

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER



STEVE TRIBBLE, DIRECTOR
DIVISION OF ADMINISTRATION
(850) 413-6330

Public Service Commission

May 15, 2000

Mr. Bob Joyce
Bureau of Accounting
Office of the Comptroller
101 East Gaines Street
Tallahassee, Florida 32399-0350

Dear Mr. Joyce:

The Public Service Commission has exercised reasonable efforts to collect fines from the company referenced below. However, no response has been received, and we believe that further collection efforts would not be cost effective.

| DOCKET NUMBER | UTILITY NAME | AMOUNT |
|---------------|--------------|------------|
| 990872-WU | Wellaqua Co. | \$7,986.00 |

We respectfully submit the enclosed Delinquent Accounts Receivable Transmittal form, along with a memorandum from the Commission's Division of Legal Services and other supporting documentation. We request that, at your discretion, you either attempt further collection or grant this agency permission to write off the debt.

Sincerely,

Steve Tribble

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- MAS _____
- OPC _____
- RRR _____
- SEC H
- WAW _____
- OTH _____

ST:JPH:RLM
I:W&W.EHS
Enclosures
cc: Division of Legal Services (Fudge)
Division of Records and Reporting
Division of Water and Wastewater(Walden)
Division of Administration (Sewell)

DOCUMENT NUMBER-DATE
06008 MAY 15 8
FPSC-RECORDS/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: 5/10/2000

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

PHONE NUMBER: 413-6263

SAMAS ACCOUNT CODE: 61 74 1 000331 610000 00 001200

990872-WU WELLAQUA CO.

AGENCY REFERENCE # LAST NAME FIRST MIDDLE SOCIAL SECURITY NUMBER COMPTROLLER USE ONLY

WELLAQUA CO., c/o JEROME C. SALMONS, JR., P.O. BOX 2790, HOMOSASSA SPRINGS, FL 34447-2790

LAST KNOWN ADDRESS (INCLUDE ZIP)

\$7,986.00 \$7,986.00

HOME TELEPHONE WORK TELEPHONE PRINCIPLE AMOUNT PENALTY/INTEREST AMOUNT TOTAL

§ 367.161, F.S.
Rule 25-30.110, F.A.C.

01/11/00 8

PENALTY/INTEREST AUTHORITY DATE DEBT INCURRED DEBT TYPE

1995-1998 Annual Report Penalty

DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

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



Evelyn S.
Public Service Commission

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

DATE: May 10, 2000
TO: Steve Tribble, Direction, Division of Administration
FROM: Jason Fudge, Staff Attorney, Division of Legal Services *JF*
RE: Docket No. 990872-WU - Initiation of show cause proceedings against WELLAQUA Co. for violation of Rules 25-30.110, F.A.C., Failure to File Annual Report, 25-30.310, F.A.C., Initiation of Service, 25-30.320, F.A.C., Refusal of Service, 25-30.330, F.A.C., Information to Customers, 25-30.355, F.A.C., Complaints, and 25-30.520, F.A.C., Responsibility of Utility to Provide Service.

By Order No. PSC-00-0105-FOF-WU, issued January 11, 2000, in Docket No. 990872-WU, the Commission ordered WELLAQUA Co. to remit a penalty of \$7,986, within 30 days of the issuance of the Order. The Order also stated that if the utility fails to remit the penalty amount assessed herein, and fails to respond to reasonable collection efforts, the outstanding penalty amount shall be referred to the Comptroller's Office for further collection efforts.

WELLAQUA failed to make the payment as ordered. On February 21, 2000, by certified letter, we urged WELLAQUA to make the required payment. WELLAQUA did not respond. On April 3, 2000, we sent a FINAL NOTICE, by certified mail, urging WELLAQUA to make the required payment by May 3, 2000. WELLAQUA did not respond. We have determined that we have exhausted reasonable collection efforts. Therefore, 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 or permission to write-off the account.

The events leading to our determination are outlined below:

1. On July 2, 1999, a show cause proceeding was initiated against WELLAQUA for apparent violation of Rules 25-30.110 (Failure to File Annual Report), 25-30.310 (Initiation of Service), 25-30.320 (Refusal of Service), 25-30.330 (Information to Customers), 25-30.355 (Complaints), and 25-30.520 (Responsibility of Utility to Provide Service), Florida Administrative Code.
2. By Order No. PSC-99-1609-SC-WU, issued August 17, 1999, the Commission ordered WELLAQUA to show cause within 21 days why it should not remit a penalty of \$7,986 and be fined up to \$5,000 per day for apparent rule violations and to immediately initiate service to Mr. Ray Murrin.
3. On July 27, 1999, pursuant to Section 367.171(1), Florida Statutes, the Citrus County Board of County Commissioners voted to rescind Citrus County Resolution No. 73-97, which rendered Citrus County subject to the provisions of Chapter 367, Florida Statutes. By Order No. PSC-99-1899-FOF-WS, issued September 24, 1999, in Docket No. 990996-WS, the Commission acknowledged the resolution adopted by

Continuation of Memorandum to:

Steve Tribble

May 10, 2000

Page 2

Citrus County that rescinded the Commission's jurisdiction. Therefore, the Commission no longer has jurisdiction over WELLAQUA. However, in accordance with Section 367.171(5), Florida Statutes, this docket remains within the Commission's jurisdiction until all pending matters are resolved.

4. By Order No. PSC-00-0105-FOF-WU, issued January 11, 2000, in Docket No. 990872-WU, the Commission ordered WELLAQUA to remit a penalty of \$7,986, within 30 days of the issuance of the Order.

Please find the following attached hereto:

- (a) Order No. PSC-99-1609-SC-WU
- (b) Order No. PSC-00-0105-FOF-WU
- (c) Certified Letter, February 21, 2000, Receipt No. Z 425 829 647
- (d) Certified Letter, April 3, 2000, Receipt No. P 263 572 747
- (e) State of Florida Office of the Comptroller Bureau of Auditing Delinquent Accounts Receivable Transmittal

WELLAQUA's mailing address is:

Jerome C. Salmons, Jr.
Wellaqua Company
P.O. Box 2790
Homossassa Springs, FL 34447-2790

cc: Division of Water and Wastewater (Walden)
Division of Records and Reporting

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against WELLAQUA Co. for violation of Rules 25-30.110, F.A.C., Failure to File Annual Report, 25-30.310, F.A.C., Initiation of Service, 25-30.320, F.A.C., Refusal of Service, 25-30.330, F.A.C., Information to Customers, 25-30.355, F.A.C., Complaints, and 25-30.520, F.A.C., Responsibility of Utility to Provide Service.

