State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 27, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Corbari, Teitzman) KFC / AT
Division of Accounting and Finance (Maurey) ALM
Division of Administrative and IT Services (Belcher, Kissell) KB
Office of Auditing and Performance Analysis (Deamer)
Office of Telecommunications (Earnhart) JE

RE: Docket No. 140031-WS – Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.

AGENDA: 03/13/14 – Regular Agenda – Show Cause – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Please place item on Agenda immediately before Docket No. 120172-WS, In re: Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

Case Background

Staff opened the instant docket to initiate show cause proceedings against Country Club Utilities, Inc. (Country Club or Utility) for apparent violations of Florida Statutes and Commission rules and regulations in failing to remit payment of its annual Regulatory Assessment Fees (RAFs) for the years 2010, 2011 and 2012.

Country Club is a Class C water and wastewater utility providing service in Highlands County. The Utility serves approximately 404 water and 401 wastewater customers in the Country Club of Sebring development located in Highlands County. The Utility's service territory is located in the Southern Water Use Caution Area of the Southwest Florida Water Management District (SWFWMD). The following information provides a historical overview of the Commission's activities related to Country Club.

Country Club's President and owner is Mr. R. Greg Harris. Mr. Harris and his wife, Janet B. Harris (Secretary), are the Utility's only officers. Mr. Harris purchased the Utility in 2004, from his father, Roland A. Harris.

Country Club has been in existence since 1989 and came under the jurisdiction of the Commission in 1992, when the Commission granted the Utility water and wastewater certificates and set initial rates and charges.[1] From 1989 to 2003, the utility operated under the corporate name Country Club of Sebring, Inc. In 2003, the Utility changed its name to alleviate confusion with a golf facility with a similar name. On June 20, 2006, the Utility filed an application for name change and to transfer of majority organizational control from Mr. Roland A. Harris to Mr. R. Greg Harris.[2] On February 12, 2007, the Commission issued Order No. PSC-07-0121-FOF-WS, Authorizing Utility Corporate Reorganization, Name Change and Transfer of Majority Ownership Control.[3] The Order also provided that, because the new owner did not request a change in rates, the Utilities' rates and charges established in 1992, by Order No. 25788, would "continue until authorized to change by the Commission in a subsequent proceeding."[4]

In September 2011, Country Club filed an application for staff-assisted rate case (SARC), which it subsequently withdrew in December 2011.[5] Country Club again filed an application for staff-assisted rate case in June 2012.[6] Country Club's 2012 SARC application is discussed in staff's recommendation of February 27, 2014, in Docket No. 120172-WS. Both the instant matter and Docket No. 120172-WS are set for the March 13, 2014, Commission Conference.

During the processing of Country Club's SARC application, however, staff learned that Country Club had failed to remit payment of its regulatory assessment fees (RAFs) for the years 2010, 2011 and 2012, totaling $33,310.28, as required by Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C. Staff made several attempts to work with Country Club regarding payment of the outstanding RAFs. In March 2013, Country Club agreed to a payment plan with staff, wherein Country Club would pay $500 per month toward its past due RAFs and pay the

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1 See Order No. 25788, issued February 24, 1992, in Docket No. 190792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring.

2 Id.

3 See, Order No. PSC-07-0121-FOF-WS, issued February 12, 2007, in Docket No. 060352-WS, In re: Application for transfer of majority organizational control of Country Club of Sebring, Inc. in Highlands County and for name change on Certificate Nos. 540-W and 468-S to Country Club Utilities, Inc.

4 Id.

5 See, Docket No. 110266-WS, In re: Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

6 See, Docket No. 120172-WS, In re: Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

balance if the Utility were sold.[7] Between March and August 2013, Country Club remitted five payments of $500. Country Club did not remit a payment in July 2013. After not receiving Country Club's monthly payment in September 2013, staff contacted the Utility's owner, Mr. Harris, to inquire whether Country Club would be submitting its monthly RAF payment. On September 27, 2013, Country Club informed staff that it would not be making its September payment and would no longer be making monthly payments as required by the agreed upon payment plan.[8]

By certified letter, dated January 9, 2014, Commission staff notified Country Club of apparent violations of Sections 350.113, 367.145 and 367.161, F.S., and Rule 25-30.120, and possible initiation of a show cause proceeding against the Utility for failing to pay its regulatory assessment fees for the years 2010, 2011, 2012.[9] Country Club's owner, Mr. Harris, was advised in the January 9, 2014, letter that Section 367.161, F.S., provides in pertinent part:

> (1) 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. . . .
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> (2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than $5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. . . .

