

Public Service Commission

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

DATE: June 18, 1997
TO: Steve C. Tribble, Director, Division of Administration
FROM: Donna Cyrus-Williams, Attorney, Division of Legal Services
 Tim Vaccaro, Senior Attorney, Division of Legal Services
RE: Docket No. 971141-WU - Initiation of show cause proceedings against A.P. Utilities, Inc. for violation of Rule 25-30.110(3), F.A.C., Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees

On March 13, 1997, the Commission issued Final Order No. PSC-97-0286-FOF-WU, in which it ordered APU to show cause, in writing within 20 days of the order, why it should not be fined a penalty of \$24,232.50 for failing to file its 1994 and 1995 annual reports, and for failing to correct deficiencies in its 1993 annual report. The Order also ordered APU to show cause why it should not be fined \$25,934.89, consisting of a penalty of \$11,039.83, plus interest of \$14,895.06, for failure to pay regulatory assessment fees for each of the years 1991 through 1995. Finally, the Order directed \$44,159.36 in delinquent regulatory assessment fees owed by the utility for each of the years 1991 through 1995 to the Comptroller's Office for collection.

The utility failed to timely respond to the Order, and in accordance with the Order, the annual report penalty of \$24,232.50 and the regulatory assessment fees penalty of \$25,934.89 were imposed without further action by the Commission. Also in accordance with the Order, staff made reasonable collection efforts, consisting of two certified letters requesting payment, dated April 29, 1997 and May 22, 1997. These efforts, however, were unsuccessful.

In light of the foregoing, we submit this matter to your office for approval to forward the account to the Department of Banking and Finance, Comptroller's Office, for further collection efforts.

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

1. A.P. Utilities, Inc. (APU or utility) is a Class B water utility operating in Marion County. APU provides water service to 1,090 customers in twelve subdivisions. In its 1993 annual report (the last report filed by the utility), the utility reported water operating revenues of \$202,378 and operating expenses of \$149,173, resulting in net operating income of \$53,205.

ACK _____
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FILED IN 100-1000000

June 18, 1997

2. Since the transfer of ownership of APU to Philip Woods on November 30, 1990, the utility has failed to correct deficiencies in its 1993 annual report, failed to file its 1994 and 1995 reports, and failed to pay its regulatory assessment fees for each of the years 1991 through 1995. On May 17, 1996, we received a letter from Mr. Woods dated May 13, 1996 in which he stated that he is working to correct the problems. Mr. Woods stated that he was working with the accounting firm of Crippen, Crippen & Company to correct the annual report filing problems by June 30, 1996. He also stated that he hoped to sell the utility by the last quarter of 1996. To date, the utility has not corrected the annual report filing delinquencies or remitted the corresponding penalties. The utility also has not remitted the delinquent regulatory assessment fees and the corresponding penalties. Mr. Woods has notified us that he is still attempting to sell the utility.
3. By letter dated January 9, 1997, we notified Mr. Woods that because of his continued delinquency in failing to file annual reports and remit regulatory assessment fees, this docket was opened to initiate a show cause proceeding against the utility. Mr. Woods was directed to immediately file the delinquent annual reports, remit the delinquent regulatory assessment fees, and remit the appropriate penalties. Mr. Woods has failed to respond to this letter.
4. On March 13, 1997, the Commission issued Final Order No. PSC-97-0286-FOF-WU, in which it ordered APU to show cause within 20 days why it should not be fined \$24,232.50 for violation of Rule 25-30.110, Florida Administrative Code, by failing to file its 1994 and 1995 annual reports, and for failing to correct deficiencies in its 1993 annual report. The Commission further ordered APU to show cause within 20 days why it should not be fined in the amount of \$25,934.89 for violation of Section 350.113, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, in that it failed to pay regulatory assessment fees for each of the years 1991 through 1995. Finally, the Order provided that the \$44,159.36 in delinquent regulatory assessment fees shall be directed to the Comptroller's Office for collection.
5. By letters dated April 29, 1997 and May 22, 1997, we notified Mr. Woods that because of the utility's failure to respond to the Order, the penalties had been imposed, and requested payment. Mr. Woods has failed to respond to these letters.