DOCKET NO. 990872-WU
ORDER NO. PSC-99-1609-SC-WU
ISSUED: August 17, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER TO SHOW CAUSE

BY THE COMMISSION:

BACKGROUND

WELLAQUA Co. (WELLAQUA or utility) is a Class C water utility that serves approximately 35 customers in Citrus County. The utility has operated under Certificate No. 513-W since March 28, 1995. By Order No. PSC-95-0421-FOF-WU, issued March 28, 1995, in Docket No. 940340-WU, the Commission approved the transfer of Certificate No. 513-W from Lucky Hills, Inc. to WELLAQUA Co. and established rate base for purposes of the transfer.

Lucky Hills, Inc.'s 1994 annual report indicated total gross revenues of \$11,044 with a net operating loss. However, WELLAQUA has failed to file annual reports for 1995, 1996, 1997, and 1998. WELLAQUA has paid regulatory assessment fees, but since the utility

has not filed annual reports for the years listed above, it is not certain that the amounts submitted by the utility for regulatory assessment fees for those years are the correct amounts.

WELLAQUA has also apparently violated several provisions of Rule No. 25-30, Florida Administrative Code, relating to the utility's failure to initiate service to a potential customer and to respond to numerous and repeated inquiries by our staff.

1995 TO 1998 ANNUAL REPORTS

Rule No. 25-30.110, Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31 of each year to file an annual report on or before March 31 of the following year. Requests for extension of time must be in writing and must be filed before March 31. One extension of 30 days is automatically granted. A further extension 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 No. 25-30.110(6)(c), Florida Administrative Code, any utility that fails to file a timely, complete annual report is subject to penalties, absent demonstration of good cause for noncompliance. The penalty set out in Rule No. 25-30.110(7), Florida Administrative Code, for Class C utilities is \$3 per day. We have calculated the penalty for each year that the utility has not filed an annual report based on the number of days elapsed since the date the report was due and July 27, 1999, the date of the agenda conference, at which we disposed of this matter and which is included in computing the number of days elapsed. The penalty will continue to accrue until such time as the utility files its annual reports. In addition, we may impose lesser or greater penalties, pursuant to Rule No. 25-30.110(6)(c), Florida Administrative Code.

By letters dated July 28, 1997, November 14, 1997, January 13, 1998, and March 10, 1998, our staff notified Mr. Jerome Salmons, the utility owner, that since he had not filed the utility's 1995 through 1998 annual reports, he was in apparent violation of Rule No. 25-30.110, Florida Administrative Code. Our repeated attempts to contact the utility's owner, Mr. Salmons, were unsuccessful.

Pursuant to Section 367.021(12), Florida Statutes, WELLAQUA is charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as the utility's failure to timely file its annual reports, would meet the standard for a "willful violation." In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule No. 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "'willful' implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." Id. at 6.

In consideration of the foregoing, WELLAQUA is hereby ordered to show cause, in writing, within 21 days of the date of issuance of this Order, why it should not remit a penalty in the amount of \$7,986 (\$3,639 for 1,213 days x \$3.00 per day for 1995; \$2,544 for 848 days x \$3.00 for 1996; \$1,449 for 483 days x \$3.00 per day for 1997; and \$354 for 118 days x \$3.00 per day for 1998) for apparent violation of Rule No. 25-30.110, Florida Administrative Code, by failing to file the utility's annual reports for 1995 through 1998. The utility shall notify this Commission within 21 days of the issuance date of this Order of a reasonable time frame for filing the annual reports for 1995 through 1998. Further, WELLAQUA is hereby put on notice that penalties will continue to accrue until the annual reports are filed, and that further violations of Rule No. 25-30.110, Florida Administrative Code, will result in further action by this Commission.

VIOLATIONS OF MULTIPLE PROVISIONS OF RULE NO. 25-30, FLORIDA
ADMINISTRATIVE CODE

Rule No. 25-30.310, Florida Administrative Code

Mr. Ray Murrin, a potential customer within the utility's certificated territory, has attempted to receive service since March 31, 1999, and to date has not received service. Mr. Murrin contacted our Division of Consumer Affairs in an attempt to receive service. The Division of Consumer Affairs was unsuccessful in its efforts to reach the owner of the utility in order to effectuate the initiation of service. Our staff was informed that the owner

was unwilling to initiate service to Mr. Murrin's residence due to an outstanding bill owed by a prior owner of Mr. Murrin's home.

Section 367.161(1), Florida Statutes, states:

If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission ... Each day that such refusal or violation continues constitutes a separate offense.

In consideration of the foregoing, the utility's failure to initiate service to Mr. Murrin is an apparent violation of Rule No. 25-30.310(2), Florida Administrative Code, which states: "Upon an applicant's compliance with utility's reasonable rules regarding service initiation, the utility shall initiate service without unreasonable delay." The utility's actions were "willful" in the sense intended by Section 367.161, Florida Statutes. Therefore, the utility is hereby ordered to show cause, in writing within 21 days of the date of issuance of this Order, why it should not be fined up to \$5,000 per day since March 31, 1999, for apparent violation of Rule No. 25-30.310, Florida Administrative Code.

Rule No. 25-30.320, Florida Administrative Code

Pursuant to Rules Nos. 25-30.320(2)(g) and (5)(a), Florida Administrative Code, existence of an outstanding bill from a prior customer of the utility is not a valid reason for the utility to refuse to provide Mr. Murrin with service. Rule No. 25-30.320(5), Florida Administrative Code, states:

The following shall not constitute sufficient cause for refusal ... of service to an applicant or customer: (a) Delinquency in payment for service by a previous occupant of the premises unless the current applicant or customer occupied the premises at the time the delinquency occurred and the previous customer continues to occupy the premises and such previous customer will receive benefit from such service.

The foregoing rule is clear that a prior debt by another occupant is not sufficient cause to refuse service to a new occupant. Mr. Murrin was notified, by telephone, by the utility owner, Mr. Jerome Salmons, as well as the utility's operator, Mr. Ron Annett, that the reason for refusal of service was an outstanding bill from a prior occupant. This action on the part of the utility constitutes an apparent violation of Rule No. 25-30.320(4), Florida Administrative Code, which states: "In case of refusal to establish service ... the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance."

The utility's apparent violation of Rule No. 25-30.320, Florida Administrative Code, is a "willful" act in the sense intended by Section 367.161, Florida Statutes. Therefore, the utility is hereby ordered to show cause, in writing within 21 days of the date of issuance of this Order, why it should not be fined up to \$5,000 per day since March 31, 1999, for apparent violation of Rule No. 25-30.320, Florida Administrative Code.

Rule No. 25-30.330, Florida Administrative Code

Rule No. 25-30.330(1)(a), Florida Administrative Code, provides that a utility shall provide its customers, on at least an annual basis, with regular and after hours telephone numbers. Mr. Murrin and several members of the Commission staff have made numerous attempts to reach the utility during and after business hours. The utility owner failed to respond to Mr. Murrin for more than two months when the request for service was first made. The telephone number given by the utility is attached to an answering machine that simply beeps, with no accompanying message or statement identifying that the number is in fact associated with the utility. Several messages have been left by staff, with no response from the utility owner.

