

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the effect ) DOCKET NO. 871206-PU  
of 1986 Federal Tax Reform for 1988. )  
\_\_\_\_\_ )

In re: Investigation into the ) DOCKET NO. 890430-PU  
imposition of a penalty for failure ) ORDER NO. 21188-A  
to comply with the provisions of Rule ) ISSUED: 7-5-89  
25-14.003(4), F. A. C. )  
MAGNOLIA MANOR WATER WORKS )  
\_\_\_\_\_ )

AMENDATORY ORDER TO SHOW CAUSE

BY THE COMMISSION:

Order No. 21188, issued on May 8, 1989, was mailed to Magnolia Manor Water Works (Magnolia Manor or utility) at its most recent address of record. Magnolia Manor had filed a notice of abandonment on October 26, 1988. On January 18, 1989, the circuit court appointed USA Utilities, Inc. as receiver. As the receiver was not operating the utility during 1988, the year to which the this show cause order relates, we find it appropriate to direct this amendatory order to the prior owner, Mr. George Wilkins, to provide him with notice and a new time limit for a written response to show cause.

Rule 25-14.003(4), Florida Administrative Code, provides that on or before March 1st of every year following a tax rate change, each utility shall furnish a final tax report. By Order No. 20852, issued March 3, 1989, we gave Commission staff authority to administratively grant a sixty-day extension of the filing deadline upon written request received no later than the March 1 filing date.

Magnolia Manor was mailed a copy of the required report on January 19, 1989. The cover letter informed it of the due date, procedure for requesting an extension, and address to which the report must be sent. The letter also provided the names of Commission staff members who could be of assistance, as well as an abbreviated reporting procedure for which the utility may qualify. Magnolia Manor failed to file its report or request an extension by the March 1st deadline. Staff sent a certified letter on March 21, 1989, reminding the utility of

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its obligation to file its tax report, informing it of the investigation that had been initiated as to failure to file the tax reports and of the maximum penalty that could be imposed. Commission staff again provided the utility with information and contact persons to aid in the filing of its tax report. Still, the Magnolia Manor did not respond.

Section 367.161(2), Florida Statutes (1987), provides that the Commission has the power to impose a fine of up to \$5,000 a day for willful violation of any Commission rule or order. Since utilities subject to Commission jurisdiction are charged with knowledge of Commission rules, Magnolia Manor is subject to penalty for failure to comply with Rule 25-14.003(4), Florida Administrative Code. We believe that an appropriate guideline to use in determining the level of the fine for failure to timely file the tax report is the fine schedule set forth in Rule 25-30.110(7)(b), Florida Administrative Code, for failure to timely file annual reports. The penalties are based on a classification system related to annual revenues as follows:

\$25.00 per day for Class A utilities;  
\$13.50 per day for Class B utilities;  
\$ 3.00 per day for Class C utilities.

Based on the foregoing, we find it appropriate to require Magnolia Manor, a Class C utility, or Mr. George Wilkins, individually, to show cause, in writing, why it should not be fined \$3.00 for each day since the March 1, 1989, filing date until the date it files its report.

It is, therefore,

ORDERED by the Florida Public Service Commission that Magnolia Manor Water Works, or Mr. George Wilkins, individually, shall show cause, in writing, why it should not be fined \$3.00 for each day since March 1, 1989, until the date it files its tax report, for failure to comply with Rule 25-14.003(4), Florida Administrative Code. It is further

ORDERED that Magnolia Manor Water Works' written response shall 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 26, 1989. It is further

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ORDERED that Magnolia Manor Water Works' response must contain specific allegations of fact and law. It is further

ORDERED that Magnolia Manor Water Works' opportunity to file a written response shall constitute its opportunity to be heard prior to a final determination of noncompliance or assessment of penalty. 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 Magnolia Manor Water Works 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.

By ORDER of the Florida Public Service Commission,  
this 5th day of JULY, 1989.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

DCS

by: Kay Elizon  
Chief, Bureau of Records