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GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

February 28, 2013

Patricia Nelson
Deputy Director, Office of Fiscal Accountability and Regulatory Reform
at the Executive Office of the Governor
400 South Monroe Street, The Capitol,
Room 1702, 17th Floor
Tallahassee, FL 32399

RECEIVED-FPSC
13 FEB 28 AM 8:33
COMMISSION
CLERK

RE: Docket No. 130033-PU; Rule 25-30.120, F.A.C.

Dear Ms. Nelson,

The Commission has determined that the above rule will affect small businesses. The proposed rule amendment incorporates Form PSC/AIT 124 (Rev. 04/13) by reference, on which all regulated utility companies must provide a written statement of good cause/reason for requesting an extension of either 15 or 30 days to file their annual Regulatory Assessment Fee Return, in compliance with section 350.113(5), Florida Statutes. Section 350.113(5), Florida Statutes, provides that "[t]he commission, for good cause shown by written request, may extend for a period not to exceed 30 days the time for paying any fee or for filing any report related thereto."

Until now, small water and wastewater utilities were granted automatic 30-day extensions upon request. Accordingly, pursuant to Section 120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice and corrected notice of the proposed rule, which were published in the February 20 and February 22, 2013 editions of the FAR, respectively. Also enclosed is a copy of Form PSC/AIT 124 and the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendment will not have an adverse affect on small business.

If there are any questions with respect to this rule, please contact me at (850) 413-6224 or rgervasi@psc.state.fl.us.

Sincerely,

Handwritten signature of Rosanne Gervasi in black ink.

Rosanne Gervasi
Senior Attorney

Enclosures
cc: Office of the Commission Clerk

DOCUMENT NUMBER - DATE
01037 FEB 28 2013
FPSC-COMMISSION CLERK

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-30.120 Regulatory Assessment Fees; Water and Wastewater Utilities

PURPOSE AND EFFECT: Rule 25-30.120, F.A.C., would be amended to clarify the requirements for requesting an extension of due date for payment of regulatory assessment fees or for filing regulatory assessment fee return forms and to amend the filing forms accordingly. The Regulatory Assessment Fee Extension Request form would also be amended to require a statement of good cause for the extension request, as required by Section 350.113(5), F.S.

Docket No. 130033-PU

SUMMARY: Rule 25-30.120, F.A.C., requires Commission-regulated water and wastewater utilities to remit regulatory assessment fees based upon their gross operating revenues. The rule amendment would include directives for the filing of either a 15-day or a 30-day extension of the due date for the payment of regulatory assessment fees or regulatory assessment fee return form due date, and would provide that requests for extension will not be granted if the company has any unpaid regulatory assessment fees, penalties, or interest due from a prior period. The Regulatory Assessment Fee Extension Request form would require a statement of good cause for the extension request, as required by Section 350.113(5), F.S. The rule is also amended to delete provisions that are no longer necessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 350.127(2), 367.121(1) FS.

LAW IMPLEMENTED: 350.113, 367.145, 367.161 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rosanne Gervasi, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6224, rgervasi@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) As applicable and as provided in Section 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,

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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 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, 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/AFD 10-WL (Rev. 04/13) PSC/ECR-10-WL (02/05) entitled "Large Water Utility System Regulatory Assessment Fee Return" is available at: (hyperlink) and Commission Form PSC/AFD 017-WL (Rev. 04/13) PSC/ECR-017-WL (02/05) entitled "Large Wastewater Utility System Regulatory Assessment Fee Return" is available at: (hyperlink). These forms are incorporated into this rule by reference and may also be obtained from the Division of Administrative and Information Technology 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/AFD 010-WS (Rev. 04/13) PSC/ECR-010-WS (02/05) entitled "Small Water Utility System Regulatory Assessment Fee Return" is available at: (hyperlink) and Commission Form PSC/AFD 017-WS (Rev. 04/13) PSC/ECR-017-WS (02/05) entitled "Small Wastewater Utility System Regulatory Assessment Fee Return" is available at: (hyperlink). These forms are incorporated into this rule by reference and may also be obtained from the Commission's Division of Administrative and Information Technology 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.

(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 Administrative and Information Technology 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 Administrative Services~~ either a 15-day or a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return form by submitting to the Division of Administrative and Information Technology Services Commission Form PSC/AIT 124 (Rev. 04/13) entitled "Regulatory Assessment Fee Extension Request," which is incorporated into this rule by reference and is available at: (hyperlink). This form may also be obtained from the Commission's Division of Administrative and Information Technology Services. Commission Form PSC/ADM 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 Administrative Services.

