

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of intent to increase water and wastewater rates in Pasco County, based upon application of provisions of Section 367.081(4)(a) & (b), F.S., by Aloha Utilities, Inc.

DOCKET NO. 010518-WS  
ORDER NO. PSC-01-1242-PAA-WS  
ISSUED: June 4, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

ORDER APPROVING PASS-THROUGH INCREASE FOR  
SEVEN SPRINGS WATER SYSTEM  
AND  
NOTICE OF PROPOSED AGENCY ACTION  
ORDER REQUIRING ALOHA UTILITIES, INC. TO  
REFRAIN FROM IMPLEMENTING PASS-THROUGH AND  
PRICE INDEX INCREASES FOR THE  
ALOHA GARDENS WATER AND WASTEWATER SYSTEMS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein, except for the approval of the pass-through increase for the Seven Springs water system, is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Aloha Utilities, Inc. (Aloha or utility), is a class A water and wastewater utility located in Pasco County (County). The

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utility consists of two distinct service areas -- Aloha Gardens and Seven Springs.

On March 21, 2001, Aloha filed its Notice of Intent to Increase Its Rates (Notice) pursuant to the price index and pass-through provisions of Sections 367.081(4)(a) and (b), Florida Statutes. For the price index, Aloha requested the price index factor set forth in Order No. PSC-00-0206-FOF-WS, issued February 1, 2000, in Docket No. 000005-WS. By this Notice, Aloha seeks to increase its water and wastewater rates for the Aloha Gardens service area, and its water rates for the Seven Springs service area. In this filing, Aloha waived implementing the pass-through increase in the statutory 45-day period, and requested that it be allowed to implement both the price index and pass-through increase in 60 days.

However, prior to the filing of the above-noted Notice, this Commission initiated an overearnings investigation of this utility by opening Docket No. 000737-WS, 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. The appropriate rates on a going-forward basis for the Aloha Gardens water and wastewater systems were to be considered at the May 1, 2001 Agenda Conference in Docket No. 000737-WS. However, that item was deferred to the May 15, 2001 Agenda Conference. Moreover, the appropriate rates for the Seven Springs water system are still under consideration in Docket No. 000737-WS.

This Order addresses whether it is appropriate for Aloha to increase its water and wastewater rates for its Aloha Gardens division through application of the price index and pass-through provisions of Sections 367.081(4)(a) and (b), Florida Statutes, and whether it is appropriate to increase its water rates for its Seven Springs division through application of the pass-through provisions of Sections 367.081(4)(b), Florida Statutes. We will defer action on whether it is appropriate for Aloha to increase its water rates for its Seven Springs division through application of the price index provisions of Section 367.081(4)(a), Florida Statutes, until after we determine the appropriate rates for that system on a going forward basis in Docket No. 000737-WS.

APPROPRIATENESS OF PRICE INDEX AND PASS-THROUGH INCREASES  
FOR THE ALOHA GARDENS WATER AND WASTEWATER SYSTEMS

Section 367.081(4)(a), Florida Statutes, governs the implementation of a price index increase, and states in pertinent part:

The commission by rule shall establish the procedure to be used in determining such indices and a procedure by which a utility, without further action by the commission . . . may implement an increase or decrease in its rates based upon the application of the indices to the amount of the major categories of operating costs incurred by the utility during the immediately preceding calendar year, except to the extent of any disallowances or adjustments for those expenses of that utility in its most recent rate proceeding before the commission. . . . A utility may not use this procedure between the official filing date of the rate proceeding and 1 year thereafter, unless the case is completed or terminated at an earlier date. A utility may not use this procedure . . . to increase its rates by application of a price index other than the most recent price index authorized by the commission at the time of filing.

Rule 25-30.420, Florida Administrative Code, governs price index increases, and subsection (7) of that rule states: "No utility shall implement a rate increase pursuant to this rule within one year of the official date that it filed a rate proceeding, unless the rate proceeding has been completed or terminated."

Although Rule 25-30.420, Florida Administrative Code, refers to the date that the utility files a rate proceeding, the statutory reference is to "the rate proceeding," and states that the price index procedure may not be used "between the official filing date of the rate proceeding and 1 year thereafter, unless the case is completed or terminated at an earlier date."