The utility's failure to comply with Rule No. 25-30.330, Florida Administrative Code, is a "willful" act in the sense intended by Section 367.161, Florida Statutes. Therefore, the utility is hereby ordered to show cause, in writing within 21 days of the date of issuance of this Order, why it should not be fined up to \$5,000 per day since March 31, 1999, for apparent violation of Rule No. 25-30.330, Florida Administrative Code.

Rule No. 25-30.355, Florida Administrative Code

Rule No. 25-30.355, Florida Administrative Code, requires utilities to respond promptly to complaints and requests posed by customers as well as to inquiries made by the Commission staff. Although Mr. Murrin is not yet a customer, he has been trying to become one for the past several months. Subsection (1) of this rule states: "A utility shall make a full and prompt acknowledgment and investigation of all customer complaints and shall respond fully and promptly to all customer requests."

Additionally, subsection (3) of this rule provides: "Replies to inquiries by the Commission's staff shall be furnished within fifteen (15) days from the date of inquiry and shall be made in writing, if requested." According to Division of Consumer Affairs documentation, on March 31, 1999, the matter was referred to the utility for response. When no response was received, a certified letter followed on May 6, 1999. This letter was returned to the Commission marked "UNCLAIMED" on June 3, 1999. Clearly the utility has failed to comply with the fifteen day response time as specified by the rule. In addition, numerous staff members have tried, unsuccessfully, to contact the utility by telephone.

The utility's failure to respond to Mr. Murrin's requests and inquiries by our staff constitutes an apparent violation of Rule No. 25-30.355, Florida Administrative Code. Therefore, the utility is hereby ordered to show cause, in writing within 21 days of the date of issuance of this Order, why it should not be fined up to \$5,000 per day since March 31, 1999, for apparent violation of Rule No. 25-30.355, Florida Administrative Code.

Rule No. 25-30.520, Florida Administrative Code

Utilities are obligated to provide service to customers in the territory described in the certificate of authorization issued by the Commission. Rule No. 25-30.520, Florida Administrative Code, states: "It is the responsibility of the utility to provide service within its certificated territory in accordance with terms and conditions on file with the Commission." As previously stated, Mr. Murrin contacted the Division of Consumer Affairs on March 31, 1999, stating that he was attempting, unsuccessfully, to receive water service to his home, but that the utility was not returning his calls. Our staff has had no success in receiving a response from the utility or its owner. As of July 27, 1999, the date of

the agenda conference at which we disposed of this matter, the utility had still not provided service to Mr. Murrin.

The utility's failure to provide service to Mr. Murrin, who resides within the utility's certificated territory, constitutes an apparent violation of Rule No. 25-30.520, Florida Administrative Code. Therefore, the utility is hereby ordered to show cause, in writing within 21 days of the date of issuance of this Order, why it should not be fined up to \$5,000 per day since March 31, 1999, for apparent violation of Rule No. 25-30.520, Florida Administrative Code.

RESPONSE TO ORDER TO SHOW CAUSE AND CLOSING DOCKET

WELLAQUA's response to this Order to Show Cause must contain specific allegations of fact and law. Should WELLAQUA file a timely written response to this Order that raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings shall be scheduled before a final determination on this matter is made. If the utility responds timely, but does not request a hearing, our staff will prepare and present a recommendation to us regarding the disposition of this proceeding.

A failure to file a timely response to this Order to Show Cause shall constitute a waiver of any right to a hearing, the penalties shall be deemed assessed, and the facts alleged in the body of this Order shall be deemed admitted. We will subsequently address any penalty amounts, any continued failure to initiate service to Mr. Murrin, and any further fines and penalties associated therewith.

In the event WELLAQUA fails to respond to reasonable collection efforts, the collection of fees, penalties, and interest shall be referred to the Comptroller's Office for further collection efforts. Reasonable collection efforts shall consist of two certified letters requesting payment from the utility. Referral of this matter to the Comptroller's Office shall be based upon the conclusion that further collection efforts would not be cost effective. Additionally, any payment of penalties shall be forwarded to the Comptroller's Office for deposit in the State General Revenue Fund.

ORDER NO. PSC-99-1609-SC-WU
DOCKET NO. 990872-WU
PAGE 8

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that WELLAQUA Co. show cause, in writing, within 21 days of the date of issuance of this Order, why it should not remit a penalty in the amount of \$7,986 for apparent violation of Rule No. 25-30.110, Florida Administrative Code, by failing to file its annual reports from 1995 to 1998. It is further

ORDERED that WELLAQUA Co. shall notify this Commission, within 21 days of the date of issuance of this Order, of a reasonable time frame for filing the annual reports for 1995 through 1998. WELLAQUA Co. is hereby put on notice that penalties will continue to accrue until the annual reports are filed. It is further

ORDERED that WELLAQUA Co. show cause, in writing within 21 days of the date of issuance of this Order, why it should not be fined up to \$5,000 per day for each day of apparent violation of Rules Nos. 25-30.310, Florida Administrative Code, Initiation of Service, 25-30.320, Florida Administrative Code, Refusal of Service, 25-30.330, Florida Administrative Code, Information to Customers, 25-30.355, Florida Administrative Code, Complaints, and 25-30.520, Florida Administrative Code, Responsibility of Utility to Provide Service. It is further

ORDERED that WELLAQUA Co. immediately initiate service to Mr. Ray Murrin. It is further

ORDERED that any response to this Order must contain specific allegations of fact and law. It is further

ORDERED that any response to this Order be filed with the Director of the Division of Records and Reporting within 21 days of the date of issuance of this Order. It is further

ORDERED that in the event WELLAQUA Co. files a written response that raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings shall be scheduled before a final determination on this matter is made, and this docket shall remain open pending the outcome of the hearing. It is further

ORDERED that if WELLAQUA Co. fails to file a timely response to this Order, such failure shall constitute a waiver of any right to a hearing, the penalties shall be deemed assessed, and the facts

ORDER NO. PSC-99-1609-SC-WU
DOCKET NO. 990872-WU
PAGE 9

alleged in the body of this Order shall be deemed admitted. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of penalties and interest shall be forwarded to the Comptroller's Office for further collection efforts and the docket shall be closed. It is further

ORDERED that any payment of penalties shall be forwarded to the Comptroller's Office for deposit in the State General Revenue Fund.

By ORDER of the Florida Public Service Commission this 17th day of August, 1999.

/s/ Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

(S E A L)

SAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

ORDER NO. PSC-99-1609-SC-WU
DOCKET NO. 990872-WU
PAGE 10

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 7, 1999.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against WELLAQUA Co. for violation of Rules 25-30.110, F.A.C., Failure to File Annual Report, 25-30.310, F.A.C., Initiation of Service, 25-30.320, F.A.C., Refusal of Service, 25-30.330, F.A.C., Information to Customers, 25-30.355, F.A.C., Complaints, and 25-30.520, F.A.C., Responsibility of Utility to Provide Service.