In addition, Country Club was advised that Commission staff would open a docket to initiate a show cause proceeding if Country Club did not correct the violations and remit payment of the delinquent RAFs, penalties and interest by January 15, 2014. Country Club did not remit any payment in response to staff's letter.

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7 See, Document No. 00853-14, in Docket No. 120172-WS, Email exchange between Staff and Country Club, dated March 6, 2013; and Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Email exchange between Staff and Country Club, dated March 17, 2013, attached to Staff's demand letter of January 9, 2014.

8 See, Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Email exchange between Staff and Country Club, dated September 27, 2013, attached to Staff's demand letter of January 9, 2014.

9 See, Document No. 00148-14, in Docket No. 140000 and Document No. 00682-14, in Docket No. 140031-WS, Staff's demand for payment of past due RAFs, dated January 9, 2014; and, Document No. 00192-14, in Docket 140000 and Document No. 00682-14, in Docket No. 140031-WS, Certified Return Receipt signed by R. Harris on January 11, 2014, evidencing receipt by Utility of Staff's certified demand letter of January 9, 2014.

On January 16, 2014, staff counsel was contacted by John "Bart" Allen with the law firm of Peterson & Myers, in Lake Wales, Florida, on behalf of Country Club. Mr. Allen advised staff that Country Club was seeking to negotiate the possible sale of the utility to the City of Sebring. Mr. Allen inquired whether the Commission would extend Country Club additional time prior to initiating show cause proceeding in order to allow the utility to negotiate a possible sale. Staff requested that Mr. Allen submit Country Club's request for additional time in writing to staff for consideration. Mr. Allen advised staff he would submit the written request for additional time the next day. To date, staff has neither received any correspondence from Mr. Allen or Country Club, nor has Mr. Allen returned staff counsel's telephone calls.

By certified letter dated February 11, 2014, the Commission's Office of the General Counsel notified Country Club of the Commission's intent to initiate a show cause proceeding for the Utility's apparent statute and rule violations.[10]

Issue 1 is staff's recommendation regarding Country Club's apparent violations of Sections 350.113, 367.145, 367.161, F.S., and Rule 25-30.120, F.A.C., and whether the Utility should be ordered to show cause why it should not be required to pay its delinquent RAFs, including statutory penalties and interest. Issue 2 discusses the closing of the docket and options for pursuing collection of the past due RAFs and fines should the Commission approve Issue 1.

Country Club recently concluded litigation with the State of Florida, Department of Environmental Protection (DEP)[11] for violating DEP standards; however, Country Club faces possible administrative action/litigation with the South West Florida Water Management District (SWFWMD) for continued over-pumping violations.[12]

The Commission has jurisdiction pursuant to Sections 350.113, 367.121, 367.145, 367.161, F.S., and Rule 25-30.120, F.A.C.

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[10] See, Document No. 00695-14, in Docket No. 140031-WS, Letter notifying utility of establishment of a docket to initiate show cause proceeding, dated February 11, 2014; and Document No. 00891-14, in Docket No. 140031-WS, Certified Return Receipt signed by R. Harris on February 14, 2014, evidencing receipt by Utility of Staff's certified letter of February 11, 2014.

[11] In October 2012, DEP initiated litigation in Highlands County circuit court seeking enforcement for alleged violations of DEP standards by Country Club and civil penalties. State of Florida, Dep't of Envtl Protection v. Country Club Utilities, Inc., Case No. 12-924 GCS, 10TH Judicial Circuit Court for Highlands County, Florida. On February 3, 2014, DEP and Country Club entered into a Consent Judgment to settle the litigation, which the Court approved on February 20, 2014.

[12] Country Club has been over-pumping in violation of its Water Use Permit for many years. In September 2012, the Governing Board of the SWFWMD authorized its staff to initiate litigation against the utility for the over-pumping violations and assessed penalties and costs against the Utility in the amount of $83,949.00. On February 17, 2014, Country Club submitted a Compliance Report and Water Conservation Plan to SWFWMD. At this time, the SWFWMD is reviewing the information submitted by Country Club on February 17, 2014, in order to determine whether SWFWMD will pursue enforcement action/litigation against the Utility.

