

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920774-SU
cause proceedings against) ORDER NO. PSC-92-1040-FOF-SU
NAPLES MOBILE ESTATES, INC. in) ISSUED: 09/23/92
Collier County for failure to)
remit penalty fee for filing)
delinquent 1990 annual report)
_____)

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:

Naples Mobile Estates, Inc. (Naples or utility) is a Class C utility, serving 2 wastewater customers in Collier County. Based on information in the 1990 annual report, the utility reported wastewater system operating revenues of \$41,520 and operating expenses of \$38,101, resulting in a net operating income of \$3,419.

Naples filed a delinquent 1990 annual report, in violation of 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)(a), 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 31st, 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. This Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

Naples filed a delinquent 1990 annual report. Regarding the 1990 report, on May 20, 1991, a certified letter was sent to the utility indicating that it was in violation of Rule 25-30.110, Florida Administrative Code. We informed the utility that it was accruing penalties by failing to timely file its 1990 annual report. Also, we informed the utility that show cause proceedings would be initiated, and fines could be assessed in excess of the daily rate if the annual report was not filed on or before May 30, 1991.

On August 19, 1991, the 1990 annual report was received, along with a letter from the utility which requested that any penalties for late filing be waived due to the former president's severe illness and the difficulties experienced in obtaining information from the utility's new purchaser.

On February 11, 1992, we informed the utility by letter that as a result of the late filing of the annual report, the utility had been assessed a penalty of \$423, due to 141 days delinquency subject to \$3 per day. We requested that payment of \$423 be made on or before March 12, 1992. We also warned the utility that failure to make said payment may result in additional fines being levied. Naples has failed to respond to the request for payment to date.

In consideration of the foregoing, it appears that 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 hereby order Naples to show cause, in writing, within 20 days why it should not remit the assessed fine of \$423 for filing a delinquent 1990 annual report.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$423 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 constitute both an admission of the facts alleged and a waiver of any right to a hearing.

If 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. Reasonable collection efforts shall consist of two certified letters requesting payment.

If, however, the utility responds to the show cause by remitting the \$423 penalty, no further action is required, and this docket shall be closed administratively.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Naples Mobile Estates, Inc., in Collier County, shall show cause, in writing, within twenty days, why it should not be fined \$423 for failure to file its 1990 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that Naples Mobile Estates, Inc.'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 October 13, 1992. It is further

ORDERED that Naples Mobile Estates, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Naples Mobile Estates, Inc.'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 in the event that Naples Mobile Estates, Inc. 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

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ORDERED that if Naples Mobile Estates, Inc. fails to file a timely response to this show cause order, the fine of \$423 shall be imposed, pursuant to Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fine shall be forwarded to the Comptroller's Office and this 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 23rd day of September, 1992.


STEVE TRIBBLE, Director
Division of Records and Reporting

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