

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 920559-WS
proceedings against Heritage) ORDER NO. PSC-92-0928-FOF-WS
Wood 'N Lakes Estates, a) ISSUED: 09/03/92
Division of Sunshine State)
Service Corporation, 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:

Heritage Wood 'N Lakes Estates (Heritage) is a Division of Sunshine State Service Corporation, a wholly owned corporation of the Resolution Trust Corporation (RTC or utility). RTC, owner of Heritage, is a Class C utility, serving 79 water and wastewater customers in Sumter County. RTC has not filed its 1990 annual report as required by Rule 25-30.110, Florida Administrative Code. On May 20, 1991, we sent the utility a certified letter stating that RTC had not filed its 1990 annual report, and that if the report was not filed before May 30, 1991, RTC would be subject to the initiation of show cause proceedings and penalties. No response was received from RTC.

In our research of the history of this utility, we found that the utility was acquired by Freedom Federal Savings and Loan of Tampa, (Freedom) through foreclosure. Thereafter, in October 1989, Freedom was acquired by the RTC, which acted as conservator, while Sunshine State Service Corporation, a subsidiary of RTC, assumed operations for Freedom.

RTC sold the utility in April 1991, to EGR Enterprises, Inc. (EGR), d/b/a Wildwood Estates. The change in ownership from Heritage to RTC was not discovered by the Commission until the utility was contacted concerning the failure to file its 1990 annual report. Since the Commission was not made aware of the foreclosure and acquisition of Heritage by RTC until after EGR had

DOCUMENT NUMBER-DATE

10110 SEP -3 1992

PSC-RECORDS/REPORTS

purchased it from RTC, the utility's water and wastewater certificates were never transferred to RTC. Thereafter, in Order No. PSC-92-0335-FOF-WS, issued May 11, 1992, the Commission approved the transfer of Certificates Nos. 523-W and 457-S from Heritage to EGR. Order No. PSC-92-0335-FOF-WS states that RTC has neither paid its 1990 regulatory assessment fees nor filed its 1990 annual report.

Rule 25-30.110(3), Florida Administrative Code, states that:

The obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate.

Since RTC owned the utility on December 31, 1990, RTC is required to file the 1990 annual report, in accordance with Rule 25-30.110(3), Florida Administrative Code. Rule 25-30.110, Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31 each year to file an annual report on or before March 31 of the following year. Requests for extension must be in writing and must be filed before March 31. One extension of thirty days is automatically granted. Longer extensions may be granted upon showing of good cause. Incomplete or incorrect reports are considered delinquent, with a thirty-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 days elapsed. The Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

As of the date of our vote at the Agenda Conference, held on August 18, 1992, the 1990 report was 506 days late and the appropriate penalty, computed according to Rule 25-30.110, Florida Administrative Code, was \$1,518.

DOCKET NO. 920559-WS
ORDER NO. PSC-92-0928-FOF-WS
PAGE 3

In consideration of the foregoing, it appears that RTC has failed to comply with the 1990 annual report requirements, and is in violation of Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order RTC to show cause, in writing, within twenty days, why it should not be fined \$1,518 for its failure to comply with Rule 25-30.110, Florida Administrative Code.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$1,518 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to the show cause order shall both constitute an admission of the facts alleged and waive any right to a hearing.

If RTC 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 would not be cost effective. Reasonable collection efforts shall consist of two certified letters requesting payment. If, however, the utility responds to the show cause by remitting the \$1,518 penalty, no further action is required.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Heritage Wood 'N Lakes Estates, a Division of Sunshine State Service Corporation, a wholly owned corporation of the Resolution Trust Corporation (RTC) shall show cause, in writing, within twenty days, why it should not be fined \$1,518 for failure to file its 1990 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that RTC'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 September 23, 1992. It is further

ORDERED that RTC's response must contain specific allegations of fact and law. It is further

ORDERED that RTC's opportunity to file a written response shall constitute its opportunity to be heard prior to final

DOCKET NO. 920559-WS
ORDER NO. PSC-92-0928-FOF-WS
PAGE 4

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, in the event that RTC files a written response which 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 the utility fails to timely respond to the show cause, the penalty of \$1,518 shall be imposed without further action by this Commission. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fines shall be forwarded to the Comptroller's office and the docket shall be closed. It is further

ORDERED that if the utility responds to the show cause by remitting the penalty, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 3rd day of September, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay DeLeon
Chief, Bureau of Records

LAJ