Steve C. Tribble, Director, Division of Administration
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June 18, 1997

Please find the following attached hereto:

- (a) Order No. PSC-97-1141-FOF-WU, issued March 13, 1997**
- (b) Certified Letter, January 9, 1997, Receipt No. P 263 57 2510**
- (c) Certified Letter, April 29, 1997, Receipt No. P 263 572 509**
- (d) Certified Letter, May 22, 1997, Receipt No. P 407 857 574**
- (e) State of Florida Office of the Comptroller Bureau of Auditing Delinquent Accounts Receivable Transmittal**

APU's mailing address is:

Mr. Philip Woods
A.P. Utilities, Inc.
3925 S.E. 45th Court, Suite E
Ocala, Florida 34480-7431

DCW:mw

cc: Division of Water and Wastewater (Mann, Gilchrist)
Division of Records and Reporting

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

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION

DATE: 6/18/97

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

PHONE NUMBER: 488-4733

SAMAS ACCOUNT CODE:

941141-WU WOODS PHILIP
 AGENCY REFERENCE# LAST NAME FIRST MIDDLE SOCIAL SECURITY NUMBER CONTROLLED USE ONLY
 A.P. Utilities, Inc.
 3925 S.E. 45th Court, Suite E Ocala, FL 34480-7431

 LAST KNOWN ADDRESS (INCLUDE ZIP)

SEE ATTACHMENT A

HOME TELEPHONE	WORK TELEPHONE	PRINCIPAL AMOUNT	PENALTY/INTEREST AMOUNT	TOTAL
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* See Attachment A	PENALTY/INTEREST AUTHORITY	DATE DEBT INCURRED	DEBT TYPE
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DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

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

REGULATORY ASSESSMENT FEES (RAF)

<u>YEAR</u>	<u>RAF AMOUNT</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1991	\$ 7,522.29	\$ 1,880.57	\$ 4,438.15	\$13,841.01
1992	8,667.59	2,166.90	4,073.77	14,908.26
1993	9,107.01	2,276.75	3,187.45	14,571.21
1994	9,340.15	2,335.04	2,148.23	13,823.42
1995	<u>9,522.32</u>	<u>2,380.57</u>	<u>1,047.46</u>	<u>12,950.35</u>
	<u>\$44,159.36</u>	<u>\$11,039.83*</u>	<u>\$14,895.06*</u>	<u>\$70,094.25</u>

ANNUAL REPORTS

<u>YEAR</u>	<u>ANNUAL REPORT FINES</u>	
1993	903 days x \$13.50 per day	\$12,190.50
1994	568 days x \$13.50 per day	7,668.00
1995	324 days x \$13.50 per day	<u>4,375.00</u>
		<u>\$24,233.50</u>

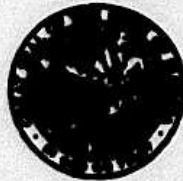
Total amount owed for RAFs and
Annual Reports

\$94,327.75

* Penalty and interest are calculated pursuant to Section 350.113(4), Florida Statutes and Rule 25-30.120(5)(g), Florida Administrative Code.

State of Florida

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



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

Public Service Commission

January 9, 1997

Mr. Philip D. Woods, President
A.P. Utilities, Inc.
3925 S.E. 45th Court, Suite E
Ocala, Florida 34480-7431

CERTIFIED MAIL - P 263 572 510
RETURN RECEIPT REQUESTED

Re: Docket No. 961141 - Initiation of Show Cause Proceedings Against A.P. Utilities, Inc. for Violation of Rule 25-30.110(3), F.A.C., Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees

Dear Mr. Woods:

Because of your continued delinquency in failing to file annual reports and remit regulatory assessment fees, the above-referenced docket has been opened to initiate show cause proceedings against A.P. Utilities, Inc. (APU or utility). Commission staff is scheduled to file a recommendation in this matter on January 23, 1997, to be heard at the February 4, 1997 Agenda Conference.

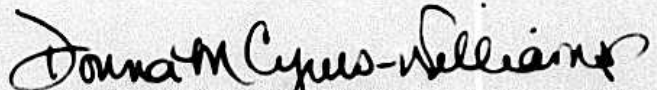
Our records indicate that we have not received annual reports for APU for the years 1994 and 1995, and deficiencies for the 1993 report remain uncorrected, in violation of Rule 25-30.110, Florida Administrative Code. Also, our records indicate that we have not received regulatory assessment fees for the years 1991 through 1995, in violation of Rule 25-30.120, Florida Administrative Code.

Sections 350.127(1) and 367.161, Florida Statutes, authorize the Commission to impose a penalty upon any regulated company that is found to be in willful violation of Commission rules.

