

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of BCD INDUSTRIES, )	DOCKET NO. 891118-WS
INC. for a staff-assisted rate case in )	ORDER NO. 23227
Osceola County )	ISSUED: 7-19-90
)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD  
GERALD L. GUNTER

ORDER DISMISSING PROTEST

BY THE COMMISSION:

On September 7, 1989, BCD Industries, Inc. (BCD) filed an application for a staff-assisted rate case. Its request was approved by letter dated October 13, 1989.

By Order No. 22857, issued April 26, 1990, this Commission proposed to establish increased rates for wastewater service and decreased rates for water service. On May 17, 1990, BCD filed a timely protest to Order No. 22857. Pursuant to BCD's protest, this case was set for an administrative hearing on September 5 and 6, 1990, with a prehearing conference to be held on August 8, 1990.

By Order No. 23013, issued May 31, 1990, the Prehearing Officer established a schedule to govern the key activities in this case. Pursuant to Rule 25-22.048, Florida Administrative Code, by Order No. 23013, the Prehearing Officer required BCD to prefile any direct testimony and/or exhibits no later than June 14, 1990. BCD did not prefile its direct testimony and exhibits, or request an extension of time therefor, on or before June 14, 1990. Under Rule 25-22.042(1), "[t]he failure or refusal of a party to comply with any lawful order may be cause for dismissing the party from the proceeding."

Since BCD did not prefile its direct testimony and exhibits or ask for an extension on or before June 14, 1990, or indeed, by the date of our decision on this matter, in accordance with Rule 25-22.042, Florida Administrative Code, we find it appropriate to dismiss its objection to Order No. 22857. Further, since we are dismissing BCD's protest, and since no other protests were filed, we find it appropriate to revive

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Order No. 22857 and declare it to be final and effective. Finally, since we have revived Order No. 22857, we also find it appropriate to require BCD to submit tariff pages, revised in accordance with Order No. 22857, no later than thirty days following the date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that BCD Industries, Inc.'s protest of Order No. 22857 is hereby dismissed. It is further

ORDERED that Order No. 22857 is revived and is hereby declared to be final and effective as of the date of this Order. It is further

ORDERED that this docket will be closed upon the submittal by BCD Industries, Inc., and the approval by Staff, of revised tariff pages.

By ORDER of the Florida Public Service Commission  
this 19th day of July, 1990.

STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RJP

by: Kay Flynn  
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 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 or sewer 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.