

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase
in water rates for Seven Springs
System in Pasco County by Aloha
Utilities, Inc.

DOCKET NO. 010503-WU
ORDER NO. PSC-02-0016-PHO-WU
ISSUED: January 3, 2002

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on December 20, 2001, in Tallahassee, Florida, before Commissioner Michael A. Palecki, as Prehearing Officer.

APPEARANCES:

F. MARSHALL DETERDING, ESQUIRE, Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301
On behalf of Aloha Utilities, Inc.

MARK LAPP, 2379 Broad Street, Brooksville, Florida 34604-6899
On behalf of the Southwest Florida Water Management District (SWFWMD).

STEPHEN BURGESS, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

REPRESENTATIVE MIKE FASANO, 8217 Massachusetts Avenue, New Port Richey, Florida 34653
On behalf of himself.

RALPH R. JAEGER & LORENA ESPINOZA, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

DOCUMENT NUMBER-DATE

00048 JAN-3 2002

FPSC-COMMISSION CLERK

II. CASE BACKGROUND

Aloha Utilities, Inc. (Aloha or utility), is a Class A water and wastewater utility in Pasco County. The utility consists of two distinct service areas, Aloha Gardens and Seven Springs. The utility's service area is located within the Northern Tampa Bay Water Use Caution Area as designated by the Southwest Florida Water Management District (SWFWMD). Critical water supply concerns have been identified by SWFWMD within this area.

In its 2000 annual report, Aloha reported operating revenues of \$2,298,460 and \$3,694,106 for water and wastewater, respectively. In 2000, the utility served 12,732 water and 12,112 wastewater customers. Rate base was last established for Aloha's Seven Springs water system by Order No. PSC-01-1374-PAA-WS, issued June 27, 2001, in Docket No. 000737-WS, an overearnings proceeding. This Order was finalized by Order No. PSC-01-1672-AS-WS, issued August 16, 2001.

On August 10, 2001, Aloha filed an application for an increase in rates for its Seven Springs water system. Since the utility's application was complete as filed, the official filing date was established as August 10, 2001, pursuant to Section 367.083, Florida Statutes.

The utility's requested test year for setting final rates is the projected year ended December 31, 2001. Also, the utility requested that this application be directly set for hearing. A hearing in Pasco County has been scheduled for January 9 through 11, 2002. In its minimum filing requirements (MFRs), the utility has requested total water revenues of \$3,044,811. This represents a revenue increase of \$1,077,337 (or 54.76%). These final revenues are based on the utility's requested overall rate of return of 9.07%.

On September 10, 2001, Aloha filed an Amended Application for an Interim Increase in Water Rates, in which it requested that interim rates be determined using the historic test year ended June 30, 2001. Aloha's amended request was for annual revenues of \$2,027,224. This represented a revenue increase of \$290,138 (or 16.70%) for interim purposes.

ORDER NO. PSC-02-0016-PHO-WU
DOCKET NO. 010503-WU
PAGE 3

By Order No. PSC-01-2092-PCO-WU, issued October 22, 2001, the Commission suspended the utility's requested final rates. Also, by Order No. PSC-01-2199-FOF-WU, issued November 13, 2001, the Commission approved interim rates subject to refund with interest. Rates were increased by 15.95%.

By Order No. PSC-01-1121-PCO-WU, issued May 16, 2001, Edward O. Wood was granted intervention. Moreover, on August 24, 2001, the Office of Public Counsel filed its Notice of Intervention. By Order No. PSC-01-1750-PCO-SU, issued August 28, 2001, the Commission acknowledged OPC's intervention. Moreover, on October 2, 2001, SWFWMD filed its Petition to Intervene. This petition was granted by Order No. PSC-01-1981-PCO-WU, issued October 5, 2001. Finally, on December 17, 2001, Representative Mike Fasano filed his Petition for Intervention. This Petition for Intervention was granted by Order No. PSC-01-2502-PCO-WU, issued December 21, 2001.

Order No. PSC-01-1680-PCO-WU, issued August 17, 2001, as modified by Order No. PSC-01-1752-PCO-WU, established the procedures and controlling dates to be used in this case. However, by Order No. PSC-01-2328-PCO-WU, issued November 29, 2001, for good cause shown, Aloha was granted a four-day extension, from December 6, 2001 to December 10, 2001, to file its rebuttal testimony. Moreover, because of the illness of a staff witness and unavailability for deposition, Aloha requested another extension of time and was granted another four-day extension of time in which to file rebuttal testimony. The staff witness has continued to be ill, and by Order No. PSC-01-2375-PCO-WU, issued December 10, 2001, the Prehearing Officer, contingent upon the deposition being held on December 14, 2001, gave Aloha until December 21, 2001, to prefile its rebuttal testimony.

Based on Staff witness Lingo's continuing illness, staff conferred with the parties on December 10, 2001, and all parties agreed to the substitution of Paul W. Stallcup as Staff witness in place of Staff witness Lingo. Except for Staff witness Lingo's background and education, and one question and answer on page 22 of her testimony, Staff witness Stallcup adopted all the testimony and exhibits of Ms. Lingo. The deposition of Staff witness Stallcup was held on December 14, 2001. Accordingly, all rebuttal testimony was filed on December 21, 2001, one day after the Prehearing Conference.

With the exception of Representative Mike Fasano and Mr. Edward O. Wood, all parties, to include staff, timely filed their prefiled direct testimony and prehearing statements. Mr. Wood has neither filed any testimony or a prehearing statement. Representative Fasano intervened after the due date for prehearing statements and has now adopted the positions of OPC on all issues.

