

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of rates of Aloha Utilities, Inc. in Pasco County for possible overearnings for the Aloha Gardens water and wastewater systems and the Seven Springs water system.

DOCKET NO. 000737-WS
ORDER NO. PSC-01-1672-AS-WS
ISSUED: August 16, 2001

The following Commissioners participated in the disposition of this matter:

LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER APPROVING SETTLEMENT AGREEMENT, CONSUMMATING ORDERS NOS. PSC-01-1245-PAA-WS AND PSC-01-1374-PAA-WS, AND MODIFYING ORDER NO. PSC-01-1245-PAA-WS TO ACKNOWLEDGE ADDITIONAL REFUND REQUIREMENT

BY THE COMMISSION:

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.

By Order No. PSC-00-1289-FOF-WS, issued July 18, 2000, we initiated a formal investigation of the rates and charges of the Aloha Gardens water and wastewater systems and Seven Springs water system, based on the utility's 1999 annual report. Pursuant to that Order, we held revenues subject to refund as follows:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

<u>System</u>	<u>Test Year Revenues</u>	<u>Amount Subject To Refund</u>	<u>% Subject To Refund</u>
Aloha Gardens Water	\$519,976	\$133,977	25.77%
Aloha Gardens Wastewater	\$1,001,716	\$84,076	8.39%
Seven Springs Water	\$1,723,085	\$52,378	3.04%

By Proposed Agency Action (PAA) Order No. PSC-01-1245-PAA-WS, issued June 4, 2001, we determined that the Aloha Gardens water and wastewater systems had overearned by \$29,325 and \$67,624, respectively, and required refunds and rate reductions for those systems. Dividing those overearning amounts by adjusted revenues, net of miscellaneous service revenues and above-the-line interest income, we determined the refund percentage to be 5.70% for Aloha Gardens water and 6.42% for Aloha Gardens wastewater, from June 29, 2000 until the effective date of the new final rates. Moreover, we denied the utility's requested 2000 index and pass-through for the Aloha Gardens systems because the utility was found to be overearning and the increased expenses for the index and pass-through were considered in the our overearnings determination.

On June 25, 2001, the Office of the Public Counsel (OPC) timely filed its Petition on Proposed Agency Action and Objection to Proposed Agency Action in which it raised approximately six issues. This was the only protest to the Order, and, based on this protest, Order No. PSC-01-1245-PAA-WS has not yet been finalized.

By PAA Order No. PSC-01-1374-PAA-WS, issued June 27, 2001, we determined that the Seven Springs water system had overearned in the amount of \$15,559 for the test year 2000, and that that amount, plus interest, shall be recorded on the utility's books as a deferred credit. However, on July 18, 2001, Aloha filed its timely protest of that Order raising approximately six issues.

On the same day that Aloha filed its protest, representatives of Aloha, OPC, and our staff met to discuss the possibility of settlement. A comprehensive settlement was reached, and Aloha and OPC filed their Settlement Agreement on that same day.

This Order addresses the Settlement Agreement and the finalization of Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS. We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

SETTLEMENT AGREEMENT AND VOLUNTARY DISMISSALS OF
PETITIONS ON PROPOSED AGENCY ACTION

Pursuant to the Settlement Agreement, OPC agreed to voluntarily dismiss its Petition on Proposed Agency Action filed on June 25, 2001 to Order No. PSC-01-1245-PAA-WS. Moreover, Aloha agreed that it would increase the amount of the ordered refund by \$12,000 to its Aloha Gardens water customers, and withdraw its protest of PAA Order No. PSC-01-1374-PAA-WS if no other protests to that Order were filed by any third parties. No other protests were filed, and the time for filing of such protests has expired. Finally, Aloha and OPC agreed that the provisions and rulings in PAA Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS would be affirmed except for the modification to include the increased refund of \$12,000 to the Aloha Gardens water customers.

On July 20, 2001, OPC filed its voluntary dismissal of its Petition on Proposed Agency Action contingent on our approval of the Settlement Agreement. Also, on July 25, 2001, Aloha filed its voluntary dismissal of its protest of PAA Order No. PSC-01-1374-PAA-WS, also contingent on our acceptance of the Settlement Agreement.

For the Aloha Gardens water customers, we initially held \$133,977 or 25.77% of annual revenues subject to refund. Moreover, as stated above, we only found overearnings of \$29,325, and ordered a rate reduction of 5.7%. The amount ordered to be refunded, plus the additional \$12,000, does not exceed the amount held subject to refund.

Based on all the above, and because we find that the Settlement Agreement represents a fair compromise reached by the utility and OPC, we hereby approve the Settlement Agreement in its entirety. Because we have approved the Settlement Agreement, all petitions protesting the PAA Orders are now withdrawn. Therefore, both Orders have become final and effective upon the issuance of this Order. Finally, Order No. PSC-01-1245-PAA-WS shall be

modified to include Aloha's agreement to increase the refund amount to its Aloha Gardens water customers by an additional \$12,000, as reflected in the Settlement Agreement. The utility shall proceed with that refund plus all refunds and reductions in rates as required by Order No. PSC-01-1245-PAA-WS.

CLOSING OF DOCKET

By Order No. PSC-01-1245-PAA-WS, we ordered Aloha to make refunds to its Aloha Gardens water and wastewater customers and to lower rates for these systems. Aloha has now agreed to refund an additional \$12,000 to its Aloha Gardens' water customers. This docket shall remain open pending our staff's verification that the required refunds are made and the utility's submission of tariff sheets for the Aloha Gardens water and wastewater systems are consistent with our decision in Order No. PSC-01-1245-PAA-WS and our decision in this Order. Upon staff's verification, this docket shall be administratively closed. Accordingly, the corporate undertaking for this docket shall be released upon the refunds being completed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the July 18, 2001 Settlement Agreement, entered into between the Office of Public Counsel and Aloha Utilities, Inc. is hereby approved. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that Proposed Agency Action Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS, issued June 4, 2001 and June 27, 2001, respectively, are hereby made effective and final. It is further

ORDERED that Order No. PSC-01-1245-PAA-WS is modified to include the additional refund of \$12,000 to the Aloha Gardens water customers as set forth herein. Order No. PSC-01-1245-PAA-WS is hereby affirmed in all other respects. It is further

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ORDERED that Aloha Utilities, Inc., shall proceed with reducing its rates and making refunds to its Aloha Garden customers as required by Order No. PSC-01-1245-PAA-WS and the additional \$12,000 as agreed to in the Settlement Offer and approved herein. It is further

ORDERED that Aloha Utilities, Inc., shall comply with all other requirements of Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS. It is further

ORDERED that Docket No. 000737-WS shall remain open pending our staff's verification that the required refunds are made and the utility's submission of tariff sheets for the Aloha Gardens water and wastewater systems are consistent with our decision in Order No. PSC-01-1245-PAA-WS and our decision herein. Upon our staff's verification, this overearnings docket shall be administratively closed. It is further

ORDERED that the corporate undertaking submitted by Aloha Utilities, Inc., in this docket shall be released upon our staff's verification that the refunds have been completed.

By ORDER of the Florida Public Service Commission this 16th day of August, 2001.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.