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STATE OF FLORIDA



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## Public Service Commission

October 23, 2014

VIA CERTIFIED & REGULAR MAIL

Ms. Diane Mills, President  
Wildwood Water Company  
3520 Lewis Speedway Street  
Saint Augustine, FL 32084-8603

**RE: Apparent violations of Sections 350.113, 367.145 and 367.161, Florida Statutes, and Rules 25-30.120 and 25-30.110, Florida Administrative Code, and possible implementation of show cause proceedings against Wildwood Water Company pursuant to Section 367.161, Florida Statutes.**

Dear Ms. Mills:

Pursuant to Sections 350.113 and 367.145, Florida Statutes (F.S.); and Rules 25-30.120 and 25-30.110 Florida Administrative Code (F.A.C.), each regulated company under the jurisdiction of the Florida Public Service Commission (Commission) shall file an annual report and pay to the Commission a regulatory assessment fee based upon the gross operating revenues for the prior year operating period.

A review of the operations of Wildwood Water Company (Wildwood) shows that the utility may be violating one or more of the above-noted statutes and related rules. Section 367.161, F.S., authorizes the Commission to take enforcement action and collect penalties for statute and rule violations. Section 367.161, F.S., provides:

- (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. Each penalty shall be a lien upon the real and personal property of the utility, enforceable by the commission as statutory liens under chapter 85.

- (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. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85.

The operations of Wildwood and its apparent violations of the various rules and statutes are discussed as follows.

A. Regulatory Assessment Fees

Rule 25-30.120, F.A.C., requires that utilities pay a regulatory assessment fee (RAF) of four and a half percent (4.5%) of its gross revenues derived from instate business, or a minimum of \$25.00 if there are no revenues, or if revenues are insufficient to generate above the \$25.00 minimum. It appears that Wildwood has not remitted the appropriate amount of RAFs for the years 2009 through 2013. Section 350.113(4), F.S., provides for a penalty of five percent (5%) for the first thirty days, and an additional penalty of “5 percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent,” and states that the Commission “shall collect the fee and penalty, plus interest and all costs of collection, from the regulated company.” Further, Rule 25-30.120(7)(b), F.A.C., provides:

In addition to the penalties and interest otherwise provided, the commission may impose an additional penalty upon a utility for failure to pay regulatory assessment fees in a timely manner in accordance with Section 367.161, F.S.

Commission Staff made several attempts to work with Wildwood regarding payment of Wildwood’s outstanding RAFs. The Commission has not received any payments for Wildwood’s RAFs since 2009. Because Wildwoods RAF’s since 2009 were not paid timely or in full, statutory penalties and interest are due for each of those years.

For the RAFs, plus associated penalties and interest, due in accordance with Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., for the years 2009 through 2013, with interest being calculated through **November 20, 2014**, Commission staff calculates the total amount due to be **\$55,752.48**. The amount due is calculated as follows:



YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (1%) (THRU 11/20/14)	TOTAL DUE
2013	\$172,676.00	\$7,770.42	\$0.00	\$1,942.61	\$621.63	\$10,334.66
2012	\$161,630.00	\$7,273.35	\$0.00	\$1,818.34	\$1,454.67	\$10,546.36
2011	\$162,446.00	\$7,310.07	\$0.00	\$1,827.52	\$2,412.32	\$11,549.91
2010	\$147,232.00	\$6,625.44	\$0.00	\$1,656.36	\$2,981.45	\$11,263.25
2009	\$147,232.00	\$6,625.44	\$0.00	\$1,656.36	\$3,776.50	\$12,058.30
<b>TOTALS</b>		<b>\$35,604.72</b>	<b>\$0.00</b>	<b>\$8,901.19</b>	<b>\$11,246.57</b>	<b>\$55,752.48</b>

B. Annual Reports

Also, the utility filed the annual reports for 2011 through 2013 a total of 845 days late. Furthermore, the Commission has still not received annual reports for 2009 and 2010 as of the date of this letter. Pursuant to Rule 25-30.110(7), F.A.C., the standard penalty is \$3 per day, and, if imposed through November 20, 2014, would be **\$13,128.00**. The amount due is calculated as follows:

YEAR	DUE DATE	DATE SUBMITTED	PENALTY
2013	03/31/2014	07/25/2014	\$348.00
2012	03/31/2013	07/25/2014	\$1,443.00
2011	03/31/2012	07/25/2014	\$2,538.00
2010	04/30/2011	NOT RECEIVED	\$3,900.00
2009	06/01/2010	NOT RECEIVED	\$4,899.00
<b>TOTAL</b>			<b>\$13,128.00</b>

In total, the amount due for the for the RAFs, plus penalties and interest owed is **\$55,752.48**, and the amount due for penalties for late or unfiled annual reports is **\$13,128.00**, for a combined total amount due of **\$66,880.38**. If payment in the amount of **\$66,880.38** for the RAFs, plus penalties and interest owed for the years 2009-2013 as well as the penalties for the late or unfiled annual reports is not received by **November 20, 2014**, Commission

staff may be forced to open a docket and initiate show cause proceedings against the utility. If Wildwood is ultimately found to be in violation of Commission rules, in addition to being authorized to impose fines of up to \$5,000 for each day the violation continues, the Commission may impose a statutory lien upon the real and personal property of the utility, or revoke the utility's certificate, pursuant to Section 367.161, F.S.

Please note that any enforcement proceedings opened by the Commission against Wildwood will only further complicate the management of this utility. Therefore, your prompt attention to this matter is required.

Should you have questions or comments regarding the matters discussed herein, you may contact me at (850) 413-6076 or [mLawson@psc.state.fl.us](mailto:mLawson@psc.state.fl.us).

Sincerely,



Michael Lawson  
Senior Attorney

MTL/dl

cc: Office of Public Counsel (J.R. Kelly/Stephen C. Reilly)  
Deputy Executive Director, Technical (Harvey)  
Division of Accounting & Finance (Fletcher, Bulecza-Banks, Maurey)  
Division of Economics (Earnhart, McNulty, Shafer, Daniel, Dean)  
Division of Engineering (Rieger, Vickery, Ballinger)  
Office of the General Counsel (Corbari, Lawson, Teitzman)  
Office of Commission Clerk