a final determination of this matter is made. It is further,

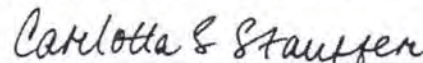
ORDERED that a failure to file a timely written response to this Order to Show Cause shall constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this matter. It is further,

ORDERED that, in the event that Country Club Utilities, Inc. fails to file a timely response to this Order, the fees, penalties and interest are deemed assessed and a final order will be issued. It is further,

ORDERED that, if the Country Club Utilities, Inc. responds to this Order to Show Cause by remitting its delinquent RAFs, in the amount of \$30,810.28, plus penalties and interest in the amount of \$16,026.63, by April 17, 2014, this show cause matter will be considered resolved, and the docket shall be closed administratively. It is further,

ORDERED that, should Country Club Utilities, Inc. fail to remit payment of its delinquent RAFs, penalties and interest by April 17, 2014, the docket shall remain open and the Florida Public Service Commission's Office of the General Counsel is hereby authorized to pursue all reasonable means necessary to collect the amounts owed by Country Club Utilities, Inc., including, but not limited to, initiating a civil action in circuit court, pursuant to Section 367.121(1)(g) and (j), F.S.

By ORDER of the Florida Public Service Commission this 17th day of March, 2014.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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.

The show cause portion of 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 7, 2014.

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 the show cause portion of this Order within the time prescribed above, that party 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 Office of 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.

COUNTRY CLUB UTILITIES, INC. (WS654)

DELINQUENT REGULATORY ASSESSMENT FEES

YEAR	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,639.31	\$14,574.41
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,704.59	\$16,791.00
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,355.16	\$15,471.50
TOTALS	\$740,228.00	\$33,310.28	\$2,500.00	\$8,327.57	\$7,699.06	\$46,836.91

RAF BREAKDOWN BY SERVICE & YEAR

2010	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	\$144,853.00	\$6,518.39	\$1,250.00	\$1,629.60	\$2,231.61	\$9,129.60
SEWER	\$93,993.00	\$4,229.69	\$1,250.00	\$1,057.42	\$1,407.70	\$5,444.81
TOTALS	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,639.31	\$14,574.41

2011	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	\$149,425.00	\$6,724.13	\$0.00	\$1,681.03	\$1,613.79	\$10,018.95
SEWER	\$101,000.00	\$4,545.00	\$0.00	\$1,136.25	\$1,090.80	\$6,772.05
TOTALS	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,704.59	\$16,791.00

2012	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	\$151,060.00	\$6,797.70	\$0.00	\$1,699.43	\$815.72	\$9,312.85
SEWER	\$99,897.00	\$4,495.37	\$0.00	\$1,123.84	\$539.44	\$6,158.65
TOTALS	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,355.16	\$15,471.50

EXHIBIT “B”

FLORIDA PUBLIC SERVICE COMMISSION’S ORDER APPROVING SETTLEMENT AND FINALIZING SHOW CAUSE ORDER

**Order No. PSC-14-0225-AS-WS
Issued: May 12, 2014**

**PSC Docket No: 140031-WS
In Re: Initiation of show cause proceedings against Country Club Utilities, Inc.
in Highlands County for violations of Rule 25-30.120, FAC,
Regulatory Assessment Fees; Water and Wastewater Utilities.**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Country Club Utilities, Inc. in
Highlands County for violations of Rule 25-
30.120, FAC, Regulatory Assessment Fees;
Water and Wastewater Utilities.

DOCKET NO. 140031-WS
ORDER NO. PSC-14-0225-AS-WS
ISSUED: May 12, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER APPROVING SETTLEMENT AGREEMENT
AND
FINALIZING SHOW CAUSE ORDER

BY THE COMMISSION:

CASE BACKGROUND

Our staff opened Docket No. 140031-WS to initiate show cause proceedings against Country Club Utilities, Inc. (Country Club or Utility) for apparent violations of Florida Statutes and Commission rules and regulations in failing to remit payment of its annual Regulatory Assessment Fees (RAFs) for the years 2010, 2011 and 2012.

On March 17, 2014, we issued Order No. PSC-14-0131-SC-WS¹ (Show Cause Order), ordering Country Club to remit payment of its delinquent RAFs, in the amount of \$30,810.28, plus penalties and interest in the amount of \$16,026.63, by April 17, 2014 or show cause, in writing, why it was not obligated to remit payment for its delinquent RAFs, plus statutory penalties and interest, for the years 2010, 2011 and 2012. On April 10, 2014, Country Club filed its Response to Order to Show Cause and Petition for a Hearing.

¹ See Order No. PSC-14-0131-SC-WS, issued March 17, 2014, in Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.

2013 Regulatory Assessment Fees

On February 26, 2014, we received Country Club's 2013 RAF returns for water and wastewater, wherein Country Club reported a total gross revenue of \$147,666.39 for water and \$98,166.94 for wastewater. On April 3, 2014, Country Club filed its annual report for 2013, reporting a total gross revenue of \$144,079 for water and \$98,167 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,483.60 for water and \$4,417.51 for wastewater, by March 31, 2013. To date, Country Club has not remitted payment of its 2013 RAFs.

Accordingly, as of May 14, 2014, the amounts owed by Country Club for delinquent RAFs plus statutory penalty and interest, for the years 2010, 2011, 2012, and 2013, are as follows:

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY 5 - 25% (THRU 05/14/14)	INTEREST 1% (THRU 05/14/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,886.75	\$14,821.85
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,929.97	\$17,016.38
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,581.03	\$15,697.37
2013²	\$242,247.00	\$10,901.11	\$0.00	\$1,090.11	\$218.02	\$12,209.24
TOTALS	\$982,475.00	\$44,211.39	\$2,500.00	\$9,417.68	\$8,615.77	\$59,744.84

Settlement Discussions

On March 24, 2014, our staff participated in a telephone conference with Country Club's owner, Greg Harris, and Mr. Harris' accountant, Mr. Robert Reed, to discuss the terms of a possible settlement. Although a settlement was not reached on that date, the parties agreed to a second telephone conference, for the purposes of continuing settlement discussions. On April 2, 2014, our staff and Mr. Harris participated in a second telephone conference, where our staff and Mr. Harris tentatively agreed on terms for a proposed settlement of this docket. After the second telephone conference, our staff and Mr. Harris exchanged several drafts of the proposed Settlement Agreement. On May 2, 2014, Country Club filed a letter requesting we accept its proposed Settlement Agreement, which is attached hereto as Attachment 1.

² Although the Show Cause Order did not include the failure to remit 2013 RAFs, Country Club's proposed Settlement Agreement acknowledges the obligation to remit payment of its 2013 RAFs, plus penalty and interest, and includes a payment plan for satisfying the obligation. Additionally, we note that the 2013 RAFs, penalty and interest figures outlined in the table above are the most current calculations of the amount owed by Country Club for 2013. As such, the table contained in this Order supersedes the amounts outlined in the Table on page 1 of Exhibit A to the Settlement Agreement.

We have jurisdiction pursuant to Sections 120.57, 350.113, 367.121, 367.145, 367.161, F.S., and Rule 25-30.120, F.A.C.

DECISION

Acceptance of Settlement

On May 2, 2014, Country Club filed a letter with the attached proposed Settlement Agreement, in an effort to fully resolve its apparent violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities and delinquent RAFs, penalties and interest. The goal of any show cause proceeding, is to ensure compliance with Florida law and the Commission's rules and orders. It appears as though the proposed Settlement Agreement accomplishes this goal and provides a remedy for past violations.

Significant provisions of the Settlement Agreement include:

- Country Club acknowledges its obligation, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, F.A.C., to remit payment of its Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011, 2012, and 2013.
- Country Club will make a one-time payment of \$19,517.27, by May 14, 2014, to satisfy the principal balance of the RAF amounts Country Club owes for 2010 and 2011.
- Beginning on September 15, 2014, Country Club will begin making monthly payments, by the fifteenth of each month, in the amount of \$1,000.00, in an effort to pay off the balance of its 2012 and 2013 RAFs, as well as penalties and interest for 2010, 2011, 2012, and 2013.
- Country Club will submit payment of its 2014 and future RAFs to the Commission, timely and in full.
- Country Club agrees to waive its right to an administrative formal hearing pursuant to Sections 120.569 and 120.57, F.S., and will withdraw its petition for formal hearing filed on April 10, 2014, in this docket, within ten (10) days of the approval of the Settlement Agreement.
- The Commission will conditionally waive its right to seek civil remedies against Country Club for failing to remit payment of RAFs, penalties and interest, provided that Country Club complies with all of the terms of this Settlement Agreement and any final Commission order approving the agreement.

- Country Club will notify the Commission prior to any sale, conveyance, or abandonment of the utility or the property it is located upon, and/or the initiation of any bankruptcy proceedings involving the utility or its property. In addition, Country Club will provide a copy of the Settlement Agreement and Commission order approving the agreement to any purchaser, operator, or person assuming control of Country Club and/or any court presiding over any abandonment or bankruptcy proceeding involving Country Club.
- The agreement does not prevent a Party from filing suit to specifically enforce any of the terms of the agreement; and the Commission reserves the right to initiate appropriate legal action to address any violations of Commission rules or statutes that are not specifically related to the agreement.
- Should Country Club fail to comply with any of the terms of the proposed Settlement Agreement, such failure would be considered a breach of the agreement and automatically accelerate the balance of any unpaid RAFs, penalties and interest, which would then become immediately due. In addition, the Commission will seek to enforce the terms of the Settlement Agreement and pursue all reasonable means necessary to collect the amounts owed, including, but not limited to, placing a lien on the real and personal property of Country Club.

We find that, taken in its entirety, the Settlement Agreement provides a reasonable resolution of the outstanding issues in Docket No. 140031-WS in accordance with Section 120.57(4), F.S. In addition, we find the Settlement Agreement to be in the public interest, as it provides for the utility's future compliance with Florida Statutes and Commission Rules. Moreover, the Settlement Agreement promotes administrative efficiency and avoids the time and expense of a hearing. Accordingly, we hereby approve and accept the Settlement Agreement proposed by Country Club, in full as attached hereto as Attachment 1.

Closure of Docket

We find that the Settlement Agreement resolves all matters in Docket No. 140031-WS in accordance with Section 120.57(4), F.S., and, as a result, our Show Cause Order No. PSC-14-0131-SC-WS, issued on March 17, 2014, shall become final. This docket shall remain open in order to process the settlement payments and to monitor ongoing compliance of the terms of the Settlement Agreement. Once the terms of the Settlement Agreement and all outstanding amounts owed by Country Club have been satisfied, the docket shall be administratively closed. Should Country Club fail to comply with any of the terms of the Settlement Agreement, the Commission will seek to enforce the Settlement Agreement and pursue all reasonable means necessary to collect the amounts owed by Country Club, pursuant to Sections 120.69 and 367.121(1)(g) and (j), F.S., including, but not limited to, initiating an action in civil court and/or procuring a lien on the real and personal property of Country Club.

Based on the foregoing, it is

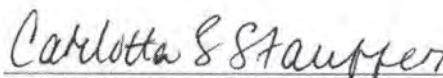
ORDERED by the Florida Public Service Commission that the Settlement Agreement, attached hereto as Attachment 1, is hereby approved, resolving all outstanding matters in this docket in accordance with Section 120.57(4), F.S. It is further,

ORDERED that Order No. PSC-14-0131-SC-WS, issued on March 17, 2014, shall become final and Country Club Utilities, Inc. shall withdraw its petition for formal hearing, within ten (10) days of the date of this Order. It is further,

ORDERED, that this docket shall remain open to process settlement payments received and to monitor compliance with the terms of this Settlement Agreement. Once all the terms of the Settlement Agreement and all outstanding amounts owed by Country Club Utilities, Inc. have been satisfied, the docket shall be administratively closed. It is further,

ORDERED, that, should Country Club Utilities, Inc. breach the terms of the Settlement Agreement, the Florida Public Service Commission shall seek to enforce the Settlement Agreement and pursue all reasonable means necessary to collect any amounts owed, including, but not limited to, initiating an action in circuit court and/or procuring a lien on the real and personal property of Country Club Utilities, Inc., pursuant to Sections 120.69 and 367.121(1)(g) and (j), F.S.

By ORDER of the Florida Public Service Commission this 12th day of May, 2014.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KFC

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.

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 Office of Commission Clerk, 2540 Shumard 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 Office of 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 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.

FILED MAY 02, 2014
DOCUMENT NO. 02031-14
FPSC - COMMISSION CLERK

Country Club Utilities, Inc.

May 2, 2014

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

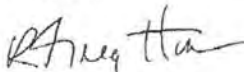
Re: Docket No. 140031-WS
Country Club Utilities Settlement Agreement

Dear Commissioners:

I respectfully ask that you consider approving the Settlement Agreement as prepared by staff and signed by me.

Staff has worked very closely with me to remedy this violation and I am grateful. I also appreciate your consideration previously and hope you will approve this current agreement.

Sincerely,



R. Greg Harris, President

3035 Wynstone Drive, Sebring, FL 33875
863-381-8201
rgregharris@gmail.com

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Country Club Utilities, Inc. in
Highlands County for violations of Rule 25-
30.120, FAC, Regulatory Assessment Fees;
Water and Wastewater Utilities.

DOCKET NO. 140031-WS

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes (F.S.), Country Club Utilities, Inc. (Country Club) hereby files this Settlement Agreement to effect an informal disposition and binding resolution of any and all matters and issues that were, or might have been, addressed by the Florida Public Service Commission (Commission) in Docket No. 140031-WS. This Settlement Agreement avoids the time, expense and uncertainty associated with adversarial litigation. The terms of this Settlement Agreement are as follows:

1. Country Club acknowledges its obligation, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, Florida Administrative Code (F.A.C.), to remit payment of its Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011, 2012, and 2013, as shown in Exhibit A attached hereto.
2. In consideration of Country Club's complete and timely performance of all the obligations agreed to in this Settlement Agreement, the Commission conditionally waives its right to seek civil remedies against Country Club for failing to remit payment of RAFs, penalties and interest for the years 2010, 2011, 2012, and 2013, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, F.A.C. This waiver is conditioned upon Country Club's complete compliance with all of the terms of this Settlement Agreement and any final Commission order approving this agreement.