To consolidate the issues and positions of the parties and staff and promote the just, speedy, and inexpensive determination of all aspects of the case, a Prehearing Conference was held on December 20, 2001. Mr. Wood was excused from attending the Prehearing Conference, and Mr. Burgess of OPC represented Mr. Wood at the Prehearing Conference. Also, Mr. Wood now states that he adopts the position of OPC on all issues. The case is now set for hearing in Pasco County on January 9 through 11, 2002.

Opening statements, if any, shall not exceed ten minutes per party.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 367, Florida Statutes. This prehearing conference will be governed by said Chapter and Chapter 120, Florida Statutes, and Chapters 25-30, 25-22, and 28-106, Florida Administrative Code.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services' confidential files.

V. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

VI. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and staff) has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five

minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VII. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct and Rebuttal*</u>		
David W. Porter	ALOHA	1-3, 5, 8, 9(a), 9(b), 9(c), 10, 14, 16, 17, 21, 23
Robert C. Nixon	ALOHA	1-9(a), 9(b), 9(c), 10-23
Stephen G. Watford	ALOHA	1-6, 8, 9(a), 9(b), 9(c), 10, 11, 13-23
<u>Direct</u>		
John W. Parker	SWFWMD	9(a), 17, 20
Lois A. Sorensen	SWFWMD	17
Jay W. Yingling	SWFWMD	20, 21
John B. Whitcomb	SWFWMD	21
Hugh Larkin, Jr.	OPC	1, 2, 16
Donna DeRonne	OPC	3-6, 8-12, 14-17, 20

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Ted L. Bidy	OPC	1-3, 8, 9(a), 9(b), 9(c)
Stephen A. Stewart	OPC	8, 9(a), 9(b), 9(c)
Gerald Foster	STAFF	1
Van Hoofnagle**	STAFF	1
Richard Durbin	STAFF	1
Vincent C. Aldridge	STAFF	(Stipulations)
Stephen B. Fletcher	STAFF	15
Paul W. Stallcup	STAFF	8, 17, 20, 21, 22

Rebuttal

F. Marshall Deterding	ALOHA	16
-----------------------	-------	----

*Except to the extent Aloha can justify otherwise, a witness shall present both his direct and rebuttal testimony at the same time.

**The testimony of Staff witness Van Hoofnagle will be taken up on either the afternoon (or evening) of January 9, 2002 if time permits. Otherwise, his testimony will be taken on January 10, 2002.

VIII. BASIC POSITIONS

ALOHA: The utility is entitled to a rate increase as contained within its revised and final application and MFRs presented with the initial application and the increased water revenues as specified therein.

SWFWMD: The District is charged with the responsibility to conserve, protect, manage and control water resources within its geographic boundaries and to administer and enforce Chapter 373, Florida Statutes, and the rules promulgated thereunder as Chapter 40D, Florida Administrative Code (F.A.C.). As part of its responsibilities, the District regulates consumptive uses of water.

Aloha Utilities, Inc. (Aloha), holds Water Use Permit (WUP) No. 2031 82.004 (the Permit) from the District for the public water supply system which is the subject of this docket. Aloha is currently in violation of the Permit, and Aloha and the District are involved in an enforcement action concerning the violation. Aloha has withdrawn more water than is authorized by the Permit continuously since December 1997. Over the last year, Aloha has overpumped its permit by an average of more than 744,000 gallons per day, or more than 36% over its permitted quantities.

Aloha is located in Pasco County, in the Northern Tampa Bay Water Use Caution Area (NTBWUCA), an area delineated by Rule 40D-2.801(3)(c), F.A.C., to address groundwater withdrawals that have resulted in the lowering of lake levels, destruction or deterioration of wetlands, reduction in streamflow and salt water intrusion. Aloha is also within an area that is informally known as the Wellfield Impact Area, where the cumulative impacts of ground water withdrawals are causing harm to wetlands and lakes, where water levels at adopted Minimum Wetland Levels sites remain below the adopted levels, and where certain ground water withdrawals are already subject to an agreement for scheduled reductions in order to reduce impacts and facilitate recovery of water levels to meet the adopted minimum flows and levels. Within an area of adverse cumulative impacts such as the Wellfield Impact Area, new withdrawals of ground water from the affected aquifer systems are not available to supply Aloha's water needs. Due to Aloha's violation of the Permit, and its location within the NTBWUCA, the District strongly advocates that Aloha take certain measures to conserve water and reduce demand, and to secure an available source of water in sufficient quantity to allow Aloha to comply with the limitations of its Water Use Permit.

The District requests that the Commission approve a water-conservation oriented inclined block rate structure for Aloha, and approve funding for other water conservation and demand management measures the District requires Aloha to implement, or that, while not explicitly required, would contribute to Aloha's ability

to manage demand in its service area as a means of returning to compliance with its Water Use Permit. The District also request that the Commission approve costs necessary to secure an available source of water in sufficient quantity to allow Aloha to comply with the limitations of its Water Use Permit.

OPC: The water rates sought by Aloha Utilities for its Seven Springs System should be disallowed until the utility can provide quality of water and quality of service acceptable to the utility's customers.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The information gathered through discovery and prefiled testimony indicates, at this point, that the utility is entitled to some level of increase. The specific level cannot be determined until the evidence submitted at hearing is analyzed. Except where Staff has testified, Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions. Testifying staff's positions are set forth in their respective testimonies.