DOCKET NO. 990872-WU
ORDER NO. PSC-00-0105-FOF-WU
ISSUED: January 11, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

FINAL ORDER ASSESSING A PENALTY FOR VIOLATION OF RULE 25-30.110, FLORIDA ADMINISTRATIVE CODE, DECLINING TO IMPOSE A FINE FOR VIOLATION OF RULES 25-30.320(4) AND 25-30.355, FLORIDA ADMINISTRATIVE CODE, AND REQUIRING THE UTILITY TO SUBMIT PAGES F-3 AND V-1 OF ITS ANNUAL REPORTS FOR 1995 THROUGH 1998

BY THE COMMISSION:

BACKGROUND

WELLAQUA Co. (WELLAQUA or utility) is a Class C water utility that serves approximately 35 customers in Citrus County. The current utility has operated under Certificate No. 513-W since March 28, 1995. By Order No. PSC-95-0421-FOF-WU, issued March 28, 1995, in Docket No. 940340-WU, we approved the transfer of Certificate No. 513-W from Lucky Hills, Inc. to WELLAQUA and established rate base for purposes of the transfer. This system received an original certificate on March 27, 1989, which was granted to Lucky Hills, Inc.

ORDER NO. PSC-00-0105-FOF-WU
DOCKET NO. 990872-WU
PAGE 2

Lucky Hills, Inc.'s 1994 annual report indicated total gross revenues of \$11,044, showing a net operating loss of \$1720. However, WELLAQUA has failed to file annual reports for 1995 through 1998. WELLAQUA has paid regulatory assessment fees (RAFs) for 1995 through 1998, but since the utility has not filed annual reports for those years, staff is not certain that the RAFs paid are the correct amounts.

In addition, a potential customer contacted our Division of Consumer Affairs on March 31, 1999, to request assistance in obtaining service from WELLAQUA. Consumer Affairs attempted to reach the utility by phone on April 2, 1999, and April 13, 1999, without success. On May 6, 1999, Consumer Affairs sent a certified letter to Mr. Jerome Salmons, the utility owner, but the letter was returned to the Commission marked "UNCLAIMED". Members of our staff attempted to reach the utility from April through June, without success. As a result, show cause proceedings were initiated addressing delinquent annual reports and the customer's request for service.

By Order No. PSC-99-1609-SC-WU, issued August 17, 1999, in this docket, we ordered WELLAQUA to show cause, in writing, within 21 days of the date of issuance of that Order, why it should not be fined up to \$5,000 per day for each day of apparent violation of Rules 25-30.110 (Failure to File Annual Report), 25-30.310 (Initiation of Service), 25-30.320 (Refusal of Service), 25-30.330 (Information to Customers), 25-30.355 (Complaints), and 25-30.520 (Responsibility of Utility to Provide Service), Florida Administrative Code. WELLAQUA was also ordered to notify us of a reasonable time frame for filing the annual reports for 1995 through 1998. On August 30, 1999, the utility timely filed its written response to the Show Cause Order.

On July 27, 1999, pursuant to Section 367.171(1), Florida Statutes, the Citrus County Board of County Commissioners voted to rescind Citrus County Resolution No. 73-97, which rendered Citrus County subject to the provisions of Chapter 367, Florida Statutes. By Order No. PSC-99-1899-FOF-WS, issued September 24, 1999, in Docket No. 990996-WS, we acknowledged the resolution adopted by Citrus County that rescinded our jurisdiction. Therefore, we no longer have jurisdiction over WELLAQUA. However, pursuant to Section 367.171(5), Florida Statutes, this docket shall remain open until all pending matters are resolved.

We addressed this matter at the November 30, 1999 Agenda Conference, and, by our own motion, reconsidered it at the December 21, 1999 Agenda Conference. Our decision is set forth below.

ANNUAL REPORTS

Rule 25-30.110(3), Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31 of each year to file an annual report on or before March 31 of the following year. Requests for extension of time must be in writing and must be filed before March 31. One extension of 30 days is automatically granted. A further extension may be granted upon showing of good cause. WELLAQUA has not filed an annual report for any year since the system was transferred to the current owner in 1995. In addition, WELLAQUA has not requested an extension of time to file any of the outstanding annual reports and has failed to provide any reasonable explanation for its failure until this time.

By letters dated July 28, 1997, November 14, 1997, January 13, 1998, and March 10, 1998, our staff notified Mr. Jerome Salmons, the utility owner, that he was in apparent violation of Rule 25-30.110, Florida Administrative Code, because he had not filed the utility's annual reports. Repeated attempts to contact the utility during March through July 1999, were also unsuccessful. As a result, show cause proceedings were initiated by Order No. PSC-99-1609-SC-WU, issued August 17, 1999, in this docket.

On August 30, 1999, the utility timely filed its written response to the Show Cause Order. In its response, the utility acknowledges that it has not submitted annual reports for 1995 through 1998, contending that it has been in the process of trying to reconstruct its records for over two years. The utility also lists several factors that contributed to its failure to file annual reports for 1995 through 1998. These include: (1) computer storage drive failures; (2) failure of the previous owner of the utility to relinquish records of the operations; (3) a catastrophic fire in which nearly all efforts to reconstruct records directed toward establishing a basis for fulfilling the requirements of the 1995 annual report were irretrievably lost; and (4) the death of Jerome C. Salmons, Sr., who, although not the owner of the utility, was the principal force within the company as well as the principal decision maker and one who was helping to prepare, maintain, and reconstruct records.

Also in its response, the utility maintains that efforts would be aided immensely if it could get copies of Lucky Hills, Inc.'s annual submissions for two or three years prior to 1995. In addition, the utility requests that we provide it with those records. The utility has not previously requested or made a public records request for copies of Lucky Hills, Inc.'s annual reports for the years prior to 1995. If this information was essential in the utility's efforts to complete its annual reports for 1995 through 1998, the utility should have requested it prior to this date. The utility was also ordered to give a reasonable timeframe for filing its delinquent annual reports, but no such timeframe was given in the utility's response. At the utility's request, on September 23, 1999, we provided WELLAQUA with a copy of Lucky Hills, Inc.'s 1993 and 1994 Annual Reports.

Moreover, the utility should have had access to the records discussed above at the time the transfer to the current owner occurred in 1995. Pursuant to Rule 25-30.037(2)(n), Florida Administrative Code, each application for a transfer of certificate of authorization must contain a statement regarding the books and records of the seller. This section states:

If the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records.