Discussion of Issues

Issue 1: Should Country Club Utilities, Inc. be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of $46,836.91, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011 and 2012?

Recommendation: Yes. Country Club should be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of $46,836.91, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011 and 2012 on or before April 17, 2014. Specifically, staff recommends that the Utility be directed to pay its past due RAFs in the amount of $8,248.08 for 2010, $11,269.13 for 2011, and $11,293.07 for 2012, including statutory interest and penalties in the amounts of, $6,326.33 for 2010, $5,521.87 for 2011, and $4,178.43 for 2012, (Corbari, Teitzman, Belcher, Earnhart, Maurey)

Staff Analysis:

Factual Allegations

Pursuant to Section 367.145(1), F.S., and Rule 25-30.120(1), F.A.C., each utility shall pay a RAF in the amount of 4.5 percent of its gross revenue derived from intrastate business. Subsection (2)(b) requires small utilities with annual revenues of less than $200,000, such as Country Club, to file RAFs with the Commission on or before March 31 for the preceding calendar year. Subsection (7)(a) permits the Commission to assess a penalty against any utility that fails to pay its RAFs on time.

Pursuant to Section 350.113(4), F.S., and Rule 25-30.120(7)(a), F.A.C., a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its RAFs, in the following manner:

1. Five percent of the fee if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of twenty-five percent.
2. The amount of interest to be charged is one percent for each 30 days or fraction thereof, not to exceed a total of twelve percent per annum

In addition, pursuant to Sections 367.145(1)(b) and 367.161, F.S., and Rule 25-30.120(7)(b), F.A.C., the Commission may impose an additional penalty upon a utility for its failure to pay RAFs in a timely manner.

According to Commission fiscal records, Country Club has not complied with Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., pertaining to Regulatory Assessment Fees. The Utility has failed to pay its 2010, 2011 and 2012 RAFs, despite having been provided

numerous notices that it is delinquent in submitting its RAFs.[13] Country Club has developed a pattern of disregard for regulatory compliance by not remitting its RAF payments for three consecutive years.

On March 17, 2011, Country Club filed its annual report for 2010, reporting a total gross revenue of $144,853 for water and $93,993 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of $6,518.39 for water and $4,229.69 for wastewater, by March 31, 2011. No payment was received from Country Club. On April 23, 2011, the Commission notified Country Club of its failure to remit its 2010 RAFs.[14] The $500 monthly payments, totaling $2,500, remitted by Country Club between March and August 2013 were applied to the Utility's 2010 delinquent RAFs, per Commission practice.

On March 15, 2012, Country Club filed its annual report for 2011, reporting a total gross revenue of $149,425 for water and $101,000 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of $6,724.13 for water and $4,545.00 for wastewater, by March 31, 2012. No payment was received from Country Club. On April 23, 2012, the Commission notified Country Club of its failure to remit its 2011 RAFs.[15]

On April 18, 2013[16], Country Club filed its annual report for 2012, reporting a total gross revenue of $151,060 for water and $99,897 for wastewater. Based on its annual report filing, Country Club was required to remit a RAF payment in the amount of $6,797.70 for water and $4,495.37 for wastewater, by March 31, 2013. No payment was received from Country Club. On April 20, 2013, the Commission notified Country Club of its failure to remit its 2012 RAFs.[17]

On February 26, 2014, the Commission received Country Club's 2013 RAF returns for water and wastewater, wherein Country Club reported a total gross revenue of $147,666.39 for water and $98,166.94 for wastewater. Country Club, however, did not remit payment of its 2013 RAFs with the RAF forms. Based on its 2013 RAF filing, Country Club is required to remit a RAF payment in the amount of $6,644.99 for water and $4,417.51 for wastewater, by March 31, 2014.

