

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: November 18, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Moore)
Division of the Commission Clerk & Administrative Services (Belcher)
Division of Economic Regulation (Hewitt, Slemkewicz)

RE: Docket No. 041252-WS – Proposed amendment of Rule 25-30.120, F.A.C.,
Regulatory Assessment Fees; Water and Wastewater Utilities.

AGENDA: 11/30/04 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CCA\WP\041252.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission amend Rule 25-30.120, F.A.C., to conform to statutory changes that require large water and wastewater utilities to pay regulatory assessment fees semi-annually; and to codify the standards used to determine whether an extension of time to file a return is granted?

Recommendation: Yes. (Moore, Slemkewicz, Belcher)

Staff Analysis: Rule 25-30.120, F.A.C., currently provides that all water and wastewater utilities, regardless of size, must pay regulatory assessment fees (RAF) no later than March 31 for the preceding year. Section 367.145, Florida Statutes, was amended during the 2004 regular legislative session to provide (by reference to section 350.113, Florida Statutes) that water and wastewater utilities with annual gross operating revenues of \$200,000 or more must pay regulatory assessment fees every six months instead of every 12 months. Smaller utilities will continue to pay their fees once a year. To conform to the statute, staff recommends the Commission amend Rule 25-30.120 and the regulatory assessment fee return forms.

(Attachment 1.) For the large utilities, RAF will be due on January 30 and July 30 of each year for the previous six-month period.

The Commission should also amend the provisions of Rule 25-30.120(6) governing extensions of time to file a RAF return and pay the fees. This will codify the standards that are actually used by staff to determine whether an extension should be granted. Subsection (6) of the rule currently requires companies to submit a statement of good cause for the extension to the Commission. "Good cause" is not defined in the rule, and there is nothing in the rule explicitly stating what reasons justify an extension of time. Staff recommends eliminating the requirement for companies to include a statement of good cause and simply provide that an extension of 30 days will be granted if the company has applied for the extension within the time required (two weeks before the date the return is due) and the company does not have any unpaid regulatory assessment fees, penalties or interest due from a prior year. The Commission recently made this same change to the telecommunications company RAF rule in Docket 040436-TP, In re: Proposed Amendment of Rule 25-4.0161, F.A.C. The form to be used to request an extension of time is attached. (Attachment 2.)

A notice of rule development was published in the July 30, 2004, edition of the Florida Administrative Weekly. No comments were filed and no one requested a workshop.

Statement of Estimated Regulatory Cost:

As a result of the change in law, utilities with revenues of at least \$200,000 per year will earn approximately \$75 less interest per \$200,000 in revenue per year from paying their RAF earlier. (See Attachment 3.)

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rules as proposed should be filed for adoption with the Secretary of State and the docket closed. (Moore)

Staff Analysis: Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

CTM