Mr. Philip D. Woods
Page 2
January 9, 1997

Accordingly, you are directed to immediately file the delinquent annual reports, remit the delinquent regulatory assessment fees, and remit the appropriate penalties. Please contact me at (904) 413-6185 if you have any questions on specific amounts owing, or if I can be of other assistance.

Sincerely,


Donna M. Cyrus-Williams
Staff Attorney

cc: Division of Legal Services (Vaccaro)
Division of Water and Wastewater (Shafer, Bethea, Gilchrist, Mann)
Division of Records and Reporting

STATE OF FLORIDA

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



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

Public Service Commission

April 29, 1997

Mr. Philip D. Woods
A. P. Utilities, Inc.
3925 Southeast 45th Court, Suite E
Ocala, Florida 34480-7431

VIA CERTIFIED MAIL
NO. P 263 572 509

Re: Docket No. 961141-WU - In Re: Initiation of show cause proceedings against A.P. Utilities, Inc. For violation of Rule 25-30.110(3), F.A.C., Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Dear Mr. Woods:

On March 13, 1997, the Florida Public Service Commission issued Order No. PSC-97-0286-FOF-WU. By that Order, the Commission ordered A. P. Utilities, Inc. (APU or utility) to show cause, in writing, why it should not be fined a penalty of \$24, 232.50 for failing to file its 1994 and 1995 annual reports, and for failing to correct deficiencies in its 1993 annual report. The Order also ordered APU to show cause why it should not be fined \$25,934.89, consisting of a penalty of \$11,039.83, plus interest of \$14, 895.06, for failure to pay regulatory assessment fees for each of the years 1991 through 1995.

APU's response to the Order to Show Cause should have been submitted by April 2, 1997. Because the utility did not file a timely response to the Order to Show Cause, a total penalty of \$35,272.33 and interest of \$14,895.06 are deemed levied in accordance with Order No. PSC-97-0286-FOF-WU. In addition to these amounts, the Order directed \$44,159.36 in delinquent regulatory assessment fees to the Department of Banking and Finance, Comptroller's Office, for collection.

Please submit payment of these amounts by check made payable to the Florida Public Service Commission. The check should be mailed with a copy of this letter to the Division of Administration, Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

Payment is due by May 12, 1997. If you do not remit payment on or before this date, the fine will be deemed uncollectible by the Commission and referred to the Comptroller's Office for collection.

Mr. Philip D. Woods
Page 2
April 29, 1997

Do not hesitate to contact me at (904) 413-6185 with any questions regarding this matter.

Sincerely,


Donna Cyrus-Williams
Staff Counsel

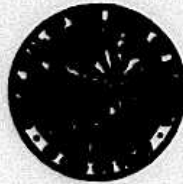
DCW:dp

cc: Division of Legal Services (Vaccaro)
Division of Water and Wastewater (Mann, Gilchrist)
Division of Records and Reporting

State of Florida

Commissioners:

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



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

Public Service Commission

May 22, 1997

Mr. Philip D. Woods, President
A.P. Utilities, Inc.
3925 S.E. 45th Court, Suite E
Ocala, Florida 34480-7431

CERTIFIED MAIL - P 407 857 574
RETURN RECEIPT REQUESTED

Re: Docket No. 961141 - Initiation of Show Cause Proceedings Against A.P. Utilities, Inc. for Violation of Rule 25-30.110(3), F.A.C., Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees

Dear Mr. Woods:

By letter dated April 29, 1997, you were notified that because of A.P. Utilities, Inc.'s failure to respond to the Order to Show Cause (Order No. PSC-97-0286-FOF-WU, issued March 13, 1997), a total penalty of \$35,272.33 and interest of \$14,895.06 was deemed levied, and payment due by May 12, 1997. To date, we have not received this payment.

This letter shall constitute the Commission's final effort to collect payment of these amounts. Payment must be received by May 28, 1997, or the fine will be deemed uncollectible by the Commission and referred to the Comptroller's Office for collection.

Please submit payment by check made payable to the Florida Public Service Commission. The check should be mailed with a copy of this letter to the Division of Administration, Bureau of Fiscal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Evelyn Sewell.

**Mr. Philip D. Woods
Page Two
May 22, 1997**

Do not hesitate to contact me at (904) 413-6185 with any questions regarding this matter.

Sincerely,


**Donna Cyrus-Williams
Staff Counsel**

DCW/dp

**cc: Division of Legal Services (Vaccaro)
Division of Administration (Sewell)
Division of Water & Wastewater (Mann, Gilchrist)
Division of Records and Reporting**