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DATE: June 30, 2004
 TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
 FROM: Rosanne Gervasi, Senior Attorney, General Counsel *RG*
 RE: Docket No. 020896-WS

Please file the attached correspondence in the above mentioned docket file.

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Attachment

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FPSC-COMMISSION CLERK

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Atty. Rosanne Gervasi,
Public Service Commission
2540 Shumard Oak Blvd
TALLAHASSEE, FL 32399-0850

June 27, 2004

PSC DOCKET 020896
PSC DOCKET No.010503

Dear Atty. Gervasi,

I am responding to the letter submitted by Atty. Marshall Deterding to you, because he forwarded to me a copy of that communication.

While the Office of Public Counsel had sent you a note about the customers having “no objection” to the PSC agreeing to the TBW water standard of 0.1 mg of total sulfides, that position was appropriate to the processing methods that were being considered at that time namely, packed tower aeration or MIEX resin exchange, the suitability of both having been studied by expensive pilot projects. However, the OPC sponsored audit revealed methodological inadequacies that are relevant to the formation of black water in domestic plumbing, namely the formation of elemental sulfur in all wells of Aloha when an **oxidative conversion of hydrogen sulfide to sulfate is being used**. Further, the FDEP indicated the need for removal of elemental sulfur from processed water to prevent black water formation in August 2003.

Aloha is now contemplating using an oxidative method for the conversion of hydrogen sulfide to sulfate rather than the **removal** of hydrogen sulfide from raw water as demanded by the PSC Order of April 2002. Aloha has made no provision in the technical and practical application of the proposed method for the removal of elemental sulfur that will be formed with the implementation of this specific method. Therefore it is appropriate that the standard for total sulfide be amended to include all forms of sulfides within the definition of “total sulfide”, including elemental sulfur itself. The obvious intent of the PSC Order of April 30, 2002 specifying “**removal of 98% of hydrogen sulfide from raw water**” was to improve water quality in domestic plumbing by preventing delivery of antecedent chemicals, which may play a causative role in the formation of black water, into domestic pipes. To water down the requirement in such a way as to negate that intention would be violation of both the letter and spirit of that Order.

Aloha's argument that it should not be required to test delivered water at the point immediately beyond the domestic meter also is totally invalid. While it may be true that other utilities may have accepted the testing of the water at the processing plant as adequate, those utilities have attempted to reduce the incidence of black water by utilizing processing methodologies, which have a proven track record of efficiency in achieving that goal. That has not so far been documented to be true in the case of the method that Aloha intends to use. Further the conclusions of Phase II audit shows that in Aloha's distribution system, re-generation of hydrogen sulfide after the processed water had left the plant does occur and that such an instance was associated with black water in the distribution system for which Aloha is responsible and not the customers.

In as much as Aloha has been vehement in repeatedly emphasizing and pointing out to the PSC and the customers that its legal responsibility according to the Florida Statutes ends at the domestic side of the meter, it is natural for the customers to demand that Aloha should demonstrate that its water at the point of its delivery to customers also meets all the relevant standards. If the customers do not assert that demand and act on that assumption they would put themselves in the position of accepting responsibility for the poor quality of water which by no stretch of the imagination can be construed to be the legal responsibility of the customers. It is indeed the legal responsibility of the utility to meet the standards at the point of delivery and there is no way to circumvent that responsibility by appealing to the customary practices of other utilities.

The observation that Aloha cannot be expected to ensure that the standard specified is met at all points in the distribution system because it receives water from multiple sources is also irrelevant. **A utility must take responsibility for maintaining all relevant standards at all points in the distribution system to the point of delivery.** If the utility does not have enough water from its own sources to meet all the demands of its service area, it may have to purchase water from other sources and process it to the standards laid down for it. That is part of the normal statutory responsibility of the utility unless it wants to claim that it cannot adequately service its area and thereby allow the PSC to take appropriate action to deal with that contingency by deletion of territory for which there is provision in chapter 367 of the Florida Statutes.

Frequency of testing is an aspect of management that must suit the needs of a given situation. Where black water and rotten egg smell have been a persistent problem for ten years without effective attempts to deal with them, increased frequency of testing at multiple sites on a rotational basis is highly appropriate. As with the lead and copper rule, once the effectiveness of a new method is established, it should be possible to reduce the demands placed on monitoring requirements. Such is standard practice, but reduction in frequency of monitoring does not require to be addressed till Aloha demonstrates that the goals for which the new method is being installed have been attained.

It is the responsibility of the Utility to ensure that the water that it delivers to the customers is drinkable and that its corrosive properties do not exceed a certain level as

defined by the Lead and Copper rule when water is tested **within the domestic system under certain very specific conditions.** It is because Aloha has denied the customary and legal responsibilities of a utility in this connection and claimed that legastically it has no responsibility beyond the domestic meter that a confrontation between Aloha and its customers have evolved over a long period. Aloha has squandered its opportunities to adopt the customer friendly attitudes of the other utilities. Now it cannot claim any more that it should be judged by those customary standards.

Yours sincerely,

V. Abraham Kurien, M.D.

E-c Atty. Steve Burgess, OPC
Mr Ed Wood
Dr John Gaul
Mr Harry Hawcroft
Senator Fasano
Mail copy to Atty Deterding