

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Regulatory Assessment Fee
installment payment plan by Water
Management Services, Inc.

DOCKET NO. 120031-WS
ORDER NO. PSC-12-0174-FOF-WS
ISSUED: April 2, 2012

The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING REGULATORY ASSESSMENT FEE
INSTALLMENT PAYMENT PLAN

BY THE COMMISSION:

Case Background

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 2011 gross operating revenues of \$1,384,769. For the January 1 through June 30, 2011 period, WMSI reported revenues of \$645,747, which resulted in regulatory assessment fees (RAFs) of \$29,060. WMSI requested, and was granted, a payment schedule for the January 1 through June 30, 2011 period.¹ WMSI made timely payments and paid the outstanding RAFs balances in accordance with the approved payment schedule.

WMSI reported gross operating revenues of \$739,022 for the July 1 through December 31, 2011 period resulting in RAFs of \$33,255. On January 25, 2012, WMSI filed a petition requesting a payment plan for the outstanding RAFs of \$33,255. WMSI submitted a payment of \$6,651 on January 30, 2012. The outstanding RAFs balance was \$26,604, plus penalties and interest, for the July 1 through December 31, 2011 period after the January 30, 2012 payment. WMSI also made a payment in February 2012, including the penalty and interest for the February. WMSI has paid \$14,898 for January and February, and the outstanding RAFs balance is approximately \$19,953 plus penalties and interest.

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

¹ See Order No. PSC-11-0440-FOF-WS, issued October 3, 2011, in Docket No. 110237-WS. In re: Request for Regulatory Assessment Fee installment payment plan by Water Management Services, Inc.

FILED

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

Analysis

On January 25, 2012, WMSI filed a petition requesting a payment plan for its RAFs that were due on January 30, 2012. WMSI requested a payment schedule with five equal installments, beginning February 29, 2012. WMSI stated that it would comport to any payment schedule offered as demonstrated by its prior adherence to other payment schedules. For example, in 2010, WMSI's request for a 30-day automatic extension to pay its RAFs was approved because there were no outstanding payments for the previous five years, including penalties and interest. WMSI made the 2010 payment within the extension period. In addition, we approved WMSI's request for a payment schedule for its January 1 through June 30, 2011 RAFs, and WMSI made all payments in a timely manner. WMSI is also current on the filing of its Annual Report.

Rule 25-30.120(1), Florida Administrative Code (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

For RAFs payment, 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. If a utility fails to timely pay the RAFs pursuant to Rule 25-30.120(1), F.A.C., a penalty will be assessed and interest charged, in accordance with Section 350.113(4), F.S., and Rule 25-30.120(7), F.A.C. These provisions may be used to bar waiver of RAFs, penalties, and interest, but do not preclude a reasonable payment schedule to redress a utility's delinquency.²

Rule 25-30.120(6)(a), F.A.C., provides in part 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 applied for a payment schedule in a timely manner and has no outstanding RAFs, penalties, or interest due from a prior period.

² See 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-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-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.; and 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.

On January 30, 2012, WMSI filed an “Actual Return” for the period of January 1 through December 31, 2011. WMSI’s actual annual gross revenues for water were \$1,384,769, which includes the first six-month period from January 1 through June 30 estimated revenues of \$645,747. This resulted in gross revenues for the last six-month period from July 1 through December 31 of \$739,022. The total actual RAFs for the year totaled \$62,315, which included \$29,060 for the first six-month period. As a result, WMSI’s RAFs is \$33,255 plus interest and penalties as outlined below. WMSI filed its actual return with a payment of \$6,651 for its RAFs.

Interest and penalties are calculated based on Chapter 350.113(4), F.S., and Rule 25-30.120(7)(a), F.A.C., which 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, not to exceed a total penalty of 25 percent.

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. Neither the Florida Statutes nor this Commission’s rules provide this Commission with the discretion to waive fees, penalties, and interest, and our staff calculated the fees and penalties as outlined below. The established due dates minimize the amounts of penalties and interest, which are calculated on the outstanding balance based on 30-day periods, not months. Where due dates fall on a weekend, the due date is not adjusted to the next business day and 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.

Due Date 2012	January 30 ³	February 29	March 30	April 30	May 30
RAF Installment	\$6,651	\$6,651	\$6,651	\$6,651	\$6,651
Penalties @ 5% per month	\$0	\$1,330	\$998	\$665	\$333
Interest @ 1% per month	\$0	\$266	\$200	\$133	\$67
Total Payment	\$6,651	\$8,247	\$7,849	\$7,449	\$7,051

Ruling

WMSI comported with the requirements of the rule in making a timely request for the extension and in paying all its past RAFs. Therefore, we find it appropriate to approve WMSI’s petition for a payment plan for its RAFs due on January 30, 2012. The RAFs shall be paid by

³ The company has paid for January and February a total of \$14,898, which include the penalty and interest for the February payment. The outstanding RAFs balance after the January and February payments is approximately \$19,953, plus penalties and interest.

May 30, 2012, at a minimum of \$6,651 per month, plus penalties and interest, until all fees for the second six-month period for 2011 have been paid. Subsequent to the first payment that was made on January 30, 2012, 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 an installment payment plan for its regulatory assessment fees that were due on January 30, 2012, is hereby approved. It is further

ORDERED that the outstanding regulatory assessment fees shall be paid by May 30, 2012, at a minimum of \$6,651 per month, plus penalties and interest, until all fees for the second six-month period for 2011, have been paid. It is further

ORDERED that subsequent to the payments already made, payments shall be made, at a minimum, in accordance with the established schedule in this Order. It is further

ORDERED that where the due date falls on a weekend, the due date shall not be adjusted to the next business day. Payments must be made no later than the due dates established in the payment schedule. 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. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 2nd day of April, 2012.



ANN COLE
Commission Clerk
Florida Public Service Commission
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Tallahassee, Florida 32399
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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.