In its application for transfer, WELLAQUA indicated that it made reasonable efforts to obtain the books and records of Lucky Hills, Inc. WELLAQUA also stated that it was relying upon rate case Order No. PSC-93-0741-FOF-WU, issued July 1, 1993, in Docket No. 920961-WU, for the rate base valuation of the system. At the time the transfer application was filed in April 1994, no adjustments had been made to the rate base since it was established in the above order. Additionally, in a letter to the seller of the system, dated March 3, 1994, WELLAQUA requested a copy of the federal income tax returns as part of the transfer process. It is not known whether the tax returns were provided by the seller.

By Order No. PSC-95-0421-FOF-WU, issued March 28, 1995, in Docket No. 940340-WU, by proposed agency action, we approved the

transfer of Certificate No. 513-W from Lucky Hills, Inc. to WELLAQUA. In that Order, we found that, with the exception of the transfer prior to Commission approval, the application was in compliance with Section 367.071, Florida Statutes, and other pertinent statutes and administrative rules.

Wellaqua's response fails to adequately address why the utility failed to file annual reports for 1995 through 1998. While factors listed in the utility's response may have provided sufficient justification for an extension of time to file its annual reports, no such request was ever made.

Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, any utility that fails to file a timely, complete annual report is subject to penalties, absent demonstration of good cause for noncompliance. The penalty set forth in Rule 25-30.110(7), Florida Administrative Code, for Class C utilities is \$3 per day. We have the authority to impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code. Our calculation of the penalty for Wellaqua's failure to file annual reports through July 27, 1999, is \$7,986 (\$3,639 for 1,213 days x \$3.00 per day for 1995; \$2,544 for 848 days x \$3.00 per day for 1996; \$1,449 for 483 days x \$3.00 per day for 1997; and \$354 for 118 days x \$3.00 per day for 1998). Therefore, WELLAQUA shall be required to pay a penalty of \$7,986 for violation of Rule 25-30.110, Florida Administrative Code, within 30 days of the issuance date of this Order.

Rule 25-30.110(6)(d) provides:

Any utility which fails to pay a penalty within 30 days after its assessment by the Commission (the date of issuance of the order) shall be subject to interest applied to the penalty up to and including the date of payment of the penalty. Such interest shall be compounded monthly, based on the 30 day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000 as regularly published in the Wall Street Journal.

If the utility fails to remit the penalty amount listed above, and fails to respond to our reasonable collection efforts, the outstanding penalty amount shall be referred to the Comptroller's Office for further collection efforts. Reasonable collection efforts shall consist of two certified letters, sent by our

Division of Legal Services, requesting payment of the \$7,986 penalty imposed. Referral to the Comptroller's Office will be based upon the conclusion that further collection efforts by this Commission would not be cost effective.

Additionally, although the utility has not filed annual reports for 1995 through 1998, the utility has paid RAFs for those years. However, we use a utility's annual reports, among other things, to verify that the amount of RAFs paid are correct. Therefore, because the full annual reports are not needed on a forward going basis, other than to verify the appropriate amount of regulatory assessment fees, WELLAQUA shall only be required to file pages F-3 and V-1 of the annual reports for 1995 through 1998 for the purpose of certifying revenues for each year. This will allow us to verify the amount of regulatory assessment fees already paid for the years listed above. The partial annual reports shall be filed within 30 days of the issuance date of this Order. In the event we determine that the RAFs paid by the utility were insufficient, the utility shall be required to remit the balance due within 15 days of receipt of written notification of the outstanding balance. In the event we determine that the utility overpaid RAFs, any amount overpaid will be refunded to the utility. RAFs for January through July 27, 1999, the portion of 1999 during which we had jurisdiction over WELLAQUA, shall be remitted on or before March 31, 2000.

RULE VIOLATIONS

Mr. Ray Murrin is a homeowner in the Lucky Hills subdivision in Wellaquas certified territory. Mr. Murrin has stated that he made several attempts to contact the utility regarding initiation of water service to his property, but was unsuccessful. Mr. Murrin also indicated that he relied on contacting the utility by telephone because he lives out of state.

Although it is not clear when Mr. Murrin's first attempt to contact the utility occurred, Mr. Murrin contacted our Division of Consumer Affairs on March 31, 1999, to request assistance in getting water service from WELLAQUA. As previously noted, neither Consumer Affairs nor members of our staff were successful in contacting the utility.

On June 22, 1999, a staff engineer visited the residence of Mr. Murrin. According to the tenants at the residence, water service was not being provided from the utility. Instead, the only

source of water being provided to Mr. Murrin's home was a connection to a private well, which is located on the property of Mr. Murrin's sister, who lives next door, and was connected to Mr. Murrin's home via a garden hose.

In its response to the Show Cause Order, the utility stated that a prior owner of Mr. Murrin's residence, who was receiving service from the utility, was notified in writing approximately two years ago that a private well connected to the residence was improper. Apparently, the well remained connected to the residence, and the utility sought assistance from the County health department to have the well disconnected. When the health department was unable to provide assistance, the utility removed the water meter from the residence in order to remove potential backflow into the water system from the private well. At the time the meter was removed, the residence was vacant.

The exact date that Mr. Murrin acquired ownership of the residence is not certain. A meter was installed at the residence in late May, 1999; however, according to the utility, service could not be provided at that time due to the damage to the service line on the customer's side of the meter. The utility claims to have notified the real estate property manager that the problem existed. The utility stated that a check valve would need to be installed and the damaged line repaired. The check valve has now been installed and service is being provided to the residence.

Rule 25-30.310, Florida Administrative Code

Rule 25-30.310(2), Florida Administrative Code, provides: "Upon an applicant's compliance with utility's reasonable rules regarding service initiation, the utility shall initiate service without unreasonable delay." The intent of this rule is to ensure that utilities initiate service expeditiously following a proper request for service.

In its response to the Show Cause Order, the utility lists several reasons as to why service was not provided to Mr. Murrin without unreasonable delay. Specifically, the utility states that Mr. Murrin "would have had no problem at all had he given WELLAQUA a properly enunciated phone message or written a letter." The utility further states that:

His initial request was taken as a demand for immediate service for a **Mr. Raymon** (who said to call him

immediately as he was leaving town- **but he left no phone number!**). Our helper who took this message did not bother to make a permanent record as she expected an immediate return call. None came while she monitored the phone. A later call came from an **unidentified** source saying, "maybe it would help if I left my phone number". These calls, taken by different people weren't connected until comparing notes much later.

The above statement shows poor customer service on the part of the utility. The response does not indicate that the utility actually called Mr. Murrin back. The utility owner maintains that he has never even spoken to Mr. Murrin, and, apparently, the utility does not maintain an office, nor is an employee available during normal business hours to answer the phone.