IX. ISSUES AND POSITIONS

ISSUE 1: Is the quality of service satisfactory?

POSITIONS

ALOHA: Yes. (Porter, Nixon, Watford)

SWFWMD: No position at this time.

OPC: This issue will be developed further after customer testimony at the hearing. However, the issue of "black water" has not been resolved by the utility and therefore the probability that the customers are satisfied with the

quality of service or the quality of water is highly unlikely. (Witnesses: Larkin, Bidy and utility customers)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: For testifying Staff, the utility's Seven Springs water plant and distribution systems are in compliance with all applicable provisions of Title 62, Florida Administrative Code. Also, the water at the meter meets all drinking water quality standards. (Foster) For non-testifying Staff, the quality of service will depend on customer testimony and other evidence presented at the hearing.

ISSUE 2: Should the utility's rate increase request be denied due to poor quality of service?

POSITIONS

ALOHA: No. Such denial is contrary to law and contrary to the facts concerning the quality of water service provided. (Porter, Nixon, Watford)

SWFWMD: Even if the Commission finds that the utility is providing poor quality of service to its customers, the Commission should consider this rate increase as a means of supporting the District's ongoing efforts to implement its legislative authority regarding water supply planning and resource protection.

OPC: Yes. Regulation should simulate the results of competition. If Aloha were forced to compete for business, it would not be able to raise prices for the quality of service it provides (Larkin, Bidy)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: No, pursuant to Section 367.081(2), Florida Statutes, the Commission must fix rates which are just, reasonable,

compensatory and not unfairly discriminatory. If the utility is in violation of any statute or rule, the Commission may institute a show cause proceeding in accordance with Section 367.161, Florida Statutes. Also, if the Commission determines that improvements are required, it may order the utility to make the necessary improvements. However, in setting rates, the Commission must give the utility the opportunity to earn within its authorized rate of return. The Commission may set rates at the low-end of the range if it determines that the utility provides poor quality of service.

ISSUE 3: What is the appropriate cost of the Commission ordered pilot project to include in working capital for the Seven Springs water system?

POSITIONS

ALOHA: 50% of the total estimated cost as authorized pursuant to Order No. PSC-00-1285-FOF-WS. (Porter, Nixon, Watford)

SWFWMD: No position at this time.

OPC: This project has essentially been suspended and the company has spent much less than projected. The average cumulative balance of expenditures projected for the test year of \$54,270 should be used instead of \$190,000. Therefore, working capital should be reduced by \$135,730. (DeRonne, Bidy)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The utility's 13-month average balance of the actual cost incurred through December 31, 2001 is the appropriate balance to be included in working capital.

ISSUE 4: What is the appropriate working capital allowance?

POSITIONS

ALOHA: The balance sheet approach to working capital. This is a fallout number which results from the conclusions reached on other issues. (Nixon, Watford)

SWFWMD: No position at this time.

OPC: The appropriate amount is subject to the resolution of other issues. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 5: What is the appropriate projected rate base?

POSITIONS

ALOHA: This is a fallout number based upon the resolution of other issues. (Porter, Nixon, Watford)

SWFWMD: No position at this time.

OPC: The appropriate amount is subject to the resolution of other issues. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 6: What is the appropriate projected cost rate for variable-cost related party debt?

POSITIONS

ALOHA: The cost rate (prime plus 2%) as last established prior to the Commission's Final Order in this case. In accordance with the loan agreement, the last time that rate will be established will be December 31, 2001. (Nixon, Watford)

SWFWMD: No position at this time.

OPC: The loans from the utility's owner Lynnda Speer should be included in the capital structure at no more than prime rate plus 2%. Therefore the cost rate for this debt should be 7.5%. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The cost rate for variable-cost debt, which is tied to the prime rate of interest, should be based upon the prime rate at the time the Commission makes its final decision in this case.

ISSUE 7: What is the appropriate projected weighted average cost of capital for the projected test year ending December 31, 2001?

POSITIONS

ALOHA: That weighted cost which results from resolution of the other issues in this case, including the component parts of capital structure, cost rates at the time of the Commission's Final Order and rate base as established in this case. (Nixon)

SWFWMD: No position at this time.

OPC: This issue depends on the resolution of several issues to be decided at the conclusion of the formal hearing.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 8: What are the appropriate number of gallons sold for the projected 2001 test year?

POSITIONS

ALOHA: 1,105,068,967 gallons, as projected by Mr. Porter utilizing 500 GPD for each new ERC which equates to an average for all customers of 287 GPD/ERC. (Porter, Nixon, Watford)

SWFWMD: No position at this time.

OPC: Aloha's projection for the 2001 test year consumption is vastly overstated because it chose the year 2000 as its only baseline data point. In 2000, rainfall was the lowest in Pasco County for the 85 years that SWFWMD has kept rainfall records. Accordingly, Aloha's consumption projection is badly skewed and should be normalized to reflect a weather pattern of greater probability. The Citizens recommend a weather normalizing methodology that results in a 2001 projected consumption of 1,021,416 gallons of water sold. Actual results for 2001 (now almost complete) validate the citizens' position on weather and usage. (Stewart, Bidy)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate number of test year ERCs is 10,560. The appropriate consumption for the test year is 1,001,021,846 gallons. (Stallcup)

ISSUE 9(a): What is the appropriate projected number of purchased water gallons from Pasco County, and what is the resulting expense?

