

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-05-0759-NOR-TP  
ISSUED: July 22, 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 RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-4.0161, Florida Administrative Code, relating to penalties for delinquent payment of regulatory assessment fees by telecommunications companies.

The attached Notice of Rulemaking will appear in the August 29, 2005 edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than August 19, 2005.

By ORDER of the Florida Public Service Commission this 22nd day of July, 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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NOTICE OF PROPOSED RULEMAKING  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050378-TP

RULE TITLE: Regulatory Assessment Fees; Telecommunications Companies  
RULE NO.: 25-4.0161

PURPOSE AND EFFECT: The purpose of the rule amendment is to streamline the process of Regulatory Assessment Fee (RAF) collections by codifying the penalty amount and defining when a penalty will be imposed upon a certificated or registered telecommunications company that fails to pay RAF. The changes should reduce the Commission's cost of collecting RAFs and ensure all certificated and registered companies are treated consistently.

SUMMARY: The rule amendment codifies the procedures to be followed and the penalty amounts to be imposed for a telecommunications company's filing of a regulatory assessment fee return after the due date and after the company has received a delinquency notice.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: It is anticipated that implementation of the rule will result in a decrease in enforcement costs for collection of delinquent RAFs. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), FS

LAW IMPLEMENTED: 350.113, 364.285, 364.336, FS

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE  
SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND

ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE THESE PROPOSED RULE(S) IS:

Christiana T. Moore, Florida Public Service Commission, 2540 Shumard Oak Blvd.,

Tallahassee, Florida 32399-0862, (850) 413-6245, cmoore@psc.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) thru (8) No change.

(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.

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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, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ray Kennedy

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: July 19, 2005.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 31,  
Number 11, March 18, 2005

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).