

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer) DOCKET NO. 881256-WS
of majority organizational control)
of LINDRICK SERVICE CORPORATION) ORDER NO. 20642
in Pasco County to JOSEPH R. AND)
MARLENE B. BORDA.) ISSUED: 1-23-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
GERALD L. GUNTER
JOHN T. HERNDON

ORDER TO SHOW CAUSE WHY PENALTIES SHOULD NOT
BE ASSESSED FOR FAILURE TO TIMELY FILE
APPLICATION FOR AUTHORITY TO TRANSFER
ORGANIZATIONAL CONTROL

BY THE COMMISSION:

In Order No. 20519 issued December 23, 1988, we approved the application for transfer of majority organizational control of Lindrick Service Corporation. However, we also directed our staff to return with an order initiating proceedings to show cause why Lindrick Service Corporation (Lindrick) should not be fined for failure to timely file that application.

Section 367.071, Florida Statutes (1987), provides that "No utility shall sell, assign, or transfer its certificate, facilities or any portion thereof, or majority organizational control without determination and approval of the Commission that the proposed sale, assignment, or transfer is in the public interest."

Rule 25-30.040, Florida Administrative Code, requires that "When a utility proposes to sell, transfer, or assign its certificate, facilities or any portion of these facilities or majority organizational control the utility shall apply to the Commission for authorization of the transactions." Under Section 367.161, Florida Statutes (1987), violations of Commission rules are subject to penalties of up to \$5,000 per offense.

In this instance, Lindrick was sold to Joseph and Marlene Borda on February 20, 1987. However, the transfer application was not filed until September 27, 1988, a delay of seventeen months.

There are no circumstances that we are aware of which would excuse Lindrick's delay in filing its transfer application. Fortunately, except for the length of the delay, there are no circumstances which would urge that a substantial penalty be imposed. Therefore, under the provisions of 367.161, Florida Statutes (1987), we will order Lindrick to show cause why it should not be assessed a fine of \$250 for this violation.

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In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that Lindrick Service Corporation is ordered to show cause why it should not be fined \$250 for its failure to timely file an application for transfer of majority control. It is further

ORDERED that Lindrick's written response must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 13, 1989. It is further

ORDERED that Lindrick's response must contain specific allegations of fact and law. It is further

ORDERED that Lindrick's opportunity to file a written response shall constitute its opportunity to be heard prior to a final determination of violation of Rule 25-30.040, Florida Administrative Code, and Section 367.071, Florida Statutes (1987), and assessment of a \$250 fine for failure to timely file a transfer application. It is further

ORDERED that a failure to file a timely written response to this show cause order shall constitute an admission of the facts alleged in the body of this order and a waiver of any right to a hearing. It is further

ORDERED that, in the event that Lindrick files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes (1987), further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that this docket shall remain open pending response and further Commission action.

By ORDER of the Florida Public Service Commission,
this 23rd day of JANUARY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

KJM