Docket No. 140031-WS

Country Club Settlement Agreement

3. In lieu of the Commission pursuing all reasonable means necessary to collect the amounts owed by Country Club, including, initiating action in circuit court, Country Club will perform the following:
 - a. Submit payment to the Commission in the amount of \$19,517.21, by **May 14, 2014**, satisfying the principal balance of Country Club's 2010 and 2011 Regulatory Assessment Fees (RAFs);
 - b. Submit a monthly payment of \$1,000.00 to the Commission, by the **15TH** of every month, beginning on **September 15, 2014**, and continuing until the balance of any outstanding RAFs, penalties and interest has been paid; and
 - c. Submit payment of its 2014 and future RAFs to the Commission, timely and in full.

4. The Commission shall apply all payments made by Country Club under this Settlement Agreement in the following manner:
 - a. To the principal balance of any unpaid year's RAFs, beginning with the oldest year to the most recent year, until the principal balance of any year's unpaid RAFs has been satisfied; and
 - b. To the penalty and interest balance assessed to each year of delinquent RAFs, beginning with the oldest year to the most recent year, until the penalty and interest balance of each year's delinquent RAFs has been satisfied.

5. Failure by Country Club (i) to submit its initial payment of \$19,517.21 payment by May 15, 2014, (ii) to timely submit two (2) consecutive \$1,000.00 installment payments outlined above, or (iii) to abide by any of the other terms contained herein, shall be considered a breach of this Settlement Agreement, automatically accelerating the balance of any unpaid RAFs, penalties and interest, which will then become immediately due.

6. Additional Payment Terms:
 - a. All payments shall be made payable to the "Florida Public Service Commission," include Docket No. 140031-WS on the memo line, and be sent to "Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, ATTENTION: Fiscal Services."

Docket No. 140031-WS

Country Club Settlement Agreement

- b. Payment is considered "timely" if properly addressed, mailed with sufficient postage and postmarked no later than the due date.
 - c. Payment is considered "paid" on the date it is received and logged in by the Commission's Division of Administrative and Information Technology Services in Tallahassee, Florida, or on the date the payment is postmarked by the United States Postal Service.
 - d. Payment that is returned by a financial institution for insufficient funds, or any other reason, is a failure to submit timely payment. Pursuant to Section 215.34(2), a service fee of \$15.00 or five percent (5%) of the amount of the payment returned, whichever is greater, shall be assessed to any payment returned by a financial institution for insufficient funds, or for any other reason. Two (2) returned payments shall be considered a breach of this Settlement Agreement, automatically accelerating the balance of any unpaid RAFs, penalties and interest, which will then become immediately due.
7. In the event Country Club, including the property upon which Country Club is located, becomes the subject of a sale, conveyance, abandonment, or bankruptcy and all of the terms of this Settlement Agreement have not been fully satisfied, Country Club shall:
- a. Notify the Commission at least sixty (60) days prior to the sale, conveyance, abandonment or initiating bankruptcy proceedings;
 - b. Provide the name and address of the purchaser, operator, or person to assume or in control of Country Club;
 - c. Provide a copy of this Settlement Agreement, final Commission order approving the Settlement Agreement and all attachments to the purchaser, operator, or person assuming control of Country Club; and
 - d. Provide a copy of this Settlement Agreement, final Commission order approving the Settlement Agreement and all attachments to the court presiding over any abandonment or bankruptcy proceeding involving Country Club.
8. The submission of this Settlement Agreement by Country Club is in the nature of an offer to settle. This Settlement Agreement is contingent on the Commission accepting the entire Settlement Agreement. Consequently, if this Settlement Agreement is not accepted

Docket No. 140031-WS

Country Club Settlement Agreement

and approved without modification, then the settlement proposal is rejected and the Settlement Agreement shall be considered null and void and of no further force or effect.

9. This Settlement Agreement will take effect the day after it is approved by the Commission. Country Club understands that the Commission's decision will be reflected in a final order.
10. Neither Party to this Settlement Agreement will request, support, or seek to impose a change in the application of any provision of this Settlement Agreement. Provided the Commission approves the Settlement Agreement, Country Club waives its right to request further administrative or judicial proceedings concerning any of the matters, which were, or might have been, addressed by the Commission in resolving Docket No. 140031-WS, except proceedings to enforce this Settlement Agreement. This waiver of the right to further administrative or judicial proceedings shall include, but not be limited to: a petition for a formal proceeding in the form provided by Rule 28-106.201 or 28-106.2015, F.A.C.; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, F.A.C.; or a notice of appeal to initiate judicial review by the Florida First District Court of Appeal pursuant to Fla. R. App. P. 9.110, in the form specified in Fla. R. App. P. 9.900(a).
11. Nothing in this Settlement Agreement shall prevent the Parties from filing suit to specifically enforce any of the terms of this Settlement Agreement. The Commission reserves the right to initiate appropriate legal action to address any violations of rules or statutes administered by the Commission that are not specifically related to or resolved by this Settlement Agreement.

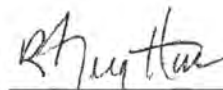
Docket No. 140031-WS

Country Club Settlement Agreement

12. In consideration for entering into this agreement, Country Club acknowledges, agrees, and waives its right to an administrative formal hearing pursuant to Sections 120.569 and 120.57, F.S., and shall withdraw its petition for formal hearing filed on April 10, 2014, in Docket 140031-WS, within ten (10) days of approval of this Settlement Agreement. Country Club further acknowledges, agrees, and waives its right to appeal the final order on this matter.
13. This Settlement Agreement resolves all matters in Docket No. 140031-WS in accordance with Section 120.57(4), F.S. Docket No. 140031-WS will continue to remain open until all the terms of this Settlement Agreement have been satisfied by Country Club.
14. This Settlement Agreement constitutes a single, integrated written contract expressing the entire agreement between the Parties and superseding all other agreements, representations, and understandings on the subject matter herein. There is no other agreement, oral or written, expressed or implied, between the Parties with respect to the subject-matter herein, except this Settlement Agreement.

Signed this 1st day of May, 2014.

BY:



R. Greg Harris, President
COUNTRY CLUB UTILITIES, INC.
3035 Wynstone Drive
Sebring, FL 33875
Telephone: (863) 385-6330
Email: rgregharris@gmail.com

Docket No. 140031-WS

Settlement Agreement – Exhibit A

TOTAL RAFs, PENALTY & INTEREST OUTSTANDING

YEAR	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (5 - 25%) (THRU 05/14/14)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,886.75	\$14,821.85
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,929.97	\$17,016.38
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,581.03	\$15,697.37
2013	\$245,833.33	\$11,293.06	\$0.00	\$1,129.31	\$225.86	\$12,648.23
TOTALS		\$44,603.34	\$2,500	\$9,456.88	\$8,623.61	\$60,183.83

Docket No. 140031-WS

Settlement Agreement – Exhibit A

RAF BREAKDOWN BY SERVICE & YEAR

2010	REVENUES	RAFS (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$144,853.00	\$6,518.39	\$1,629.60	\$2,389.67	\$10,537.66
SEWER	\$93,993.00	\$4,229.69	\$1,057.42	\$1,497.08	\$6,784.19
PAYMENTS	----	\$2,500.00	\$0.00	\$0.00	\$2,500.00
TOTALS	\$238,846.00	\$8,248.08	\$2,687.02	\$1,581.03	\$14,821.85

2011	REVENUES	RAFS (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$149,425.00	\$6,724.13	\$1,681.03	\$1,748.27	\$10,153.43
SEWER	\$101,000.00	\$4,545.00	\$1,136.25	\$1,181.70	\$6,862.95
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$250,425.00	\$11,269.13	\$2,817.28	\$2,929.97	\$17,016.38

Docket No. 140031-WS

Settlement Agreement – Exhibit A

RAF BREAKDOWN BY SERVICE & YEAR

2012	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$151,060.00	\$6,797.70	\$1,699.43	\$951.68	\$9,448.81
SEWER	\$99,897.00	\$4,495.37	\$1,123.84	\$629.35	\$6,248.56
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$250,957.00	\$11,293.07	\$2,823.27	\$1,581.03	\$15,697.37

2013	REVENUES	RAFs (4.5%)	PENALTY (10%) (THRU 05/14/14)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$144,080.00	\$6,483.60	\$648.36	\$129.67	\$7,261.63
SEWER	\$98,167.00	\$4,417.51	\$441.75	\$88.35	\$4,947.61
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$242,247.00	\$10,901.11	\$1,090.11	\$218.02	\$12,209.24

IN THE TENTH JUDICIAL CIRCUIT COURT
IN AND FOR HIGHLANDS COUNTY, FLORIDA

HIGHLANDS COUNTY, a political subdivision
of the State of Florida,

Plaintiff,

CASE NO.: GC 14-611

v.

COUNTRY CLUB UTILITIES, INC.,
a Florida Corporation,

Defendant.

**PETITION FOR ENFORCEMENT OF AGENCY ACTION,
DECLARATORY JUDGMENT AND RELIEF FROM JUDGMENT**

Intervenor, FLORIDA PUBLIC SERVICE COMMISSION (hereinafter, “Commission”), files this petition against COUNTRY CLUB UTILITIES, INC. (“Defendant”) and the CITY OF SEBRING, in its capacity as Receiver of Defendant utilities (“Receiver”), and states the following:

PARTIES, NATURE OF ACTION, JURISDICTION, AND VENUE

1. The Defendant, Country Club Utilities, Inc., is a Florida for profit corporation, which owns a water and a wastewater utility in Highlands County, Florida and is authorized to provide utility service pursuant to Commission Certificate of Authorization Nos. 540-W and 468-S.

2. The City of Sebring, a municipality in Highlands County, is the current operator of Defendant utility systems, having been appointed Receiver of Defendant

utility systems by this Court on December 17, 2014, and having assumed operations of Defendant utility systems on or about December 22, 2014.

3. The Commission is an agency of the State of Florida established pursuant to Chapters 350 and 367, Fla. Stat., with exclusive jurisdiction over any person or entity holding a certificate of authorization from the Commission to provide utility service under Chapter 367, Fla. Stat.

4. The Commission is authorized to enforce Chapters 350 and 367, Fla. Stat., as well as Commission Rules and Orders.

5. The Commission seeks enforcement of its order, declaratory relief, entry of a money judgment in excess of \$15,000.00, exclusive of interest and costs, and recovery of the Commission's attorneys' fees and costs, pursuant to §§120.69, 367.121, and 86.081, Fla. Stat.

6. This Court has jurisdiction pursuant to Article V, §5, Fla. Const., and §§120.69, 367.121, and 86.011, Fla. Stat.

7. Venue properly lies with this Court because the subject-matter of this action lies in Highlands County.

**COUNT I: ENFORCEMENT OF AGENCY ORDER
AND SETTLEMENT AGREEMENT**

8. On March 17, 2014, the Commission issued an administrative complaint against the Defendant for failing to remit statutory fees, penalties, and interest in violation of Commission statutes and rules. A certified copy of the Commission's "Order

to Show Cause and Require Payment of Delinquent Regulatory Assessment Fees” is attached and incorporated herein as though pled, as **Exhibit “A”**.

9. In an effort to resolve the administrative enforcement action, the Defendant submitted a proposed Settlement Agreement to the Commission, wherein the Defendant acknowledged and agreed to satisfy its statutory financial obligation to the Commission. A certified copy of the proposed “Settlement Agreement” submitted by the Defendant is attached and incorporated herein as though pled, as **Exhibit “B”**.

10. On May 12, 2014, the Commission approved the Settlement Agreement and issued a final order, approving the Settlement Agreement and finalizing the enforcement action. A certified copy of the Commission’s “Order Approving Settlement and Finalizing Show Cause Order” is attached and incorporated herein as though pled, as **Exhibit “C,”** and is hereafter referred to as the Final Show Cause Order.

11. The Commission’s Final Show Cause Order is a final agency action of the Commission pursuant to §120.57, Fla. Stat., and, as such, is enforceable pursuant to §120.69 and Chapter 367, Fla. Stat.

12. Defendant was required to comply with the Commission’s Final Show Cause Order, which included complying with and performing all the actions contained in Paragraphs 1–14, of the Settlement Agreement as approved and incorporated in the Commission’s Final Show Cause Order Attachment 1. Paragraphs 1–14 of the Settlement Agreement attached as Attachment 1 to the Commission’s Final Show Cause Order are incorporated herein as though pled.

13. Defendant submitted three (3) payments to the Commission, totaling \$21,517.27, in compliance with the Commission's Final Show Cause Order, with the last payment having been received by the Commission on or about October 16, 2014. A copy of the payments received by the Commission from Defendant is attached and incorporated herein as though pled, as **Exhibit "D."**

14. On or about October 22, 2014, Defendant filed a Notice of Intent to Abandon the utility systems with the Commission, pursuant to §367.165, Fla. Stat. A certified copy of the Defendant's Notice of Abandonment filed with the Commission is attached and incorporated herein as though pled, as **Exhibit "E."**

15. On or about December 17, 2014, this Court appointed the City of Sebring as Receiver of the Defendant's utility systems, and approved an agreement for the sale of the Defendant's utility systems to Receiver. See, "Agreed Order Appointing Receiver and Authorizing Sale," signed by Highlands County Circuit Judge, Peter F. Estrada, on December 17, 2014.

16. The Receiver assumed control and operation of the Defendant's utility systems on or about December 22, 2014, as approved by the Sebring City Council at its regularly scheduled council meeting on December 16, 2014. A copy of the Agenda Order and Procedure of the City of Sebring City Council Meeting of Tuesday, December 16, 2014, attached and incorporated herein as though pled, as **Exhibit "F."**

17. Defendant has failed to perform or carry out all of the obligations contained in the Commission's Final Show Cause Order, including, but not limited to:

- a. Failing to satisfy its delinquent statutory financial obligations;
- b. Failing to provide notice or copy of the Commission's Final Show Cause Order and Settlement Agreement to any person or entity purchasing and/or assuming control or operation of Defendant's utility systems; and
- c. Failing to provide notice or copy of the Commission's Final Show Cause Order and Settlement Agreement to any court presiding over any abandonment proceeding involving Defendant's utility systems.

See, Exhibit "C," Final Show Cause Order, pgs 3-4 and 9-10.

18. In failing to perform or carry out all of the obligations contained in the Commission's Final Show Cause Order and Settlement Agreement, the Defendant is in breach of the Settlement Agreement and it is in violation of the Commission's Final Show Cause Order.