POSITIONS

ALOHA: The appropriate projected number of purchased water gallons from Pasco County is the total amount sold, plus unaccounted for, plus flushing, minus the water use permit limits. The flushing amount must be added to the figures shown on G-9 of the MFRs. The purchased water expense for water purchased from Pasco County, should be \$991,371. This amount must be increased as well, for gallons used for flushing. (Porter, Nixon, Watford)

SWFWMD: Aloha must cease its violation of its WUP. One means for Aloha to do so is to purchase any needed quantities of water in excess of its permitted quantities from Pasco County. Aloha's use of the interconnect with Pasco County is reasonable and necessary. Failure to come into compliance with its WUP could result in substantial monetary penalties for Aloha, and could affect the renewal of Aloha's WUP in 2004. (Parker)

OPC: For purposes of setting rates for the test year, 324,062,114 gallons should be used as a projection of water to be purchased from Pasco County. At \$2.35 per thousand gallons, the resulting expense would be \$761,546. (Stewart, Bidy, DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: No position pending further development of the record.

ISSUE 9(b): Should a provision be made to monitor whether the gallons pumped from Aloha's wells differs from the maximum permitted quantity on an annual average basis under the Water Use Permit (WUP)?

POSITIONS

ALOHA: If the Commission is to retain jurisdiction of issues related to future purchased water levels, the Commission must make some provision for this potential shortfall, because the Utility cannot possibly pump precisely at its

WUP limits over a 12 month period or for each monthly period. There are various other matters that may prevent the Utility from pumping precisely at its WUP limits. (Porter, Nixon, Watford)

SWFWMD: The issue is confusing as stated, as there is no "maximum" permitted quantity on an annual average basis. Without the word "maximum", the issue makes sense; however, the District does not see the need for it, as it is a virtual certainty that Aloha's pumpage will "differ from the permitted quantity. Since the permitted quantity is a particular quantity (in gallons), it is very rare for a permittee to pump exactly its permitted quantity. Being uncertain, therefore, of what the purpose of this issue is, the District is unable to take a definite position, although it reserves the right to present evidence thereon at the hearing.

OPC: The issue of the greatest impact in this case is the amount of water Aloha will purchase from Pasco County. The revenue requirement in this case is being set on the assumption that Aloha will not exceed its WUP. Historically, however, Aloha has pumped beyond its WUP limits. Should Aloha continue to exceed the WUP limits, the utility would collect more revenue than is actually required, and would automatically overearn. With this major factor in the unilateral control of Aloha, the customers need some additional protection against being charged excessive revenue. OPC recommends that the final order include a statement that if the WUP continues to be exceeded by more than a reasonable percentage, corresponding refunds will be required of Aloha. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The utility should be required to file monthly reports by the fifteenth of the following month on the number of gallons pumped from its wells (to include the Mitchell, Tahitian and Interphase wells), and the number of gallons purchased from Pasco County.

ISSUE 9(c): What provision should the Commission make within rate setting for the potential shortfall or excess if usage by customers differs from that included in the rate setting?

ALOHA: The Commission staff has proposed substantial reductions to the historic levels of water usage well below all historic trends of increasing usage for this company. In addition, because of both the substantial increase in rates, and the change in rate structure, the predictability of usage is not very good and therefore the likelihood of a shortfall is significant. In addition, that shortfall is likely to be substantially greater as far as severity, than the potential for overearning, because of the high marginal cost of water for each additional gallon sold above those utilized in rate setting. The Commission must provide for some mechanism to make up for the shortfall that has a significant probability of occurring and which will be substantial and devastating to the Utility's financial ability to meet its expenses, much less earn a fair rate-of-return on its investment. Both because of the substantial predictions as to repression resulting from conservation, price, elasticity, and the significant change in rate structure, as well as the proposals to "normalize" water sold to levels below those experienced in the last two years. These place substantial new and unique risks on this Utility never before imposed by the Commission. (Porter, Nixon, Watford)

SWFWMD: The District takes no position at this time.

OPC: No special provision should be made. Instead, the Commission should project normalized customer usage as accurately as possible, just as in every other rate case. This projection will give Aloha the opportunity to earn a reasonable rate of return on its investment. Just as with every other variable projected in setting rates, the actual amount may (probably will) be different from the projected. The difference could be either to Aloha's advantage (a greater return) or to Aloha's disadvantage (a lesser return). This is the risk that a utility absorbs in the regulatory process. The Commission should

not depart from these fundamental rate setting principles in this case. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The Commission should make no provision.

ISSUE 10: Should projected chemicals and purchased power be adjusted?

POSITIONS

ALOHA: Chemicals and electric expenses will not decrease because of compliance with the Water Use Permit. Instead, those are expected to increase as a result of the need to treat and repump Pasco County water. Customer growth and inflation as proposed, is a reasonable basis for projecting these expenses. (Porter, Nixon, Watford)

SWFWMD: No position at this time.

OPC: Yes. The projection of gallons to be sold to the customers has been overstated by the company and should be reduced. Therefore, chemical and purchased power expense, which is directly related, should be reduced by \$6,293 and \$3,573, respectively. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Yes. An adjustment should be made for the reduction in the quantity of water treated by Aloha to reflect compliance with the utility's water use permit. With regard to the escalation of chemicals and purchased power by customer growth and the escalation of chemicals by inflation, Staff has no position pending receipt of rebuttal testimony and further development of the record.

ISSUE 11: Should an adjustment be made to employee salaries and wages for open positions?

POSITIONS

ALOHA: No. These positions will be filled by hearing and are necessary for the continued provision of quality of service and operation, and must be recognized in rate setting. (Nixon and Watford)

SWFWMD: No position at this time.

