

STATE OF FLORIDA

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Public Service Commission

December 4, 2002

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

Re: Dr. Kurien Letter Dated November 21, 2002 in Docket No. 010503-WU.

Dear Dr. Kurien:

I have placed your November 21, 2002, letter with attachment in the docket file. You appear to have two questions or concerns in your letter to which you request a response.

First, you express concern about "why 'informal' discussions are being held with Aloha while the jurisdiction of the PSC to order Aloha to remove 98% of hydrogen sulfide is still on appeal." As you note we are still waiting for a decision by the First District Court of Appeals, but this does not keep Aloha itself from continuing with the day-to-day operations of the utility. An appeal could take well over a year and Aloha must continue to make decisions on how best to serve its customers.

Even though Aloha may take the position that its service is adequate, that does not prevent it from taking "voluntary" steps to improve its service. In the Order on appeal, the Commission specifically found that Aloha should be more proactive.

If Aloha seeks to increase its rates to earn a return on its increased investment and to recover any increase in expenses, the utility show that such investments and expenses are prudent and used-and-useful in the public service. This leads into your second concern as to whether the Commission is competent "to undertake that decision." If Aloha does decide on a certain course of action and does seek increased rates, then the Commission will have to determine what shall be recovered through rates. This would most likely be done only after a full hearing with all the attendant experts.

I think everyone agrees that the step to spend millions of dollars should not be taken lightly. However, Aloha must continue operating the utility.

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Thanks for your concern, and I hope this letter satisfactorily responds to your concerns.

Sincerely,



Ralph R. Jaeger  
Senior Attorney

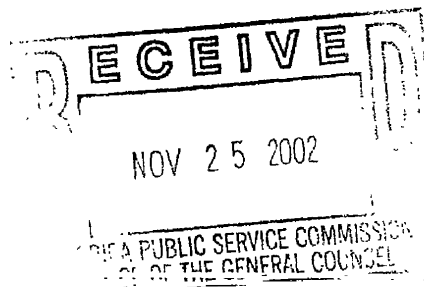
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cc: Office of the General Counsel (Cibula, Holley)  
Division of Economic Regulation (Devlin, Jenkins, Kummer, Golden, Walden, Fletcher,  
Lingo, Merchant, Platt, Stallcup, Willis)  
Division of Auditing and Safety (McPherson, Vandiver)  
Division of the Commission Clerk and Administrative Services  
Southwest Florida Water Management District (Lytle)  
Edward O. Wood  
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Marshall Deterding (Rose Law Firm)  
Office of Public Counsel (Burgess)

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V. Abrham Kurien, M.D.  
1822 Orchardgrove Avenue,  
NEW PORT RICHEY, FL 34655

Atty Ralph Jaeger,  
~~Public Service Commission~~  
2540 Shumard Oak Blvd  
TALLAHASSEE, FL 32399-0850



November 21, 2002

Dear Atty Jaeger,

DOCKET NO 010503-WU

I am sorry I was not able to attend the 'informal meeting' between Aloha and the PSC to "discuss voluntary actions of Aloha in regards to implementing the MIEX process for its Seven Springs water systems". The notice of the meeting arrived too late for me to be able to attend that meeting as well as the PSC hearing on Docket No 020896-WS.

I do not quite understand why "informal" discussions are being held with Aloha while the jurisdiction of PSC to order Aloha to remove 98% of hydrogen sulfide is still on appeal by **Aloha itself** in the DCA. I presume that the purpose of MIEX process for the Seven Springs Water system is for the more efficient removal of hydrogen sulfide than is being currently achieved by Aloha. If Aloha maintains that its current process meets the FDEP standards for potable water at all times, why is Aloha interested in installing the very expensive MIEX program?

I have been able to obtain comments provided by an independent engineering firm hired by Pasco County on the ORICA MEMORANDUM OF UNDERSTANDING submitted to Pasco County Water Utility when it was considering the feasibility of using MIEX resin for water processing. I am enclosing a copy of it for your information.