19. As of January 20, 2015, the Defendant owes the Commission **\$41,490.62** in delinquent Regulatory Assessment Fees, penalties and interest, for the years 2010, 2011, 2012, and 2013. A copy of an accounting of the amounts owed by Defendant as of January 20, 2015, is attached and incorporated herein as though pled, as **Exhibit "G."**

20. Pursuant to the Commission's Final Show Cause Order and §120.69, Fla. Stat., the Commission is entitled to money judgment against the Defendant and its utility systems in the amount of **\$41,490.62**.

COUNT II: PETITION FOR DECLARATORY JUDGMENT

21. The allegations contained in Paragraphs 8 through 20 are re-alleged and incorporated herein.

22. The Commission is authorized pursuant to Chapter 86 and §367.121(1), Fla. Stat., to bring an action to obtain a declaratory judgment to secure its right to collect the statutory fees owed to it by Defendant for the period Defendant operated its utility systems during 2014.

23. Pursuant to §§350.113(3) and 367.145(1), Fla. Stat., a utility regulated by the Commission that operated during the year must submit a Regulatory Assessment Fee to the Commission in the amount of four and a half percent (4.5%) of the utility's gross revenues for the period the utility operated during the year.

24. Regulatory Assessment Fees are included in a utility's Commission approved rates and paid by the utility's customers.

25. Pursuant to §367.145, Fla. Stat., and Fla. Admin. Code R. 25-30.120, a utility with annual revenues of less than \$200,000 shall pay its regulatory assessment fee for the prior year period, on or before March 31st of the following year.

26. The Defendant is statutorily obligated pursuant to §§350.1131 and 367.145, Fla. Stat., to remit a Regulatory Assessment Fee of four and a half percent (4.5%) of its water and wastewater system's gross revenues for the period each system operated between January 1 and December 22, 2014, to the Commission on or before March 31, 2015.

27. Pursuant to §§350.113 and 367.145, Fla. Stat., a statutory penalty and interest will be assessed to the amount of any regulatory assessment fee owed by each of the Defendant utility systems for the period each system operated during 2014, which is not received by the Commission by March 31, 2015.

28. The amount of the regulatory assessment fees owed by the Defendant utility systems for the period the Defendant utility systems operated in 2014, pursuant to §350.113(4), Fla. Stat., is estimated to be \$11,208.23, exclusive of any statutory penalty or interest. See, Exhibit “G,” accounting of the amounts owed by Defendant as of January 20, 2015.

29. Pursuant to Chapter 86, Fla. Stat., Commission is entitled to declaratory judgment declaring the Defendant’s statutory obligation to remit regulatory assessment of approximately \$11,208.23, exclusive of penalties and interest, for the period the Defendant utility systems operated during 2014, as well as, the Commission’s statutory entitlement to collect same.

COUNT III: RELIEF FROM JUDGMENT

30. The allegations contained in Paragraphs 21 through 29 are re-alleged and incorporated herein.

31. The Defendant has failed to comply with the Commission’s Final Show Cause Order, since October 16, 2014.

32. On or about October 20, 2014, just days prior to filing its Notice of Intent to Abandon, the Defendant gave eleven (11) mortgages to various individuals, the largest

mortgage given in favor of the Defendant's sole directors, R. Greg Harris and Janet B. Harris.

33. All of the eleven (11) mortgages given by the Defendant were recorded in succession, on October 22, 2014, in the Public Records of Highlands County, Florida in Official Record Book 2417, Pages 1020-1085.

34. All of the eleven (11) mortgages acknowledge their inferiority to the mortgage held by Highlands Independent Bank, recorded in Official Record Book 2090, Pages 1991, and modified in Official Record Book 2107, Pages 287 and Official Record Book 2335, Pages 1583.

35. Neither this Court's Agreed Order Appointing Receiver and Authorizing Sale, nor the purchase agreement approved by, and attached to, this Court's order, included the Commission's enforcement action against the Defendant or recognized the Defendant's statutory financial obligation to the Commission.

36. The purchase agreement approved by this Court, and incorporated as part of this Court's Agreed Order Appointing Receiver and Authorizing Sale, contains significant mistakes, omissions and/or misrepresentations, including, but not limited to:

- a. Misrepresentation of Defendant/Seller regarding actions or proceedings pending or threatened against Seller affecting Seller or Seller's systems in any court, administrative body or agency with jurisdiction over Seller or Seller's systems, except as set forth in Exhibit "G" of the purchase agreement;

- b. Misrepresentation of Defendant/Seller regarding Seller's compliance with "any applicable statute, law, ordinance or regulation of any governmental agency," and any notice of violation, except as set forth in Exhibit "G" of the purchase agreement;
- c. Omission of Commission's enforcement proceeding and Final Order to Show Cause on Exhibit "G" of purchase agreement;
- d. Omission of Defendant's Settlement Agreement and statutory financial obligation to the Commission on Exhibit "F" of the purchase agreement; and
- e. Omission of Defendant's Settlement Agreement and statutory financial obligation to the Commission as consideration of the purchase agreement.

See, this Court's Agreed Order Appointing Receiver and Authorizing Sale.

37. The Commission's Final Show Cause Order is a binding acknowledgment of a statutory financial debt owed by Defendant that existed prior to the abandonment of the Defendant's utility systems and the eleven (11) mortgages given by the Defendant and recorded just days before Defendant abandoned the utility systems.

38. Defendant and its president/director, R. Greg Harris, were aware of the Commission's Final Show Cause Order and the Defendant's compliance obligations under same.

39. Defendant and its directors knowingly and fraudulently misrepresented its obligations to the Commission in the purchase agreement and to this Court.

40. The fraudulent misrepresentations of the Defendant and its directors regarding Defendant's obligations to the Commission in obtaining approval of the purchase agreement while securing the interests of its officers and various corporate acquaintances are grounds for this Court to rescind or modify its Agreed Order Appointing Receiver and Authorizing Sale, including rescinding approval of the purchase agreement. See, Fla. R. Civ. P. 1.540(b)(3) and (5).

WHEREFORE, the Florida Public Service Commission respectfully requests that this Court:

- A. Enter a money judgment against Defendant in the amount of **\$41,490.62** for unpaid statutory fees, penalties, and interest owed by Defendant for the years 2010, 2011, 2012, and 2013;
- B. Enter a declaratory judgment declaring (i) Defendant's statutory obligation to remit to the Commission approximately \$11,208.23 in regulatory assessment fees, exclusive of penalties and interest, on or before March 31, 2015, for the period the Defendant utility systems operated during 2014, and (ii) the Commission's statutory entitlement to collect same;
- C. Rescind, or in the alternative, modify its approval of the purchase agreement in its Agreed Order Appointing Receiver and Authorizing Sale to permit the Commission to secure the statutory debt owed by Defendant, prior to the sale of Defendant's utility systems;
- D. Order that Defendant, Receiver and/or Purchaser satisfy any outstanding statutory fees, penalties, and interest owed to the Commission by Defendant at, or prior to, any closing on the sale of the Defendant's utility systems, and that any outstanding statutory fees, penalties, and interest owed to the Commission by Defendant be satisfied prior to the mortgage given to Defendant's directors, R. Greg Harris and Janet B. Harris, recording in the Public Records of Highlands County, Florida in Official Record Book 2417, Page 1080;

- E. Award the Commission its costs, fees and expenses for maintaining this action;
- F. Award the Commission costs and attorney's fees, pursuant to §§120.69 and 86.081, Fla. Stat.;
- G. Retain jurisdiction to enforce compliance with the Court's Orders; and
- H. Award such other relief as this Court deems just and appropriate.

Respectfully submitted, this 22nd day of January, 2015.

/s/ Kelley F. Corbari

Charles J. Beck, General Counsel
Fla. Bar No. 217281
Kelley F. Corbari
Fla. Bar No. 103692
Adam J. Teitzman
Fla. Bar No. 630764
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing PETITION FOR ENFORCEMENT OF AGENCY ACTION, DECLARATORY JUDGMENT, AND RELIEF FROM JUDGMENT has been served by electronic and/or U.S. Mail to the following, on this 22nd day of January, 2015:

Plaintiff, Highlands County:

Mr. J. Ross Macbeth, Esq.
2543 US 27 South
Sebring, FL 33870
ross@macbethlaw.com

Receiver, City of Sebring:

Mr. Robert S. Swaine, Esq.
SWAINE & HARRIS, PA
425 South Commerce Avenue
Sebring, FL 33870
bob@heartlandlaw.com

Defendant, Country Club Utilities, Inc.

Mr. R. Greg Harris,
President and Registered Agent
COUNTRY CLUB UTILITIES, INC.
3035 Wynstone Drive
Sebring, FL 33875
rgregharris@gmail.com

Defendant, Country Club Utilities, Inc.

Mr. John K. McClure, Esq.
211 S. Ridgewood Drive
Sebring, FL 33870
johnmc@mllaw.net

/s/ Kelley F. Corbari

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EXHIBIT “A”

FLORIDA PUBLIC SERVICE COMMISSION’S ORDER TO SHOW CAUSE AND REQUIREMENT PAYMENT OF DELINQUENT REGULATORY ASSESSMENT FEES

Order No. PSC-14-0131-SC-WS

Issued: March 31, 2014

PSC Docket No: 140031-WS

**In Re: Initiation of show cause proceedings against Country Club Utilities, Inc.
in Highlands County for violations of Rule 25-30.120, FAC,
Regulatory Assessment Fees; Water and Wastewater Utilities.**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Country Club Utilities, Inc. in
Highlands County for violations of Rule 25-
30.120, FAC, Regulatory Assessment Fees;
Water and Wastewater Utilities.

DOCKET NO. 140031-WS
ORDER NO. PSC-14-0131-SC-WS
ISSUED: March 17, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

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

BY THE COMMISSION:

CASE BACKGROUND

Country Club Utilities, Inc. (Country Club or Utility) is a Class C water and wastewater utility providing service in Highlands County. The Utility serves approximately 404 water and 401 wastewater customers in the Country Club of Sebring development located in Highlands County. The Utility's service territory is located in the Southern Water Use Caution Area of the Southwest Florida Water Management District (SWFWMD).

Commission staff opened the instant docket to initiate show cause proceedings against Country Club for apparent violations of Florida Statutes and Commission rules and regulations in failing to remit payment of its annual Regulatory Assessment Fees (RAFs) for the years 2010, 2011 and 2012.

Country Club's President and owner is Mr. R. Greg Harris. Mr. Harris and his wife, Janet B. Harris (Secretary), are the Utility's only officers. Mr. Harris purchased the Utility in 2004, from his father, Roland A. Harris.

Country Club has been in existence since 1989 and came under the jurisdiction of the Commission in 1992, when the Commission granted the Utility water and wastewater certificates and set initial rates and charges.¹ From 1989 to 2003, the utility operated under the corporate

¹ See Order No. 25788, issued February 24, 1992, in Docket No. 190792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring.

I CERTIFY THAT THIS IS A TRUE AND
CORRECT COPY OF THE ORIGINAL
DOCUMENT THAT WAS FILED WITH THE
FLORIDA PUBLIC SERVICE COMMISSION
BY: *Carlotta S. Stauffer*
CARLOTTA S. STAUFFER, COMMISSION CLERK
(or Office of Commission Clerk designee)



name Country Club of Sebring, Inc. In 2003, the Utility changed its name to alleviate confusion with a golf facility with a similar name. On June 20, 2006, the Utility filed an application for name change and to transfer of majority organizational control from Mr. Roland A. Harris to Mr. R. Greg Harris.² On February 12, 2007, we issued Order No. PSC-07-0121-FOF-WS, Authorizing Utility Corporate Reorganization, Name Change and Transfer of Majority Ownership Control.³ The Order also provided that, because the new owner did not request a change in rates, the Utilities' rates and charges established in 1992, by Order No. 25788, would "continue until authorized to change by the Commission in a subsequent proceeding."⁴

In September 2011, Country Club filed an application for staff-assisted rate case (SARC), which it subsequently withdrew in December 2011.⁵ Country Club again filed an application for staff-assisted rate case in June 2012.⁶ At the March 13, 2014, Agenda Conference, Country Club agreed to waive the fifteen month statutory provision of Section 367.0814(2), F.S., in Docket No. 120172-WS.

During the processing of Country Club's SARC application, our staff learned that Country Club had failed to remit payment of its regulatory assessment fees (RAFs) for the years 2010, 2011 and 2012, totaling \$33,310.28, as required by Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C. Our staff made several attempts to work with Country Club regarding payment of the outstanding RAFs. In March 2013, Country Club agreed to a payment plan with Commission staff, wherein Country Club would pay \$500 per month toward its past due RAFs and pay the balance if the Utility were sold.⁷ Between March and August 2013, Country Club remitted five payments of \$500. Country Club did not remit a payment in July 2013. After not receiving Country Club's monthly payment in September 2013, our staff contacted the Utility's owner, Mr. Harris, to inquire whether Country Club would be submitting its monthly RAF payment. On September 27, 2013, Country Club informed our staff that it would not be making its September payment and would no longer be making monthly payments as required by the agreed upon payment plan.⁸

² Id.

³ See, Order No. PSC-07-0121-FOF-WS, issued February 12, 2007, in Docket No. 060352-WS, In re: Application for transfer of majority organizational control of Country Club of Sebring, Inc. in Highlands County and for name change on Certificate Nos. 540-W and 468-S to Country Club Utilities, Inc.

⁴ Id.

⁵ See, Docket No. 110266-WS, In re: Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

⁶ See, Docket No. 120172-WS, In re: Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

⁷ See, Document No. 00853-14, in Docket No. 120172-WS, Email exchange between our staff and Country Club, dated March 6, 2013; and Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Email exchange between our Staff and Country Club, dated March 17, 2013, attached to Staff's demand letter of January 9, 2014.

⁸ See, Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Email exchange between our Staff and Country Club, dated September 27, 2013, attached to our demand letter of January 9, 2014.

By certified letter, dated January 9, 2014, Country Club was notified of apparent violations of Sections 350.113, 367.145 and 367.161, F.S., and Rule 25-30.120, and possible initiation of a show cause proceeding against the Utility for failing to pay its regulatory assessment fees for the years 2010, 2011, 2012.⁹ Country Club's owner, Mr. Harris, was advised in the January 9, 2014, letter that Section 367.161, F.S., provides in pertinent part:

- (1) If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission. . . . Each day that such refusal or violation continues constitutes a separate offense. . . .
- (2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. . . .

In addition, Country Club was advised that Commission staff would open a docket to initiate a show cause proceeding if Country Club did not correct the violations and remit payment of the delinquent RAFs, penalties and interest by January 15, 2014. Country Club did not remit any payment in response to our letter.

