

VOTE SHEET

October 18, 2011

Docket No. 110254-WS – Initiation of show cause proceedings against Four Points Utility Corporation in Polk County for violation of Commission rules and regulations as outlined in the Florida Public Service Commission's management audit for Four Points Utility Corporation and Bimini Bay Utilities Corporation issued June 2011.

**Issue 1:** Should Four Points Utility Corporation be ordered to show cause, in writing within 21 days, why it should not be fined for its apparent violation of Rule 25-30.145, F.A.C., regarding audit access to records?

**Recommendation:** Yes. Four Points Utility Corporation should be ordered to show cause, in writing within 21 days, why it should not be fined \$1,000 for failure to provide reasonable access to records for audit purposes as required by Rule 25-30.145, F.A.C. The show cause order should incorporate the conditions as set forth in staff's analysis. Further, the Utility should be warned and put on notice that failure to comply with Commission orders, rules, or statutes will again subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues or revocation of its certificate as set forth in Section 367.161, F.S.

**APPROVED** *as* **MODIFIED**

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures on lines under MAJORITY and DISSENTING.

REMARKS/DISSENTING COMMENTS:

DOCUMENT NO. DATE  
07018-11 10, 18, 11  
FPSC - COMMISSION CLERK

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(Continued from previous page)

**Issue 2:** Should Four Points Utility Corporation be ordered to show cause, in writing within 21 days, why it should not be fined for failure to file annual reports, in apparent violation of Rule 25-30.110(3), F.A.C. <sup>45</sup>

**Recommendation:** Yes. Four Points should be ordered to show cause, in writing within ~~21~~<sup>45</sup> days, why it should not be fined in the amount of \$1,890 for failure to comply with Rule 25-30.110(3), F.A.C., regarding the filing of annual reports. The show cause order should incorporate the conditions as set forth in the staff's analysis. Additionally, Four Points should be required to pay a penalty of \$10 per additional day until the 2010 annual report is filed.

**APPROVED** *as* **MODIFIED**

**Issue 3:** Should Four Points Utility Corporation be ordered to show cause, in writing within 21 days, as to why it should not be fined for its apparent violations of Rules 25-30.130, 25-30.355, and 25-22.032(3), F.A.C., regarding customer complaints?

**Recommendation:** Yes. Four Points should be ordered to show cause, in writing within ~~21~~<sup>45</sup> days, as to why it should not be fined in the amount of \$21,750 for:

- failure to maintain a record of each signed, written customer complaint received by the Utility, as required by Rule 25-30.130, F.A.C.;
- failure to fully and promptly acknowledge and investigate all customer complaints and furnish replies to Commission staff's inquiries within 15 day from the date of the inquiry, as required by Rule 25-30.355, F.A.C.; and
- discontinuance of a customer's service because of an unpaid disputed amount before the complaint is closed by Commission staff, as prohibited by Rule 25-22.032(3), F.A.C.

The Order to show cause should incorporate the conditions as set forth in staff's analysis. Further, the Utility should be warned of the importance of complying with all Commission rules, statutes, and orders.

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(Continued from previous page)

**Issue 4:** Should Four Points Utility Corporation be ordered to show cause, in writing, within 21 days, why it should not be fined for apparent violations of Rules 25-30.311(1), 25-30.311(4)(a)(b), 25-30.311(5) and (6), and 25-30.311(7), F.A.C., regarding customer deposits?

**Recommendation:** Yes. Four Points should be ordered to show cause, in writing within <sup>45</sup>21 days, why it should not be fined in the amount of \$30,375 for:

- failure to charge the tariffed rate for initial deposits, in violation of Sections 367.081(1) and 367.091(3), F.S.;
- failure to maintain a complete record of deposits, as required by Rule 25-30.311(3), F.A.C.;
- failure to pay a minimum interest on deposits of 6 percent per annum and maintain a record of such payments, as required by Rule 25-30.311(4)(a) and (b), F.A.C.;
- failure to refund deposits with accrued interest, as required by Rule 25-30.311(5) and (6), F.A.C.; and
- requiring additional deposits without reasonable written notice of not less than 30 days, as prohibited by Rule 25-30.311(7), F.A.C.

The show cause order should incorporate the conditions as set forth in staff's analysis. Further, the Utility should be warned of the importance of complying with all Commission rules, orders, and statutes.

**APPROVED** *aw* **MODIFIED**

**Issue 5:** Should Four Points Utility Corporation be ordered to show cause, in writing within 21 days, why it should not be fined for violating Rule 25-30.261, F.A.C., and Order No. PSC-07-0280-PAA-WS issued on April 2, 2007, in Docket No. 050595-WS, both regarding meter reading?

