

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920609-SU
cause proceedings against EAST) ORDER NO. PSC-92-0798-FOF-SU
NAPLES SEWER TREATMENT) ISSUED: 08/11/92
CORPORATION in Collier County)
for failure to comply with)
1990 annual report requirements)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

East Naples Sewer Treatment Corp. (East Naples or utility) is a Class C utility, serving 4 wastewater customers in Collier County. Based on information in the 1989 annual report, the utility reported wastewater system operating revenues of \$29,503 and operating expenses of \$48,175, resulting in a net operating loss of \$18,672.

East Naples has not filed a timely 1990 annual report, as required by Rule 25-30.110, Florida Administrative Code. Rule 25-30.110, Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31st each year to file an annual report on or before March 31st of the following year. Requests for extension must be in writing and must be filed before March 31st. One extension of 30 days is automatically granted. Longer extensions 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 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 25-30.110(7), Florida Administrative Code, for Class C utilities is \$3 per day. The penalty calculation is based on the number of days elapsed since March 31, or the approved extension date and the actual date of filing. The date of filing is included in computing the number of

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days elapsed. The Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

The utility did not request an extension of time within which to file the 1990 annual report. A certified letter was sent to the utility on May 20, 1991, indicating that the 1990 annual report had not been received.

The utility continues to be in violation of the filing requirement. As of the date of our Agenda Conference, July 21, 1992, the 1990 report was 464 days late and the appropriate penalty, computed according to Rule 25-30.110, Florida Administrative Code, is \$1,392.

Based on the foregoing, it appears that East Naples has failed to comply with the 1990 annual report requirements and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we find it appropriate to order East Naples to show cause within 20 days why it should not be fined \$1,392 for its failure to comply with Rule 25-30.110, Florida Administrative Code. If East Naples fails to file a timely response to this show cause order, we hereby deem the fine of \$1,392 to be levied, pursuant to the above-cited rule.

If East Naples fails to respond to reasonable collection efforts by this Commission, we deem the fine to be uncollectible and hereby authorize referral of this matter to the Comptroller's Office for further collection efforts based on this Commission's finding that, under the aforesaid circumstances, further collection efforts by this Commission would not be cost effective. Two certified letters requesting payment shall constitute reasonable collection efforts. After referral to the Comptroller's Office, this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that East Naples Sewer Treatment Corporation shall show cause, in writing, why it should not be fined \$1,392 for filing a delinquent 1990 annual report. It is further

ORDERED that East Naples Sewer Treatment Corporation's written response must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 31, 1992. It is further

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ORDERED that East Naples Sewer Treatment Corporation's response must contain specific allegations of fact and law. It is further

ORDERED that East Naples Sewer Treatment Corporation's opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission, as required under Rule 25-30.110(6)(c), Florida Administrative Code. It is further

ORDERED that a failure to file a timely response to this show cause order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that if East Naples Sewer Treatment Corporation files a written response that raises material questions of fact and requests a hearing pursuant to section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that if East Naples Sewer Treatment Corporation fails to file a timely response to this show cause order, the fine of \$1,392 is deemed levied, pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if the fine of \$1,392 is levied and East Naples Sewer Treatment Corporation does not remit payment after reasonable collection efforts, we deem the fine to be uncollectible and authorize referral to the Comptroller's Office for further disposition and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 11th day of August, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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