On January 16, 2014, Commission staff counsel was contacted by John "Bart" Allen with the law firm of Peterson & Myers, in Lake Wales, Florida, on behalf of Country Club. Mr. Allen advised our staff that Country Club was seeking to negotiate the possible sale of the utility to the City of Sebring. Mr. Allen inquired whether the Commission would extend Country Club additional time prior to initiating a show cause proceeding in order to allow the utility to negotiate a possible sale. Staff counsel requested that Mr. Allen submit Country Club's request for additional time in writing for consideration. Mr. Allen advised staff counsel he would submit the written request for additional time the next day. Our staff did not receive any correspondence from Mr. Allen or Country Club, nor did Mr. Allen return staff counsel's telephone calls.

⁹ See, Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Demand for payment of past due RAFs, dated January 9, 2014; and, Document No. 00192-14, in Docket 140000 and Document No. 00682-14, in Docket No. 140031-WS, Certified Return Receipt signed by R. Harris on January 11, 2014, evidencing receipt by Utility of Staff's certified demand letter of January 9, 2014.

By certified letter dated February 11, 2014, the Commission's Office of the General Counsel notified Country Club of the Commission's intent to initiate a show cause proceeding for the Utility's apparent statute and rule violations.¹⁰

Country Club recently concluded litigation with the State of Florida, Department of Environmental Protection (DEP)¹¹ for violating DEP standards. In addition, Country Club faces possible administrative action/litigation with the South West Florida Water Management District (SWFWMD) for continued over-pumping violations.¹²

We have jurisdiction pursuant to Sections 350.113, 367.121, 367.145, 367.161, F.S., and Rule 25-30.120, F.A.C.

REGULATORY ASSESSMENT FEES

Factual Allegations

Pursuant to Section 367.145(1), F.S., and Rule 25-30.120(1), F.A.C., each utility shall pay a RAF in the amount of 4.5 percent of its gross revenue derived from intrastate business. Subsection (2)(b) requires small utilities with annual revenues of less than \$200,000, such as Country Club, to file RAFs with this Commission on or before March 31 for the preceding calendar year. Subsection (7)(a) permits the Commission to assess a penalty against any utility that fails to pay its RAFs on time.

Pursuant to Section 350.113(4), F.S., and Rule 25-30.120(7)(a), F.A.C., a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its RAFs, in the following manner:

¹⁰ See, Document No. 00695-14, in Docket No. 140031-WS, Letter notifying utility of establishment of a docket to initiate show cause proceeding, dated February 11, 2014; and Document No. 00891-14, in Docket No. 140031-WS, Certified Return Receipt signed by R. Harris on February 14, 2014, evidencing receipt by Utility of Staff's certified letter of February 11, 2014.

¹¹ In October 2012, DEP initiated litigation in Highlands County circuit court seeking enforcement for alleged violations of DEP standards by Country Club and civil penalties. State of Florida, Dep't of Env'tl Protection v. Country Club Utilities, Inc., Case No. 12-924 GCS, 10TH Judicial Circuit Court for Highlands County, Florida. On February 3, 2014, DEP and Country Club entered into a Consent Judgment to settle the litigation, which the Court approved on February 20, 2014.

¹² Country Club has been over-pumping in violation of its Water Use Permit for many years. In September 2012, the Governing Board of the SWFWMD authorized its staff to initiate litigation against the utility for the over-pumping violations, including the possible assessment of penalties and costs against the Utility in the amount of \$83,949.00. On February 17, 2014, Country Club submitted a Compliance Report and Water Conservation Plan to SWFWMD. At this time, the SWFWMD is reviewing the information submitted by Country Club on February 17, 2014, in order to determine whether SWFWMD will pursue enforcement action/litigation against the Utility.

1. Five percent of the fee if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of twenty-five percent.
2. The amount of interest to be charged is one percent for each 30 days or fraction thereof, not to exceed a total of twelve percent per annum

In addition, pursuant to Sections 367.145(1)(b) and 367.161, F.S., and Rule 25-30.120(7)(b), F.A.C., we may impose an additional penalty upon a utility for its failure to pay RAFs in a timely manner.

According to our fiscal records, Country Club has not complied with Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., pertaining to Regulatory Assessment Fees. The Utility has failed to pay its 2010, 2011 and 2012 RAFs, despite having been provided numerous notices that it is delinquent in submitting its RAFs.¹³ Country Club has developed a pattern of disregard for regulatory compliance by not remitting its RAF payments for three consecutive years.

On March 17, 2011, Country Club filed its annual report for 2010, reporting a total gross revenue of \$144,853 for water and \$93,993 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,518.39 for water and \$4,229.69 for wastewater, by March 31, 2011. No payment was received from Country Club. On April 23, 2011, we notified Country Club of its failure to remit its 2010 RAFs.¹⁴ The \$500 monthly payments, totaling \$2,500, remitted by Country Club between March and August 2013 were applied to the Utility's 2010 delinquent RAFs, per Commission practice.

On March 15, 2012, Country Club filed its annual report for 2011, reporting a total gross revenue of \$149,425 for water and \$101,000 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,724.13 for water and \$4,545.00 for wastewater, by March 31, 2012. No payment was received from Country Club. On April 23, 2012, we notified Country Club of its failure to remit its 2011 RAFs.¹⁵

¹³ See, Document No. 00148-14, in Docket No. 140000 and Document No. 00148-14, in Docket No. 140031-WS, Commission correspondence to Country Club regarding outstanding RAFs, penalties and interest, attached to our demand letter of January 9, 2014:

- Letter from Office of General Counsel, dated April 23, 2013, re: notification of failure to submit 2012 RAFs and demand for payment within 15 days.
- Letter from Office of General Counsel, dated April 23, 2012, re: notification of failure to submit 2011 RAFs and demand for payment within 15 days.
- Letter from Office of General Counsel, dated April 20, 2011, re: notification of failure to submit 2010 RAFs and demand for payment within 15 days.
- Letter from Fiscal Services Section, dated May 24, 2013 re: notification of untimely submission of 2010 RAFs and demand for payment by June 7, 2013.

¹⁴ Id.

¹⁵ Id.

On April 18, 2013¹⁶, Country Club filed its annual report for 2012, reporting a total gross revenue of \$151,060 for water and \$99,897 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,797.70 for water and \$4,495.37 for wastewater, by March 31, 2013. No payment was received from Country Club. On April 20, 2013, we notified Country Club of its failure to remit its 2012 RAFs.¹⁷

On February 26, 2014, we received Country Club's 2013 RAF returns for water and wastewater, wherein Country Club reported a total gross revenue of \$147,666.39 for water and \$98,166.94 for wastewater. Country Club, however, did not remit payment of its 2013 RAFs with the RAF forms. Based on its 2013 RAF filing, Country Club is required to remit a RAF payment in the amount of \$6,644.99 for water and \$4,417.51 for wastewater, by March 31, 2014.

Country Club made no effort to fulfill its statutory obligation with regard to its delinquent RAFs, until March 2013, when our staff requested Country Club make payments toward its delinquent RAFs as a condition of proceeding with its SARC application. After remitting five payments, Country Club ceased making its agreed upon monthly payments to the Commission and made no effort to contact our staff prior to, or after, ceasing its payments in September 2013, or to discuss its RAF obligations.

Section 350.113, F.S., and Rule 25-30.120, F.A.C., provide for penalties and interest for failure to pay RAFs. A penalty in the amount of five percent of the fee is assessed for each 30-day period the payment is not received, up to a maximum of twenty-five percent. Since Country Club's failure to pay its 2010, 2011 and 2012 RAFs exceeds five 30-day periods, the maximum twenty-five percent penalty has been assessed to the RAF amounts owed by Country Club for 2010, 2011 and 2012. Further, one percent interest is assessed for each 30-day period, or fraction thereof, the payment is not received, not to exceed a total of twelve percent per annum. As of the date of the Commission's March 13, 2014, Agenda Conference, the amounts owed by Country Club for delinquent RAFs plus statutory penalty and interest, are as follows:¹⁸

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,639.31	\$14,574.41
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,704.59	\$16,791.00
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,355.16	\$15,471.50
TOTALS	\$740,228.00	\$33,310.28	\$2,500.00	\$8,327.57	\$7,699.06	\$46,836.91

We note that the statutory penalties and interest will continue to accrue until Country Club pays the delinquent fees.

¹⁶ Country Club's 2012 annual reports were not filed timely. A utility's annual reports are due on or before March 31st, pursuant to Rule 25-30.110(3)(b), F.A.C.

¹⁷ See, Document No. 00148-14, in Docket No. 140000 and Document No. 00148-14, in Docket No. 140031-WS, Commission correspondence to Country Club regarding outstanding RAFs, penalties and interest, attached to Staff's demand letter of January 9, 2014.

¹⁸ A complete breakdown of the RAF amounts, plus penalties and interest, is attached hereto as Attachment 1.

The Utility's owner indicated that the Utility is unable to pay its RAFs due to the Utility's rates being inadequate. We do not believe that Country Club's assertion of inadequate rates is a valid justification for its failure to remit its RAFs. First, the amount of RAFs owed by a utility each year, is included in a utility's rates. Thus, Country Club has already collected the allocated 2010, 2011 and 2012 RAF amounts owed to this Commission. Second, while Country Club's current rates have remained unchanged since established by this Commission in 1992,¹⁹ Country Club did not contact the Commission regarding a rate increase until 2011, when it filed its first SARC application, which it then withdrew. In fact, Country Club did not request a rate increase when it came to the Commission in 2006 to request approval of name change and transfer.²⁰

Decision

Utilities are charged with the knowledge of the our 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). In making similar decisions, we have repeatedly held that utilities are charged with the knowledge of our Rules and Statutes.²¹

A show cause order is considered our administrative complaint against the utility. If we issue a show cause order, the utility is required to file a written response, which must contain specific allegations of disputed fact. If there are no disputed factual issues, the utility's response should so indicate. The response must be filed within 21 days of service of the show cause order on the respondent.

The utility has two options if a show cause order is issued. The utility may respond and request a hearing pursuant to Sections 120.569 and 120.57, F.S. If the utility requests a hearing, a hearing will be scheduled before we make a final determination on the matter. The utility may respond to the show cause order by remitting the delinquent fees. If the utility pays its delinquent fees, the show cause matter is considered resolved, and the docket is closed.

¹⁹ See, Order No. 25788, Issued February 24, 1992, in Docket No.910792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring, stating, "the schedules have been used only as tools to aid in the establishment of initial rates. They are not intended for use in establishing rate base."

²⁰ See, Order No. PSC-07-0121-FOF-WS, Issued February 12, 2007, in Docket No. 060352-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring, stating, the rates of former owner "must continue unless authorized to change by the Commission. The new owner has not requested a change; therefore, the existing rates and charges will continue until authorized to change by the Commission in a subsequent proceeding."

²¹ See Order No. PSC-11-0250-FOF-WU, issued June 13, 2011, in Docket No. 100104-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.; Order No. PSC-07-0275-SC-SU, issued April 2, 2007, in Docket No. 060406-SU, In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company; and Order No. PSC-05-0104-SC-SU, issued January 26, 2005 in Docket Nos. 020439-SU and 020331-SU; In re: Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation; In re: Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

In the event the utility fails to timely respond to the show cause order, the utility is deemed to have admitted the factual allegations contained in the show cause order and waived its right to a hearing. In addition, a final order will be issued imposing the sanctions set out in the show cause order.

Pursuant to Section 367.161(1), F.S., we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$5,000 for each day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367, F.S. Each day a violation continues is treated as a separate offense. Each penalty is a lien upon the real and personal property of the utility and is enforceable by the Commission as a statutory lien. As an alternative to the above remedies, Section 367.161(2), F.S., permits us to amend, suspend, or revoke a utility's certificate for any such violation.

Willfulness is a question of fact.²² Therefore, part of the determination we must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to "willfully violate" a rule or order. 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., the Commission stated that "willful implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." The plain meaning of "willful" typically applied by the Courts in the absence of a statutory definition, is an act or omission that is done "voluntarily and intentionally" with specific intent and "purpose to violate or disregard the requirements of the law." Fugate v. Fla. Elections Comm'n, 924 So. at 76.

By knowingly failing to comply with the provisions of Section 367.145, F.S., Country Club's acts were "willful" in the sense intended by Section 367.161, F.S., and Fugate. Accordingly, we believe that Country Club has not complied with Sections 350.113 and 367.145, F.S., or Rule 25-30.120, F.A.C. Therefore, we order Country Club to show cause, in writing within 21 days, why it is not obligated to remit payment in the amount of \$46,836.91, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011 and 2012 on or before April 17, 2014. Furthermore, Country Club is ordered to pay its delinquent RAFs in the amount of \$8,248.08 for 2010, \$11,269.13 for 2011, and \$11,293.07 for 2012, including statutory interest and penalties in the amounts of, \$6,326.33 for 2010, \$5,521.87 for 2011, and \$4,178.43 for 2012, on or before April 17, 2014.

At this time, we shall not impose an additional penalty, pursuant to Sections 367.145 and 367.161, F.S., and Rule 25-30.120, F.A.C., for Country Club's failure to comply with statutes and rules. Section 350.113, F.S., and Rule 25-30.120, F.A.C., already impose statutory penalty and interest upon RAFs that are not submitted timely. At this time, we believe the imposition of an additional penalty is not likely to further efforts to bring the Utility into compliance.

²² Fugate v. Fla. Elections Comm'n, 924 So. 2d 74, 75 (Fla. 1st DCA 3006), citing, Metro. Dade County v. State Dep't of Env'tl. Prot., 714 So. 2d 512, 517 (Fla. 3d DCA 1998).

RESPONSE TO ORDER TO SHOW CAUSE AND CLOSING THE DOCKET

This show cause order is an administrative complaint by the Florida Public Service Commission, as petitioner, against Country Club Utilities, Inc., as respondent. Country Club shall respond to this Order within 21 days of service on the Utility, and the response shall reference Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.

Country Club has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative. A request for hearing shall comply with Rule 28-106.2015, F.A.C.

Country Club's response to this Order must contain specific allegations of fact and law and shall identify those material facts that are in dispute. If there are no material facts in dispute, the response must so indicate. If Country Club files 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, F.S., a further proceeding shall be scheduled before a final determination of this matter is made.