The utility argues that the above complaints did not come from a prospective customer as has been defined in Commission notices as one who has made a written request for service. Although Mr. Murrin was not yet a customer, Chapter 25-30, Florida Administrative Code, applies to applicants as well. In addition, the utility's tariff provides that:

Water service is furnished only after a signed application or agreement and payment of the initial connection fee is accepted by the Company. The conditions of such application or agreement is binding upon the customer as well as upon the Company. A copy of the application or agreement for water service accepted by the Company will be furnished to the applicant upon request. (emphasis added)

We note that the utility's tariff requires a signed application, but does not specify that a potential customer must provide written notification that it wishes to request such application. Because Mr. Murrin lives out of state, he relies upon the telephone to reach the utility in his efforts to obtain service. Had WELLAQUA returned any of Mr. Murrin's phone calls, the utility could have informed Mr. Murrin, a potential customer who was requesting service, that an application was required in accordance with utility policy. At that time, the utility could have obtained an address for Mr. Murrin, who lives out of state, and sent an application for service to him. Although miscommunication between the utility and Mr. Murrin is evident, absent a written application for service, in accordance with the

utility's rules, there is not sufficient information to indicate that the utility violated Rule 25-30.310, Florida Administrative Code.

Additionally, we have reviewed the utility's application for service form contained in its tariff (Original Sheet No. 26.1) and note that the form contains the statement that a plant capacity charge of \$300 is required to be paid before the application will be processed. Upon reviewing this provision, it appears that the utility would only collect the plant capacity charge from the initial owner of the dwelling for the first time service was initiated to that dwelling. Rule 3.0 on Original Sheet No. 7.0 states that water service is furnished only after a signed application or agreement and payment of the initial connection fee is accepted by the company. A similar tariff sheet (Original Sheet No. 27.1) addresses an Application for Meter Installation. This sheet refers to a meter installation fee of \$200 that is required prior to the application being processed. Similarly, a review of this tariff page contemplates that the meter installation fee would only be paid by the first owner of the dwelling.

Based upon the foregoing, we find that there is not sufficient information to indicate that the utility violated Rule 25-30.310, Florida Administrative Code.

Rule 25-30.320, Florida Administrative Code

Rule 25-30.320(5)(a), Florida Administrative Code, provides that a delinquent payment by a previous occupant of the premises is not sufficient cause for a utility to refuse to provide service to a customer within its certificated territory.

In its response to the Show Cause Order, the utility states: "The allegations of denial of service to a new owner for reasons of an outstanding bill owed by the previous owner are untrue." We are satisfied with the utility's response to this issue.

Based upon the utility's response and the facts and circumstances in this case, we find that there is not sufficient information to indicate that the utility violated Rule 25-30.320(5)(a), Florida Administrative Code, by refusing to provide service to a customer within its certificated territory because of a delinquent payment by a previous occupant of the premises. However, we note that had Mr. Murrin, the Division of Consumer Affairs, or our staff been able to reach Mr. Salmons, or had Mr.

Salmons returned any of the numerous messages left, this discrepancy could have been resolved at that time.

Rule 25-30.320(2)(b), Florida Administrative Code, provides that a utility may refuse service to a customer for "failure or refusal of the customer to correct any deficiencies or defects in his piping or equipment which are reported to him by the utility." However, Rule 25-30.320(4), Florida Administrative Code, provides that "[i]n case of refusal to establish service, or whenever service is discontinued, the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance."

In its response to the Show Cause Order, the utility contends that denial of service to the address in question was to protect the remaining customers from contamination from an unapproved private well which was improperly connected to the residence in question. The utility goes on to state that a previous owner of the residence in question, "who now lives next door and owns and resides on the property on which the private well is located . . . was notified in writing approximately two years ago that the connection of the private well to the former residence was improper and should be corrected." Despite the fact that the utility admits denial of service to Mr. Murrin, Rule 25-30.320(2)(b), Florida Administrative Code, applies to customers, and Mr. Murrin was not yet a customer. For this reason, we find that, under these circumstances, this provision does not apply.

Additionally, the utility did not advise Mr. Murrin of any plumbing deficiencies or other conditions that would indicate a reason for the utility's inability to provide service without unreasonable delay. The utility maintains that the meter was "removed from its box to prevent the possibility of backflow from the private well into Wellaqua's system." Apparently, such action was taken due to "tampering to the shut-off valving associated with the meter." The utility goes on to state that:

At the time of removal, the residence was vacant. The tenant had been refused service for an unpaid bill after he continued use of water from the private well. This occurred about two years ago. Upon notification that a new tenant was in residence a new meter was installed. This was in late May of this year. No connection could be made by WELLAQUA to the residence supply line, because

of residence line damage as well as not having an installed back-flow prevention device.

WELLAQUA asserted that the real estate property manager was notified of this condition, but other real estate agents who became involved in the sale of the property were not aware of this condition, and prospective buyers of the property were not apprised of the plumbing deficiency. It is evident that Mr. Murrin was not notified of the plumbing problem, even though a new meter had been installed.

In its response to the Show Cause Order, the utility does not indicate that Mr. Murrin was responsible for tampering with any meter, nor is it evident that Mr. Murrin was even the owner of the residence in question at that time by WELLAQUA. When a staff engineer visited the premises of the residence in question on June 22, 1999, water service was not being provided at that time. The engineer did not inspect the meter box to determine whether a meter was, in fact, installed as the utility stated.

Based upon the foregoing, none of the reasons listed by the utility in its response are sufficient cause for refusal or denial of service to a customer pursuant to the provisions of Rule 25-30.320(2)(b), Florida Administrative Code. Because Mr. Murrin was not yet a customer, we find that there is not sufficient information to show that the utility violated this provision. However, by failing to provide written notification to Mr. Murrin regarding any of the deficiencies listed in its response, we find that the utility has violated Rule 25-30.320(4), Florida Administrative Code. We do not believe that notifying the real estate agent of the plumbing deficiencies was sufficient. The utility should have made an effort to notify the new owner, when service was requested, of the known deficiencies, especially the potential for contamination of the utility's water system. Therefore, we find that the utility violated Rule 25-30.320(4), Florida Administrative Code.

Rule 25-30.330, Florida Administrative Code

Rule 25-30.330 (1)(a), Florida Administrative Code, provides that a utility shall provide its customers, on at least an annual basis, with regular and after hours telephone numbers.

As previously stated, Mr. Murrin tried to reach the utility, but an answering machine, with no greeting or accompanying message

ORDER NO. PSC-00-0105-FOF-WU
DOCKET NO. 990872-WU
PAGE 12

that would indicate the number is in fact associated with the utility, received the calls. Members of our staff also attempted to contact the utility, but reached the same answering machine.

In its response, the utility contends that Mr. Murrin could have:

called Wellaquas emergency beeper number which is noted on all customer's bills and was available to him via his sister. Had he but tried the emergency number he would have reached a real estate agent familiar with past service problems at that address and who would have informed him that improper plumbing existed that would forstall resumption of service until corrections were instituted.

