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ROBERT M. C. ROSE
OF COUNSEL

July 18, 2001

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

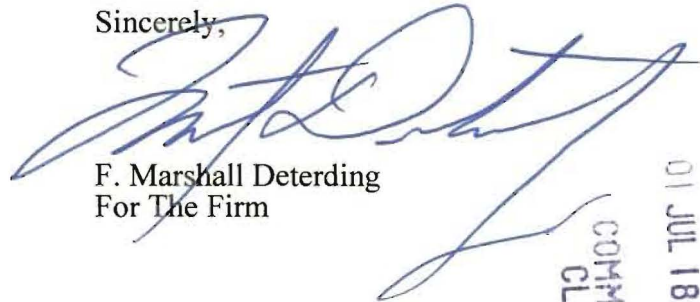
Re: Aloha Utilities, Inc.; Docket No. 000737-WS
Investigation of Rates in Pasco County for Possible Overearnings
Our File No. 26038.31

Dear Ms. Bayo:

Attached are the original and 15 copies of a Petition on Proposed Agency Action filed in the above-referenced docket on behalf of Aloha Utilities, Inc.

Should you or any members of the staff have any questions in this regard, please do not hesitate to contact me.

Sincerely,



F. Marshall Deterding
For The Firm

FMD/tms

cc: Ralph Jaeger, Esquire
Rosanne Gervasi, Esquire
Bob Crouch, P.E.
Tricia Merchant, CPA
Mr. Bart Fletcher
Marshall Willis, CPA
Stephen G. Watford, President
Robert C. Nixon, CPA

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DOCUMENT NUMBER-DATE

08763 JUL 18 01

FPSC-COMMISSION CLERK

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
Filed July 18, 2001

PETITION ON PROPOSED AGENCY ACTION

COMES NOW, Aloha Utilities, Inc. (hereinafter "Petitioner," "Aloha," or the "Utility") by and through their undersigned attorneys and files this Petition on Proposed Agency Action, pursuant to Section 120.57(1) and 120.80(13), Florida Statutes and Rule 28-106.201, Florida Administrative Code and hereby objects to certain portions of Order No. PSC-01-1374-PAA-WS and places into dispute the issues specified in this pleading and states as grounds therefore the following:

1. The name and address of Petitioner is:

Mr. Stephen Watford
Aloha Utilities, Inc.
6915 Perrine Ranch Road
New Port Richey, FL 34655

2. The name and address of the person authorized to received notices:

F. Marshall Deterding, Esq.
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

3. The name of the agency is the Florida Public Service Commission (hereinafter "Commission" or "PSC") and its Docket No. is 000737-WS.

4. Petitioner received the Commission's Notice of Proposed Agency Action Order No. PSC-01-1245-PAA-WS by U.S. Mail to their attorneys on July 3, 2001.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

5. The following issues of material fact are raised by Aloha, and include specific facts that require modification of the Proposed Agency Action Order (hereinafter "PAA Order"):

- A. Several administrative positions have been filled in the months following the end of the calendar year 2000. All of those positions were required to be filled in order to properly handle the existing customer base, including customer billing, collection, and customer service. The great majority of these additional costs have not been recognized in setting going-forward rates, or determining the amount of monies labeled as overearnings under the Order.
- B. As a result of a review of overall level of salaries for both office and field staff, Aloha has made upward adjustments in its salaries and benefits in order to more closely approximate those offered by the Pasco County government, with whom Aloha must compete for employees. In the past, the Utility has experienced substantial turnover which negatively impacts the Utility's ability to provide good customer service and comply with all regulatory requirements, in addition to regular operation requirements, because of this extremely high turnover rate. The changes in overall salary levels were therefore required in order to alleviate this substantial problem. No recognition of these costs, either in the calculation of the amount of alleged overearnings or in setting going-forward rates, has been considered in the Commission's Proposed Agency Action Order.


- C. Because of the requirements of the Southwest Florida Water Management District, the Utility is required to begin purchasing substantial increased quantities of water from Pasco County, at least as an interim, if not long-term measure at substantially higher costs than pumping and treating their own well water. No recognition has been given within the Order, to those substantial increased costs, either for the year 2001 and the establishment of any overearnings related thereto, or in setting going-forward rates.
- D. The Commission has made substantial adjustments to royalties paid to what the Commission has termed a “related party” for water pumped from property owned by the “related party.” The royalty payment is fully justified as a reasonable basis for purchase of obtaining water resources, and is substantially less than the other alternatives available to the Utility. As such, no such adjustment should have been made in establishing amount of alleged overearnings, or in setting going-forward rates.
- E. The Utility was required, pursuant to the provisions of Commission Order No. PSC-00-1285-FOF-WS, to conduct a pilot study on additional water treatment alternatives to reduce the level of hydrogen sulfide within Aloha’s source water which can reform in the customers’ homes in certain situations. Aloha has expended substantial monies in this regard, however no recognition of the amortization of such costs has been recognized either in the establishment of the amount of alleged overearnings or in setting going-forward rates in the PAA Order.

F. The Commission's PAA Order fails to recognize all of the costs related to this proceeding, much less the cost to continue to full hearing in this case. As such, the alleged overearnings and going-forward rates must be adjusted in order to recognize all reasonable costs incurred in responding and participating in this proceeding and in the protest of, and subsequent hearing on, the issues raised to the PAA Order.

6. The ultimate facts alleged by the Petitioner are as outlined in Paragraph 5 hereof and are generally that Aloha is entitled to recognition in rate setting and in the establishment of any overearnings or underearnings of the additional items outlined in Paragraph 5 above, and ultimately to an elimination of any alleged overearnings calculated by the Commission and to going-forward rates that accurately reflect the full cost of service, including an increase in rates as one is justified after full recognition of the above-referenced issues and adjustments.

WHEREFORE, based upon the above, Aloha Utilities, Inc. requests that the Commission grant it a hearing pursuant to the provisions of Section 120.57(1), Florida Statutes on each of the factual, legal, and policy issues outlined herein.

Respectfully submitted this 18th day of July, 2001.



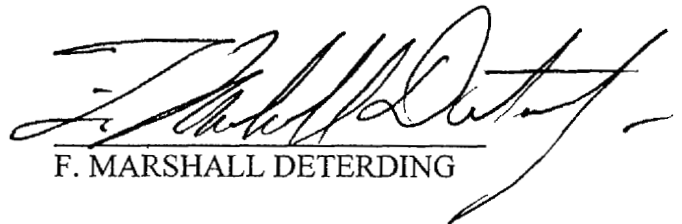
F. MARSHALL DETERDING
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via Telecopy(*) and Hand Delivery(**) to the following on this 18th day of July, 2001:

Office of Public Counsel *
Stephen Burgess
c/o The Florida Legislature
111 W. Madison St., Room 812
Tallahassee, FL 32399-1400
Phone: 850-488-9330

Ralph Jaeger, Esquire **
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



F. MARSHALL DETERDING