If Country Club responds to this Order by remitting its delinquent RAFs, in the amount of \$30,810.28, plus penalties and interest in the amount of \$16,026.63, by April 17, 2014, this show cause matter will be considered resolved, and the 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 on this issue. In the event that Country Club fails to file a timely response to this Order, the fees and penalties are deemed assessed and a final order will be issued.

Finally, should Country Club fail to remit payment of its delinquent RAFs, penalties and interest by April 17, 2014, we authorize our Office of the General Counsel to pursue all reasonable means necessary to collect the amounts owed by Country Club, including, but not limited to, initiating action in circuit court, pursuant to Section 367.121(1)(g) and (j).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Country Club Utilities, Inc. show cause, in writing, within 21 days, why it is not obligated to remit payment in the amount of \$46,836.91, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011 and 2012. Country Club Utilities, Inc.'s response shall reference Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities. It is further,

ORDERED that Country Club Utilities, Inc.'s response to this Order to Show Cause shall contain specific allegations of fact and law and shall identify those material facts that are in dispute. If there are no material facts in dispute, the response must so indicate. It is further,

ORDERED that, should Country Club Utilities, Inc. 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, F.S., a further proceeding shall be scheduled before a final determination of this matter is made. It is further,

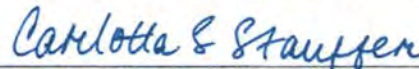
ORDERED that a failure to file a timely written response to this Order to Show Cause shall constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this matter. It is further,

ORDERED that, in the event that Country Club Utilities, Inc. fails to file a timely response to this Order, the fees, penalties and interest are deemed assessed and a final order will be issued. It is further,

ORDERED that, if the Country Club Utilities, Inc. responds to this Order to Show Cause by remitting its delinquent RAFs, in the amount of \$30,810.28, plus penalties and interest in the amount of \$16,026.63, by April 17, 2014, this show cause matter will be considered resolved, and the docket shall be closed administratively. It is further,

ORDERED that, should Country Club Utilities, Inc. fail to remit payment of its delinquent RAFs, penalties and interest by April 17, 2014, the docket shall remain open and the Florida Public Service Commission's Office of the General Counsel is hereby authorized to pursue all reasonable means necessary to collect the amounts owed by Country Club Utilities, Inc., including, but not limited to, initiating a civil action in circuit court, pursuant to Section 367.121(1)(g) and (j), F.S.

By ORDER of the Florida Public Service Commission this 17th day of March, 2014.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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.

The show cause portion of 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 7, 2014.

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 the show cause portion of this Order within the time prescribed above, that party 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 Office of 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.

COUNTRY CLUB UTILITIES, INC. (WS654) DELINQUENT REGULATORY ASSESSMENT FEES

YEAR	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,639.31	\$14,574.41
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,704.59	\$16,791.00
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,355.16	\$15,471.50
TOTALS	\$740,228.00	\$33,310.28	\$2,500.00	\$8,327.57	\$7,699.06	\$46,836.91

RAF BREAKDOWN BY SERVICE & YEAR

2010	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	\$144,853.00	\$6,518.39	\$1,250.00	\$1,629.60	\$2,231.61	\$9,129.60
SEWER	\$93,993.00	\$4,229.69	\$1,250.00	\$1,057.42	\$1,407.70	\$5,444.81
TOTALS	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,639.31	\$14,574.41

2011	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	\$149,425.00	\$6,724.13	\$0.00	\$1,681.03	\$1,613.79	\$10,018.95
SEWER	\$101,000.00	\$4,545.00	\$0.00	\$1,136.25	\$1,090.80	\$6,772.05
TOTALS	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,704.59	\$16,791.00

2012	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	\$151,060.00	\$6,797.70	\$0.00	\$1,699.43	\$815.72	\$9,312.85
SEWER	\$99,897.00	\$4,495.37	\$0.00	\$1,123.84	\$539.44	\$6,158.65
TOTALS	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,355.16	\$15,471.50

EXHIBIT “B”

COUNTRY CLUB UTILITIES, INC.’S PROPOSED SETTLEMENT AGREEMENT

Filed: May 2, 2014

PSC Docket No: 140031-WS

**In Re: Initiation of show cause proceedings against Country Club Utilities, Inc.
in Highlands County for violations of Rule 25-30.120, FAC,
Regulatory Assessment Fees; Water and Wastewater Utilities.**

Country Club Utilities, Inc.

May 2, 2014

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

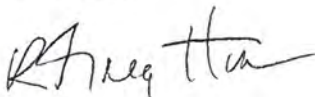
Re: Docket No. 140031-WS
Country Club Utilities Settlement Agreement

Dear Commissioners:

I respectfully ask that you consider approving the Settlement Agreement as prepared by staff and signed by me.

Staff has worked very closely with me to remedy this violation and I am grateful. I also appreciate your consideration previously and hope you will approve this current agreement.

Sincerely,



R. Greg Harris, President

I CERTIFY THAT THIS IS A TRUE AND
CORRECT COPY OF THE ORIGINAL
DOCUMENT THAT WAS FILED WITH THE
FLORIDA PUBLIC SERVICE COMMISSION
BY: Carlotta S. Stauffer
CARLOTTA S. STAUFFER, COMMISSION CLERK
(or Office of Commission Clerk designee)



3035 Wynstone Drive, Sebring, FL 33875
863-381-8201
rgregharris@gmail.com

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Country Club Utilities, Inc. in
Highlands County for violations of Rule 25-
30.120, FAC, Regulatory Assessment Fees;
Water and Wastewater Utilities.

DOCKET NO. 140031-WS

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes (F.S.), Country Club Utilities, Inc. (Country Club) hereby files this Settlement Agreement to effect an informal disposition and binding resolution of any and all matters and issues that were, or might have been, addressed by the Florida Public Service Commission (Commission) in Docket No. 140031-WS. This Settlement Agreement avoids the time, expense and uncertainty associated with adversarial litigation. The terms of this Settlement Agreement are as follows:

1. Country Club acknowledges its obligation, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, Florida Administrative Code (F.A.C.), to remit payment of its Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011, 2012, and 2013, as shown in Exhibit A attached hereto.
2. In consideration of Country Club's complete and timely performance of all the obligations agreed to in this Settlement Agreement, the Commission conditionally waives its right to seek civil remedies against Country Club for failing to remit payment of RAFs, penalties and interest for the years 2010, 2011, 2012, and 2013, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, F.A.C. This waiver is conditioned upon Country Club's complete compliance with all of the terms of this Settlement Agreement and any final Commission order approving this agreement.

3. In lieu of the Commission pursuing all reasonable means necessary to collect the amounts owed by Country Club, including, initiating action in circuit court, Country Club will perform the following:
 - a. Submit payment to the Commission in the amount of \$19,517.21, by **May 14, 2014**, satisfying the principal balance of Country Club's 2010 and 2011 Regulatory Assessment Fees (RAFs);
 - b. Submit a monthly payment of \$1,000.00 to the Commission, by the **15TH** of every month, beginning on **September 15, 2014**, and continuing until the balance of any outstanding RAFs, penalties and interest has been paid; and
 - c. Submit payment of its 2014 and future RAFs to the Commission, timely and in full.

4. The Commission shall apply all payments made by Country Club under this Settlement Agreement in the following manner:
 - a. To the principal balance of any unpaid year's RAFs, beginning with the oldest year to the most recent year, until the principal balance of any year's unpaid RAFs has been satisfied; and
 - b. To the penalty and interest balance assessed to each year of delinquent RAFs, beginning with the oldest year to the most recent year, until the penalty and interest balance of each year's delinquent RAFs has been satisfied.

5. Failure by Country Club (i) to submit its initial payment of \$19,517.21 payment by May 15, 2014, (ii) to timely submit two (2) consecutive \$1,000.00 installment payments outlined above, or (iii) to abide by any of the other terms contained herein, shall be considered a breach of this Settlement Agreement, automatically accelerating the balance of any unpaid RAFs, penalties and interest, which will then become immediately due.

6. Additional Payment Terms:
 - a. All payments shall be made payable to the "Florida Public Service Commission," include Docket No. 140031-WS on the memo line, and be sent to "Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, ATTENTION: Fiscal Services."

- b. Payment is considered “timely” if properly addressed, mailed with sufficient postage and postmarked no later than the due date.
 - c. Payment is considered “paid” on the date it is received and logged in by the Commission’s Division of Administrative and Information Technology Services in Tallahassee, Florida, or on the date the payment is postmarked by the United States Postal Service.
 - d. Payment that is returned by a financial institution for insufficient funds, or any other reason, is a failure to submit timely payment. Pursuant to Section 215.34(2), a service fee of \$15.00 or five percent (5%) of the amount of the payment returned, whichever is greater, shall be assessed to any payment returned by a financial institution for insufficient funds, or for any other reason. Two (2) returned payments shall be considered a breach of this Settlement Agreement, automatically accelerating the balance of any unpaid RAFs, penalties and interest, which will then become immediately due.
7. In the event Country Club, including the property upon which Country Club is located, becomes the subject of a sale, conveyance, abandonment, or bankruptcy and all of the terms of this Settlement Agreement have not been fully satisfied, Country Club shall:
- a. Notify the Commission at least sixty (60) days prior to the sale, conveyance, abandonment or initiating bankruptcy proceedings;
 - b. Provide the name and address of the purchaser, operator, or person to assume or in control of Country Club;
 - c. Provide a copy of this Settlement Agreement, final Commission order approving the Settlement Agreement and all attachments to the purchaser, operator, or person assuming control of Country Club; and
 - d. Provide a copy of this Settlement Agreement, final Commission order approving the Settlement Agreement and all attachments to the court presiding over any abandonment or bankruptcy proceeding involving Country Club.
8. The submission of this Settlement Agreement by Country Club is in the nature of an offer to settle. This Settlement Agreement is contingent on the Commission accepting the entire Settlement Agreement. Consequently, if this Settlement Agreement is not accepted

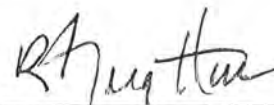
and approved without modification, then the settlement proposal is rejected and the Settlement Agreement shall be considered null and void and of no further force or effect.

9. This Settlement Agreement will take effect the day after it is approved by the Commission. Country Club understands that the Commission's decision will be reflected in a final order.
10. Neither Party to this Settlement Agreement will request, support, or seek to impose a change in the application of any provision of this Settlement Agreement. Provided the Commission approves the Settlement Agreement, Country Club waives its right to request further administrative or judicial proceedings concerning any of the matters, which were, or might have been, addressed by the Commission in resolving Docket No. 140031-WS, except proceedings to enforce this Settlement Agreement. This waiver of the right to further administrative or judicial proceedings shall include, but not be limited to: a petition for a formal proceeding in the form provided by Rule 28-106.201 or 28-106.2015, F.A.C.; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, F.A.C.; or a notice of appeal to initiate judicial review by the Florida First District Court of Appeal pursuant to Fla. R. App. P. 9.110, in the form specified in Fla. R. App. P. 9.900(a).
11. Nothing in this Settlement Agreement shall prevent the Parties from filing suit to specifically enforce any of the terms of this Settlement Agreement. The Commission reserves the right to initiate appropriate legal action to address any violations of rules or statutes administered by the Commission that are not specifically related to or resolved by this Settlement Agreement.

12. In consideration for entering into this agreement, Country Club acknowledges, agrees, and waives its right to an administrative formal hearing pursuant to Sections 120.569 and 120.57, F.S., and shall withdraw its petition for formal hearing filed on April 10, 2014, in Docket 140031-WS, within ten (10) days of approval of this Settlement Agreement. Country Club further acknowledges, agrees, and waives its right to appeal the final order on this matter.
13. This Settlement Agreement resolves all matters in Docket No. 140031-WS in accordance with Section 120.57(4), F.S. Docket No. 140031-WS will continue to remain open until all the terms of this Settlement Agreement have been satisfied by Country Club.
14. This Settlement Agreement constitutes a single, integrated written contract expressing the entire agreement between the Parties and superseding all other agreements, representations, and understandings on the subject matter herein. There is no other agreement, oral or written, expressed or implied, between the Parties with respect to the subject-matter herein, except this Settlement Agreement.

Signed this 1st day of May, 2014.

BY:



R. Greg Harris, President
COUNTRY CLUB UTILITIES, INC.
3035 Wynstone Drive
Sebring, FL 33875
Telephone: (863) 385-6330
Email: rgregharris@gmail.com

TOTAL RAFs, PENALTY & INTEREST OUTSTANDING

YEAR	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (5 - 25%) (THRU 05/14/14)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,886.75	\$14,821.85
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,929.97	\$17,016.38
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,581.03	\$15,697.37
2013	\$245,833.33	\$11,293.06	\$0.00	\$1,129.31	\$225.86	\$12,648.23
TOTALS		\$44,603.34	\$2,500	\$9,456.88	\$8,623.61	\$60,183.83

RAF BREAKDOWN BY SERVICE & YEAR

2010	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$144,853.00	\$6,518.39	\$1,629.60	\$2,389.67	\$10,537.66
SEWER	\$93,993.00	\$4,229.69	\$1,057.42	\$1,497.08	\$6,784.19
PAYMENTS	----	\$2,500.00	\$0.00	\$0.00	\$2,500.00
TOTALS	\$238,846.00	\$8,248.08	\$2,687.02	\$1,581.03	\$14,821.85

2011	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$149,425.00	\$6,724.13	\$1,681.03	\$1,748.27	\$10,153.43
SEWER	\$101,000.00	\$4,545.00	\$1,136.25	\$1,181.70	\$6,862.95
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$250,425.00	\$11,269.13	\$2,817.28	\$2,929.97	\$17,016.38

RAF BREAKDOWN BY SERVICE & YEAR

2012	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$151,060.00	\$6,797.70	\$1,699.43	\$951.68	\$9,448.81
SEWER	\$99,897.00	\$4,495.37	\$1,123.84	\$629.35	\$6,248.56
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$250,957.00	\$11,293.07	\$2,823.27	\$1,581.03	\$15,697.37

2013	REVENUES	RAFs (4.5%)	PENALTY (10%) (THRU 05/14/14)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$144,080.00	\$6,483.60	\$648.36	\$129.67	\$7,261.63
SEWER	\$98,167.00	\$4,417.51	\$441.75	\$88.35	\$4,947.61
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$242,247.00	\$10,901.11	\$1,090.11	\$218.02	\$12,209.24

EXHIBIT “C”

FLORIDA PUBLIC SERVICE COMMISSION’S ORDER APPROVING SETTLEMENT AND FINALIZING SHOW CAUSE ORDER

Order No. PSC-14-0225-AS-WS

Issued: May 12, 2014

PSC Docket No: 140031-WS

**In Re: Initiation of show cause proceedings against Country Club Utilities, Inc.
in Highlands County for violations of Rule 25-30.120, FAC,
Regulatory Assessment Fees; Water and Wastewater Utilities.**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Country Club Utilities, Inc. in
Highlands County for violations of Rule 25-
30.120, FAC, Regulatory Assessment Fees;
Water and Wastewater Utilities.