OPC: Yes. Salaries and benefits should be reduced by \$107,850 and \$13,255 respectively to reflect positions that will likely stay unfilled. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: No position pending further development of the record. However, to the extent that the utility fails to demonstrate that any of these positions are reasonable and necessary, an adjustment may be appropriate.

ISSUE 12: Should an adjustment be made to employee salaries and wages to correct the annualized salary of the utility operations supervisor?

POSITIONS

ALOHA: To correct the annualized salary of the utility operations supervisor, salary expense should be reduced by \$21,268. (Nixon)

SWFWMD: No position at this time.

OPC: Yes. Salary expense should be reduced by \$21,268 for an allocation error. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Yes. In Docket No. 991643-SU, the utility recovered the full amount (\$25,182) of Mr. Painter's salary through the rates set for the Seven Springs wastewater system. Mr. Painter's salary is now \$34,029, and the amount above the \$25,182 figure (\$8,847) should be allocated among Aloha's other three systems. This results in a \$5,308 allocation to the Seven Springs water system. Thus, salary expense should be reduced by \$28,721, and pensions and benefits should be reduced by \$6,347.

ISSUE 13: What adjustments should be made to pension expense?

POSITIONS

ALOHA: The Utility agrees that an adjustment to correct a recording error and to reflect additional liability obligations is necessary. This is an increase of \$40,509. Moreover, the new employee benefits percentage to be applied to the new and open positions is 22.10%. This results in an increase in pension and benefit expense for these employees of \$10,580. (Nixon, Watford)

SWFWMD: No position at this time.

OPC: The Citizens' testimony has agreed with an adjustment of \$40,509. The Citizens, however, are concerned with whether some of the pension liability is attributable to Mr. Roy Speers. The Citizens are awaiting discovery responses to resolve this issue.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Yes. Pension expense should be increased by \$40,509. As a result, the employee benefits percentage to be applied to proforma salaries should be 22.10%.

ISSUE 14: Does the utility have excessive unaccounted for water, and if so, what adjustments should be made?

POSITIONS

ALOHA: No adjustment is appropriate and the staff proposed adjustment is immaterial and at odds with allowances of over 15% in unaccounted for water recognized by the Commission in several previous cases. (Porter, Nixon Watford)

SWFWMD: No position at this time.

OPC: The appropriate factor to use for unaccounted for water is 9.20%. The test year purchased power and chemical expense is based on 9.20% and therefore needs no adjustment. The purchased water recommended by the citizens has been adjusted to reflect 9.20%, rather than 10.0% recommended by Aloha. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Based on the currently available nine months of water use data for 2001, the utility has 10.2% unaccounted for water. This is an excess of 0.2% and both purchased power and chemicals should be reduced by 0.2%.

ISSUE 15: Should an adjustment be made for related-party purchased water transactions?

POSITIONS

ALOHA: No. This is not only a method previously approved by the Commission as an appropriate method for acquiring water, but is also the cheapest alternative available to the Utility. If the agreements with the related parties are modified in any way, those agreement will cease to exist, and provision must be made in rate setting in this proceeding for purchase of 100% of Aloha's water from Pasco County at the current Pasco County bulk rate. (Nixon, Watford)

SWFWMD: No position at this time.

OPC: Yes. OPC Agrees with staff that the royalty fee charged by the related parties should, at a minimum, be reduced to \$0.10 per thousand gallons. This would result in a minimum reduction of purchased water expenses of \$88,330.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Yes. The royalty fee charged by the related parties should at a minimum be reduced to \$0.10 per thousand gallons. This would result in a minimum reduction of purchased water expenses of \$88,330. (Fletcher)

ISSUE 16: What is the appropriate amount of rate case expense?

POSITIONS

ALOHA: The total as per the rebuttal update and the most recent information to be provided as a late-filed exhibit in this case. (Porter, Nixon, Watford, Deterding)

SWFWMD: No position at this time.

OPC: The company should have consolidated this current water rate case with its most recently filed wastewater case. Amortization expense of \$11,625 should be removed from O&M expenses and \$223,250 representing the average unamortized balance should be removed from the utility's working capital allowance. (Larkin, DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Rate case expense for the utility's filing of an updated interim test period and for any other duplicate filings should be disallowed. The final amount is subject to further development of the record. However, only prudently incurred rate case expense should be allowed and amortized over four years.

ISSUE 17: What conservation programs, and associated expenses, are appropriate for this utility at this time?

POSITIONS

ALOHA: All of the conservation programs developed in accordance with the discussions with, and already approved by, the SWFWMD should be recognized and included in rates, the Utility cannot implement those conservation programs. The total costs currently estimated on an annual basis is \$155,000. (Porter, Nixon, Watford)

SWFWMD: Given the location of this utility within an area where the water resource is severely stressed, and the utility's failure to comply with its WUP, the District believes that additional water conservation measures are both necessary and appropriate. While continuing and enhancing customer education efforts, the utility should also implement operational and incentive water conservation measures applicable to its customer demographics. The utility should pursue partnerships with Pasco County on these measures, and on regulatory measures that are the purview of Pasco County, which may reduce the utility's potential expenses and increase the number of gallons that are conserved. (Parker, Sorenson)

OPC: Aloha has not presented evidence of plans and associated costs for conservation programs. Accordingly, the rates should not be set to cover any such programs. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Other than the implementation of a conservation rate structure, Staff has no position at this time pending further development of the record.

ISSUE 18: What is the test year operating income before any revenue increase?

