

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings)	DOCKET NO. 890677-WS
against COVE UTILITIES, INC., in)	ORDER NO. 21443
Lake County for failure to comply)	ISSUED: 6-26-89
with 1987 Annual Report requirements))	

The following Commissioners participated in the disposition of this matter:

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

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Cove Utilities, Inc., ("Cove"), a Class C utility, has not timely filed a complete 1987 annual report as required by Rule 25-30.110, Florida Administrative Code. Rule 25-30.110, Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31st each year to file an annual report on or before March 31st of the following year. Requests for extension must be in writing and must be filed before March 31. One extension of 30 days is automatically granted. Longer extensions may be granted upon showing of good cause. Incomplete or incorrect reports are considered delinquent, with a 30 day grace period in which to supply the missing information.

Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, any utility that fails to timely file a complete annual report is subject to penalties absent demonstration of good cause for noncompliance. The penalty set out in Rule 25-30.110(7), Florida Administrative Code, for Class C utilities is \$3.00 per day. The penalty calculation is based on the number of days elapsed since March 31, or the approved extension date and the actual date of filing. The date of filing is included in computing the number of days elapsed. The Commission may, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, impose lesser or greater penalties.

On January 4, 1989, this Commission received a letter from Citizen's National Bank, notifying that it had secured title to Cove's assets as of March 11, 1988, through a foreclosure sale. The Department of State records indicate that Cove was involuntarily dissolved as a corporation on November 4, 1988. On March 9, 1989, an application was made for approval of transfer to King Cove Utilities, Inc. (Docket No. 890354-WS).

Cove operated a utility system subject to this Commission's jurisdiction as of December 31, 1987. Cove did not request or receive an extension of time for filing its 1987 annual report. Cove received a warning letter sent by registered mail that was posted on May 19, 1988. This first letter directed a response by June 15, 1988. Cove did not respond to the warning letter or file the 1987 report. A second warning letter sent by certified mail was posted on July 1988 and returned as undeliverable. The value of the 1987 annual report to this Commission is approximately \$2,500.

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ORDER 21443
DOCKET NO. 890677-WS
PAGE 2

Also, it should be noted that Cove was fined for failure to file its 1986 annual report. Commission Order No. 21007 declared this fine uncollectible by this Commission in that further efforts to collect from Cove would not be cost effective. The matter was referred to the Comptroller's office for further collection efforts.

Based on the foregoing, it appears that Cove has failed to comply with the 1987 annual report requirements and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we find it appropriate to order Cove to show cause why it should not be fined \$3 per day for each day that its 1987 annual report is delinquent, up to a total of \$2,500. In the event that Cove fails to file a timely response to this show cause order, we authorize Staff to assess the fine pursuant to the above-cited rule. If Cove fails to respond to reasonable collection efforts by this Commission, we deem the fine to be uncollectible and hereby authorize referral of this matter to the Comptroller's Office for further collection efforts based on this Commission's finding that, under the aforesaid circumstances, further collection efforts by this Commission would not be cost effective. Two certified letters requesting payment shall constitute reasonable collection efforts. After referral to the Comptroller's Office, this docket should be closed.

Wherefore, in consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that Cove Utilities, Inc., shall show cause, in writing, why it should not be fined at least \$3 per day for each day that its 1987 annual report is delinquent, to a total of \$2,500. It is further

ORDERED that Cove Utilities, Inc.'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 July 17, 1989. It is further

ORDERED that Cove Utilities, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Cove Utilities, Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission, as required under Rule 25-30.110(6)(c), Florida Administrative Code. It is further

ORDERED that a failure to file a timely 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 Cove Utilities, Inc., files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that in the event Cove Utilities, Inc., fails to file a timely response to this show cause order, Staff is

ORDER 21443
DOCKET NO. 890677-WS
PAGE 3

authorized to assess the fine pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if a fine is assessed and Cove Utilities, Inc., does not remit payment after reasonable collection efforts, we deem the fine to be uncollectible and authorize referral to the Comptroller's Office for further disposition and this docket shall be closed.

By ORDER of the Florida Public Service Commission,
this 26th day of JUNE, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

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