DOCKET NO. 140031-WS
ORDER NO. PSC-14-0225-AS-WS
ISSUED: May 12, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER APPROVING SETTLEMENT AGREEMENT
AND
FINALIZING SHOW CAUSE ORDER

BY THE COMMISSION:

CASE BACKGROUND

Our staff opened Docket No. 140031-WS to initiate show cause proceedings against Country Club Utilities, Inc. (Country Club or Utility) for apparent violations of Florida Statutes and Commission rules and regulations in failing to remit payment of its annual Regulatory Assessment Fees (RAFs) for the years 2010, 2011 and 2012.

On March 17, 2014, we issued Order No. PSC-14-0131-SC-WS¹ (Show Cause Order), ordering Country Club to remit payment of its delinquent RAFs, in the amount of \$30,810.28, plus penalties and interest in the amount of \$16,026.63, by April 17, 2014 or show cause, in writing, why it was not obligated to remit payment for its delinquent RAFs, plus statutory penalties and interest, for the years 2010, 2011 and 2012. On April 10, 2014, Country Club filed its Response to Order to Show Cause and Petition for a Hearing.

¹ See Order No. PSC-14-0131-SC-WS, issued March 17, 2014, in Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.

I CERTIFY THAT THIS IS A TRUE AND
CORRECT COPY OF THE ORIGINAL
DOCUMENT THAT WAS FILED WITH THE
FLORIDA PUBLIC SERVICE COMMISSION
BY: *Carlotta S. Stauffer*
CARLOTTA S. STAUFFER, COMMISSION CLERK
(or Office of Commission Clerk designee)



2013 Regulatory Assessment Fees

On February 26, 2014, we received Country Club's 2013 RAF returns for water and wastewater, wherein Country Club reported a total gross revenue of \$147,666.39 for water and \$98,166.94 for wastewater. On April 3, 2014, Country Club filed its annual report for 2013, reporting a total gross revenue of \$144,079 for water and \$98,167 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,483.60 for water and \$4,417.51 for wastewater, by March 31, 2013. To date, Country Club has not remitted payment of its 2013 RAFs.

Accordingly, as of May 14, 2014, the amounts owed by Country Club for delinquent RAFs plus statutory penalty and interest, for the years 2010, 2011, 2012, and 2013, are as follows:

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY 5 - 25% (THRU 05/14/14)	INTEREST 1% (THRU 05/14/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,886.75	\$14,821.85
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,929.97	\$17,016.38
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,581.03	\$15,697.37
2013²	\$242,247.00	\$10,901.11	\$0.00	\$1,090.11	\$218.02	\$12,209.24
TOTALS	\$982,475.00	\$44,211.39	\$2,500.00	\$9,417.68	\$8,615.77	\$59,744.84

Settlement Discussions

On March 24, 2014, our staff participated in a telephone conference with Country Club's owner, Greg Harris, and Mr. Harris' accountant, Mr. Robert Reed, to discuss the terms of a possible settlement. Although a settlement was not reached on that date, the parties agreed to a second telephone conference, for the purposes of continuing settlement discussions. On April 2, 2014, our staff and Mr. Harris participated in a second telephone conference, where our staff and Mr. Harris tentatively agreed on terms for a proposed settlement of this docket. After the second telephone conference, our staff and Mr. Harris exchanged several drafts of the proposed Settlement Agreement. On May 2, 2014, Country Club filed a letter requesting we accept its proposed Settlement Agreement, which is attached hereto as Attachment 1.

² Although the Show Cause Order did not include the failure to remit 2013 RAFs, Country Club's proposed Settlement Agreement acknowledges the obligation to remit payment of its 2013 RAFs, plus penalty and interest, and includes a payment plan for satisfying the obligation. Additionally, we note that the 2013 RAFs, penalty and interest figures outlined in the table above are the most current calculations of the amount owed by Country Club for 2013. As such, the table contained in this Order supersedes the amounts outlined in the Table on page 1 of Exhibit A to the Settlement Agreement.

We have jurisdiction pursuant to Sections 120.57, 350.113, 367.121, 367.145, 367.161, F.S., and Rule 25-30.120, F.A.C.

DECISION

Acceptance of Settlement

On May 2, 2014, Country Club filed a letter with the attached proposed Settlement Agreement, in an effort to fully resolve its apparent violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities and delinquent RAFs, penalties and interest. The goal of any show cause proceeding, is to ensure compliance with Florida law and the Commission's rules and orders. It appears as though the proposed Settlement Agreement accomplishes this goal and provides a remedy for past violations.

Significant provisions of the Settlement Agreement include:

- Country Club acknowledges its obligation, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, F.A.C., to remit payment of its Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011, 2012, and 2013.
- Country Club will make a one-time payment of \$19,517.27, by May 14, 2014, to satisfy the principal balance of the RAF amounts Country Club owes for 2010 and 2011.
- Beginning on September 15, 2014, Country Club will begin making monthly payments, by the fifteenth of each month, in the amount of \$1,000.00, in an effort to pay off the balance of its 2012 and 2013 RAFs, as well as penalties and interest for 2010, 2011, 2012, and 2013.
- Country Club will submit payment of its 2014 and future RAFs to the Commission, timely and in full.
- Country Club agrees to waive its right to an administrative formal hearing pursuant to Sections 120.569 and 120.57, F.S., and will withdraw its petition for formal hearing filed on April 10, 2014, in this docket, within ten (10) days of the approval of the Settlement Agreement.
- The Commission will conditionally waive its right to seek civil remedies against Country Club for failing to remit payment of RAFs, penalties and interest, provided that Country Club complies with all of the terms of this Settlement Agreement and any final Commission order approving the agreement.

- Country Club will notify the Commission prior to any sale, conveyance, or abandonment of the utility or the property it is located upon, and/or the initiation of any bankruptcy proceedings involving the utility or its property. In addition, Country Club will provide a copy of the Settlement Agreement and Commission order approving the agreement to any purchaser, operator, or person assuming control of Country Club and/or any court presiding over any abandonment or bankruptcy proceeding involving Country Club.
- The agreement does not prevent a Party from filing suit to specifically enforce any of the terms of the agreement; and the Commission reserves the right to initiate appropriate legal action to address any violations of Commission rules or statutes that are not specifically related to the agreement.
- Should Country Club fail to comply with any of the terms of the proposed Settlement Agreement, such failure would be considered a breach of the agreement and automatically accelerate the balance of any unpaid RAFs, penalties and interest, which would then become immediately due. In addition, the Commission will seek to enforce the terms of the Settlement Agreement and pursue all reasonable means necessary to collect the amounts owed, including, but not limited to, placing a lien on the real and personal property of Country Club.

We find that, taken in its entirety, the Settlement Agreement provides a reasonable resolution of the outstanding issues in Docket No. 140031-WS in accordance with Section 120.57(4), F.S. In addition, we find the Settlement Agreement to be in the public interest, as it provides for the utility's future compliance with Florida Statutes and Commission Rules. Moreover, the Settlement Agreement promotes administrative efficiency and avoids the time and expense of a hearing. Accordingly, we hereby approve and accept the Settlement Agreement proposed by Country Club, in full as attached hereto as Attachment 1.

Closure of Docket

We find that the Settlement Agreement resolves all matters in Docket No. 140031-WS in accordance with Section 120.57(4), F.S., and, as a result, our Show Cause Order No. PSC-14-0131-SC-WS, issued on March 17, 2014, shall become final. This docket shall remain open in order to process the settlement payments and to monitor ongoing compliance of the terms of the Settlement Agreement. Once the terms of the Settlement Agreement and all outstanding amounts owed by Country Club have been satisfied, the docket shall be administratively closed. Should Country Club fail to comply with any of the terms of the Settlement Agreement, the Commission will seek to enforce the Settlement Agreement and pursue all reasonable means necessary to collect the amounts owed by Country Club, pursuant to Sections 120.69 and 367.121(1)(g) and (j), F.S., including, but not limited to, initiating an action in civil court and/or procuring a lien on the real and personal property of Country Club.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Settlement Agreement, attached hereto as Attachment 1, is hereby approved, resolving all outstanding matters in this docket in accordance with Section 120.57(4), F.S. It is further,

ORDERED that Order No. PSC-14-0131-SC-WS, issued on March 17, 2014, shall become final and Country Club Utilities, Inc. shall withdraw its petition for formal hearing, within ten (10) days of the date of this Order. It is further,

ORDERED, that this docket shall remain open to process settlement payments received and to monitor compliance with the terms of this Settlement Agreement. Once all the terms of the Settlement Agreement and all outstanding amounts owed by Country Club Utilities, Inc. have been satisfied, the docket shall be administratively closed. It is further,

ORDERED, that, should Country Club Utilities, Inc. breach the terms of the Settlement Agreement, the Florida Public Service Commission shall seek to enforce the Settlement Agreement and pursue all reasonable means necessary to collect any amounts owed, including, but not limited to, initiating an action in circuit court and/or procuring a lien on the real and personal property of Country Club Utilities, Inc., pursuant to Sections 120.69 and 367.121(1)(g) and (j), F.S.

By ORDER of the Florida Public Service Commission this 12th day of May, 2014.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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.

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 Office of Commission Clerk, 2540 Shumard 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 Office of 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 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.

FILED MAY 02, 2014
DOCUMENT NO. 02031-14
FPSC - COMMISSION CLERK

Country Club Utilities, Inc.

May 2, 2014

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

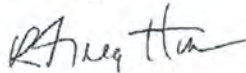
Re: Docket No. 140031-WS
Country Club Utilities Settlement Agreement

Dear Commissioners:

I respectfully ask that you consider approving the Settlement Agreement as prepared by staff and signed by me.

Staff has worked very closely with me to remedy this violation and I am grateful. I also appreciate your consideration previously and hope you will approve this current agreement.

Sincerely,



R. Greg Harris, President

3035 Wynstone Drive, Sebring, FL 33875
863-381-8201
rgregharris@gmail.com

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Country Club Utilities, Inc. in
Highlands County for violations of Rule 25-
30.120, FAC, Regulatory Assessment Fees;
Water and Wastewater Utilities.

DOCKET NO. 140031-WS

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes (F.S.), Country Club Utilities, Inc. (Country Club) hereby files this Settlement Agreement to effect an informal disposition and binding resolution of any and all matters and issues that were, or might have been, addressed by the Florida Public Service Commission (Commission) in Docket No. 140031-WS. This Settlement Agreement avoids the time, expense and uncertainty associated with adversarial litigation. The terms of this Settlement Agreement are as follows:

1. Country Club acknowledges its obligation, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, Florida Administrative Code (F.A.C.), to remit payment of its Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011, 2012, and 2013, as shown in Exhibit A attached hereto.
2. In consideration of Country Club's complete and timely performance of all the obligations agreed to in this Settlement Agreement, the Commission conditionally waives its right to seek civil remedies against Country Club for failing to remit payment of RAFs, penalties and interest for the years 2010, 2011, 2012, and 2013, pursuant to Sections 367.145 and 350.113, F.S., and Rule 25-30.120, F.A.C. This waiver is conditioned upon Country Club's complete compliance with all of the terms of this Settlement Agreement and any final Commission order approving this agreement.

Docket No. 140031-WS

Country Club Settlement Agreement

3. In lieu of the Commission pursuing all reasonable means necessary to collect the amounts owed by Country Club, including, initiating action in circuit court, Country Club will perform the following:
 - a. Submit payment to the Commission in the amount of \$19,517.21, by **May 14, 2014**, satisfying the principal balance of Country Club's 2010 and 2011 Regulatory Assessment Fees (RAFs);
 - b. Submit a monthly payment of \$1,000.00 to the Commission, by the **15TH** of every month, beginning on **September 15, 2014**, and continuing until the balance of any outstanding RAFs, penalties and interest has been paid; and
 - c. Submit payment of its 2014 and future RAFs to the Commission, timely and in full.

4. The Commission shall apply all payments made by Country Club under this Settlement Agreement in the following manner:
 - a. To the principal balance of any unpaid year's RAFs, beginning with the oldest year to the most recent year, until the principal balance of any year's unpaid RAFs has been satisfied; and
 - b. To the penalty and interest balance assessed to each year of delinquent RAFs, beginning with the oldest year to the most recent year, until the penalty and interest balance of each year's delinquent RAFs has been satisfied.

5. Failure by Country Club (i) to submit its initial payment of \$19,517.21 payment by May 15, 2014, (ii) to timely submit two (2) consecutive \$1,000.00 installment payments outlined above, or (iii) to abide by any of the other terms contained herein, shall be considered a breach of this Settlement Agreement, automatically accelerating the balance of any unpaid RAFs, penalties and interest, which will then become immediately due.

6. Additional Payment Terms:
 - a. All payments shall be made payable to the "Florida Public Service Commission," include Docket No. 140031-WS on the memo line, and be sent to "Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, ATTENTION: Fiscal Services."