While the utility's bills do contain both regular and emergency phone numbers (in Original Sheet No. 28.1 of the utility's tariff), bills are only mailed to customers. However, when we tried to contact the utility at these numbers, although an answering machine received the calls, there was no greeting or accompanying message that would indicate that the number is in fact associated with the utility.

The utility fails to recognize that Mr. Murrin had not yet received service; therefore, he would not have received a bill. Moreover, it is not the responsibility of Mr. Murrin to solicit, from his sister or anyone else, information that the utility has an obligation to provide to customers pursuant to our rules. Mr. Murrin lives out of town and has to rely on the telephone to contact the utility. Moreover, we note that Rule 25-30.330, Florida Administrative Code, applies to customers of the utility rather than to applicants for service. Because Mr. Murrin was not yet a customer, we find that this provision does not apply in Mr. Murrin's situation.

Based upon the foregoing, we find that the utility has not violated Rule 25-30.330, Florida Administrative Code, by its failure to provide information to its customers.

Rule 25-30.355, Florida Administrative Code

Rule 25-30.355(3), Florida Administrative Code, provides: "Replies to inquiries by the Commission's staff shall be furnished

within fifteen (15) days from the date of inquiry and shall be made in writing, if requested."

As previously indicated, the utility failed to respond to repeated inquiries from our Division of Consumer Affairs, which attempted to contact the utility by phone on April 2, 1999, and April 13, 1999, without success. When no response was received, a certified letter followed on May 6, 1999. This letter was returned to the Commission marked "UNCLAIMED" on June 3, 1999. Clearly the utility has failed to comply with the fifteen day response time as specified by this rule.

In its response to the Show Cause Order, the utility does not address why it failed to respond to inquiries from Consumer Affairs, by failing to sign for the certified letter, and to the phone calls placed by our staff. The first response we received from the utility was its August 30, 1999, response to the Show Cause Order. We verified that the certified letter sent to WELLAQUA by Consumer Affairs was mailed to the same address as the Show Cause Order. The utility responded timely to the Show Cause Order, but gave no explanation in its response for its failure to pick up the certified letter or respond to the numerous phone messages left by Consumer Affairs and members of our staff.

Based upon the foregoing, we find that the utility violated Rule 25-30.355, Florida Administrative Code, by failing to respond to our inquiries.

Rule 25-30.520, Florida Administrative Code

Rule 25-30.520, Florida Administrative Code, provides: "It is the responsibility of the utility to provide service within its certificated territory in accordance with terms and conditions on file with the Commission."

Rule 25-30.520, Florida Administrative Code, which is located in the Service Availability portion of Rule 25-30, Florida Administrative Code, applies in a situation where we initiate show cause proceedings requiring a utility to change its service availability policy or a service availability charge, or when a utility applies for a change to its service availability charges. Those circumstances do not exist in this case. Additionally, this rule is intended to apply when a utility has undeveloped land in its certificate, and the utility is required under this provision to provide service at the request of a developer. In this case,

water lines are already in place in front of Mr. Murrin's residence. Thus, Rule 25-30.520, Florida Administrative Code, is not applicable in this instance.

Moreover, in its response to the Show Cause Order, the utility indicates that service has been initiated to Mr. Murrin's residence. We verified that water service was connected just prior to the July 27, 1999, Agenda Conference, when our staff presented a recommendation to initiate show cause proceedings against WELLAQUA. Based upon the foregoing, we find that the utility has not violated Rule 25-30.520, Florida Administrative Code.

Conclusion

Based upon the information contained in the utility's response to the Show Cause Order, we find that the utility has violated Rules 25-30.320(4) (Refusal or Discontinuance of Service), and 25-30.355 (Complaints), Florida Administrative Code. However, there is insufficient information to find that the utility violated Rules 25-30.310 (Initiation of Service), 25-30.330 (Information to Customers), and 25-30.520 (Responsibility of Utility to Provide Service), Florida Administrative Code.

Section 367.161(1), Florida Statutes, states:

If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission ... Each day that such refusal or violation continues constitutes a separate offense.

Although we find that the utility violated the foregoing provisions of Chapter 25-30, Florida Administrative Code, we decline to assess a fine for such violations. We use fines to increase compliance with our rules, orders and statutes. The primary objective for a show cause order is for the utility to achieve compliance. The main purpose of Order No. PSC-99-1609-SC-WU, the Show Cause Order, was to prompt the utility to provide service to Mr. Murrin. We verified that service has been initiated. Additionally, because Citrus County rescinded Commission jurisdiction as of July 27, 1999, we no longer have jurisdiction over WELLAQUA. Therefore, future compliance with our

ORDER NO. PSC-00-0105-FOF-WU
DOCKET NO. 990872-WU
PAGE 15

rules is no longer necessary. Moreover, the \$7986 penalty assessed for violation of Rule 25-30.110, Florida Administrative Code, is sufficient punishment in these circumstances for non-compliance by this utility.

We note that the circumstances of this case are unique. Normally, utilities strive to initiate service for new customers in order to increase their revenues. In this case we had a potential customer attempting to receive service from the utility, without success. When this customer came to us for assistance, the utility was completely nonresponsive from March until July, when the customer finally received service. In the future, situations such as these need to be addressed so that potential customers in similar situations have some recourse. We will not tolerate this sort of activity from regulated utilities in the future.

Docket Closure

If the utility remits the penalty of \$7,986 assessed herein, within 30 days of the issuance date of this Order, and submits pages F-3 and V-1 of the annual reports for 1995 through 1998 for the purpose of certifying revenues, this docket shall be closed administratively upon verification that the correct amount of RAFs have been paid. The utility shall also file an annual report and pay RAFs for January 1, 1999 through July 27, 1999, the period of time that the utility was subject to our jurisdiction. If the utility fails to remit the penalty amount listed above, and fails to respond to our reasonable collection efforts, the outstanding penalty amount shall be referred to the Comptroller's office for further collection efforts and this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that WELLAQUA Co. has violated Rule 25-30.110, Florida Administrative Code, and shall remit a penalty of \$7,986 within 30 days of the issuance date of this Order for such violation. It is further

ORDERED that WELLAQUA Co. shall file pages F-3 and V-1 of the annual reports for 1995 through 1998, within 30 days of the issuance date of this Order. It is further

ORDERED that in the event we determine that the regulatory assessment fees paid by WELLAQUA Co. for 1995 through 1998 were

ORDER NO. PSC-00-0105-FOF-WU
DOCKET NO. 990872-WU
PAGE 16

insufficient, the utility shall remit the balance due within 15 days of receipt of written notification of the outstanding balance. It is further

ORDERED that in the event we determine that WELLAQUA Co. overpaid regulatory assessment fees for 1995 through 1998, any overpaid amount will be refunded to the utility. It is further

ORDERED that on or before March 31, 2000, WELLAQUA Co. shall submit an annual report and pay regulatory assessment fees for January through July 27, 1999. It is further