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[13] See, Document No. 00148-14, in Docket No. 140000 and Document No. 00148-14, in Docket No. 140031-WS, Commission correspondence to Country Club regarding outstanding RAFs, penalties and interest, attached to Staff's demand letter of January 9, 2014:
- Letter from Office of General Counsel, dated April 23, 2013, re: notification of failure to submit 2012 RAFs and demand for payment within 15 days.
- Letter from Office of General Counsel, dated April 23, 2012, re: notification of failure to submit 2011 RAFs and demand for payment within 15 days.
- Letter from Office of General Counsel, dated April 20, 2011, re: notification of failure to submit 2010 RAFs and demand for payment within 15 days.
- Letter from Fiscal Services Section, dated May 24, 2013 re: notification of untimely submission of 2010 RAFs and demand for payment by June 7, 2013.

[14] Id.

[15] Id.

[16] Staff notes that Country Club's 2012 annual reports were not filed timely. A utility's annual reports are due on or before March 31st, pursuant to Rule 25-30.110(3)(b), F.A.C.

[17] See, Document No. 00148-14, in Docket No. 140000 and Document No. 00148-14, in Docket No. 140031-WS, Commission correspondence to Country Club regarding outstanding RAFs, penalties and interest, attached to Staff's demand letter of January 9, 2014.

Staff notes that, it was not until March 2013, when staff requested Country Club make payments toward its delinquent RAFs as a condition of proceeding with the SARC application, that Country Club made any effort to fulfill its statutory obligation with regard to its delinquent RAFs. Country Club ceased making its agreed upon monthly payments to the Commission after only remitting five payments. Moreover, Country Club made no effort to contact staff prior to, or after, ceasing its payments September 2013, to discuss its RAF obligations.

Section 350.113, F.S., and Rule 25-30.120, F.A.C., provide for penalties and interest for failure to pay RAFs. A penalty in the amount of five percent of the fee is assessed for each 30-day period the payment is not received, up to a maximum of twenty-five percent. Since Country Club's failure to pay its 2010, 2011 and 2012 RAFs exceeds five 30-day periods, the maximum twenty-five percent penalty has been assessed to the RAF amounts owed by Country Club for 2010, 2011 and 2012. Further, one percent interest is assessed for each 30-day period, or fraction thereof, the payment is not received, not to exceed a total of twelve percent per annum. As of March 13, 2014, the amounts owed by Country Club for delinquent RAFs plus statutory penalty and interest, are as follows:[18]

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
2010	$238,846.00	$10,748.08	$2,500.00	$2,687.02	$3,639.31	$14,574.41
2011	$250,425.00	$11,269.13	$0.00	$2,817.28	$2,704.59	$16,791.00
2012	$250,957.00	$11,293.07	$0.00	$2,823.27	$1,355.16	$15,471.50
TOTALS	**$740,228.00**	**$33,310.28**	**$2,500.00**	**$8,327.57**	**$7,699.06**	**$46,836.91**

The Utility's owner has indicated that the Utility is unable to pay its RAFs due to the Utility's rates being inadequate. Staff does not believe that Country Club's assertion of inadequate rates is a valid justification for its failure to remit its RAFs. First, the amount of RAFs owed by a utility each year, is included in a utility's rates. Thus, Country Club has already collected the allocated 2010, 2011 and 2012 RAF amounts owed to the Commission. Second, while Country Club's current rates have remained unchanged since established by the Commission in 1992, [19] Country Club did not contact the Commission regarding a rate increase until 2011, when it filed its first SARC application, which it then withdrew. In fact, Country Club did not request a rate increase when it came to the Commission in 2006 to request approval of name change and transfer.[20]

[18] A complete breakdown of the RAF amounts, plus penalties and interest, is attached hereto as Attachment 1.

[19] See, Order No. 25788, Issued February 24, 1992, in Docket No.910792-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring, stating, "the schedules have been used only as tools to aid in the establishment of initial rates. They are not intended for use in establishing rate base."

[20] See, Order No. PSC-07-0121-FOF-WS, Issued February 12, 2007, in Docket No. 060352-WS, In re: Application for water and sewer certificates in Highlands County by Country Club of Sebring, stating, the rates of former owner "must continue unless authorized to change by the Commission. The new owner has not requested a change; therefore, the existing rates and charges will continue until authorized to change by the Commission in a subsequent proceeding."