Docket No. 140031-WS

Country Club Settlement Agreement

- b. Payment is considered "timely" if properly addressed, mailed with sufficient postage and postmarked no later than the due date.
 - c. Payment is considered "paid" on the date it is received and logged in by the Commission's Division of Administrative and Information Technology Services in Tallahassee, Florida, or on the date the payment is postmarked by the United States Postal Service.
 - d. Payment that is returned by a financial institution for insufficient funds, or any other reason, is a failure to submit timely payment. Pursuant to Section 215.34(2), a service fee of \$15.00 or five percent (5%) of the amount of the payment returned, whichever is greater, shall be assessed to any payment returned by a financial institution for insufficient funds, or for any other reason. Two (2) returned payments shall be considered a breach of this Settlement Agreement, automatically accelerating the balance of any unpaid RAFs, penalties and interest, which will then become immediately due.
7. In the event Country Club, including the property upon which Country Club is located, becomes the subject of a sale, conveyance, abandonment, or bankruptcy and all of the terms of this Settlement Agreement have not been fully satisfied, Country Club shall:
- a. Notify the Commission at least sixty (60) days prior to the sale, conveyance, abandonment or initiating bankruptcy proceedings;
 - b. Provide the name and address of the purchaser, operator, or person to assume or in control of Country Club;
 - c. Provide a copy of this Settlement Agreement, final Commission order approving the Settlement Agreement and all attachments to the purchaser, operator, or person assuming control of Country Club; and
 - d. Provide a copy of this Settlement Agreement, final Commission order approving the Settlement Agreement and all attachments to the court presiding over any abandonment or bankruptcy proceeding involving Country Club.
8. The submission of this Settlement Agreement by Country Club is in the nature of an offer to settle. This Settlement Agreement is contingent on the Commission accepting the entire Settlement Agreement. Consequently, if this Settlement Agreement is not accepted

Docket No. 140031-WS

Country Club Settlement Agreement

and approved without modification, then the settlement proposal is rejected and the Settlement Agreement shall be considered null and void and of no further force or effect.

9. This Settlement Agreement will take effect the day after it is approved by the Commission. Country Club understands that the Commission's decision will be reflected in a final order.
10. Neither Party to this Settlement Agreement will request, support, or seek to impose a change in the application of any provision of this Settlement Agreement. Provided the Commission approves the Settlement Agreement, Country Club waives its right to request further administrative or judicial proceedings concerning any of the matters, which were, or might have been, addressed by the Commission in resolving Docket No. 140031-WS, except proceedings to enforce this Settlement Agreement. This waiver of the right to further administrative or judicial proceedings shall include, but not be limited to: a petition for a formal proceeding in the form provided by Rule 28-106.201 or 28-106.2015, F.A.C.; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, F.A.C.; or a notice of appeal to initiate judicial review by the Florida First District Court of Appeal pursuant to Fla. R. App. P. 9.110, in the form specified in Fla. R. App. P. 9.900(a).
11. Nothing in this Settlement Agreement shall prevent the Parties from filing suit to specifically enforce any of the terms of this Settlement Agreement. The Commission reserves the right to initiate appropriate legal action to address any violations of rules or statutes administered by the Commission that are not specifically related to or resolved by this Settlement Agreement.

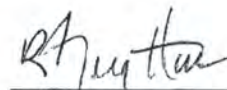
Docket No. 140031-WS

Country Club Settlement Agreement

12. In consideration for entering into this agreement, Country Club acknowledges, agrees, and waives its right to an administrative formal hearing pursuant to Sections 120.569 and 120.57, F.S., and shall withdraw its petition for formal hearing filed on April 10, 2014, in Docket 140031-WS, within ten (10) days of approval of this Settlement Agreement. Country Club further acknowledges, agrees, and waives its right to appeal the final order on this matter.
13. This Settlement Agreement resolves all matters in Docket No. 140031-WS in accordance with Section 120.57(4), F.S. Docket No. 140031-WS will continue to remain open until all the terms of this Settlement Agreement have been satisfied by Country Club.
14. This Settlement Agreement constitutes a single, integrated written contract expressing the entire agreement between the Parties and superseding all other agreements, representations, and understandings on the subject matter herein. There is no other agreement, oral or written, expressed or implied, between the Parties with respect to the subject-matter herein, except this Settlement Agreement.

Signed this 1st day of May, 2014.

BY:



R. Greg Harris, President
COUNTRY CLUB UTILITIES, INC.
3035 Wynstone Drive
Sebring, FL 33875
Telephone: (863) 385-6330
Email: rgregharris@gmail.com

Docket No. 140031-WS

Settlement Agreement – Exhibit A

TOTAL RAFs, PENALTY & INTEREST OUTSTANDING

YEAR	REVENUES	RAFs (4.5%)	PAYMENTS	PENALTY (5 - 25%) (THRU 05/14/14)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,886.75	\$14,821.85
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,929.97	\$17,016.38
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,581.03	\$15,697.37
2013	\$245,833.33	\$11,293.06	\$0.00	\$1,129.31	\$225.86	\$12,648.23
TOTALS		\$44,603.34	\$2,500	\$9,456.88	\$8,623.61	\$60,183.83

Docket No. 140031-WS

Settlement Agreement – Exhibit A

RAF BREAKDOWN BY SERVICE & YEAR

2010	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$144,853.00	\$6,518.39	\$1,629.60	\$2,389.67	\$10,537.66
SEWER	\$93,993.00	\$4,229.69	\$1,057.42	\$1,497.08	\$6,784.19
PAYMENTS	---	\$2,500.00	\$0.00	\$0.00	\$2,500.00
TOTALS	\$238,846.00	\$8,248.08	\$2,687.02	\$1,581.03	\$14,821.85

2011	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$149,425.00	\$6,724.13	\$1,681.03	\$1,748.27	\$10,153.43
SEWER	\$101,000.00	\$4,545.00	\$1,136.25	\$1,181.70	\$6,862.95
PAYMENTS	---	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$250,425.00	\$11,269.13	\$2,817.28	\$2,929.97	\$17,016.38

Docket No. 140031-WS

Settlement Agreement – Exhibit A

RAF BREAKDOWN BY SERVICE & YEAR

2012	REVENUES	RAFS (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$151,060.00	\$6,797.70	\$1,699.43	\$951.68	\$9,448.81
SEWER	\$99,897.00	\$4,495.37	\$1,123.84	\$629.35	\$6,248.56
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$250,957.00	\$11,293.07	\$2,823.27	\$1,581.03	\$15,697.37

2013	REVENUES	RAFS (4.5%)	PENALTY (10%) (THRU 05/14/14)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$144,080.00	\$6,483.60	\$648.36	\$129.67	\$7,261.63
SEWER	\$98,167.00	\$4,417.51	\$441.75	\$88.35	\$4,947.61
PAYMENTS	----	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$242,247.00	\$10,901.11	\$1,090.11	\$218.02	\$12,209.24

EXHIBIT “ D ”

COUNTRY CLUB UTILITIES, INC. PAYMENTS

PSC Docket No: 140031-WS

**In Re: Initiation of show cause proceedings against Country Club Utilities, Inc.
in Highlands County for violations of Rule 25-30.120, FAC,
Regulatory Assessment Fees; Water and Wastewater Utilities.**

REDACTED

LE. MM + 1000.~

WS654-12-S-D-R

DATE DEFICIT CK# 3200
\$ 500.00
10/10/14
vm

ORDER NO. PSC-14-0225-AS-WS
DOCKET NO. 140031-WS
PAGE 2

OCT 17 2014 475.
Payment Plan

2013 Regulatory Assessment Fees

On February 26, 2014, we received Country Club's 2013 RAF returns for water and wastewater, wherein Country Club reported a total gross revenue of \$147,666.39 for water and \$98,166.94 for wastewater. On April 3, 2014, Country Club filed its annual report for 2013, reporting a total gross revenue of \$144,079 for water and \$98,167 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of \$6,483.60 for water and \$4,417.51 for wastewater, by March 31, 2013. To date, Country Club has not remitted payment of its 2013 RAFs.

Accordingly, as of May 14, 2014, the amounts owed by Country Club for delinquent RAFs plus statutory penalty and interest, for the years 2010, 2011, 2012, and 2013, are as follows:

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY 5-25% (THRU 05/14/14)	INTEREST 1% (THRU 05/14/14)	TOTAL DUE
2010	\$238,846.00	\$10,748.08	\$2,500.00	\$2,687.02	\$3,886.75	\$14,821.85
2011	\$250,425.00	\$11,269.13	\$0.00	\$2,817.28	\$2,929.97	\$17,016.38
2012	\$250,957.00	\$11,293.07	\$0.00	\$2,823.27	\$1,581.03	\$15,697.37
2013 ²	\$242,247.00	\$10,901.11	\$0.00	\$1,090.11	\$218.02	\$12,209.24
TOTALS	\$982,475.00	\$44,211.39	\$2,500.00	\$9,417.68	\$8,615.77	\$59,744.84

Settlement Discussions

On March 24, 2014, our staff participated in a telephone conference with Country Club's owner, Greg Harris, and Mr. Harris' accountant, Mr. Robert Reed, to discuss the terms of a possible settlement. Although a settlement was not reached on that date, the parties agreed to a second telephone conference, for the purposes of continuing settlement discussions. On April 2, 2014, our staff and Mr. Harris participated in a second telephone conference, where our staff and

CASH ONLY IF ALL CheckLock™ SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPIING

<p>Country Club Utilities, Inc 3035 Wynstone Drive Sebring, FL 33875 863-385-6330 info@countryclubutilities.com</p>	<p>MIDFLORIDA CU 3200 10/10/2014</p>
<p>PAY TO THE ORDER OF <u>Florida Public Service Commission</u> \$ ***1,000.00</p>	
<p><u>One Thousand and 00/100</u> DOLLARS</p>	
<p>Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850</p>	
<p><i>Greg Harris</i></p>	
<p>3200</p>	

MEMO

WSL54

DATE DEPOSIT **REDACTED**

SEP 22 2014 10:48:48

CK# 3173
\$ 1,000.00 R
9-11-14
RR

From: Kelley Corbari
To: "rgregharris@gmail.com" (rgregharris@gmail.com)
Cc: Tom Farnhart; Karen Belcher; Adam Teltzman
Subject: 140031-WS RAF Payment Info Reminder
Date: Friday, August 08, 2014 10:56:20 AM
Attachments: image001.png

Mr. Harris -

Here is the information you asked me to send you this morning for submitting the monthly RAF payments per the Settlement Agreement. Let me know if you have any questions.

Payment Amount: \$1,000.00
Payment Due: 15th of every month - beginning on September 15, 2014.
Payable To: Florida Public Service Commission (Please include Docket No. 140031-WS on the memo line)
Payment Address: Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ATTENTION: Fiscal Services

Thanks!
Kelley

Kelley F. Corbari,
Staff Attorney - Regulatory Analysis Section

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Country Club Utilities, Inc 3035 Wynstone Drive Sebring, FL 33875 883-385-6330 info@countryclubutilities.com	MIDFLORIDA CU [REDACTED]	3173
		9/10/2014
PAY TO THE ORDER OF Florida Public Service Commission		\$ **1,000.00
One Thousand and 00/100		DOLLARS
Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850		<i>[Signature]</i>
MEMO Docket No. 140031-WS		[REDACTED] 3173

© 2011 Int'l. B.N. INC. # 7-85 1-800-433-2670

Country Club Utilities
3035 Wynstone Drive
Sebring, FL 33875

ISLAND PALMS
SAINT PETERSBURG FL
11 SEP 2024 PM 2



POST OFFICE CENTER

14 SEP 22 4: 02

WS 654-10-W-0-R
 Docket No. 140031-WS

MAY 15 2014 426

CK. Amt \$19517.27

Settlement Agreement - Exhibit A

Water RAF \$5268.37
 5/13/14

m

DATE DEPOSIT

RAF BREAKDOWN BY SERVICE & YEAR

MAY 15 2014 426

2010	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST (1%) (THRU 05/14/14)	TOTAL DUE
WATER	\$144,853.00	\$6,518.39	\$1,629.60	\$2,389.67	\$10,537.66
SEWER	\$93,993.00	\$4,229.69	\$1,057.42	\$1,497.08	\$6,784.19
PAYMENTS	----	\$2,500.00	\$0.00	\$0.00	\$2,500.00
TOTALS	\$238,846.00	\$8,248.08	\$2,687.02	\$1,581.03	\$14,821.85

2011	REVENUES	RAFs (4.5%)	PENALTY (25%)	INTEREST	TOTAL DUE
					0,153.43
					6,862.95
					\$0.00
					7,016.38

CASH ONLY IF ALL CheckLock™ SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPYING

3058

Country Club Utilities, Inc
 3035 Wynstone Drive
 Sebring, FL 33875
 863-385-6330
 info@countryclubutilities.com

MIDFLORIDA CU
 63-7980/2631

5/12/2014

\$ 19,517.27

PAY TO THE ORDER OF Florida Public Service Commission

Nineteen Thousand Five Hundred Seventeen and 27/100***** DOLLARS

Florida Public Service Commission
 2540 Shumard Oak Blvd.
 Tallahassee, FL 32399-0850

3058

MEMO Docket No. 140031-WS

EXHIBIT “ E ”

COUNTRY CLUB UTILITIES, INC.’S NOTICE OF INTENT TO ABANDON PURSUANT TO §367.165

Filed: October 22, 2014

**PSC Docket No: 140208-WS
In Re: Notice of abandonment of water and wastewater systems
in Highlands County by Country Club Utilities, Inc.**

COUNTRY CLUB UTILITIES, INC.

3035 Wynstone Drive
Sebring, Florida 33875

October 22, 2014

I CERTIFY THAT THIS IS A TRUE AND
CORRECT COPY OF THE ORIGINAL
DOCUMENT THAT WAS FILED WITH THE
FLORIDA PUBLIC SERVICE COMMISSION
BY: Carlotta S. Stauffer
CARLOTTA S. STAUFFER, COMMISSION CLERK
(or Office of Commission Clerk designee)

June Fisher, County Administrator
Highlands County Board of County Commissioners
600 South Commerce Avenue
Sebring, Florida 33870
Email: Jfisher@hcbcc.org
Certified Mail #7008 0150 0002 3588 6870

Art Graham, Chairman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Certified Mail #7009 2250 0000 3182 2142

Re: Abandonment of Country Club Utilities

Ladies and Gentlemen:

Be advised that Country Club Utilities, Inc., a Florida corporation, hereby gives notice of its intent to abandon, in strict compliance with Section 367.165, Florida Statutes, the water and waste water utilities ("Country Club Utilities") within and serving the Country Club of Sebring, Highlands County, Florida.

The abandonment shall be effective sixty-five (65) days from the date this notice is dispatched to and receipt is confirmed (whichever is later) by the Board of County Commissioners of Highlands County, Florida and the Florida Public Service Commission. If necessary to accommodate the Court, the prospective receiver, or the residents of the Country Club of Sebring, the abandonment may be postponed by agreement for a reasonable time.

The Board of County Commissioners is respectfully requested to file the appropriate action in the Circuit Court seeking the appointment of a receiver to operate the Country Club Utilities so that there will be no interruption of service; and asking the court to establish a reasonable rate so that the outstanding encumbrances on Country Club Utilities may be paid.