POSITIONS

ALOHA: This is a result of the conclusions reached on other issues in this case and is a fallout number. (Nixon, Watford)

SWFWMD: No position at this time.

OPC: The appropriate amount is subject to the resolution of other issues.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 19: What is the appropriate revenue requirement?

POSITIONS

ALOHA: This is a result of the conclusions reached on other issues in this case and is a fallout number. (Nixon, Watford)

SWFWMD: No position at this time.

OPC: The appropriate amount is subject to the resolution of other issues.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate amount is subject to the resolution of other issues.

ISSUE 20: What is the appropriate rate structure for this utility?

POSITIONS

ALOHA: A two-tiered inclining block rate structure per the SWFWMD requirements and as stated in the MFRs. (Nixon, Watford)

SWFWMD: Given the location of this utility within an area where the water resource is severely stressed, and the utility's failure to comply with its WUP, the District strongly advocates the implementation of a water-conservation oriented inclining block rate structure for Aloha. (Parker, Yingling)

OPC: OPC is not recommending a specific rate design. However, OPC believes the Commission should not approve the company's rate design as proposed because the resulting effect would be the collection of revenues in excess of the company's revenue requirement. (DeRonne)

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate rate structure is a three-tiered inclining block rate structure with usage blocks for monthly consumption at: 1) 0 to 8 kgal; 2) 8 kgal to 15 kgal; and 3) over 15 kgal. The appropriate base facility charge cost recovery percentage is 25%. The determination of the appropriate usage block rate factors will be based on the evidence presented at the hearing. (Stallcup)

ISSUE 21: Is repression of consumption likely to occur, and, if so, what is the appropriate adjustment and the resulting consumption to be used to calculate consumption charges?

POSITIONS

ALOHA: Yes. Repression is likely to occur. However, until such time as the Utility fully analyzes the information supplied by the staff witnesses and their deposition and

prepares rebuttal testimony, a full response to this issue is not available. (Porter, Nixon, Watford)

SWFWMD: If there is a significant increase in marginal water and sewer prices as a result of this rate case, the District would anticipate a repression of consumption. For the purposes of calculating repression the District believes that the Waterate 2001 Model price elasticity algorithm is appropriate. It may also be appropriate to apportion repression in the short term as described in the Waterate manual. (Yingling, Whitcomb)

OPC: The Citizens accepted the 5% requested by Aloha in its MFRs, and therefore did not pursue a study to develop this issue. The Citizens continue to accept the 5% requested by Aloha.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: Yes. The appropriate adjustments should be based on the following long-run price elasticities and gallonage charges.

<u>Gallonage Charge</u>	<u>Long-run Price Elasticities</u>
<u>Below \$1.50</u>	<u>-0.398</u>
<u>\$1.51 to \$3.00</u>	<u>-0.682</u>
<u>Over \$3.00</u>	<u>-0.247</u>

It is appropriate to assume that 50% of the long-run price impact will occur in the first year. (Stallcup)

ISSUE 22: What are the appropriate monthly rates for service?

POSITIONS

ALOHA: This is a result of the conclusions reached on other issues in this case and is a fallout number. (Nixon, Watford)

SWFWMD: No position at this time.

OPC: The appropriate monthly rates for service are subject to the resolution of other issues.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: The appropriate monthly rates for service are subject to the resolution of other issues.

ISSUE 23: What are the appropriate service availability charges for the Seven Springs water system?

POSITIONS

ALOHA: No change in these charges is appropriate in this case. Those are being considered in a separate proceeding currently pending before the PSC and awaiting further clarification of the intended changes to treatment process in the coming years. (Porter, Nixon, Watford)

SWFWMD: No position at this time.

OPC: No position pending further development of the record.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: No position pending further development of the record.

ISSUE 24: Should this docket be closed?

POSITIONS

ALOHA: After granting the request proposed in the MFRs, this docket should be closed.

SWFWMD: No position at this time.

OPC: In response to Issue 21(b), the Citizens recommended the PSC retain jurisdiction for a single limited purpose. With the exception of that purpose, this docket should be closed after the expiration of any appellate activity.

WOOD: Adopts OPC's position.

FASANO: Adopts OPC's position.

STAFF: If the Commission's final order is not appealed, this docket should be closed upon the expiration of the time for filing an appeal.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
David W. Porter and Robert C. Nixon (Jointly)	ALOHA	Schedules F-1 - F-10 of Aloha's Application and Exhibits 3 and 5	MFR Schedules & Exhibits
<u>Rebuttal</u>			
David W. Porter	ALOHA	DWP-1	Gallons per ERC per Day
		DWP-2	Data Table for Linear Regression analysis of Aloha vs. Staff position
		DWP-3	Staff Position Linear Regression Analysis of Daily Gallons/ERC - SUMMARY OUTPUT
		DWP-4	Aloha Position Linear Regression Analysis of Daily Gallons/ERC - SUMMARY OUTPUT
		DWP-5	Water Consumption Data for Subdivision Constructed Within Last 10 Years

