

STATE OF FLORIDA

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Public Service Commission

November 14, 2002

V. Abraham Kurien, M.D.  
1822 Orchardgrove Avenue  
New Port Richey, Florida 34655

Re: Docket No. 020896-WS - Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County.

Dear Dr. Kurien:

As you have requested of me in your letter dated November 9, 2002, I will attempt to provide you with clarification on how you should address the Commission in the future in relation to the above-referenced docket. As you are aware, this docket was opened by the Commission upon receipt of the customer petition which was signed by approximately 1,491 customers of Aloha Utilities in the Seven Springs Service Area.

The customer petition specifically states, "We the undersigned customers of Aloha Utilities, Inc. request the Public Service Commission. . ." Thus, it is clear that every customer that signed the petition was in agreement with the points raised in the petition, and the relief requested by the petition.

The points raised by in Aloha's Motion to Strike filed on November 7, 2002, with respect to your unauthorized representation of the customers, goes specifically to the additional pleadings that you have filed in this docket on behalf of those same customers that signed the original petition. Although those customers signed the original petition, by signing the petition, they did not necessarily authorize you to act on their behalf in future pleadings in this docket.

It is very important to clarify that you are in no way barred from continuing to actively represent yourself in this docket as a customer of Aloha, and in that regard assert arguments as you see fit. However, unless you have been specifically designated as a qualified representative of the customers of Aloha, you should not purport to represent their views as well.

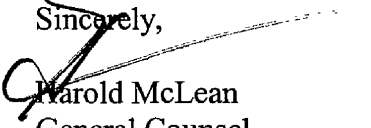
The enclosed rule governing who may become a qualified representative is Rule 28-106.10 Florida Administrative Code. That rule contains specific criteria that must be met, and steps that must be followed in order for one to be considered a "qualified representative."

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Further, it should also be noted that the Office of Public Counsel, pursuant to Section 350.0611, Florida Statutes, has the duty to, "provide legal representation for the people of the state in proceedings before the commission."

The better course in the future for you is to either seek qualified representative status on behalf of the customers who signed the petition, or to represent only yourself in your future pleadings and arguments in this docket.

Sincerely,  
  
Harold McLean  
General Counsel

encl.

HMCL/LAH/dm

cc: Division of the Commission Clerk and Administrative Services  
Division of Economic Regulation (Willis, Walden)  
Division of Consumer Affairs (Lowery)  
Office of General Counsel (Holley)  
Representative Mike Fasano  
All Parties of Record

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**28-106.106 Who May Appear; Criteria for Qualified Representatives.**

(1) Any party who appears in any agency proceeding has the right, at his or her own expense, to be represented by counsel or by a qualified representative. Counsel means a member of The Florida Bar or a law student certified pursuant to Chapter 11 of the Rules Regulating The Florida Bar.

(2)(a) A party seeking representation by a qualified representative shall file a written request with the presiding officer as soon as practicable. The request shall identify the name, address and telephone number of the representative and shall state that the party is aware of the services which the representative can provide, and is aware that the party can be represented by an attorney at the party's own expense and has chosen otherwise.

(b) The presiding officer shall assure that the representative is qualified to appear in the administrative proceeding and capable of representing the rights and interests of the party. The presiding officer may consider a representative's sworn affidavit setting forth the representative's qualifications.

(c) The presiding officer shall determine the qualifications of the representative within a reasonable time after the request required by paragraph (a) is filed.

(3) The presiding officer shall authorize the representative to appear if the presiding officer is satisfied that the representative has the necessary qualifications to responsibly represent the party's interests in a manner which will not impair the fairness of the proceeding or the correctness of the action to be taken.

(4) The presiding officer shall make a determination of the qualifications of the representative in light of the nature of the proceedings and the applicable law. The presiding officer shall consider:

(a) The representative's knowledge of jurisdiction;

(b) The representative's knowledge of the Florida Rules of Civil Procedure relating to discovery in an administrative proceeding;

(c) The representative's knowledge regarding the rules of evidence, including the concept of hearsay in an administrative proceeding;

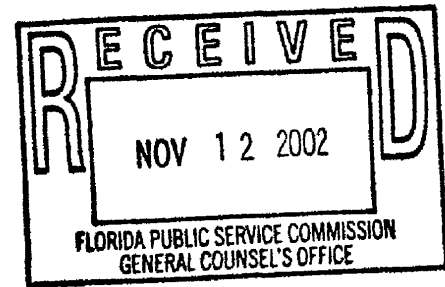
(d) The representative's knowledge regarding the factual and legal issues involved in the proceedings; and

(e) The representative's knowledge of and compliance with the Standards of Conduct for Qualified Representatives, Rule 28-106.107, F.A.C.

(5) If the presiding officer determines a representative is not qualified, the reasons for the decision shall be in writing and included in the record.

*Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History--New 4-1-97.*

V. Abraham Kurien, M.D  
1822 Orangedrove Avenue,  
NEW PORT RICHEY, FL 34655



Harold McLean Esq.  
General Counsel,  
Public Service Commission,  
2540 Shumard Oak Boulevard,  
TALLAHASSEE, 32399-0850

November 9, 2002

Dear Atty McLean,

RE: Docket No 020896-WS

At the request of 1491 customers of Aloha Utilities in the Seven Springs Area, I forwarded to the PSC commission on July 16, 2002 a petition, which has been given the above docket number. After consulting with Atty Lorena Holley of the PSC, I forwarded an initial rebuttal to the 'Motion to Dismiss' the above petition filed by Aloha Utilities. Again on November 4, after consultation with Atty Holley I forwarded additional arguments to facilitate the Commission's consideration of Aloha's Motion to Dismiss.

I understand that Aloha Attorney Mr Deterding has now filed a motion to strike my presentation to the PSC dated November 4. Obviously the PSC will determine if there is any legal validity for his arguments in this regard. More important to me and to the petitioners is Mr Deterding's accusation that I am indulging in the "unauthorized practice of law" in my use of the phrases such as 'representative of certain customers', 'on behalf of the petitioners' or similar language.

In my first communication to the PSC in my rebuttal to the Motion to Dismiss, I had indicated that I had no legal training and that I would leave it to the attorneys of the PSC and the OPC to discuss the legal validity of Aloha's motion. I filed an additional communication, only after consulting with the PSC attorney Holley about whether I could make another submission detailing the provisions of Chapter 367, which was quoted by an Aloha Attorney on August 20. *I had no intention of legally representing the petitioners; the citizens are being represented by the Office of Public counsel. I was only representing them in the 'democratic' sense.*

I submit that Mr Deterding's accusation that I have indulged in the 'unauthorized practice of law' is an attempt to intimidate the petitioners and me. Since the Public Service Commission is the *'judicial authority or court' before whom I acted on behalf of the petitioners*, I would seek a clarification from you as to how I should address the PSC in the future in this matter.

Obviously 1491 customers cannot come to Tallahassee to present their arguments to the PSC!  
Nor perhaps would you want them to!

I would appreciate an urgent reply to this letter, as there is an agenda conference scheduled to consider this matter on November 19, 2002 and as a petitioner I would like to be ***absolutely clear how I can and should respond to this situation.*** I was planning to be at that meeting along with another customer who has been granted the 'intervener' status.

Yours sincerely

*V. Abraham Kurien*  
V. Abraham Kurien, M.D.

cc. Sen. Mike Fasano  
Atty Steve Burgess, OPC