Abandonment has become necessary because Country Club Utilities cannot pay its cost of operation. Rates have not been increased in over thirty (30) years. The current rate is \$.70 per thousand gallons (compared to the Southwest Florida Water Management District's average rate for equivalent service of \$2.70 per thousand gallons). Our rates are controlled by the Florida Public Service Commission ("PSC"). They have determined that Country Club Utilities does not qualify for a rate increase under the applicable statutes and rules.

The Florida Department of Environmental Protection ("DEP") mandated several actions and improvements (all to protect the public health--the most recent mandate requires Country Club Utilities to replace a second collapsed back-up well). Because Country Club Utilities cannot obtain a rate increase under the current PSC statutes and rules, Country Club Utilities does not have the capital to comply with the actions and improvements mandated by DEP. Country Club Utilities acknowledges that the DEP mandates are required by the statutes and

rules under which DEP operates. DEP worked diligently to assist Country Club Utilities in complying with the rules and statutes for the protection and benefit of the public.

The South West Florida Water Management District ("Water District") brought legal action against Country Club Utilities to compel it to comply with the Water District's water use permit and to cease over-pumping. However, Country Club Utilities has no authority to force its customers to use less water. That authority resides with the Water District. Country Club Utilities is faced with a fine for over-pumping because its customers use more water than its permit allows. Country Club Utilities does not have the capital to pay the fine, nor the authority to reduce its customers' water use.

Greg Harris, as owner of Country Club Utilities, has personally invested a very significant amount of money to fund Country Club Utilities' attempt to comply with the DEP mandates, to petition the PSC for a rate increase, and to seek compliance with the Water District permit. However, these statutory schemes have, in this case, made compliance impossible and further attempts futile. Hence, Country Club Utilities will be abandoned so that utility service may be provided by one or more governmental agencies.

Based upon the above, Country Club Utilities, Inc., gives this notice that it intends to abandon the utilities so that government may provide the service.

Sincerely,

COUNTRY CLUB UTILITIES, INC.

By: 
R. Greg Harris, President

cc: Department of Environmental Protection
Southwest Florida Water Management District
City of Sebring
Prairie Oaks Community Association

EXHIBIT “ F ”

CITY OF SEBRING CITY COUNCIL MEETING AGENDA ITEM SUMMARY

Meeting Date: December 16, 2014

**Agenda Item #: 12 A – Agreement for Sale and
Purchase of Country Club Utilities, Inc.**

AGENDA
ORDER AND PROCEDURE OF COUNCIL MEETING
TUESDAY
December 16, 2014
6:00 p.m.

1. CALL TO ORDER
2. INVOCATION
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL
5. ANNOUNCE BUSINESS FROM AUDIENCE PROCEDURE
6. MAYOR'S REPORT:
 - A. Sebring Christmas Parade Review
7. COUNCILMEMBERS' CONCERNS, COMMENTS, LIAISON REPORTS:
8. CONSENT AGENDA:
 - A. Approval of minutes.....Haley
 - B. Announcement of upcoming meetings.....Haley
 - C. Budget Amendment #14/Update Fire Assessment Methodology.....Noethlich
 - D. Saturday Night Cruise Dates for 2015.....Noethlich
 - E. SHS Project Graduation First Annual Diploma Dash.....Vicki Hicks
 - F. 2nd Annual YMCA/Sebring Firemen 5K Run.....Dave Scheck
 - G. Planning & Zoning Board Appointments.....Noethlich
 - H. Budget Amendment #15/Newsom Eye Center.....Noethlich
9. OLD BUSINESS:
10. NEW BUSINESS:
 - A. Downtown Small Business Alliance/Mardi Gras Event.....Lora Todd/Vicki Jarvis
11. BUSINESS FROM AUDIENCE:
12. CITY ATTORNEY'S BUSINESS:
 - A. Agreement for sale and purchase of Country Club Utilities
13. CITY ADMINISTRATOR BUSINESS:
14. CITY CLERK'S BUSINESS AND ANNOUNCEMENTS:
 - A. Bills for approval

Any person who might wish to appeal any decision made by the City Council of Sebring, Florida, in public hearing or meeting is hereby advised that he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based. The City Council of Sebring, Florida does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Council's functions, including one's access to, participation employment or treatment in its programs or activities. Anyone requiring reasonable accommodation as provided for in the Americans with Disabilities Act should contact Mrs. Kathy Haley, CMC, City Clerk, at 471- 5100.

CITY OF SEBRING

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2014 PRESENTER: Swaine

AGENDA ITEM#: 12 A - Agreement for sale and purchase of Country Club Utilities

BACKGROUND: You previously were provided an agreement for the sale and purchase of Country Club of Sebring water and sewer system. **Please attach that agreement to this Agenda Item Summary.** The agreement provides for the following:

- The purchase price is \$720,000. This amount will pay off all liens & debts on the system.
- The inspection system is for one (1) year. The City can terminate the agreement for any reason during this time.
- Closing will be no later than 30 days after the inspection period.
- The court will be asked to approve this agreement at the same time the City is appointed receiver. The court date has been scheduled for December 17, 2014. If appointed receiver. The City will assume responsibility for operation of the system and billing of the customers effective December 22, 2014.

Among the options available to Council are the following:

- Option 1** – Approve agreement as presented.
- Option 2** – Do not approve the agreement
- Option 3** – Approve agreement with changes requested by Council

REQUESTED MOTION: Approve agreement as presented.

COUNCIL ACTION:

____ APPROVED Moved by: _____; Seconded by: _____
____ DENIED Carlisle ___ Stanley ___ Stewart ___ Whitlock ___ Griffin ___
____ TABLED TO: _____
____ OTHER

EXHIBIT “ G ”

**AFFIDAVIT OF TONI J. EARNHART
AND
ACCOUNTING OF REGULATORY ASSESSMENT FEE
AMOUNTS OWED BY COUNTRY CLUB UTILITIES, INC.**

Dated: January 20, 2015

IN THE TENTH JUDICIAL CIRCUIT COURT
IN AND FOR HIGHLANDS COUNTY, FLORIDA

HIGHLANDS COUNTY, a political subdivision
of the State of Florida,

Plaintiff,

CASE NO.: GC 14-611

v.

COUNTRY CLUB UTILITIES, INC.,
a Florida Corporation,

Defendant.

AFFIDAVIT

STATE OF FLORIDA

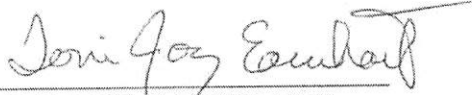
COUNTY OF LEON

I, **TONI JOY EARNHART**, being first duly sworn, states the following:

1. I am employed by Intervenor, the State of Florida, Florida Public Service Commission (Commission), as a Public Utility Analyst, in the Commission's Division of Economics.
2. This affidavit is submitted in support of Intervenor's Petition for Enforcement of Agency Action and Declaratory Judgment in the above-styled case before this Court.
3. In my capacity as a Public Utility Analyst in the Division of Economics, I oversee the monitoring, reporting, accounting, and collection of regulatory assessment fees submitted to the Commission by utilities regulated by the Commission.
4. I am familiar with Country Club Utilities, Inc. (Country Club), a water and wastewater utility regulated by the Commission, and its obligation to submit annual regulatory assessment fees, pursuant to §§350.113 and 367.145, Fla. Stat.

REDACTED

5. I am familiar with the Commission's enforcement proceeding against Country Club, as well as the terms of the Final Order to Show Cause and Approving Settlement Agreement issued by the Commission on May 12, 2014.
6. I personally prepared and compiled the attached accounting of Country Club's regulatory assessment fee obligation to the Commission, pursuant to §§350.113 and 367.145, Fla. Stat.
7. I hereby affirm, to the best of my knowledge and belief, that the attached accounting accurately reflects the outstanding financial obligation owed by Country Club to the Commission, as of January 20, 2015, for delinquent regulatory assessment fees, penalties and interest, for the years 2010, 2011, 2012, and 2013.
8. The foregoing facts are known to me to be true, to the best of my knowledge and belief.

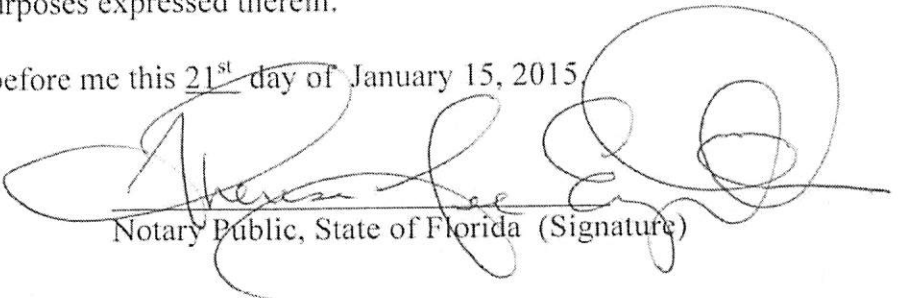

TONI JOY EARNHART

I HEREBY CERTIFY that on this date TONI JOY EARNHART personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, who is known to me and/or who has produced a valid Florida Driver's License [REDACTED] as identification, and who swears and affirms the enclosed information is true and correct to the best of her knowledge and is the person that executed this letter for the purposes expressed therein.

Sworn to and subscribed before me this 21st day of January 15, 2015.



Theresa Lee Eng Tan
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF118118
Expires 4/30/2018


Notary Public, State of Florida (Signature)

Notary Public, State of Florida
(typed, printed, or stamped)

My Commission Expires: 4/30/2018

Country Club Utilities, Inc.

as of January 20, 2015

FEID Num	Code	Utility Name	Service	RAF Period Covered	Due Date	Revenue	RAF Rate	RAF Due	RAF Paid	RAF Owe	Penalty Due	Penalty Paid	Penalty Owe	Interest Due	Interest Paid	Interest Owe	Total Owe	Total Paid	Total Due
58-2673986	WS654	Country Club Utilities, Inc.	WAS	01/01/2014-12/31/2014	3/31/2015	\$99,688.00	0.045	\$4,485.96	\$ -	\$ 4,485.96	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,485.96	\$ -	\$ 4,485.96
58-2673986	WS654	Country Club Utilities, Inc.	WAS	01/01/2013-12/31/2013	3/31/2014	\$98,167.00	0.045	\$4,417.51	\$ -	\$ 4,417.51	\$ 1,108.29	\$ -	\$ 1,108.29	\$ 442.57	\$ -	\$ 442.57	\$ 5,968.37	\$ -	\$ 5,968.37
58-2673986	WS654	Country Club Utilities, Inc.	WAS	01/01/2012-12/31/2012	4/1/2013	\$99,897.00	0.045	\$4,495.37	\$ 1,000.00	\$ 3,495.37	\$ 1,123.84	\$ -	\$ 1,123.84	\$ 953.97	\$ -	\$ 953.97	\$ 5,573.18	\$ 1,000.00	\$ 6,573.18
58-2673986	WS654	Country Club Utilities, Inc.	WAS	01/01/2011-12/31/2011	4/2/2012	\$101,000.00	0.045	\$4,545.00	\$ 4,545.00	\$ -	\$ 1,136.25	\$ -	\$ 1,136.25	\$ 1,181.70	\$ -	\$ 1,181.70	\$ 2,317.95	\$ 4,545.00	\$ 6,862.95
58-2673986	WS654	Country Club Utilities, Inc.	WAS	01/01/2010-12/31/2010	3/31/2011	\$93,993.00	0.045	\$4,229.69	\$ 4,229.69	\$ -	\$ 1,057.42	\$ -	\$ 1,057.42	\$ 1,467.30	\$ -	\$ 1,467.30	\$ 2,524.72	\$ 4,229.69	\$ 6,754.41
58-2673986	WS654	Country Club Utilities, Inc.	WAT	01/01/2014-12/31/2014	3/31/2015	\$148,188.33	0.045	\$6,668.47	\$ -	\$ 6,668.47	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,668.47	\$ -	\$ 6,668.47
58-2673986	WS654	Country Club Utilities, Inc.	WAT	01/01/2013-12/31/2013	3/31/2014	\$144,080.00	0.045	\$6,483.60	\$ -	\$ 6,483.60	\$ 1,620.90	\$ -	\$ 1,620.90	\$ 648.39	\$ -	\$ 648.39	\$ 8,752.89	\$ -	\$ 8,752.89
58-2673986	WS654	Country Club Utilities, Inc.	WAT	01/01/2012-12/31/2012	4/1/2013	\$151,060.00	0.045	\$6,797.70	\$ 1,000.00	\$ 5,797.70	\$ 1,699.43	\$ -	\$ 1,699.43	\$ 1,460.51	\$ -	\$ 1,460.51	\$ 8,957.64	\$ 1,000.00	\$ 9,957.64
58-2673986	WS654	Country Club Utilities, Inc.	WAT	01/01/2011-12/31/2011	4/2/2012	\$149,425.00	0.045	\$6,724.13	\$ 6,724.13	\$ -	\$ 1,681.03	\$ -	\$ 1,681.03	\$ 1,748.27	\$ -	\$ 1,748.27	\$ 3,429.30	\$ 6,724.13	\$ 10,153.43
58-2673986	WS654	Country Club Utilities, Inc.	WAT	01/01/2010-12/31/2010	3/31/2011	\$144,853.00	0.045	\$6,518.39	\$ 6,518.39	\$ -	\$ 1,629.60	\$ -	\$ 1,629.60	\$ 2,336.97	\$ -	\$ 2,336.97	\$ 3,966.57	\$ 6,518.39	\$ 10,484.96
									\$ 24,017.21	\$31,348.61			\$ 11,056.76			\$ 10,239.68			

2014 Revenue Averaging			
2013	\$	98,167.00	
2012	\$	99,897.00	
2011	\$	101,000.00	
WAS	\$	299,064.00	/3 = \$99,688
2013	\$	144,080.00	
2012	\$	151,060.00	
2011	\$	149,425.00	/3 = \$148,188.33
WAT	\$	444,565.00	
Total	Revenue	\$247, 876.33	2014

DETAILS AS OF 01/20/2015:

RAF 2012, 2013 & 2014 DUE	\$31,348.61
PENALTY 2011-2014 DUE	\$11,056.76
INTEREST 2011-2014 DUE	\$10,239.68
TOTAL AMOUNT STILL OWES	\$52,645.05

SETTLEMENT PAYMENTS RECEIVED:

5/13/2014	\$ 19,517.27
10/10/2014	\$ 1,000.00
9/11/2014	\$ 1,000.00
PAID	\$ 21,517.27