

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: April 16, 2013
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Rosanne Gervasi, Office of the General Counsel *RG*
RE: Docket No. 130033-PU

RECEIVED-FPSC
13 APR 16 PM 2:38
COMMISSION
CLERK

Please file the attached rule certification packet for a technical change for Rule 25-4.0161, F.A.C., in the docket file listed above.

Thank you.

Attachment

DOCUMENT NUMBER-DATE

01998 APR 16 2

FPSC-COMMISSION CLERK

COMMISSIONERS:
RONALD A. BRISÉ, CHAIRMAN
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

STATE OF FLORIDA



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

Public Service Commission

April 16, 2013

Ms. Liz Cloud
Florida Department of State
Administrative Code and Weekly Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
2013 APR 16 AM 10:53
01998

Re: Technical Changes to Rule 25-4.0161, F.A.C.

Dear Ms. Cloud:

Please find enclosed a copy of Rule 25-4.0161, F.A.C., for which technical changes are needed in order to update certain Commission Division names that have changed as a result of a Commission-wide reorganization, and to incorporate certain technical changes to Form PSC/ADM 124 (12/11), which is incorporated by reference in the rule. The changes to the form consist of a change to the type size of the form, which is slightly larger and easier to read, a change to the name of the Division of Administrative Services referenced at the bottom of page 1 of the form, a change to the name of the form itself to PSC/AIT 124, and the inclusion of references to three other rules in addition to Rule 25-4.0161, which rules are in the process of being amended to, among other things, incorporate this same form by reference. The substantive content of the rule and of the form remain unchanged.

I have attached a copy of the rule indicating the rule changes in type and strike format. I have also attached both versions of the form, with the changes to the revised version highlighted in yellow.

Please do not hesitate to call me at (850) 413-6224 if you have any questions. Thank you for your assistance.

Sincerely,

Handwritten signature of Rosanne Gervasi.

Rosanne Gervasi
Senior Attorney

cc: John Rosner, JAPC
Enclosures

DOCUMENT NUMBER - DATE
01998 APR 16 2013
FPSC-COMMISSION CLERK

25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) For the purposes of this rule and except for pay telephone service providers, all incumbent local exchange companies, shared tenant service providers, alternative access vendors, and competitive local exchange companies that hold an active certificate of public convenience and necessity that was obtained prior to July 1, 2011, and all telecommunications companies that hold an active certificate of authority obtained after July 1, 2011, are defined as local telephone service providers. Companies classified as pay telephone service providers are those companies that hold an active pay telephone certificate of public convenience and necessity that was obtained prior to July 1, 2011, and those companies that hold an active pay telephone certificate of authority obtained after July 1, 2011.

(2)(a) For the interim period January 1, 2011 through December 31, 2011, as applicable and as provided in Sections 350.113 and 364.336, F.S., each company shall remit a fee based upon its gross operating revenue as provided below. Each company that has paid by August 15, 2011, regulatory assessment fees for the period January 1, 2011 through June 30, 2011, shall pay a regulatory assessment fee in the amount of 0.0016 of its gross operating revenues derived from intrastate business during the period July 1, 2011 through December 31, 2011. Each company that has not paid any regulatory assessment fees for the period January 1, 2011 through December 31, 2011, shall pay a regulatory assessment fee in the amount of 0.0018 of its gross operating revenues derived from intrastate business. The minimum regulatory assessment fees provided in paragraph (2)(b) shall apply and shall be filed in accordance with the schedules provided in subsections (3) and (4). For the purpose of determining this fee, each telecommunications company shall deduct from gross operating revenues any amount paid to another telecommunications company for the use of any telecommunications network to provide service to its customers.