**Recommendation:** Although it does not appear that Four Points has violated Rule 25-30.261, F.A.C., regarding meter reading procedures; it does appear that Four Points has violated the meter reading requirements set forth in Order No. PSC-07-0280-PAA-WS, issued on April 2, 2007, in Docket No. 050595-WS. Four Points should be ordered to show cause, in writing within <sup>30</sup>21 days, as to why it should not be fined in the amount of \$5,000 for failure to comply with the meter reading requirements set forth in Order No. PSC-07-0280-PAA-WS. The show cause order should incorporate the conditions as set forth in staff's analysis. In addition, Four Points should be required to provide evidence that it has implemented stricter controls to ensure meter reading accuracy as set forth in staff's analysis.

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(Continued from previous page)

**Issue 6:** Should Four Points Utility Corporation be ordered to show cause, in writing within 21 days, why it should not be fined for apparent violations of Rules 25-30.335(7), and 25-30.335(4), F.A.C., regarding customer billing?

**Recommendation:** Yes. Four Points should be ordered to show cause, in writing within <sup>45</sup>21 days, as to why it should not be fined in the amount of \$7,000 for

- failure to maintain reliable customer billing records, as required by Rule 25-30.335(7), F.A.C.;
- for failing to charge its tariffed rates, as required by Section 367.091(3), F.S.; and
- improperly deeming customer accounts delinquent, as prohibited by Rule 25-30.335(4), F.A.C.

The show cause should incorporate the conditions as set forth in staff's analysis. Further, the Utility should be warned of the importance of complying with all Commission rules, orders, and statutes.

**APPROVED** *as* **MODIFIED**

**Issue 7:** Should Four Points Utility Corporation be ordered to show cause in writing within 21 days of the order, why it should not be fined for failure to comply with Rule 25-30.320, F.A.C., regarding the refusal and discontinuance of service?

**Recommendation:** Yes. Four Points should be ordered to show cause, in writing within <sup>45</sup>21 days, why it should not be fined in the amount of \$5,000 for failure to comply with Rule 25-30.320, F.A.C., regarding refusal and discontinuance of service. The show cause order should incorporate the conditions as set forth in staff's analysis.

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(Continued from previous page)

**Issue 8:** Should Four Points Utility Corporation be ordered to show cause in writing within 21 days, why it should not be fined \$1,651 plus interest of \$1,255 for 2009 and \$1,651 plus interest of \$462 for failure to comply with Rule 25-30.120, F.A.C., regarding the payment of regulatory assessment fees? <sup>45</sup>

**Recommendation:** Yes. Four Points should be ordered to show cause, in writing within 21 days, as to why it should not be fined in the amount of \$1,651 plus interest of \$1,255 for 2009 and \$1,651 plus interest of \$462 for failure to comply with Rule 25-30.120, F.A.C., regarding the payment of RAFs. Staff recommends that the Utility be directed to pay estimated RAFs in the amount of \$6,603 for 2009 and \$6,603 for 2010. Staff recommends that Four Points be required to remit the RAFs, penalties and interest in the amount of \$18,224 owed pursuant to this Issue on or before November 30, 2011.

**APPROVED** *as* **MODIFIED**

**Issue 9:** Should Four Points Utility Corporation be ordered to show cause in writing within 21 days, why it should not be fined for violations of Section 367.111, F.S., requiring that customers are to be provided with safe, efficient, and sufficient service as is prescribed by part VI of chapter 403 and parts I and II of chapter 373?

**Recommendation:** No. While it appears Four Points Utility has violated the Department of Health's rules and regulations regarding reporting requirements adopted pursuant to part VI of chapter 403, staff believes the Commission should not at this time, direct the Utility to show cause why it should not be fined for any apparent violation of Section 367.111, F.S. Staff recommends that the Commission warn the Utility that it must provide safe, efficient, and sufficient service to its customers. The Commission should also warn the Utility that if the Commission finds the Utility has failed to provide its customers with water or wastewater service that meets the standards promulgated by the Department of Environmental Protection or the water management districts, the Commission may reduce the Utility's return on equity in a future rate proceeding.

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(Continued from previous page)

**Issue 10:** Should the Commission direct staff to initiate proceedings to revoke Four Points Utility Corporation's water and wastewater certificates?

**Recommendation:**

**Alternative 1 Recommendation:** No. The Commission should direct Four Points to develop and submit a Compliance Plan in accordance with the Commission's direction. The Commission should direct staff to file any penalties imposed pursuant to Issues 1-9 as statutory liens. In the event of any future violation of Commission rule, statute, or order, the Commission should direct staff to notify Four Points and commence revocation proceedings.

**APPROVED**

*compliance plan to be submitted  
by January 15, 2012.*

**Alternative 2 Recommendation:** Yes. The Commission should direct staff to initiate certificate revocation proceedings against Four Points consistent with Chapter 120 and Section 367.161, F.S.

**Issue 11:** Should this docket be closed?

**Recommendation:** No. If Four Points Utility Corporation pays the \$77,034 in fines and interest, pays the \$13,206 in RAFs; submits the Compliance Plan, the docket should remain open for the Commission to review and approve the Compliance Plan and subsequently monitor the Utility's efforts to follow the Compliance Plan. If the Utility timely responds in writing to the show cause order, the docket should remain open to allow for the appropriate processing of the response.

**APPROVED**