

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Regulatory Assessment Fee installment payment plan by Water Management Services, Inc.	DOCKET NO. 110237-WS ORDER NO. PSC-11-0440-FOF-WS ISSUED: October 3, 2011
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The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

ORDER APPROVING REGULATORY ASSESSMENT FEE
INSTALLMENT PAYMENT PLAN

BACKGROUND

BY THE COMMISSION:

Water Management Services, Inc., (WMSI or Utility) is a Class "A" water utility providing service to approximately 1,808 customers in Franklin County. WMSI reported gross revenues of \$645,747 in its estimated 2011 regulatory assessment fee return and, as a result, the Utility owes approximately \$29,059 in regulatory assessment fees (RAFs) for the period of January 1, 2011, through June 30, 2011. By a motion¹ filed on June 8, 2011, WMSI requested a payment plan for the amount owed. On June 17, 2011, the Office of Public Council (OPC) filed a response to WMSI's motion. On August 30, 2011, WMSI submitted its first payment of \$7,556, pursuant to its requested payment plan.

We have jurisdiction over this matter pursuant to Sections 350.113 and 367.145, Florida Statutes (F.S.).

DECISION

On June 8, 2011, WMSI filed a motion requesting a payment plan for its regulatory assessment fee that had a due date of August 1, 2011.² WMSI requested a payment plan with five equal installments, beginning August 31, 2011. WMSI's motion stated that the Utility is

¹ The motion requesting the payment plan was originally filed in Docket No. 100104-WU, In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.

² WMSI RAF's payment due date was July 30, a Saturday. Pursuant to Rule 25-30.120(3), Florida Administrative Code (F.A.C.), if the due date falls on a Saturday, Sunday, or a legal holiday, the due date is extended to the next business day, which in this case is, Monday, August 1.

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currently suffering severe financial hardship and would not be able to pay the fees by the due date. In 2010, the Utility faced similar circumstances, and requested an automatic extension of 30 days. We approved the automatic extension because there were no outstanding payments for the previous five years, including penalties and interest. The 2010 payment was made within the extension period. The Utility is also current on its Annual Reports.

Rule 25-30.120(1), F.A.C., requires utilities to pay a regulatory assessment fee in the amount of 4.5 percent of gross revenues for the entire year. Rule 25-30.120(2)(a), F.A.C., provides, in part, that:

. . . 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 December 31. Commission Form PSC/ECR 10-WL (02/05) entitled "Large Water System Regulatory Assessment Fee Return" . . . [is] incorporated into this rule by reference.

If the due date falls on a Saturday, Sunday, or a legal holiday, the due date is extended to the next business day, pursuant to Rule 25-30.120(3), F.A.C. Pursuant to Section 350.113(4), F.S., and Rule 25-30.120(7), F.A.C., if a utility fails to timely pay the regulatory assessment fee, the utility will be assessed a penalty and charged an interest. These provisions were previously used to bar waiver of regulatory assessment fees, penalties, and interest, but not to preclude a reasonable payment schedule to redress a utility's delinquency.³ Rule 25-30.120(6)(a), F.A.C., provides that "[t]he request for extension will be granted if the utility has applied for the extension within the time required . . . and the utility does not have any unpaid regulatory assessment fees, penalties, or interest due from a prior period."

WMSI provided a cash flow analysis filed as Document No. 03960-11 on June 8, 2011, in Docket No. 100104-WU, as evidence of its financial difficulties. OPC responded, stating that it did not disagree with the extension, but that it did not believe that the cash flow analysis was a basis to grant it. The cash flow analysis and other issues will be addressed in Docket No. 100104-WU.