(b) Effective January 1, 2012, as applicable and as provided in Sections 350.113 and 364.336, F.S., each company shall remit a fee based upon its gross operating revenue as provided below. This fee shall be referred to as a regulatory assessment fee, and each company shall pay a regulatory assessment fee in the amount of 0.0016 of its gross operating revenues derived from intrastate business. For the purpose of determining this fee, each telecommunications company shall deduct from gross operating revenues any amount paid to another telecommunications company for the use of any telecommunications network to provide service to its customers. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee shall be imposed as follows:

1. Local Telephone Service Provider – \$600; and

2. Pay Telephone Service Provider – \$100.

(3) Telecommunications companies that owed gross regulatory assessment fees of \$10,000 or more for the preceding calendar year shall pay the fee and remit the appropriate form twice a year. The regulatory assessment fee and appropriate form shall be filed no later than July 30 for the preceding period of January 1 through June 30, and no later than January 30 of the following year for the period of July 1 through December 31. Telecommunications companies that owed gross regulatory assessment fees of less than \$10,000 for the preceding calendar year shall pay the fee and remit the appropriate form once a year. The regulatory assessment fee and appropriate form shall be filed no later than January 30 of the subsequent year for the current calendar year operations.

(4) If the due date falls on a Saturday, Sunday, or 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. 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 & Information Technology Administration Services in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage, and postmarked no later than the due date.

(5) Commission Form PSC/RAD 159 (12/11), entitled "Local Telephone Service Provider Regulatory Assessment Fee Return," is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00761>; Form PSC/RAD 160 (12/11), entitled "Interim Local Telephone Service Provider Regulatory Assessment Fee Return," is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00762>; Form PSC/RAD 26 (12/11), entitled "Pay Telephone Service Provider Regulatory Assessment Fee Return," is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00760>; and Form PSC/RAD 161(12/11), entitled "Interim Pay Telephone Service Provider Regulatory Assessment Fee Return," is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00763>. These forms are incorporated into this rule by reference and may also be obtained from the Commission's Division of Administrative & Information Technology Services. The failure of a telecommunications company to receive a return form shall not excuse the company from its obligation to timely remit the regulatory assessment fees.

(6) Each telecommunications company shall have up to and including the due date in which to submit the

applicable form and:

(a) Remit the total amount of its fee, or

(b) Remit an amount which the company estimates is its full fee.

(7) Where the company remits less than its full fee, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less than 90 percent of the total regulatory assessment fee, include interest as provided by paragraph (9)(b) of this rule.

(8) A company may request 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 & Information Technology Services Commission Form PSC/AIT 124 (12/11) ~~PSC/ADM 124 (12/11)~~ entitled "Regulatory Assessment Fee Extension Request," which is incorporated into this rule by reference and is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00764>. This form may also be obtained from the Commission's Division of Administrative & Information Technology Services.

(a) The request for extension must be received by the Division of Administrative & Information Technology Services at least two weeks before the due date.

(b) The request for extension will not be granted if the company has any unpaid regulatory assessment fees, penalties, or interest due from a prior period.

(c) Where a telecommunications company receives an extension of its due date pursuant to this rule, the telecommunications company shall remit a charge as set out in Section 350.113(5), F.S., in addition to the regulatory assessment fees.

(9) The delinquency of any amount due to the Commission from the telecommunications company 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) A penalty, as set out in Section 350.113, F.S., shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

(10) The Division of Administrative & Information Technology 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 (3), unless the company has met the requirements of subsections (7) and (8).

(11) If a company fails to pay the regulatory assessment fee within 20 days after receiving a delinquency notice, the Division of Administrative & Information Technology Services, in cooperation with the Division of Telecommunications Regulatory Analysis 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 for Violation of Rule 25-4.0161, F.A.C., and Section 364.336, F.S. The company must pay the past due regulatory assessment fees, the penalty and interest for late payment as provided in Section 350.113, F.S., and as stated in subsection (9) above, and must also pay the applicable penalty stated in subsection (12) for failure to file the regulatory assessment fee return.

(12) Pursuant to Section 364.285, F.S., the Commission has the authority to impose a penalty or cancel a certificate 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.

(13) 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.

(14) A company that reapplies for a Certificate of Authority must pay all prior unpaid regulatory assessment fees, plus the penalty and interest defined in subsection (9), and any prior unpaid penalty assessed in accordance with subsection (11).

Rulemaking Authority 350.127(2) FS. 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, 10-6-05, 4-16-07, 12-4-11.

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 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.

FLORIDA PUBLIC SERVICE COMMISSION

(Type of Industry)

REGULATORY ASSESSMENT FEE EXTENSION REQUEST

(Utility/Company)

(Utility/Co Code)

(FEID No.)

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15 days to ,

30 days to ,

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Statement of Good Cause lines

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(Fiscal Services Section Supervisor)

(Date)

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