

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. | DOCKET NO. 050378-TP  
ORDER NO. PSC-05-0928-FOF-TP  
ISSUED: September 19, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
LISA POLAK EDGAR


NOTICE OF ADOPTION OF RULE

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted the amendments to Rule 25-4.0161, Florida Administrative Code, relating to penalties for delinquent payment of regulatory assessment fees by telecommunications companies without changes.

The rule amendments were filed with the Department of State on September 16, 2005 and will be effective on October 6, 2005. A copy of the rule as filed with the Department is attached to this Notice.

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

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

(SEAL)

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25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) As applicable and as provided in Sections 350.113, 364.02(13) and 364.336, Florida Statutes, each company shall remit a fee based upon its gross operating revenue as provided below. This fee shall be referred to as a regulatory assessment fee, and each company shall pay a regulatory assessment fee in the amount of 0.0020 of its gross operating revenues derived from intrastate business. For the purpose of determining this fee, each telecommunications company shall deduct from gross operating revenues any amount paid to another telecommunications company for the use of any telecommunications network to provide service to its customers. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee of \$50 shall be imposed.

(2) Telecommunications companies that owed gross regulatory assessment fees of \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate form twice a year. The regulatory assessment fee and appropriate form shall be filed no later than July 30 for the preceding period of January 1 through June 30, and no later than January 30 of the following year for the period of July 1 through December 31. Telecommunications companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding calendar year shall pay the fee and remit the appropriate form once a year. The regulatory assessment fee and appropriate form shall be filed no later than January 30 of the subsequent year for the current calendar year operations.

(3) If the due date falls on a Saturday, Sunday, or 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. 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.

(4) Commission Form PSC/CMP 25 (01/05), entitled "Local Exchange Company Regulatory Assessment Fee Return"; Form PSC/CMP 26 (01/05), entitled "Pay Telephone Service Provider Regulatory Assessment Fee Return"; Form PSC/CMP 34 (01/05), entitled "Shared Tenant Service Provider Regulatory Assessment Fee Return"; Form PSC/CMP 153 (01/05), entitled "Interexchange Company Regulatory Assessment Fee Return"; Form PSC/CMP 1 (01/05), entitled "Alternative Access Vendor Regulatory Assessment Fee Return"; and Form PSC/CMP 7 (01/05), entitled "Competitive Local Exchange Company 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.

(5) Each telecommunications company shall have up to and including the due date in which to submit the applicable form and:

- (a) Remit the total amount of its fee, or
- (b) Remit an amount which the company estimates is its full fee.

(6) Where the company remits less than its full fee, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less than 90 percent of the total regulatory assessment fee, include interest as provided by paragraph (8)(b) of this rule.

(7) A company may request from the Division of the Commission Clerk and Administrative Services a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return form.

(a) The request for extension must be submitted on Form PSC/CCA 124 (01/05) and will be granted if the company has applied for the extension within the time required in paragraph (b) below and the company does not have any unpaid regulatory assessment fees, penalties or interest due from a prior year. Form PSC/CCA 124 (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.

(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 telecommunications company receives an extension of its due date pursuant to this rule, the telecommunications company shall remit a charge in addition to the regulatory assessment fees, as set out in Section 350.113(5), Florida Statutes.

(d) The return forms may be obtained from the Commission's Division of the Commission Clerk and Administrative Services. The failure of a telecommunications company to receive a return form shall not excuse the company from its obligation to timely remit the regulatory assessment fees.

(8) The delinquency of any amount due to the Commission from the telecommunications company pursuant to the provisions of Section 350.113, Florida Statutes, 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) A penalty, as set out in Section 350.113, Florida Statutes, shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

(9) The Division of the Commission Clerk and Administrative Services shall send by certified mail a regulatory assessment fee delinquency notice to any company that fails to file a regulatory assessment fee return and that fails to pay the regulatory assessment fee by the date specified in subsection (2), unless the company has met the requirements of subsections (6) and (7).

(10) If a company fails to pay the regulatory assessment fee within 15 days after receiving a delinquency notice, the Division of the Commission Clerk and Administrative Services, in cooperation with the Division of Competitive Markets and Enforcement and the Office of General Counsel, will establish a docket and administratively issue a Notice of Proposed Agency Action Order Imposing Penalties and Collection Costs, and Requiring Payment of Delinquent Regulatory Assessment Fees, or Cancelling Certificates or Removing From the Register for Violation of Rule 25-4.0161, Florida Administrative Code, and Section 364.336, Florida Statutes. The company must pay the past due regulatory assessment fees, the penalty and interest for late payment as provided in Section 350.113, Florida Statutes, and as stated in subsection (8) above, and must also pay the applicable penalty stated in subsection (11) for failure to file the regulatory assessment fee return.

(11) Pursuant to Section 364.285, Florida Statutes, the Commission has the authority to impose a penalty or cancel a certificate or registration if a company refuses to comply with Commission rules, orders, or Florida Statutes. The penalty, which will include collection costs,

for failure to file the regulatory assessment fee return by the date stated in the delinquency notice shall be as follows:

- (a) First violation – \$500
- (b) Second violation – \$1,000
- (c) Third violation – \$2,000

Failure of the company to pay the full amount due and stated in the Notice of Proposed Agency Action will result in the cancellation of the company's Certificate of Public Convenience and Necessity, or will result in the cancellation of the company's tariff and removal of its name from the Commission's register, whichever is applicable.

(12) For a company's fourth failure to pay the regulatory assessment fee after being sent a delinquency notice, Commission staff shall file a recommendation to the Commission for further action.

(13) A company that reapplies for a Certificate of Public Convenience and Necessity, or refiles for registration, must pay all prior unpaid regulatory assessment fees, plus the penalty and interest defined in subsection (8), and any prior unpaid penalty assessed in accordance with subsection (10).

Specific Authority 350.127(2) FS.

Law Implemented 350.113, 364.285, 364.336 FS.

History—New 5-18-83, Formerly 25-4.161, Amended 10-19-86, 1-1-91, 12-29-91, 1-8-95, 12-26-95, 7-7-96, 11-11-99, 12-7-04 \_\_\_\_\_.