ORDERED that WELLAQUA Co. has violated Rules 25-30.320(4) and 25-30.355, Florida Administrative Code; however, we decline to assess a fine for such violations. It is further

ORDERED that this docket shall be closed administratively upon staff's verification that the correct amount of regulatory assessment fees have been paid and the utility has submitted the penalty assessed. If the utility fails to remit the penalty amount assessed herein, and fails to respond to reasonable collection efforts, the outstanding penalty amount shall be referred to the Comptroller's Office for further collection efforts and this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 11th Day of January, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

(S E A L)

SAC

ORDER NO. PSC-00-0105-FOF-WU
DOCKET NO. 990872-WU
PAGE 17

ORDER NO. PSC-00-0105-FOF-WU
DOCKET NO. 990872-WU
PAGE 18

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

February 21, 2000

WELLAQUA Company
Mr. Jerome C. Salmons, Jr.
P.O. Box 2790
Homosassa Springs, FL 34447-2790

Re: Docket No. 990872-WU - Initiation of show cause proceedings against WELLAQUA Co. for violation of Rules 25-30.110, F.A.C., Failure to File Annual Report, 25-30.310, F.A.C., Initiation of Service, 25-30.320, F.A.C., Refusal of Service, 25-30.330, F.A.C., Information to Customers, 25-30.355, F.A.C., Complaints, and 25-30.520, F.A.C., Responsibility of Utility to Provide Service.

Dear Mr. Salmons:

This letter is notice that by Order No. PSC-00-0105-FOF-WU, issued January 11, 2000, in this docket, WELLAQUA Co. was ordered to remit a penalty of \$7,986, within 30 days of the issuance date of the Order for a violation of Rule 25-30.110, Florida Administrative Code. Payment was due on or before February 10, 2000. WELLAQUA Co. was also ordered to file pages F-3 and V-1 of its annual reports for 1995 through 1998. To date, we have not received either the amount of the penalty or the annual report pages. Please remit the above information immediately.

If you need additional information or if I can be of any further assistance, please do not hesitate to contact me at (850) 413-6179.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Crossman".

Stephanie Crossman
Attorney

SAC

cc: Division of Legal Services (Geryasi)
Division of Records and Reporting
Division of Water and Wastewater (Walden)

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
 Jerome C. Salmons, Jr.
 Wellaqua Company
 P.O. Box 2790
 Hombossa Springs, FL 34447-2790

4a. Article Number
 Z 425 829 647

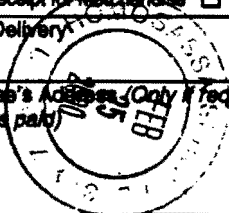
4b. Service Type
 Registered Certified
 Express Mail Insured
 Return Receipt for Mailpiece COD

7. Date of Delivery

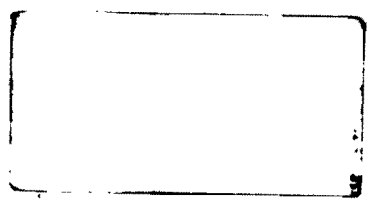
5. Received By: (Print Name)

8. Addressee's Address (Only if Requested and fee is paid)

6. Signature: (Addressee or Agent)
 X *[Handwritten Signature]*



Thank you for using Return Receipt Service.



STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

April 3, 2000

VIA CERTIFIED MAIL
FINAL NOTICE

WELLAQUA Company
Mr. Jerome C. Salmons, Jr.
Post Office Box 2790
Homosassa Springs, Florida 34447-2790

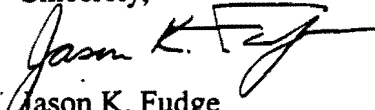
Re: Docket No. 998072-WU - Initiation of show cause proceedings against WELLAQUA Co. for violation of Rules 25-30.110, F.A.C., Failure to File Annual Report, 25-30.310, F.A.C., Initiation of Service, 25-30.320, F.A.C., Refusal of Service, 25-30.330, F.A.C., Information to Customers, 25-30.355, F.A.C., Complaints, and 25-30.520, F.A.C., Responsibility of Utility to Provide Service.

Dear Mr. Salmons:

This letter is final notice that by Order No. PSC-00-0105-FOF-WU, issued January 11, 2000, in this docket, WELLAQUA Co. was ordered to remit a penalty of \$7,986, within 30 days of the issuance date of the Order for a violation of Rule 25-30.110, Florida Administrative Code. Payment was due on or before February 10, 2000. WELLAQUA Co. was also ordered to file pages F-3 and V-1 of its annual reports for 1995 through 1998. To date, we have not received either the amount of the penalty or the annual report pages. Please remit the above information immediately.

If payment is not received by May 3, 2000, the Commission will refer this matter to the Comptroller's Office for further collection efforts. If you need additional information or if I can be of any further assistance, please do not hesitate to contact me at (850) 413-6236.

Sincerely,


Jason K. Fudge
Staff Attorney

JKF/lw

cc: Division of Legal Services (Gervasi)
Division of Records and Reporting
Division of Water and Wastewater (Walden)

l:\wellaqua.jkf

is your RETURN ADDRESS completed on the reverse side?

| | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SENDER: ■ Complete items 1 and/or 2 for additional services. ■ Complete items 3, 4a, and 4b. ■ Print your name and address on the reverse of this form so that we can return this card to you. ■ Attach this form to the front of the mailpiece, or on the back if space does not permit. ■ Write "Return Receipt Requested" on the mailpiece below the article number. ■ The Return Receipt will show to whom the article was delivered and the date delivered. | | I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee. |
| 3. Article Addressed to: Mr. Jerome C. Salmons, Jr. WELLAQUA Company P.O. Box 2790 Homosassa Springs, FL 34447-2790 | 4a. Article Number P 263_572 747 | 4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD |
| 5. Received By: (Print Name) | 7. Date of Delivery | |
| 6. Signature: (Addressee or Agent) X | 8. Addressee's Address (Only if requested and fee is paid) | |

Thank you for using Return Receipt Service.

PS Form 3811, December 1994

Domestic Return Receipt

P 263 572 747

Legal - Fudge

US Postal Service
Receipt for Certified Mail

No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to Mr. Jerome C. Salmons, Jr.
Wellaqua Company

Street & Number
P.O. Box 2790

Post Office, State, & ZIP Code
Homosassa Springs, FL 34447-

Postage \$ 2790

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing to Whom & Date Delivered

Return Receipt Showing to Whom, Date, & Addressee's Address

TOTAL Postage & Fees \$

Postmark or Date In Re: DN 990872-WU

PS Form 3800, April 1985

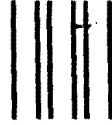
Fold at line over top of envelope to the right of the return address

CERTIFIED

P 263 572 747

MAIL

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

ATTN: JASON FUDGE, STAFF ATTORNEY
DIVISION OF LEGAL SERVICES

01