Staff Recommendation

Utilities are 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). In making similar decisions, the Commission has repeatedly held that utilities are charged with the knowledge of the Commission's Rules and Statutes. [21]

The procedure followed by the Commission in dockets such as this is to consider the Commission staff's recommendation and determine whether or not the facts warrant requiring the utility to respond. If the Commission approves staff's recommendation, the Commission issues an Order to Show Cause. A show cause order is considered an administrative complaint by the Commission against the utility. If the Commission issues a show cause order, the utility is required to file a written response. The response must contain specific allegations of disputed fact. If there are no disputed factual issues, the utility's response should so indicate. The response must be filed within 21 days of service of the show cause order on the respondent.

The utility has two options if a show cause order is issued. The utility may respond and request a hearing pursuant to Sections 120.569 and 120.57, F.S. If the utility requests a hearing, a hearing will be scheduled to take place before the Commission, after which a final determination will be made. The utility may respond to the show cause order by remitting the fine. If the utility pays the fine, this show cause matter is considered resolved, and the docket closed.

In the event the utility fails to timely respond to the show cause order, the utility is deemed to have admitted the factual allegations contained in the show cause order. The utility's failure to timely respond is also a waiver of its right to a hearing. Additionally, a final order will be issued imposing the sanctions set out in the show cause order.

Pursuant to Section 367.161(1), F.S., the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than $5,000 for each such day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367, F.S. Each day a violation continues is treated as a separate offense. Each penalty is a lien upon the real and personal property of the utility and is enforceable by the Commission as a statutory lien. As an alternative to the above remedies, Section 367.161(2), F.S., permits the Commission to amend, suspend, or revoke a utility's certificate for any such violation.

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21 See Order No. PSC-11-0250-FOF-WU, issued June 13, 2011, in Docket No. 100104-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.; Order No. PSC-07-0275-SC-SU, issued April 2, 2007, in Docket No. 060406-SU, In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company; and Order No. PSC-05-0104-SC-SU, issued January 26, 2005 in Docket Nos. 020439-SU and 020331-SU; In re: Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation; In re: Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

Willfulness is a question of fact.[22] Therefore, part of the determination the Commission must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to "willfully violate" a rule or order. In Commission Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In Re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., the Commission stated that "willful implies an intent to do an act, and this is distinct from an intent to violate a statute or rule." The plain meaning of "willful" typically applied by the Courts in the absence of a statutory definition, is an act or omission that is done "voluntarily and intentionally" with specific intent and "purpose to violate or disregard the requirements of the law." Fugate v. Fla. Elections Comm'n, 924 So. at 76.

By knowingly failing to comply with the provisions of Section 367.145, F.S., Country Club's acts were "willful" in the sense intended by Section 367.161, F.S., and Fugate. Accordingly, staff believes that Country Club has not complied with Sections 350.113 and 367.145, F.S., or Rule 25-30.120, F.A.C. Therefore, staff recommends that Country Club should be ordered to show cause, in writing within 21 days, why it is not obligated to remit payment in the amount of $46,836.91, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2010, 2011 and 2012 on or before April 17, 2014. Staff recommends that the Utility be directed to pay its delinquent RAFs in the amount of $8,248.08 for 2010, $11,269.13 for 2011, and $11,293.07 for 2012, including statutory interest and penalties in the amounts of, $6,326.33 for 2010, $5,521.87 for 2011, and $4,178.43 for 2012. In addition, Staff recommends that the show cause order incorporate the following conditions:

1. This show cause order is an administrative complaint by the Florida Public Service Commission, as petitioner, against Country Club Utilities, Inc., as respondent.
2. The Utility shall respond to the show cause order within 21 days of service on the Utility, and the response shall reference Docket No. 140031-WS, In re: Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.
3. The Utility has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative.
4. Requests for hearing shall comply with Rule 28-106.2015, F.A.C.
5. The Utility's response to the show cause order shall identify those material facts that are in dispute. If there are none, the petition must so indicate.
6. If Country Club files a timely written response and makes a request for a hearing pursuant to Sections 120.569 and 120.57, F.S., a further proceeding will be scheduled before a final determination of this matter is made.
7. A failure to file a timely written response to the show cause order will constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this issue.

[22] Fugate v. Fla. Elections Comm'n, 924 So. 2d 74, 75 (Fla. 1st DCA 3006), citing, Metro. Dade County v. State Dep't of Envtl. Prot., 714 So. 2d 512, 517 (Fla. 3d DCA 1998).

8. In the event that Country Club fails to file a timely response to the show cause order, the fine will be deemed assessed and a final order will be issued.
9. If the Utility responds to the show cause order by remitting the fine, this show cause matter will be considered resolved, and the docket closed.