I have serious concerns about the installation of MIEX in the Seven Springs Area, until an independent assessment is made of its suitability for the area by an Engineering Firm competent to do so. I do not feel that the PSC has the competence to undertake that decision. If you feel that such is not the case, could you please comment on it?

I hope you will answer the questions and concerns raised in this letter without undue delay.

Yours sincerely

*V. Abraham Kurien*

V. Abraham Kurien, M.D

A water customer of Aloha in the Seven Springs Area.

SECTION 4.0  
ORICA MEMORANDUM OF UNDERSTANDING COMMENTS

REPORT: Memorandum of Understanding Resin Supply Contract  
Dated September 12, 2001

SUBMITTED TO: Pasco County Utilities

PREPARED BY: Orica Watercare

1. Sole source of MIEX<sup>®</sup> may limit reliability of the process should anything occur to disrupt this single source resin. Pasco is assuming most of the risk.
2. Sole source of MIEX<sup>®</sup> limits the Pasco's options with regard to flexibility of treatment options as additional research and regulations develop.
3. Sole source may lead to surprises in the future with regard to the cost of treatment, as the agreement is one sided in favor of the supplier. It is recommended that a contract lawyer be consulted to review the terms and conditions. It is further suggested that Pasco consider substituting its own terms and conditions as a buyer versus accepting terms and conditions dictated by a sole source supplier. Pasco will have the burden of proof that said agreement complies with state law and is totally in the public's best interest.
4. Agreement requires a ten-year commitment, per item 3, page 1, with strict terms to change or cancel the agreement, mostly in favor of the supplier. Agreement indicates that renewal is automatic unless 180 days notice is given after the initial 10 years.
5. Product is delivered to nearest port and not to the water treatment plant, so Pasco will incur other costs to transport the resin from the port to the plant. Pasco also must pay import duties and taxes, per item 8, page 3 of the agreement.
6. Per item 7 of the agreement, Pasco must pay prime rate plus 5 percent, for invoices over 30 days, which seems excessive for such a long-term agreement.
7. Item 10 of the agreement may conflict with Pasco being a public agency required to disclose information about its plant design and operations to the interested, qualified public. This item restricts the Pasco from disclosure and may lead to future legal actions by the public.
8. There is no indication of any performance bond or guarantee, thereby placing the risk for the use of this product on the Pasco, and said risk may be unacceptable.
9. Item 9 states the Pasco is restricted with respect to analysis of the product, but should be allowed to do so, to confirm it meets product specifications and performance expectations.
10. Item 13 greatly limits the Pasco's ability to make any claims against the supplier; again making the agreement one sided in favor of the supplier.

11. Item 14 places requirements on Pasco for insurance, but there are no requirements for the supplier. Normally, Pasco County suppliers and contractors have both insurance and bonding requirements.
12. Item 18 would subject Pasco to binding arbitration in the State of Colorado. Pasco should confirm this term is in the public's best interest and conforms to Florida statutes for County operations.
13. Item 27 subjects the agreement to the laws of Colorado, and to the courts of Colorado; again, County should confirm this meets County rules for operation in the state of Florida.
14. Attachment B, several test procedures are listed in the footnotes, but said test procedures are not defined in the agreement or Memorandum of Understanding (MOU).
15. MOU states the MOU terminates 12/1/01 and will need to be extended by mutual agreement.
16. MOU Schedule 1 requires design to start January 1, 2002, construction to start September 2002, and operations to begin December 2003. This schedule appears to be very aggressive and perhaps not achievable. Typically, such plants require a complete set of plans for Department of Health permitting, which may take several months since this will be relatively new technology in Florida without much precedent. Also for construction to start by September, typically the project must be sent out for bid at least 3 months prior, or June 2002. This seems overly aggressive and does not allow for the uncertainties of the permitting process.
17. Schedule 2, MOU, price adjustment provisions place risk on Pasco to accept price adjustments, or Pasco will be required to change the process very quickly. Perhaps this is not achievable, if said adjustments become excessive.
18. Once orders are made, Pasco must wait 90 days for delivery, again placing a lot of the risk for this process on Pasco, and subjecting Pasco operations to the supplier's performance, which is neither bonded nor guaranteed.