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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION CLERK

IN RE: Petition by Customers of )  
**ALOHA UTILITIES, INC.**, for deletion of )  
 portion of territory in Seven Springs ) Docket No. 020896-WS  
 Area in Pasco County, Florida. )  
 \_\_\_\_\_ )  
 IN RE: Application for increase in water )  
 rates for Seven Springs System in Pasco )  
 County by **ALOHA UTILITIES, INC.** ) Docket No. 010503-WU  
 \_\_\_\_\_ )

**ALOHA'S MOTION FOR DISQUALIFICATION OF COMMISSIONER CHARLES M. DAVIDSON**

ALOHA UTILITIES, INC., by and through its undersigned counsel and pursuant to Section 120.665, Florida Statutes, hereby suggests by this Motion the disqualification of Commissioner Charles M. Davidson from conducting or participating in quasi-judicial proceedings and from entering any further Orders with respect to Docket Nos. 020896-WS and 010503-WU. As grounds for this Motion,

Aloha states:

CMP \_\_\_\_\_  
 COM 5  
 CTR \_\_\_\_\_  
 ECR \_\_\_\_\_  
 GCL \_\_\_\_\_  
 OPC \_\_\_\_\_  
 VMS \_\_\_\_\_  
 RCA \_\_\_\_\_  
 SCR \_\_\_\_\_  
 SEC 1  
 JTH \_\_\_\_\_

1. Commissioner Charles M. Davidson is a member of the Commission Panel assigned to adjudicate these consolidated dockets, currently set for formal administrative hearing on March 8, 9, and 10, 2005. Commissioner Davidson is

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 FPSC-BUREAU OF RECORDS

Rose, Sundstrom & Bentley, LLP  
 2548 Blairstone Pines Drive, Tallahassee, Florida 32301

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 FPSC-COMMISSION CLERK

*Kim P.  
 ok 12/10/04  
 camp*

subject to the provisions of Section 120.665, Florida Statutes, which provides for the disqualification of an agency head for bias, prejudice, or interest.

2. Among the fundamental and basic requirements of due process of law in a quasi-judicial proceeding is the presence of a fair and impartial tribunal which will adjudicate competing interests and rights. *Allen v. Board of Public Instruction of Broward County*, 214 So.2d 7 (Fla. 4th DCA 1968). The decision to grant or revoke a license entails the exercise of a quasi-judicial function and, in an administrative context, an impartial decision maker is a basic constituent of minimum due process. *Cherry Communications, Inc. v. Deason*, 652 So.2d 803 (Fla. 1995); *Megill v. Board of Regents*, 541 F.2d 1073 (5th Cir. 1976).

3. The test for determining the legal sufficiency of a motion for disqualification is whether the facts alleged (which must be taken as true) would prompt a reasonably prudent person to fear that he or she will not get a fair and impartial trial. *Department of Agric. & Consumer Servs. v. Broward County*, 810 So.2d 1056 (1st DCA 2002). It is not a question of how the judge actually feels but rather what feeling resides in the affiant's mind and the basis for such feeling. *Id.* In reviewing a motion to disqualify, the judge cannot pass upon the truth of the

allegations of fact. It is sufficient that the allegations are neither frivolous nor fanciful and countervailing evidence is not admissible. *Id.*

4. The test to be applied is whether the facts alleged in the Motion would place a reasonably prudent person in fear of not receiving a fair and impartial trial. *Livingston v. State*, 441 So.2d 1083 (Fla. 1983). The inquiry must focus on the reasonableness of the affiant's belief that the Hearing Officer is prejudiced and the sufficiency of the attested facts supporting the suggestion of prejudice. *Mt. Sinai Medical Center v. Brown*, 493 So.2d 512 (Fla. 1st DCA 1986).

