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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 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), FS. Docket No. 130033-PU

SUMMARY: Rule 25-30.120 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), FS. 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, 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.

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(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

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**Notices Submitted to/Confirmed by Administrative Code & Register Staff**

Notices Confirmed by ACR

**Notices Submitted to ACR**

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
 <a href="#">12666471</a>	25-30.120	Regulatory Assessment Fees; Water and Wastewater Utilities	Proposed	2/20/2013 Vol. 39/35	2/19/2013
<a href="#">12666180</a>	25-7.0131,...	Regulatory Assessment Fees; Gas Utilities, Gas Municipals, and Gas Districts, Regulatory Assessment Fees	Proposed	2/20/2013 Vol. 39/35	2/19/2013
<a href="#">12665695</a>	25-6.0131	Regulatory Assessment Fees; Investor-owned Electric Companies, Municipal Electric Utilities, Rural Electric Cooperatives	Proposed	2/20/2013 Vol. 39/35	2/19/2013
<a href="#">12663076</a>	2/19/2013	FLORIDA PUBLIC SERVICE COMMISSION	Meeting	2/20/2013 Vol. 39/35	2/18/2013
<a href="#">12662203</a>	2/19/2013	FLORIDA PUBLIC SERVICE COMMISSION	Meeting	2/20/2013 Vol. 39/35	2/18/2013

**Notices Confirmed by ACR**

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
None					

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