Staff does not recommend the Commission imposing an additional penalty, pursuant to Sections 367.145 and 367.161, F.S., and Rule 25-30.120, F.A.C., for Country Club's failure to comply with statutes and rules. Section 350.113, F.S., and Rule 25-30.120, F.A.C., already impose statutory penalty and interest upon untimely submitted RAFs. As such, staff believes that the imposition of an additional penalty is not likely to further Commission efforts in bringing the Utility into compliance.

Finally, should Country Club fail to remit payment of its delinquent RAFs, penalties and interest by April 17, 2014, staff requests the Commission authorize the Office of the General Counsel to take whatever actions reasonably necessary in order to pursue collection of the delinquent RAFs, penalties and interest, as set out in Issue 2.

Issue 2: Should this docket be closed?

Recommendation: If Country Club Utilities, Inc. pays its delinquent RAFs, in the amount of $30,810.28, plus penalties and interest in the amount of $16,026.63, by April 17, 2014, the docket should be closed administratively. If Issue 1 is approved and Country Club timely responds in writing to the Order to Show Cause, the docket should remain open to allow for the appropriate processing of the response. If Issue 1 is approved and Country Club does not pay its delinquent RAFs and penalties and interest, or does not respond to the Order to Show Cause, the docket should remain open to allow the Commission to pursue collection of the amounts owed by the Utility. Additionally, staff requests the Commission authorize the Office of the General Counsel to pursue all reasonable means necessary to collect the amounts owed by Country Club, including, but not limited to, initiating action in circuit court, pursuant to Section 367.121(1)(g) and (j). (Corbari, Teitzman)

Staff Analysis:

If Country Club Utilities, Inc. pays its delinquent RAFs, in the amount of $30,810.28, plus penalties and interest in the amount of $16,026.63, by April 17, 2014, the docket should be closed administratively. If Issue 1 is approved and Country Club timely responds in writing to the Order to Show Cause, the docket should remain open to allow for the appropriate processing of the response. If Issue 1 is approved and Country Club does not pay its delinquent RAFs and penalties and interest, or does not respond to the Order to Show Cause, the docket should remain open to allow the Commission to pursue collection of the amounts owed by the Utility. Additionally, staff requests the Commission authorize the Office of the General Counsel to pursue all reasonable means necessary to collect the amounts owed by Country Club, including, but not limited to, initiating action in circuit court, pursuant to Section 367.121(1)(g) and (j). (Corbari, Teitzman)

COUNTRY CLUB UTILITIES, INC. (WS654)

DELINQUENT REGULATORY ASSESSMENT FEES

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
2010	$238,846.00	$10,748.08	$2,500.00	$2,687.02	$3,639.31	$14,574.41
2011	$250,425.00	$11,269.13	$0.00	$2,817.28	$2,704.59	$16,791.00
2012	$250,957.00	$11,293.07	$0.00	$2,823.27	$1,355.16	$15,471.50
TOTALS	$740,228.00	$33,310.28	$2,500.00	$8,327.57	$7,699.06	$46,836.91

RAF BREAKDOWN BY SERVICE & YEAR

2010	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	$144,853.00	$6,518.39	$1,250.00	$1,629.60	$2,231.61	$9,129.60
SEWER	$93,993.00	$4,229.69	$1,250.00	$1,057.42	$1,407.70	$5,444.81
TOTALS	$238,846.00	$10,748.08	$2,500.00	$2,687.02	$3,639.31	$14,574.41

2011	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	$149,425.00	$6,724.13	$0.00	$1,681.03	$1,613.79	$10,018.95
SEWER	$101,000.00	$4,545.00	$0.00	$1,136.25	$1,090.80	$6,772.05
TOTALS	$250,425.00	$11,269.13	$0.00	$2,817.28	$2,704.59	$16,791.00

2012	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (THRU 03/13/14)	TOTAL DUE
WATER	$151,060.00	$6,797.70	$0.00	$1,699.43	$815.72	$9,312.85
SEWER	$99,897.00	$4,495.37	$0.00	$1,123.84	$539.44	$6,158.65
TOTALS	$250,957.00	$11,293.07	$0.00	$2,823.27	$1,355.16	$15,471.50