5. On December 3, 2004, Commissioner Davidson issued a Memorandum and News Release, which he copied to all “parties and interested parties,” which indicated that he was “deeply” “troubled” by Aloha’s “apparent and persistent resistance” to refunding its customers certain monies pursuant to a Commission Order. The Memorandum and Press Release is attached hereto as Exhibit A. Assumably, Commissioner Davidson issued a press release because he wanted the press to pick up his statement. He was successful. His comments, and the fact that he had issued a news release, appeared in the September 7<sup>th</sup> edition of the *St. Petersburg Times*. In addition, these same statements appear on the front page of the PSC’s website under the category of “Press Releases.” Such “Press Releases” on the

PSC's website are typically utilized to announce customer meetings and items of interest at an upcoming agenda conference, and not to announce the personal views of individual PSC Commissioners upon matters pending before them. These statements have reference to a statutorily authorized judicial appeal by Aloha from a PSC Final Order requiring additional refunds, a proceeding in which Commissioner Davidson participated. Commissioner Davidson's communication to the press that Aloha's appeal represented "persistent resistance" on an issue the Commissioner had hoped "would be put to rest" and that he was deeply troubled by such "persistent resistance" clearly establishes his prejudgment, bias, and prejudice toward Aloha. The issue upon which Commissioner Davidson issued his News Release is the subject of testimony, and is therefore at issue, in these pending consolidated dockets.<sup>1</sup>

6. Commissioner Davidson's Memorandum, which accompanied his News Release, states "(t)his Press Release should not be construed as an indication of my position on the merits of any issue in either of these dockets." His inclination to include this statement, (and the balance of the Memorandum) with the News Release indicates conclusively that it was his own belief that Aloha, acting as a reasonably

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<sup>1</sup> See, e.g., Testimony of Dr. Abraham Kurien, at 18; and Exhibit VAK-22. In fact, Commissioner Davidson's verbiage is not unlike that used by Dr. Kurien. While the Commissioner finds Aloha's position on the refund issue deeply troubling and representative of "resistance" to the Commission, Dr. Kurien has characterized it as callous and legalistic.

prudent person, might fear that it could not get a fair and impartial trial in front of Commissioner Davidson. If it was not Commissioner Davidson's conclusion that a reasonable person could construe the News Release "as an indication of (his) position on the merits," then why was he compelled to include the disclaimer?

7. The Commissioner's very public statements regarding the issue of the refund, and Aloha's appeal of the Commission's decision thereon, demonstrate a prejudgment of the merits of these dockets, and exhibits a bias on his part against Aloha. While the standards for disqualification on an appellate judge are less stringent than for a trial judge, no one would seriously argue that an appellate judge who makes a public statement on the merits of the case prior to the issuance of an opinion should not be recused. See, e.g., *In re: Inquiry Concerning Judge Richard Frank*, 753 So.2d 1228 (Fla. 2000).

8. Exhibit A demonstrates, in and of itself, that Aloha's fear that Commissioner Davidson is not an impartial decision-maker, and that it will not obtain a fair and impartial hearing before Commissioner Davidson, is reasonable.

9. On May 5, 2004, Commissioner Davidson issued a Memorandum which is attached hereto as Exhibit B. That memorandum (directed at the Commission's staff) stated that Commissioner Davidson had "been introduced quickly to the

severity of the animosity between Aloha and a segment of its customer base (and the severity of the issues faced by the customers)” and stated that “I sympathize with the customers’ frustration.” As he did within Exhibit A, in Exhibit B Commissioner Davidson felt the necessity to include, on the face of the Memorandum, a statement that “(m)y request should not be construed as an indication of my position on the docket.” Once again, this statement in and of itself reveals that Commissioner Davidson understood fully that his Memorandum could reasonably be interpreted to indicate exactly that. Otherwise, why would he have included the disclaimer, just as he did when he caused Exhibit A to be published.<sup>2</sup>

10. Exhibit B, in and of itself, reveals Commissioner Davidson’s prejudgment of the facts, contains an indication that he understands this “severity of the issues faced by the customers” before any evidence in this case has been taken, and indicates his “sympathy” with the customers’ “frustration.” These comments within the Memorandum reveal a bias against Aloha, a prejudgment of critical issues in these dockets, and support recusal as requested herein.

