

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of Rule)
 25-30.120, F.A.C., Regulatory)
 Assessment Fees for Water and)
 Sewer Utilities.)

DOCKET NO. 891204-WS

ORDER NO. 22384

ISSUED: 1-8-90

NOTICE OF RULEMAKING

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-30.120, F.A.C., relating to regulatory assessment fees for water and sewer utilities.

The attached Notice of Rulemaking appeared in the December 22, 1989 edition of the Florida Administrative Weekly. If requested, a hearing will be held at the following time and place:

9:30 a.m., Wednesday, January 17, 1990
 Room 122, Fletcher Building
 101 East Gaines Street
 Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL, 32399, no later than January 12, 1990.

By Direction of the Florida Public Service Commission,
 this 8th day of January, 1990.


 STEVE TRIBBLE, Director
 Division of Records & Reporting

(S E A L)

MCB

DOCUMENT NUMBER-DATE

00175 JAN-8 1990

FPSC-RECORDS/REPORTING

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 2

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 891204-WS

RULE TITLE:

RULE NO.:

Regulatory Assessment Fees for Water

and Sewer Utilities

25-30.120, F.A.C.

PURPOSE AND EFFECT: The proposed amendments will increase the assessment fees collected by the Florida Public Service Commission from water and sewer utilities, change the time for remittance, clarify the penalties for late filing, and incorporate by reference new filing forms.

SUMMARY: The amendments adjust the rate at which regulatory assessment fees are calculated from two and one-half percent (2.50%), to four and one-half percent (4.50%), of gross operating revenues, beginning the second half of 1990. Fees will be due on a yearly basis on or before March 31, the time for filing annual reports. Utilities subject to the Commissions jurisdiction at any time during the year will be required to remit assessment fees. Penalties for late filings are described. New filing forms are incorporated in the rule.

RULEMAKING AUTHORITY: 350.127(2), F.S.

LAW IMPLEMENTED: 367.145, 350.113, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THESE RULES: The proposed amendments would raise regulatory assessment fees of water and sewer companies to match Commission costs of regulating the

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 3

industry. Direct costs to the Commission will not be affected by the changes because present staff will be able to handle the changes mandated by the legislature. The increase in fees to the industry may reduce federal taxes but increase water and sewer costs to the ratepayers. Offsetting the increased cost to ratepayers would be the benefit to ratepayers of no decline in the quality of Commission regulation of the industry.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, 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 HELD AT THE DATE AND PLACE SHOWN BELOW:
TIME AND DATE: 9:30 A.M. Wednesday, January 17, 1990.

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE RULES AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399
THE FULL TEXT OF THE RULES IS:

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

(1) As applicable and as provided in s. 350.113, F.S. (1985), each utility shall remit a fee based upon its gross operating revenue. This fee shall be referred to as a regulatory assessment fee. For the year beginning January 1, 1990 each utility shall pay

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 4

a regulatory assessment fee in the amount of two and one-half percent of its gross revenues derived from intrastate business for the first six months of that year and four and one-half percent for the second six months of that year. Thereafter, beginning January 1, 1991 each utility shall pay a regulatory assessment fee in the amount of four and one-half percent for the entire year. and each utility shall pay a regulatory assessment fee in the amount of two and one-half percent 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. Regardless of the gross operating revenue of a utility company, a minimum annual regulatory assessment fee of \$25 shall be imposed.

(2) The obligation to remit the regulatory assessment fees for any year shall apply to any utility which 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. Regulatory assessment fees are due each January 30 for the preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30.

(a) Regulatory assessment fees shall be filed with the

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 5

Commission on or before March 31 for the preceding year ended December 31. The Commission shall, by January 15 of each year, send one blank copy of the Regulatory Assessment Fee Return form (PSC-WAS-10 or PSC-WAS-17), which is incorporated by reference into this rule, to each utility. The forms may be obtained from the Commission's Division of Administration. 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) Regulatory assessment fees are considered paid on the date they are postmarked or received and logged in by the Commission's Division of Administration in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage and postmarked no later than the due date. If the fees are sent by registered mail, the date of the registration is the 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 postmark date. The postmarked certified mail receipt is evidence that the fees were delivered.

(e) Each utility shall have up to and including the due date in which to:

1. (a) Remit the total amount of its fee, or
2. (b) Remit an amount which the utility estimates is its full fee, or
3. (c) Seek and receive from ~~the-Bureau-Chief-of-~~

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 6

~~Fiscal Services of~~ the Division of Administration Commission a 30-day extension of its due date. The request for extension must be written and accompanied by a statement of good cause. The request for extension must be received by the Division of Administration within five working days before the due date.

(3) Any utility that purchases water or wastewater sewage treatment from another utility regulated by the Florida Public Service Commission is allowed a credit on the regulatory assessment fees paid to the FPSC. For the year beginning January 1, 1990, the credit shall be calculated by multiplying .035 ~~+.025~~ times the annual amount paid to the other regulated utility for purchased water or wastewater sewage treatment. Thereafter, the credit shall be calculated by multiplying .045 times the annual amount paid to the other regulated utility for purchase water or wastewater treatment. This credit may be deducted annually from the amount owed to the Commission pursuant to section 350.113, Florida Statutes.

(4) Where a utility receives a 30-day extension of its due date pursuant to subsection (2)(b)3 ~~(2)(e)~~ of this rule, then the utility shall remit a charge in addition to the regulatory assessment fee, ~~as~~ set out in s. 350.113(5), F.S. (1985) as follows: -

(a) .75 percent of the fee to be remitted for an extension of 15 days or less, or

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 7

(b) a charge of 1.5 percent of the fee for an extension of 16 to 30 days.

(c) No other penalty or interest shall be collected if the additional charge is remitted within the extension time granted.

(5) The delinquency of any amount due to the Commission from the utility pursuant to the provisions of s. 350.113, F.S. (1985), and this rule, begins with the first 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 s. 350.113(4), 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: A-penalty,
~~as-set-out-in-sr-350:113,-F.S.-{1985},-shall-apply-to-any-such delinquent-amounts.~~

1. 5 percent of the fee 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.
2. The amount of interest to be charged is 1% for each thirty days or fraction thereof, not to exceed a total of 12% per annum.

(b) In addition to the penalties and interest otherwise provided, the Commission may impose an additional penalty upon a

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 8

utility for failure to pay regulatory assessment fees in a timely manner in accordance with s. 367.161, F.S. Interest-at-the-rate of-12%-per-annum-shall-apply-to-any-such-delinquent-amounts.

(6) Any utility which requests an extension of not more than 30 days and remits, by the due date, an estimated fee payment of at least 90% of the actual fee due shall not be charged interest or penalty on the balance due if paid within the extension period.

(7) Any utility which 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.

Specific Authority: 350.127(2), F.S.

Law Implemented: 350.113, F.S.

History: New 5/18/83, formerly 25-10.24, Amended 10/16/86,

Transferred from 25-10.024 and Amended 11/9/86.

ORDER NO: 22384
DOCKET NO.: 891204-WS
PAGE NO.: 9

NAME OF PERSON ORIGINATING PROPOSED RULE: James Ward

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULES:
Florida Public Service Commission

DATE PROPOSED RULES APPROVED: December 5, 1989

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.