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Robert C. Nixon	ALOHA	Exhibits 1-7	Financial Rate and Engineering Schedules of the MFRs
Robert C. Nixon and Stephen Watford (Jointly)		Exhibit 4	MFRs
<u>Rebuttal</u>			
Robert C. Nixon	ALOHA	RCN-8	Principles of Public Utility Rates - Bonbright
		RCN-9	Review of Aloha Utilities, Inc. Customer Service Operations - March 2001
		RCN-10	Employee Benefits Correction
		RCN-11	Letter dated March 5, 1999 from John C. Arveson to Richard Baker
		RCN-12	December 14, 1998 cover page of Commission Audit Report and Audit Disclosure No. 6
		RCN-13	Calculation of \$.32 received today by Tahitian amounts to \$.03 in 1977 dollars and \$.32 received by Interphase amounts to \$.04 in 1978 dollars
		RCN-14	Actual and Estimated Rate Case Expense Through Hearing
		RCN-15	Schedules Showing Seven Springs Water Division Has Fixed Costs of \$1,374,510 (Representing 45.63% of Requested Revenues)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Robert C. Nixon	ALOHA	RCN-16	Conversion of Bills to ERCs and Calculation of Rates Using Mr. Stallcup's Late-Filed Exhibit No. 7
<u>Rebuttal</u>			
Stephen Watford	ALOHA	SGW-1	In House Expenses for Rate Case Expense
		SGW-2	Listing of Conservation Programs and Their Estimated Costs
		SGW-3	Schedule Outlining the Circumstances Surrounding Aloha's Response to Each of the Alleged Late Responses to Complaints
		SGW-4	Graph Showing PSC Complaints Per Year Per 1,000 Customers
		SGW-5	Chart Showing Linear Regression Analysis Showing Increasing Usage Per ERC Over the Last 6 Years With a Projection for 2001
		SGW-6	Listing of Water Usage by Subdivision, Showing Usage Over the Last 6 Years, as well as the 12-month period used to project water usage in the MFRs
		SGW-7	Summary Showing Substantial Revenue Shortfall for Proposed Rates that Mr. Stallcup Provided in Late-filed Deposition Exhibit No. 7 (Tables 1-13)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Stephen Watford	ALOHA	SGW-8	Copies of Advertisements for New Homes in the Service Territory with accompanying Graph showing Florida Water Price Elasticities (Source: SWFWMD Price Elasticity Study, 1995)
John W. Parker	SWFWMD	JWP-1	Resume
Jay W. Yingling	SWFWMD	JWY-1	Resume
		JWY-2	Interim minimum requirements for water conserving rate structures
		JWY-3	Recommendations for defining water conserving rate structures - August 1999
		JWY-4	Bibliography
John B. Whitcomb	SWFWMD	JBW-1	Waterate tables
		JBW-2	Bibliography
Donna DeRonne	OPC	Appendix II	Qualifications

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
Donna DeRonne	OPC	DD-1:	
		(Sch. A)	Operating Income Statement
		(Sch. B)	Summary Sch. of Adjustments to Operating Income
		(Schedules B-1 - B-8)	Detail of Adjustments to Operating Income
		(Sch. C)	Rate Base Sch. & Summary of Adjustments to Rate Base
Ted L. Bidy	OPC	(Schedules C-1 - C-2)	Detail of Adjustments to Rate Base
		(Sch. D)	Capital Structure & Rate of Return
		TLB-1	Calculation of historic water use per ERC for Aloha Utilities, Inc.
		TLB-2	Comparison of Aloha and OPC's Projected Purchased Water for the Test Year
		TLB-3	Six month annualization factor for 5 year historical water sales
		TLB-4	Aloha Monthly Reports to PSC on Pilot Testing Program
		TLB-5	Technical Paper from MIEX Website
		TLB-6	SWFWMD File on Enforcement Action & Proposed Consent Order
TLB-7	Aloha's Response to Staff Interrogatory No. 25		
TLB-8	Aloha's Response to OPC-POD No. 11		

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Ted L. Biddy	OPC	TLB-9	Excerpt from Response to Staff Interrogatory No. 25
		TLB-10	Response to OPC Interrogatory No. 50
Stephen A. Stewart	OPC	SAS-1 (Sch. 1)	Schedules Aloha's Utilities' Projection Methodology
		(Sch. 2)	Pasco Co. Rainfall & Data & Aloha Customer Usage
		(Sch. 3)	Yearly Rainfall Data & Analysis for Pasco Co.
		(Sch. 4)	OPC Projection of Water to be Sold in Test Year 2001
		(Sch. 5)	Comparison of 2001 Projections with 6-Month Actuals
		(Sch. 6)	Comparison of Projections with Extreme Values of Gallons/Day
Van Hoofnagle	STAFF	VH-1	Florida Statute 403.861
		VH-2	Interagency Copper Pipe Corrosion Project Final Report - May 2001
Richard Durbin	STAFF	JRD-1	Total Consumer Contacts Chart for Aloha Utilities, Inc. (January 1999 through October 2001)
		JRD-2	Total Complaints Filed Chart for Aloha Utilities, Inc. (January 1999 through October 2001)
		JRD-3	Chart showing Total Number of Complaints, Total Number of Water Customers, and Complaints Per 1,000 Customers for Aloha and Nine Other Utilities

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Vincent C. Aldridge	STAFF	VCA-1	Staff Audit Report dated October 10, 2001
Stephen B. Fletcher	STAFF	SBF-1	List of dockets on which Stephen B. Fletcher worked
		SBF-2	History of Aloha's Purchased Water Agreements
		SBF-3	Analysis of Aloha's Purchased Water Agreements
Paul Stallcup	STAFF	FJL-1	Test of Forecast Methodologies
		FJL-2	Customer Growth Projections
		FJL-3	Analysis of Aloha's Consumption Projection
		FJL-4	Aloha's Projection Periods: Customer Growth v. Consumption Growth
		FJL-5	Aloha Service Area Drought Severity Classifications: 2000-2001
		FJL-6	Moisture Deficit Variables
		FJL-7	Weather Variables: Correlation to Average Monthly Residential Consumption per ERC
		FJL-8	Consumption Projections
		FJL-9	Comparison of Consumption Projections
		FJL-10	Analysis of Aloha's Requested Rate Design
		FJL-11	Illustrative Rate Designs