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<sup>2</sup>It is interesting, that in Commissioner Davidson’s Memorandum (Exhibit A), he seems to take comfort in the fact that “the Commission’s upcoming decision will be based on the merits of the arguments presented by the parties regarding the options raised, and any effected party will have an opportunity to protest the resulting proposed agency action (PAA) order.” In fact, no such PAA has ever been issued by the Commission.

11. Exhibit B demonstrates, in and of itself, that Aloha's fear that Commissioner Davidson is not an impartial decision-maker, and that it will not obtain a fair and impartial hearing before Commissioner Davidson, is reasonable.

12. On July 29, 2004, Commissioner Davidson and the other members of the Commission passed on certain matters involving Aloha at their regularly scheduled Agenda Conference. Selected excerpts of the transcript of that Agenda Conference are attached hereto as Exhibit C. Therein, Commissioner Davidson expressed his frustration with the staff in that he asserted that he had specifically asked for at least an option that would consider how the Commission would move for the deletion "in the event we chose to do it." Commissioner Davidson then made an extraordinary statement: "(t)he Commission has chosen to do it." In fact, the Commission has not made such a choice and that is (at least ostensibly) the issue the formal hearing in March is intended to consider. Commissioner Davidson also indicated "(a)nd we're getting to the point of where we're proceeding with the deletion obviously contingent upon customers getting service...". Commissioner Davidson's preemptorial declaration that the Commission was "proceeding with the deletion" was incorrect, and demonstrates a personal bias against Aloha and a prejudgment of the facts. Commissioner Davidson also thereafter indicated "how do we do this? Well, we will

figure it out. I'm going to start thinking about it now." Commissioner Davidson's indication that he intends to start thinking about how deletion could be accomplished, before he has even heard any of the evidence or testimony in the case, evidences a prejudice against Aloha, a bias against Aloha, and a predetermination of the facts.

13. Exhibit C demonstrates, in and of itself, that Aloha's fear that Commission Davidson is not an impartial decision-maker, and that it will not obtain a fair and impartial hearing before Commissioner Davidson, is reasonable.

14. On April 8, 2004, Commissioners Deason, Bradley, and Davidson attended what was billed as a "customer hearing" in New Port Richey. Selected excerpts of that proceeding are attached hereto as Exhibit D. Therein, Commissioner Davidson expressed his concern that "this has continued on so long" and that he was "just amazed at how long this is continuing to go on." He thereafter indicated that "if a transition (to Pasco County) is needed, a business plan ought to be in place just to get that done." He also issued to Aloha "a caution that going around the Citizen's Advisory Council that was specifically set up does not enure to your benefit."<sup>3</sup>

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<sup>3</sup>Creation of the CAC, its progress, and its status, is the subject of significant prefiled testimony in this case. Commissioner Davidson's determination that Aloha is somehow "going around" the CAC to its detriment was made before the presentation of evidence and prior to Aloha being afforded any of the accouterments of due process as required by the Florida Administrative Procedure Act.



Commissioner Davidson later inquired how the deletion of Aloha's service territory and subsequent transfer of a portion of Aloha's service area could be "expedited" so that it could be done "sooner rather than later." Commissioner Davidson's remarks reveal that he is biased against Aloha, that he has prejudged the facts, and that he is prejudiced in favor of the "petitioners" in this case.

15. Exhibit D demonstrates, in and of itself, that Aloha's fear that Commissioner Davidson is not an impartial decision-maker, and that it will not obtain a fair and impartial hearing before Commissioner Davidson, is reasonable.

16. On May 5, 2004, in Exhibit B, Commissioner Davidson stated that "My request should not be construed as an indication of my position in this docket."

On December 3, 2004, in Exhibit A, Commissioner Davidson stated that "This press release should not be construed as an indication of my position on the merits of any issue in either of these dockets."