On August 1, 2011, the Utility submitted an "Estimated Return" for the six-month period from January 1 through June 30. According to Form PSC/ECR 10-WL (205), a utility may receive an automatic 30-day extension to file an actual return by checking the "Estimated Return" space in the top left-hand corner of the form, and including the estimated payment. For the first six months, WMSI estimated gross revenues were \$645,747 for water. As a result,

³See Order Nos. 24290, issued March 26, 1991, in Docket No. 900961-SU, In re: Request for waiver of penalty and interest added to regulatory assessment fees for 1989, by St. George Island Utility Company, Ltd., in Franklin County; PSC-95-1514-FOF-WS, issued December 6, 1995, in Docket No. 951244-WS, In re: Request for Establishment of Payment Plan for Delinquent 1992 and 1994 Regulatory Assessment Fees in Martin County by Fisherman's Cove of Stuart, Inc.; PSC-94-1464-FOF-WU, issued November 29, 1994, in Docket No. 940974-WU, In re: Application for a staff-assisted rate case in Putnam County by Landis Enterprises, Inc.; PSC-04-0615-FOF-WU, issued June 21, 2004, in Docket No. 040248-WU, In re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.

WMSI owes RAFs of \$29,059, and interest and penalties as outlined below. While WMSI filed the estimated return, no payment was made, and an automatic extension only applies where at least 90 percent of the payment due has been made with the estimated return, as stated in Section 350.113(5), F.S. Because no payment was made, the automatic extension does not apply in this case.

Interest and penalties are calculated based on Chapter 350.113(4), F.S., and Rule 25-30.120(7)(a), F.A.C. Chapter 350.113(4), F.S., provides, in part, that:

If any regulated company fails to pay the required fee by [the due date], the Commission . . . shall add 5 percent of such amount to the fee as a penalty if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during the time in which the failure continues

Additionally, interest of one percent for each thirty days or fraction thereof is charged, not to exceed a total of 12 percent per annum, as stated in Rule 25-30.120(7)(a)2., F.A.C. Waiver of fees, penalties, and interest is not discretionary.

The due dates set out below minimize the amounts of penalties and interest WMSI is required to pay, which are calculated based on the outstanding balance for 30-day periods, and not months. Where the due dates fall on a weekend, the due date is not adjusted to the next business day; payment must be made no later than the due date. Any late payment will result in additional penalties and interest, even if only one day late. Larger principal payments, if timely made, may reduce the penalties and interest.

Due Date 2011	August 31 ⁴	September 30	October 30	November 29	December 29
RAF Installment	\$5,812	\$5,812	\$5,812	\$5,812	\$5,812
Penalties @ 5% per month	\$1,453	\$1,162	\$872	\$581	\$291
Interest @ 1% per month	\$291	\$232	\$174	\$116	\$58
Total Payment	\$7,556	\$7,206	\$6,858	\$6,509	\$6,161

We find it appropriate to approve WMSI's request for an installment payment plan for its RAF fees that were due on August 1, 2011. The outstanding RAF fees shall be paid by December 31, 2011, at a minimum of \$5,812 per month, and penalties and interest, until all fees

⁴ The first payment was made, postmarked August 30, 2011, in the amount of \$5,812.48, with a penalty of \$1,452.93 and interest of \$290.59.

for the first six-month period for 2011 have been paid. Subsequent to the first payment that was made on August 30, 2011, payments should be made, at a minimum, in accordance with the established schedule.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Water Management Services, Inc.'s request for a regulatory assessment fee installment payment plan for its RAF fees that were due on August 1, 2011, is hereby approved. It is further

ORDERED that the outstanding RAF fees shall be paid by December 31, 2011, at a minimum of \$5,812 per month, and penalties and interest, until all fees for the first six-month period for 2011, have been paid. It is further

ORDERED that subsequent to the first payment that was made on August 30, 2011, payments should be made, at a minimum, in accordance with the established schedule in this Order. It is further

ORDERED that where the due dates fall on a weekend, the due date is not adjusted to the next business day. Payment must be made no later than the due date. Any late payments will result in additional penalties and interest, even if only one day late. Larger principal payments, if timely made, may reduce the penalties and interest. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 3rd day of October, 2011.



ANN COLE
Commission Clerk
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PER

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.