

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Aloha Utilities, Inc. in Pasco County for failure to charge approved service availability charges, in violation of Order No. PSC-01-0326-FOF-SU and Section 367.091, Florida Statutes.

DOCKET NO. 020413-SU  
ORDER NO. PSC-03-0162-PCO-SU  
ISSUED: January 31, 2003

ORDER GRANTING MOTION FOR EXTENSION OF TIME TO FILE TESTIMONY  
AND MODIFYING ORDER NO. PSC-02-1460-PCO-SU

On January 30, 2003, Adam Smith Enterprises, Inc. (Adam Smith) filed a Motion for Extension of Time (4 Additional Days) to File Testimony. Also on this date, Aloha Utilities, Inc. (Aloha or utility) filed its Response in Opposition to Motion for Extension of Time.

In the Motion, Adam Smith requests an extension of four days, to and including February 7, 2003, within which to file its direct testimony in this case. According to Adam Smith, the extension is needed to enable the efficient expenditure of resources and will provide Adam Smith an opportunity to explore further the possibility of settlement prior to committing the time and resources necessary for the completion and filing of prefiled testimony. Adam Smith further states that absent the extension, it must currently focus on the February 3, 2003, deadline, thereby delaying possible progress in settlement efforts.

Adam Smith requests that the deadline also be extended for staff and the Office of Public Counsel (OPC) to file direct testimony, if any, by four days, and to extend the deadline for rebuttal testimony by four days as well. Adam Smith asserts that the requested extension will not result in prejudice to the parties, and will not necessitate a change in the scheduling of the prehearing conference or the hearing.

Adam Smith has contacted OPC and counsel for Aloha. OPC does not object to the granting of the Motion. Aloha opposes it.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

In its Response in opposition to the Motion, Aloha states that at the suggestion of the Commission, Aloha first approached Adam Smith regarding settlement of this proceeding shortly after Adam Smith filed its protest in October of last year, and that Aloha has made numerous settlement offers since that time in an effort to reach an agreement which is mutually satisfactory to both parties. According to Aloha, until this last week, all efforts by Aloha to settle were summarily rebuffed.

Aloha believes that Adam Smith's recent desire to seriously discuss viable options for settlement are the direct result of the filing dates in the current procedural schedule. Further, Aloha argues that should settlement not be reached between the parties, a delay in Adam Smith's testimony filing date would create further delays in the procedural progress of the docket to all parties' detriment.

The requested extension will not necessitate a change in the scheduling of the prehearing conference or the hearing, nor will it result in prejudice to the parties. Therefore, the Motion for Extension of Time is granted. Accordingly, Order No. PSC-02-1460-PCO-SU, issued October 23, 2002, establishing the key activity dates which govern this docket, is hereby partially revised as follows:

Activity Dates

Intervenor testimony	February 7, 2003
Staff testimony, if any	February 21, 2003
Rebuttal testimony	March 7, 2003

Order No. PSC-02-1460-PCO-SU is otherwise affirmed in all other respects. The parties are cautioned to note that Prehearing Statements continue to be due on March 3, 2003.

The parties are strongly encouraged to continue their efforts to settle this case.

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Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason as Prehearing Officer, that Adam Smith Enterprises, Inc.'s, Motion for Extension of Time (4 Additional Days) to File Testimony is granted. It is further

ORDERED that Order No. PSC-02-1460-PCO-SU is revised to the extent set forth in the body of this Order. It is further

ORDERED that Order No. PSC-02-1460-PCO-SU is otherwise affirmed in all other respects.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 31st day of January, 2003.

  
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J. TERRY DEASON  
Commissioner and Prehearing Officer

( S E A L )

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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.

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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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.