(a) The request for extension must be received by the Division of Administrative and Information Technology Services at least two weeks before the due date. The request for extension will be granted if the utility has applied for the extension within the time required in paragraph (b) below and the utility does not have any unpaid regulatory assessment fees, penalties or interest due from a prior period.

(b) The request for extension will not be granted if the utility has any unpaid regulatory assessment fees, penalties, or interest due from a prior period. The request for extension must be received by the Division of 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 as set out in Section 350.113(5), F.S., 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 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 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 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.~~

Rulemaking Specific Authority 350.127(2), 367.121(1) FS. Law Implemented 350.113, 367.145, 367.161 FS. History—New 5-18-83, Formerly 25-10.24, Amended 10-19-86, Formerly 25-10.024, Amended 11-10-86, 2-8-90, 7-7-96, 2-3-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cheryl Bulecza-Banks

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 19, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 38, Number 30, July 27, 2012

Notice of Change/Withdrawal

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-30.120 Regulatory Assessment Fees; Water and Wastewater Utilities

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 39, No. 35, February 20, 2013 issue of the Florida Administrative Register.

Docket No. 130033-PU.

The Public Service Commission has corrected the SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION to add the following information:

The SERC examined the factors required by section 120.541(2)(c), F.S., and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that any transactional cost likely to be incurred by individuals and entities, including government entities, required to comply with the rules will be de minimus.

FLORIDA PUBLIC SERVICE COMMISSION

Select
(Type of Industry)

REGULATORY ASSESSMENT FEE EXTENSION REQUEST

(Utility/Company)

(Utility/Co Code)

(FEID No.)

Mailing Address:

This is to request an extension for filing the Regulatory Assessment Fee Return for the above utility/company for the period indicated below:

PERIOD -

15 days to

30 days to

Statement of Good Cause (Reason For Request):

(Signature)

(Title)

(Date)

(Telephone Number)

(FAX Number)

NOTE TO UTILITY/COMPANY

- Your Regulatory Assessment Fee Extension Request form must be filed and received by the Florida Public Service Commission at the address referenced below **BY CLOSE OF BUSINESS ON** before the payment due date of . Once your request is received, you will be notified by fax (or by mail when a fax number is not provided) indicating that your request was approved or denied. **THIS IS NOT AN AUTOMATIC EXTENSION, THEREFORE YOU MUST RECEIVE APPROVAL FROM THE COMMISSION IN ORDER TO RECEIVE AN EXTENSION. See approval criteria on the back of this form.**
- If an extension of 15 days or less is approved, 0.75% of the fee is to be included when making payment.
- If an extension of 16 to 30 days is approved, 1.5% of the fee is to be included when making payment.

FOR PUBLIC SERVICE COMMISSION USE ONLY

Request Approved

Request Denied

The 20__ Regulatory Assessment Fee has not been received.

The 20__ Regulatory Assessment Fee was delinquent. Prior penalty and/or interest has not been received for your 20__ Regulatory Assessment Fee.

The request was received too late for processing.

APPROVED BY:

(Fiscal Services Section Supervisor)

(Date)

If you have questions, please contact a staff member of the Fiscal Services Section: DAVID BROWN, PHONE# 850-413-6267 FAX# 850-413-6268 or write to Division of Administrative & Information Technology Services, Fiscal Services Section, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399.

Criteria for Extension Request

- Form PSC/AIT 124, *Regulatory Assessment Fee Extension Request*, must contain a statement of good cause/reason for extension request. Examples of good cause include reasons such as financial hardship, severe illness, or acts of God; but do not include reasons such as management oversight or vacation time.
- The request for extension must be received by the Division of Administrative & IT Services at least two weeks before the Regulatory Assessment Fee due date.
- The request for extension will not be granted if the utility has any unpaid regulatory assessment fees, penalties, and/or interest due from a prior period(s).
- Please be aware that pursuant to Section 837.06, F.S., whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree.

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 8, 2012
TO: Rosanne Gervasi, Senior Attorney, Office of the General Counsel
FROM: Laura V. King, Economic Analyst, Division of Economics
RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rules 25-6.0131, Florida Administrative Code (F.A.C.), Regulatory Assessment Fees; Investor-Owned Electric Companies, Municipal Electric Utilities, Rural Electric Cooperatives; 25-7.0131, Regulatory Assessment Fees; Gas Utilities, Gas Municipals, and Gas Districts; 25-7.101, Regulatory Assessment Fees (Natural Gas Transmission Companies); 25-30.120, Regulatory Assessment Fees; Water and Wastewater Utilities.

