

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-03-1410-FOF-WS  
ISSUED: December 15, 2003

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER RELEASING PORTION OF ESCROWED FUNDS

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. On August 10, 2001, Aloha filed an application for an increase in rates for its Seven Springs water system. By Order No. PSC-01-2199-FOF-WU, issued November 13, 2001, we approved interim rates subject to refund with interest, which increased rates by 15.95%. This 15.95% interim increase was secured by the utility's deposit of those funds in an escrow account.

We set final rates by Order No. PSC-02-0593-FOF-WU (Final Order), issued April 30, 2002. Among other things in that Final Order, we denied a revenue increase, set a two-tiered inclining block rate structure, increased plant capacity charges, required certain plant improvements, and set the methodology that required a 4.87% interim refund. The utility appealed the Final Order to the First District Court of Appeal (First DCA), and sought a stay while the decision was under appellate review.

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By Order No. PSC-02-1056-PCO-WU (Stay Order), issued August 5, 2002, we granted in part and denied in part the utility's Motion for Stay. We stayed the setting of the new rate structure, as well as the interim refund and certain plant improvement requirements. The First DCA affirmed our Final Order on May 6, 2003, Aloha Utilities v. Florida Public Service Commission, 848 So. 2d 307 (Fla. 1st DCA 2003), and subsequently denied the utility's Motion for Rehearing on June 12, 2003. The First DCA issued its mandate on June 30, 2003. As a result, the appellate review process is complete and all provisions of the Final Order are now final and effective.

By letter dated June 30, 2003, Aloha requested the release of the escrow funds above the amount required for the 4.87% refunds. Due to billing cycle constraints, the utility was unable to cease its collection of interim rates and begin collecting the final rates affirmed by the First DCA until August of 2003.

Subsequent to the utility's request for partial release of escrowed funds, the utility completed making the refunds at the 4.87% rate set forth in the Final Order on or about September 10, 2003. This Order addresses the release of escrowed funds correlating to the amount that has already been refunded to the customers.

We have jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

#### PARTIAL RELEASE OF ESCROWED FUNDS

As stated above, by Order No. PSC-01-2199-FOF-WU, we approved a 15.95% interim increase, subject to refund with interest. Pursuant to that Order, Aloha opened an escrow account on October 31, 2001, to secure the funds collected subject to refund, and subsequently deposited 15.95% of all monthly revenues in the escrow account.

Aloha collected the interim rates prior to the issuance of the Final Order and continued to collect the interim rates during the time of appellate review. All of the revenues collected subject to refund, totaling \$499,671, were placed in the escrow account. This amount includes \$102,152 for the rate case period (January 1, 2002

through April 30, 2002) and \$397,519 for the appeal period (May 1, 2002 through July 31, 2003). Final rates were implemented in August 2003, and the utility began the refund of 4.87% of the interim rates collected at that time.

According to its refund report dated October 10, 2003, Aloha has refunded \$153,510, including interest, which is based on the 4.87% in the Final Order for the entire interim period. The utility stated that of the total \$153,510 refund, \$139,077 was issued through credits on existing customer accounts and \$14,433 was issued through checks. By letter dated November 20, 2003, Aloha notified this Commission that the refund had been completed with the exception of \$1,182 in outstanding checks and \$344 in checks returned as undeliverable, for a total of \$1,526. The utility further stated that it would wait another 30 days to prepare its final refund report and propose final disposition of the unclaimed refunds.

Based on review of the utility's refund report, it appears that Aloha has substantially completed \$153,510 in refunds for which \$31,527 was for the rate case period and \$121,983 was for the appeal period. These amounts were refunded out of Aloha's existing funds without a release of the amounts held in escrow.

Without addressing the merits of any requirement for further refunds, we find that the \$153,510 amount already refunded to the customers shall be released from the escrow account and returned to Aloha at this time. The appropriate disposition of the remaining balance in the escrow account of \$346,161 will be addressed by this Commission when we make our decision on whether any further refunds are required.

Our calculation of the amounts refunded and amounts to remain in the escrow account is set out below:

	15.95% Amount Escrowed	4.87% Refunded (Without Use of Escrow Funds)	Amount to Remain in Escrow Account
Rate Case Period (January 1, 2002 through April 30, 2002)	\$102,152	\$31,527	\$70,625

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Appeal Period (May 1, 2002 through July 31, 2003)	<u>\$397,519</u>	<u>\$121,983</u>	<u>\$275,536</u>
Total Interim Period (January, 2002 through July 31, 2003)	<u>\$499,671</u>	<u>\$153,510</u>	<u>\$346,161</u>

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that \$153,510 in the escrow account shall be released to Aloha Utilities, Inc., immediately, with the disposition of the remaining balance in the escrow account to be addressed when we make our decision on whether any further refunds are required. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 15th Day of December, 2003.

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.