Commissioner Davidson's defenses of his impartiality establish *separate and distinct* grounds for disqualification. In *Management Corp. of America, Inc. v. Grossman*, 396 So.2d 1169 (Fla. 3<sup>rd</sup> DCA 1981), the court stated that by attempting to refute charges of partiality, the judge establishes grounds for disqualification. Accord, *Hill v. The Honorable Richard Y. Feder* 564 So.2d 609 (3<sup>rd</sup> DCA 1990).

Commissioner Davidson's public declaration of his impartiality for the reasonable basis for Aloha's fears that it cannot get a fair and impartial decision from any panel in these dockets which includes Commissioner Davidson.

17. Each of these events, statements, and occurrences, in and of themselves, form the basis for a reasonable fear on the part of Aloha that it cannot receive a fair trial from a Commission Panel which includes Commissioner Davidson and that Commissioner Davidson is not impartial on these matters, is biased against Aloha, and is prejudiced against Aloha and in favor of the "petitioners."

18. Viewing these events, statements, and occurrences collectively, it is undeniable that Aloha's fear that Commissioner Davidson is not an impartial decision maker and that he is incapable of conducting an impartial hearing for Aloha is reasonable and well founded. Aloha believes that bias, prejudice, or prejudgment on the part of Commissioner Davidson exist against it and fears that it will not receive a fair trial.

WHEREFORE, Aloha Utilities, Inc. requests that Commissioner Charles M. Davidson grant this Motion for Disqualification, and immediately recuse himself, consistent with Rule 2.166(f), Judicial Administration Rules, from any further participation in these dockets.

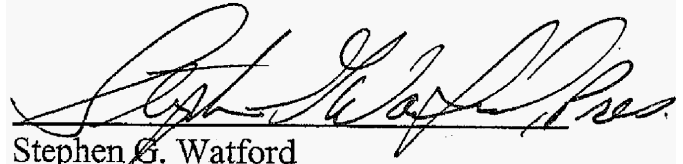
Respectfully submitted this 9th  
day of December, 2004, by:



\_\_\_\_\_

JOHN L. WHARTON  
F. MARSHALL DETERDING  
ROSE, SUNDBSTROM & BENTLEY, LLP  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301  
(850) 877-6555  
(850) 656-4029 FAX

Under penalties of perjury, I declare that I have read the foregoing motion and the facts stated in it are true.



Stephen G. Watford  
Aloha Utilities, Inc.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or via hand delivery (indicated by \*) to the following on this 9<sup>th</sup> day of December, 2004:

Rosanne Gervasi, Esquire\*  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0873

Edward O. Wood  
1043 Daleside Lane  
New Port Richey, FL 34655-4293

Office of Public Counsel  
Charles Beck  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

Senator Mike Fasano  
8217 Massachusetts Avenue  
New Port Richey, FL 34653

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

John H. Gaul, Ph.D.  
7633 Albacore Drive  
New Port Richey, FL 34655

Mr. Harry Hawcroft  
1612 Boswell Avenue  
New Port Richey, FL 34655

James (Sandy) Mitchell, Jr.  
5957 Riviera Lane  
New Port Richey, FL 34655-5679

Office of the Attorney General  
Charlie Crist/Jack Shreve  
PL-01, The Capitol  
Tallahassee, FL 32399-1050



JOHN L. WHARTON

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State of Florida



## Public Service Commission

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

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**DATE:** December 3, 2004  
**TO:** Blanca S. Bayo, Director, CCA  
**FROM:** Commissioner Charles M. Davidson  
**RE:** Press Release regarding Aloha's Appeal of Order No. PSC-04-1050-FOF-WU

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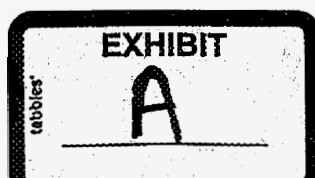
This memo is to inform all parties of record and interested persons in Docket Nos. 010503-WU & 020896-WS, that I am concurrently issuing the attached press release pertaining to Aloha's recent notice of appeal of the Commission's Order No. PSC-04-1050-FOF-WU to the 1<sup>st</sup> District Court of Appeal. I ask that this memo and the attached press release be placed in the docket file and immediately disseminated to all parties and interested persons in these two dockets.