In the overearnings docket, we considered the inflationary factor for the year 2000 and the increase in the County's bulk wastewater rates and water rates in October 2000. If there is no protest of the Proposed Agency Action (PAA) Order which will issue

memorializing that decision, then the overearnings investigation for the Aloha Gardens water and wastewater systems will be completed and the 2000 inflationary factor and the pass-through increase for both the bulk water and wastewater increases from the County will already be included in the rates for the Aloha Gardens division of Aloha. We find that if Aloha were allowed to increase the rates again for these same items, there would be a double recovery. Therefore, Aloha shall refrain from increasing its rates for the Aloha Gardens water and wastewater systems pursuant to the price index and pass-through provisions of Sections 367.081(4)(a) and (b), Florida Statutes.

APPROPRIATENESS OF PRICE INDEX AND PASS-THROUGH INCREASES  
FOR THE SEVEN SPRINGS WATER SYSTEM

As stated above, we have deferred making any decision on whether it is appropriate for Aloha to increase its water rates to its Seven Springs division through application of the price index provisions of Section 367.081(4)(a), Florida Statutes. However, in our consideration of this utility in the overearnings docket, we have not addressed the bulk water pass-through increase for the Seven Springs water division. Therefore, Aloha shall be allowed to implement the pass-through increase for its Seven Springs water division, provided Aloha has submitted the appropriate notice to customers, the appropriate revised tariff sheets, and has notified each customer of the increase authorized and the reasons for the increase and has otherwise complied with the requirements of Rule 25-30.425, Florida Administrative Code.

Although Aloha set forth the calculations for the pass-through increase, gave the initial notice to this Commission as required by Section 367.081(4)(b), Florida Statutes, and otherwise complied with Rule 25-30.425, Florida Administrative Code, the tariff sheets and the proposed notice to customers included the requested price index increase which we have not yet ruled on. Therefore, if Aloha wishes to proceed with the pass-through portion of the requested increase, it shall submit the appropriate tariffs and notice. Also, pursuant to Rule 25-30.425(8), Florida Administrative Code, "Prior to the time a customer begins consumption at the adjusted rates, the utility shall notify each customer of the increase authorized and explain the reasons for the increase." Once Aloha has complied with all the above, Aloha shall be allowed to increase

its water rates to its Seven Springs customers for the County's increase in its bulk water rates through application of the pass-through provisions of Section 367.081(4)(b), Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Aloha Utilities, Inc., shall refrain from increasing its rates for the Aloha Gardens water and wastewater systems pursuant to the price index and pass-through provisions of Sections 367.081(4)(a) and (b), Florida Statutes. It is further

ORDERED that Aloha Utilities, Inc., shall be allowed to increase its water rates to its Seven Springs customers for the County's increase in its bulk water rates through application of the pass-through provisions of Section 367.081(4)(b), Florida Statutes. It is further

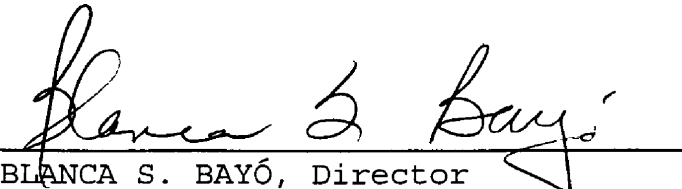
ORDERED that prior to implementing this pass-through increase, Aloha Utilities, Inc., shall submit the appropriate tariffs and notice, give notice to its customers of the authorized increase and explain the reasons for the increase prior to the time the customers begin consumption, and otherwise comply with Rule 25-30.425, Florida Administrative Code. It is further

ORDERED that the portions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open pending our determination of the appropriateness of the price index increase for the Seven Springs water system of Aloha Utilities, Inc.

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By ORDER of the Florida Public Service Commission this 4th  
day of June, 2001.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( 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.

As identified in the body of this order, our actions, except for the approval of the pass-through increase for the Seven Springs water system, are preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 25, 2001. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

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Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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 Records and Reporting 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 or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.