

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities. DOCKET NO. 041252-WS
ORDER NO. PSC-05-0063-FOF-WS
ISSUED: January 19, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF ADOPTION OF RULE

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted the amendments to Rule 25-30.120, Florida Administrative Code, relating to regulatory assessment fees; water and wastewater utilities without changes.

The rule was filed with the Department of State on January 14, 2005 and will be effective on February 3, 2005. A copy of the rule as filed with the Department is attached to this Notice.

This docket is closed upon issuance of this notice.

By ORDER of the Florida Public Service Commission this 19th day of January, 2005.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

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25-30.120 Regulatory Assessment Fees; Water and Wastewater Utilities.

(1) As applicable and as provided in s. 350.113, F.S., each utility shall remit a fee based upon its gross operating revenue. This fee shall be referred to as a regulatory assessment fee. Each utility shall pay a regulatory assessment fee in the amount of 0.045 of its gross revenues derived from intrastate business. The gross revenues reported for regulatory assessment fee purposes must agree with the amount reported as operating revenue on Schedule F-3 of the Operating Statement in the company's Annual Report, filed in accordance with Rule 25-30.110, F.A.C. A minimum annual regulatory assessment fee of \$25 shall be imposed if there are no revenues or if revenues are insufficient to generate a minimum annual fee.

(2) The obligation to remit the regulatory assessment fees for any year shall apply to any utility ~~that~~ ~~which~~ is subject to this Commission's jurisdiction on or before December 31 of that year or for any part of that year, whether or not the utility has actually applied for or been issued a certificate.

(a) For large utilities with annual revenues of \$200,000 or more based on the most recent prior calendar year, ~~r~~Regulatory assessment fees shall be filed with the Commission on or before July 30 for the preceding period or any part of the period from January 1 until June 30, and on January 30 for the preceding period or any part of the period from July 1 until March 31 ~~for the preceding year ended~~ December 31. Commission Form PSC/ECR ~~CCA~~ 10-WL (02/05) entitled "Large Water System Regulatory Assessment Fee Return" and Commission Form PSC/ECR ~~CCA~~ 017-WL (02/05) entitled "Large Wastewater System Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services. The failure of a

utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory assessment fees.

(b) For small utilities with annual revenues of less than \$200,000 based on the most recent prior calendar year, regulatory assessment fees shall be filed with the Commission on or before March 31 for the preceding year ended December 31. Commission Form PSC/ECR 010-WS (02/05) entitled "Small Water System Regulatory Assessment Fee Return" and Commission Form PSC/ECR 017-WS (02/05) entitled "Small Wastewater System Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services. The failure of a utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory fees.

(c) For the purpose of this rule, a utility operating both a water system and a wastewater system shall consider each system separately in determining the revenue threshold for filing regulatory assessment fees on either an annual or semi-annual basis.

~~(d)~~ Regulatory assessment fees are considered paid on the date they are postmarked by the United States Postal Service or received and logged in by the Commission's Division of The Commission Clerk and Administrative Services in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage and postmarked no later than the due date.

(3) If the due date falls on a Saturday, Sunday, or a legal holiday, the due date is extended to the next business day. If the fees are sent by registered mail, the date of the registration is the United States Postal Service's postmark date. If the fees are sent by certified mail and the receipt is postmarked by a postal employee, the date on the receipt is the United

States Postal Service's postmark date. The postmarked certified mail receipt is evidence that the fees were delivered.

(4) Each utility shall have up to and including the due date in which to:

(a) Remit the total amount of its fee; or

(b) Remit an amount which the utility estimates is its full fee.

(5) Any utility that purchases water or wastewater treatment from another utility regulated by the Florida Public Service Commission is allowed to deduct the annual expense for purchased water or wastewater treatment from its gross operating revenues before calculating the amount of the regulatory assessment fees due.

(6) A utility may request from the Division of the Commission Clerk and Administrative Services either a 15-day extension or a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return. Commission Form PSC/CCA 124 (Rev. 01/01/05), entitled "Regulatory Assessment Fee Extension Request", is incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services.

(a) The request for extension will be granted if the utility has applied for the extension within the time required in (b) below and the utility does not have any unpaid regulatory assessment fees, penalties or interest due from a prior period. ~~must be written and accompanied by a statement of good cause.~~

(b) The request for extension must be received by the Division of the Commission Clerk and Administrative Services at least two weeks before the due date.

(c) Where a utility receives either a 15-day extension or a 30-day extension of its due date pursuant to this rule, the utility shall remit a charge in addition to the regulatory assessment fee set out in Section 350.113, F.S.

(7) The delinquency of any amount due to the Commission from the utility pursuant to the provisions of Section 350.113, F.S., and this rule, begins with the first calendar day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) Pursuant to Section 350.113, F.S., a penalty shall be assessed against any utility that fails to pay its regulatory assessment fee by March 31, in the following manner:

1. Five percent of the fee if the failure is for not more than 30 days, with an additional five 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.

2. The amount of interest to be charged is one percent for each thirty days or fraction thereof, not to exceed a total of 12 percent per annum.

(b) 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.

(8) Any utility ~~that~~ which requests and receives an extension of not more than 30 days or remits, by the due date, an estimated fee payment of at least 90 percent of the actual fee due shall not be charged interest or penalty on the balance due if paid within the extension period.

(9) Any utility ~~that~~ which fails to pay a penalty within 30 days after its assessment by the Commission shall be subject to interest applied to the penalty up to and including the date of

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payment of the penalty. Such interest shall be compounded monthly, based on the 30-day commercial paper rate for high-grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000 as regularly published in the Wall Street Journal.

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 367.145, 367.161 FS.

History—New 05-18-83, Formerly 25-10.24, Amended 10-16-86, Formerly 25-10.024, Amended 11-09-86, 02-08-90, 07-08-96, _____