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

XI. PROPOSED STIPULATIONS

Category One Stipulations

Those stipulations where the utility, SWFWMD, OPC and Staff agreed are set forth below:

1. For items erroneously expensed by the utility during the test year ended December 31, 2000, both plant and retained earnings should be increased by \$11,522 for the projected test year. Further, corresponding adjustments to operation and maintenance expense (a negative \$12,396), accumulated depreciation (\$920), and depreciation expense (\$613), should be made to the 2001 projected test year.
2. To reflect the appropriate depreciation rate for computer equipment, accumulated depreciation should be increased by \$2,262, and retained earnings should be decreased by \$2,262.
3. CIAC should be increased by \$27,236 to correct the amount of contributed property received from April through December 2001. Corresponding adjustments should be made to increase accumulated amortization of CIAC (\$64) and test year amortization of CIAC (\$837).
4. To correct the historic starting point, the projected test year rate base should be reduced by \$10,877 to reflect the 13-month average balance of Accumulated Amortization of Contributed Taxes.
5. All deferred rate case expense related to Docket No. 991643-SU should be excluded from working capital because those costs were specifically allocated to the Seven Springs wastewater system. Total company working capital that is allocated should be reduced by \$61,702.
6. Total company working capital that is allocated should be reduced by \$32,868 to reflect the amortization of regulatory commission expense associated with Docket No. 960545-WS. A corresponding reduction to retained earnings should also be made.

7. The annual amortization of issuing expense for the Bank of America loan should be reduced by \$1,760.

8. The total projected 13-month average balance of long-term debt should be \$9,267,979, as shown on minimum filing requirement Schedule D-5(A). The respective cost rates are those shown on that same schedule and subject to the resolution of other issues.

9. Historical December 31, 2000 test year revenues should be increased by \$7,154 to properly allocate interest income. The interest income adjustment should be escalated by the customer growth factor for a total increase of \$7,490. In addition, projected test year revenues should be increased by \$4,176 to reflect the appropriate amount of revenues for residential vacation bills.

10. Bad debt expense should be increased by \$1,237 to account for an allocation error.

11. The cost per 1,000 gallons of water to be purchased from Pasco County should be \$2.35.

12. To properly allocate the utility's recent purchase of a new office building, land and plant should be reduced by \$5,776 and \$5,935, respectively.

13. Two employees were included in salaries and wages for officers as well as the annualization of employees' salaries. Salaries and wages should be reduced by \$8,769.

14. The testimony and exhibit of staff witness Vincent C. Aldridge, the staff auditor, may be admitted into evidence, and he may be excused from attending the hearing.

15. The testimony of Staff DEP witnesses Van Hoofnagle and Gerald Foster should be taken up no later than the second day of the hearing.

16. All SWFWMD witnesses may be excused from attending the first day of the hearing. Moreover, Jay Yingling may be excused from attending the second day, and his testimony will be taken on the third day.

17. Paul Stallcup has been substituted for Staff witness Lingo and has adopted her testimony and exhibits except for Ms. Lingo's testimony on her background and experience on pages two through line 15 of page 4 (where he has substituted his own), and her testimony on page 22, lines 5 through 14 (which has been deleted).

18. The appropriate number of ERCs for the projected 2001 test year is 10,560.

Category Two Stipulations

Those stipulations where the utility, SWFWMD, and Staff agreed, but where OPC took no position in the stipulations are set forth below:

19. The used and useful percentages for the water treatment plant and the water distribution system are both 100%.

20. The return on equity should be calculated using the current leverage formula in effect at the time the Commission makes its final decision in this case.

21. The utility's 44.83% allocation of pension expense to the Seven Springs water system is appropriate.

XII. PENDING MOTIONS

There are no pending motions at this time.

XIII. RULINGS

1. The SWFWMD witnesses shall be excused from attending the first day of the hearing. Moreover, Jay Yingling may be excused from attending the second day, and his testimony will be taken on the third day.

2. Staff witness Aldridge shall be excused from the first day of the hearing, and, with the approval of the stipulation concerning the admission of his testimony and exhibits without the need for cross-examination by the panel, he shall be excused from the hearing in its entirety.

3. Staff witness Stallcup shall be substituted for Staff witness Lingo with the changes noted in Stipulation No. 17 above.

4. Except to the extent Aloha can justify otherwise, a witness shall present both his direct and rebuttal testimony at the same time.

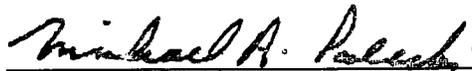
5. The testimony of Staff witness Van Hoofnagle will be taken up on either the afternoon (or evening) of January 9, 2002 if time permits. Otherwise, his testimony will be taken on January 10, 2002.

6. The request of Aloha to add six issues shall be granted in part and denied in part. One issue has been stipulated to as set forth in Stipulation No. 18. Two issues were subsumed in Issue 8 and are disallowed. Two issues appear to be subissues of Issue 9 and shall be allowed and listed as Issues 9(b) and 9(c). Finally, the sixth issue appears to be subsumed in Issue 13 and shall be disallowed.

Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 3rd day of January, 2002.



MICHAEL A. PALECKI
Commissioner and Prehearing Officer

(S E A L)

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.