

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Show Cause) DOCKET NO. 940041-SU
Proceedings Against NORTH MARCO) ORDER NO. PSC-94-0511-FOF-SU
UTILITY COMPANY, INC. in Collier) ISSUED: April 27, 1994
County for Failure to Remit)
Penalty Fee for Filing)
Delinquent 1991 Annual Report)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

North Marco Utility Company, Inc. (North Marco or utility), is a Class C utility, serving 25 wastewater customers in Collier County. Based on information in the 1991 annual report, the utility reported wastewater system operating revenues of \$115,802 and operating expenses of \$137,201, resulting in a net operating loss of \$21,399.

North Marco filed a delinquent 1991 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 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 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.

North Marco, a Class C utility, filed a delinquent 1991 annual report. On March 25, 1993, we mailed a certified letter to Mr. Wayne K. Hesson, the utility's accountant, informing him that the utility filed its 1991 annual report on May 5, 1992, 35 days after the due date of March 31, 1992, and the resulting fine would be \$105, (35 days x \$3 per day). In the letter, we requested that the \$105 fine be paid on or before April 24, 1993. North Marco has failed to respond to our request for payment to date.

In consideration of the foregoing, it appears that North Marco has failed to comply with Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order North Marco to show cause, in writing, within twenty days, why it should not be fined \$105 for its failure to timely file its 1991 annual report.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$105 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 a waiver of right to a hearing.

If North Marco fails to respond to reasonable collection efforts by this Commission, we deem the fines 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 \$105 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 North Marco Utility Company, Inc., in Collier County, shall show cause, in writing, within twenty days why it should not be fined \$105 for failure to timely file its 1991 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

ORDERED that North Marco Utility Company, Inc.'s, written response must be received by the Director, Division of Records and

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Reporting, 101 East Gaines Street, Tallahassee, Florida, 32399-0870, by the close of business on May 17, 1994. It is further

ORDERED that North Marco Utility Company, Inc.'s, response must contain specific allegations of fact and law. It is further

ORDERED that North Marco Utility Company, 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 North Marco Utility Company, 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

ORDERED that if the utility fails to timely respond to the show cause, the penalty of \$105 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 27th day of April, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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