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STATE OF FLORIDA



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GENERAL COUNSEL  
(850) 413-6199

Public Service Commission

July 22, 2002

Mr. David Plank  
Landmark Enterprises, Inc.  
62 Lake Henry Drive  
Lake Placid, Florida 33852

VIA CERTIFIED MAIL

Re: Docket No. 971622-SU - Initiation of show cause proceedings against Landmark Enterprises, Inc. in Highlands County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.

Dear Mr. Plank:

I am writing to you in reference to outstanding regulatory assessment fees (RAFs), penalties and interest owed by Landmark Enterprises, Inc. (Landmark or Utility). Pursuant to our telephone conversation on July 17, 2002, I am providing you with the updated amounts currently owed by the utility for delinquent regulatory assessment fees (RAFs) and annual reports.

**REGULATORY ASSESSMENT FEES**

Our records indicate that Landmark has not paid RAFs, as required by Rule 25-30.120, Florida Administrative Code, for the years 1994 through 2001. Show cause proceedings have already been initiated in this docket with respect to RAFs owed for 1994 and 1995 (Order No. PSC-98-0269-FOF-SU, issued February 10, 1998). In establishing rates, the Commission includes in its determination of the revenue requirement the utility's obligation to pay RAFs. Pursuant to Rule 25-30.120(2), Florida Administrative Code, regulatory assessment fees must be paid by March 31 of each year. Pursuant to Section 350.113(4), Florida Statutes, and Rule 25-30.120(7)(a), Florida Administrative Code, a statutory penalty plus interest shall be assessed against any utility that fails to timely pay its RAFs, in the following manner:

1. 5 percent of the fee if the failure is for not more than 30 days or fraction thereof during the time in which failure continues, not to exceed a total penalty of 25 percent.
2. The amount of interest to be charged is 1 percent for each 30 days or fraction thereof, not to exceed a total of 12 percent annum.

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After reviewing the available information, we have determined that Landmark owes the following:

<u>YEAR</u>	<u>RAF AMOUNT</u>	<u>PENALTIES</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$1,528.29	\$382.07	\$1,360.18	\$3,270.54
1995	\$1,558.09	\$389.52	\$1,199.73	\$3,147.34
1996	\$1,597	\$399	\$1,037.92	\$3,033.91
1997	\$1,665	\$416	\$882.35	\$2,963.38
1998	\$1,700	\$425	\$696.98	\$2,821.94
1999	\$1,721	\$430	\$498.95	\$2,649.62
2000	\$1,744	\$436	\$296.47	\$2,476.38
2001	\$1,788	\$447	\$89.38	\$2,323.79
			<b>TOTAL DUE</b>	<b>\$22,686.88</b>

Pursuant to Rule 25-30.120(7), Florida Administrative Code, Landmark has an ongoing responsibility to pay interest of one percent every thirty days on the unpaid balance of RAFs. The amounts shown above have been calculated through August 2002. The amounts are subject to change and increase over time, and any delay in payment past August may subject Landmark to additional penalties and interest. Therefore, please submit payment of \$22,686.88 by check made payable to the Florida Public Service Commission. Your payment should be mailed with a copy of this letter to the Fiscal Services Section, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Karen Belcher.

If payment has not been received by August 20, 2002, staff intends to recommend that the Commission initiate additional show cause proceedings with respect to the RAFs owed for 1996 through 2001. If show cause proceedings are initiated, and Landmark is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

### **ANNUAL REPORTS**

Pursuant to Rule 25-30.110(3), Florida Administrative Code, annual reports are due on March 31<sup>st</sup> of each year. According to our records, Landmark failed to file its annual reports in a timely manner, as required by the Commission rules for the years 1993 through 2001. Show cause proceedings have already been initiated in this docket with respect to annual reports owed for 1993 through 1996 (see Order No. PSC-98-0269-FOF-SU, issued February 10, 1998).

Pursuant to Rule 25-30.110(7), the applicable penalty for Landmark, as a Class C utility, is set forth below:

YEAR	TIME ELAPSED (through 08/20/2002)	Penalty Fees (\$3 per day)
1993	3,064 days	\$9,192
1994	2,699 days	\$8,097
1995	2,334 days	\$7,002
1996	1,968 days	\$5,904
1997	1,603 days	\$4,809
1998	1,238 days	\$3,714
1999	872 days	\$2,616
2000	507 days	\$1,521
2001	142 days	\$426
		<b>TOTAL: \$43,281</b>

As previously stated, the above-referenced penalty has been calculated through August 20, 2002, Please submit payment in the amount of \$10,632 by check made payable to the Florida Public Service Commission.

The amounts are subject to change and increase over time, and any delay in payment may subject Landmark to additional penalties and interest. Therefore, please submit payment of \$43,281 by check made payable to the Florida Public Service Commission by August 20, 2002. Your payment should be mailed with a copy of this letter to the Fiscal Services Section, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Karen Belcher.

If payment has not been received by August 20, 2002, staff intends to recommend that the Commission initiate additional show cause proceedings with respect to the annual reports owed for 1997 through 2001. If show cause proceedings are initiated, and Landmark is found to be in violation of Commission rules, pursuant to Section 367.161, Florida Statutes, the Commission is authorized to impose fines of up to \$5,000 for each day the violation continues.

At this time, staff anticipates filing a recommendation in this docket on August 22, 2002, for the Commission's consideration at the September 3, 2002 Agenda Conference. In our earlier conversation, you stated that an annual report could be prepared and filed by next week. If any of the annual reports are filed, or if any payment towards the outstanding monies referenced above is made, staff will incorporate that information into its recommendation.

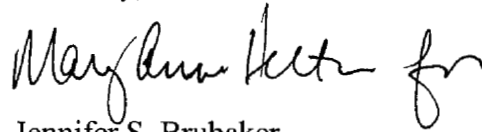
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If you are unable to pay the full amount owed in the time indicated, staff is willing to work with the utility to establish a payment plan over a 12-month period. If you would like more information regarding establishing a payment plan, please contact Jackie Knight at (850) 413-6267. If you have any questions regarding the matters discussed herein, please do not hesitate to contact me at (850)413-6228.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer S. Brubaker for".

Jennifer S. Brubaker  
Senior Attorney

JSB/dm

cc: Division of the Commission Clerk and Administrative Services (Knight)  
Division of Economic Regulation (Kaproth, Peacock)  
Office of General Counsel (Holley)

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