Summary of Rules

Rules 25-6.0131, 25-7.0131, 25-7.101, and 25-30.120, F.A.C., contain the guidelines utilities must follow regarding the fees to be paid (based on gross operating revenues) pursuant to Section 350.113, Florida Statutes (F.S.). These fees are referred to as Regulatory Assessment Fees (RAFs). The rules specifically state when RAFs are due, how they are calculated, how penalties and interest are calculated for late payments, and how a utility may request an extension of time to file its RAF. The intent of the rule amendments is to:

- clarify that an extension request (of either 15 or 30 days) for paying the RAF is not automatic, but requires a written statement of good cause/reason pursuant to Section 350.113(5), F.S.;
- update the applicable forms incorporated in the rules by reference and provide the hyperlinks where the forms may be found;
- specifically state that a request for extension will not be granted if the utility has any unpaid RAFs, penalties, or interest due from a prior period; and,
- make the RAF rules consistent, where possible, across the different industries.

Economic Analysis Showing Whether The Rules Discussed Above Are Likely To Have An Adverse Impact On Either Economic Growth Or Business Competitiveness In Excess Of \$1 Million Within 5 Years

Section 120.541(2)(a)1 requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate

within 5 years after the implementation of the rule. Similarly, Section 120.541(2)(a)2 requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on business competitiveness in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Utilities have been required to pay RAFs, file specific forms, and follow certain procedures for requesting extensions for many years.¹ The proposed rule revisions do not alter these obligations; instead, they clarify existing requirements and amend applicable forms accordingly. As such, the proposed changes are not expected to adversely impact economic growth, private job sector employment, private sector investment, and business competitiveness during the five year period identified in the statute.

Economic Analysis Showing Whether The Rules Discussed Above Are Likely To Increase Regulatory Costs In Excess Of \$1 Million Within 5 Years

Section 120.541(2)(a)3 requires an economic analysis showing whether the draft rule directly or indirectly is likely to increase regulatory cost, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Since the intent of the rule amendments is to clarify existing procedures and requirements and to update existing forms, currently incorporated in the rules by reference, it is unlikely regulatory costs will increase in excess of \$1 million within 5 years.

Estimated Number Of Entities Required To Comply And General Description Of Individuals Affected

Section 120.541(2)(b) requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals anticipated to be affected by the rule. The total number of electric companies required to comply with Rule 25-6.0131, F.A.C., is 58; the total number of gas companies required to comply with Rule 25-7.0131, F.A.C., is 38; the total number of natural gas transmission companies required to comply with Rule 25-7.101, F.A.C., is 2; and the total number of water and wastewater utilities required to comply with 25-30.120, F.A.C., is 148.

Rule Implementation And Enforcement Cost And Impact On Revenues For The Agency And Other State And Local Government Entities

Section 120.541(2)(c) requires a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues. The rule development process includes a sequence of actions by the agency which vary according to the rule being implemented. These steps include rule drafting; a rule development workshop; preparing, filing, and presenting a rule recommendation (including a SERC); Commission consideration of the draft rule recommendation at an Agenda Conference; a rule hearing if one is requested; a possible additional agenda conference for those cases where a rule hearing is conducted or written comments are filed; and ultimately, filing the rule with the Secretary of State. Most of the costs to the agency associated with these rule development actions, including a possible rule hearing, are fixed costs and not likely to be affected substantially for the level of complexity associated with the development of these rules. Enforcement costs with the rule change are also primarily

¹ Rules 25-6.0131, 25-7.0131, and 25-30.120, F.A.C., have been in place since 1983. Rule 25-7.101, F.A.C., was implemented in 1998.

fixed costs and should remain at approximately the same levels as they have been in the past. The impact on state and local government revenue is expected to be nil.

Estimated Transactional Costs To Individuals And Entities

Section 120.541(2)(d) requires a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. The estimated transactional costs to individuals and entities will be de minimus.

Impact On Small Businesses, Small Cities, Or Small Counties

Section 120.541(2)(e) requires an analysis of the impact of the proposed rule change on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. Staff believes the impact of the proposed rule changes on small businesses, small counties, and small cities will be de minimus.

Additional Information Deemed Useful By The Agency

None.

cc: Jim Dean
Connie Kummer
Cheryl Bulecza-Banks
John Slemkewicz
Karen Belcher
ECO SERC File