

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: NOVEMBER 26, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (JAEGER, HOLLEY) *PP JAN 11/04*
DIVISION OF ECONOMIC REGULATION (MERCHANT WILLIS, JENKINS, DEVLIN) *JDT*

RE: DOCKET NO. 010503-WU - APPLICATION FOR INCREASE IN WATER RATES FOR SEVEN SPRINGS SYSTEM IN PASCO COUNTY BY ALOHA UTILITIES, INC.
COUNTY: PASCO

AGENDA: 12/2/03 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: THIS ITEM IS IN LIEU OF ITEM 9 THAT WAS DEFERRED AT THE REQUEST OF THE OFFICE OF PUBLIC COUNSEL.

FILE NAME AND LOCATION: S:\PSC\ECR\WP\010503A.RCM

CASE BACKGROUND

Aloha Utilities, Inc. (Aloha or utility) is a Class A water and wastewater utility in Pasco County. The utility consists of two distinct service areas: Aloha Gardens and Seven Springs. On August 10, 2001, Aloha filed an application for an increase in rates for its Seven Springs water system. By Order No. PSC-01-2199-FOF-WU, issued November 13, 2001, the Commission approved interim rates subject to refund with interest, which increased rates by 15.95%. This 15.95% interim increase was secured by the utility's deposit of those funds in an escrow account.

The Commission set final rates by Order No. PSC-02-0593-FOF-WU (Final Order), issued April 30, 2002. Among other things, the

DOCUMENT NUMBER DATE

12060 NOV 26 8

FPSC-COMMISSION CLERK

DOCKET NO. 010503-WU
DATE: November 26, 2003

Commission denied a revenue increase, set a two-tiered inclining block rate structure, increased plant capacity charges, required certain plant improvements, and set the methodology that required a 4.87% interim refund. The utility appealed the Final Order to the First District Court of Appeal (First DCA), and sought a stay while the decision was under appellate review.

By Order No. PSC-02-1056-PCO-WU (Stay Order), issued August 5, 2002, the Commission granted in part and denied in part the utility's Motion for Stay. The Commission stayed the setting of the new rate structure, as well as the interim refund and certain plant improvement requirements. The First DCA affirmed the Final Order on May 6, 2003, Aloha Utilities v. Florida Public Service Commission, 848 So. 2d 307 (Fla. 1st DCA 2003), and subsequently denied the utility's Motion for Rehearing on June 12, 2003. The First DCA issued its mandate on June 30, 2003. As a result, the appellate review process is complete and all provisions of the Final Order are now final and effective.

By letter dated June 30, 2003, Aloha requested the release of the escrow funds above the amount required for the 4.87% refunds. Due to billing cycle constraints, the utility was unable to cease its collection of interim rates and begin collecting the final rates affirmed by the First DCA until August of this year. The utility completed the 4.87% interim refunds required by the Final Order on or about September 10, 2003.

Staff filed its original recommendation to address Aloha's request to release escrow funds for consideration at the Commission's August 5, 2003, Agenda Conference. This recommendation was deferred.

Subsequent to the utility's request for partial release of escrowed funds, the utility completed making the refunds at the 4.87% rate set forth in the Final Order. This recommendation addresses the release of escrowed funds that have been already been refunded to the customers. Staff recommends that any dispute regarding whether additional amounts should be refunded be addressed by the Commission at a future date.

The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should any amount of escrowed funds be released to Aloha?

RECOMMENDATION: Yes. Aloha has refunded 4.87% of all interim rates collected, totaling \$153,510. Staff has verified that the refund was made and as such, \$153,510 should be released at this time to Aloha. The release of the remaining balance in the escrow account of \$346,161 should be addressed by the Commission when a decision is made on whether any further refunds are required. (MERCHANT)

STAFF ANALYSIS: By Order No. PSC-01-2199-FOF-WU, issued November 13, 2001 in this docket, the Commission approved a 15.95% interim increase, subject to refund with interest. In response, Aloha opened an escrow account on October 31, 2001, to secure the funds collected subject to refund, and subsequently deposited 15.95% of all monthly revenues in the escrow account.

Aloha collected interim rates prior to the issuance of the Final Order and continued to collect the interim rates during the time of appellate review. Aloha escrowed \$499,671 in total interim revenues held subject to refund. This amount includes \$102,152 for the rate case period (January 1, 2002 through April 30, 2002) and \$397,519 for the appeal period (May 1, 2002 through July 31, 2003). Final rates were implemented in August, 2003 and the utility began the refund of 4.87% of the interim rates collected at that time.

According to its refund report dated October 10, 2003, Aloha has refunded \$153,510, including interest, which is based on the 4.87% in the Final Order for the entire interim period. The utility stated that of the total \$153,510 refund, \$139,077 was issued through credits on existing customer accounts and \$14,433 was issued through checks. By letter dated November 20, 2003, Aloha notified the Commission that the refund had been completed with the exception of \$1,182 in outstanding checks and \$344 in checks returned as undeliverable, for a total of \$1,526. The utility further stated that it would wait another 30 days to prepare its final refund report and propose final disposition of the unclaimed refunds.

Based on staff's review of the utility's refund report, it appears that Aloha has substantially completed \$153,510 in refunds for which \$31,527 was for the rate case period and \$121,983 was for

the appeal period. These amounts were refunded out of Aloha's existing funds without a release of the amounts held in escrow.

Without addressing the merits of any requirement for further refunds, staff believes that the \$153,510 amount already refunded to the customers should be released from the escrow account and returned to Aloha at this time. The purpose of security is to ensure that a utility has sufficient resources to make any required refunds and if the refunds are substantially completed, then the security should be released. Staff does not believe there is any dispute that Aloha has made the 4.87% refund and thus security for the \$153,510 is no longer required. Staff believes that any continued requirement to escrow the amounts previously refunded would be detrimental to the utility. Further, the release of the remaining balance in the escrow account of \$346,161 should be addressed by the Commission when a decision is made on whether any further refunds are required.

The schedule below reflects the breakdown of amounts collected and refunded for the rate case and appeal period.

	15.95% Amount Escrowed	4.87% Refunded (Without Use of Escrow Funds)	Amount to Remain in Escrow Account
Rate Case Period (January 1, 2002 through April 30, 2002)	\$102,152	\$31,527	\$70,625
Appeal Period (May 1, 2002 through July 31, 2003)	<u>\$397,519</u>	<u>\$121,983</u>	<u>\$275,536</u>
Total Interim Period (January, 2002 through July 31, 2003)	<u>\$499,671</u>	<u>\$153,510</u>	<u>\$346,161</u>

DOCKET NO. 010503-WU
DATE: November 26, 2003

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to address whether any additional refunds, if any, are required, as well as the construction of pro forma plant as required in the Final Order. (JAEGER, HOLLEY, FLETCHER)

STAFF ANALYSIS: This docket should remain open to address whether any additional refunds, if any, are required, as well as the construction of pro forma plant as required in the Final Order.