This press release should not be construed as an indication of my position on the merits of any issue in either of these dockets. My positions on the underlying issues on appeal are clearly reflected in the aforementioned Commission order. Ultimately, any future Commission decision pertaining to the issues on appeal will be based on applicable law and the merits of the arguments before us at that time.

Any person who desires to respond to the content of this memo or the attached press release certainly may do so and should file any such response with the Commission, with reference to the appropriate dockets.

### Attachment

cc: Parties of Record & Interested Persons, Docket Nos. 010503-WU & 020896-WS  
Rick Melson, General Counsel  
David Smith, Attorney Supervisor, Appeals, Rules and Mediation  
Dr. Mary A. Bane, Executive Director  
Chief Advisors to Commissioners (Arisso, Hinton, Chase, Harris)



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FPSC-COMMISSION CLERK



State of Florida  
**Public Service Commission**  
**NEWS RELEASE**

December 3, 2004  
413-6040

Contact: ♦ Katrina Tew 850-

**FOR IMMEDIATE RELEASE:**

**FLORIDA PSC COMMISSIONER CHARLES M. DAVIDSON:  
TROUBLED BY ALOHA'S LATEST APPEAL**

TALLAHASSEE — On Monday, Aloha Utilities filed notice of its appeal of the Commission's recent order requiring the company to make additional refunds of monies previously collected from its Seven Springs customers on an interim basis.

On October 5, 2004, the Commission unanimously voted that Aloha refund with interest the entire interim increase collected during the 15-month period in which Aloha pursued reversal of portions of the Commission's 2002 rate order. That appeal by Aloha failed when the 1<sup>st</sup> District Court of Appeal (DCA) affirmed the Commission's 2002 order, which among other things, denied the company's request for a rate increase. The 1<sup>st</sup> DCA will also handle Aloha's latest appeal.

"While I acknowledge the company's right to choose to pursue an appeal, I must admit that I deeply am troubled by Aloha's apparent and persistent resistance to refunding its customers pursuant to the Commission's order," said Commissioner Charles Davidson. "I had hoped that this refund matter would be put to rest with our recent decision and that the Commission, the company, and the customers, with the help of the Public Counsel, could focus on the other important service issues pertaining to Aloha."

###

State of Florida



Public Service Commission

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

**DATE:** May 5, 2004  
**TO:** Dr. Mary A. Bane, Executive Director  
**FROM:** Commissioner Charles M. Davidson  
**RE:** Options for Staff Recommendation in Docket No. 020896-WS

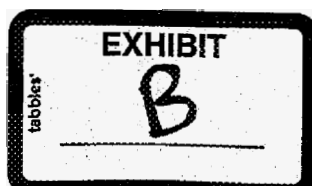
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At the customer hearings held in Pasco County in April regarding Docket No. 020896-WS, we heard from numerous customers of Aloha Utilities who expressed continued, heartfelt dissatisfaction with their water service. Despite being the Commissioner with the least exposure to this issue, I have been introduced quickly to the severity of the animosity between Aloha and a segment of its customer base (and the severity of the issues faced by the customers). By all accounts, this animosity has gone on for years, and despite the Commission's repeated and worthwhile efforts to encourage both "sides" to work together toward an amicable solution, the situation does not appear to be improving in any meaningful respects. I sympathize with the customers' frustration and would like to make every attempt to resolve matters within our jurisdiction as expeditiously as possible.

In that regard, I ask that you, as Executive Director, ensure that the staff assigned to this docket analyze all options to expedite resolution of this matter. I recognize that this docket was opened in response to the customer petition for deletion of a portion of the Seven Springs area from Aloha's certificated territory; therefore, this option naturally should be addressed in the upcoming recommendation for the Commission's consideration. However, I ask that staff fully and meaningfully explore this option (and any reasonable variants of the customers' proposal) in their recommendation.

Additionally, I would like staff to be prepared to address how to implement the option chosen by the Commission in as expeditious a manner as is possible. Specifically, in the event that an option involving deletion of territory prevails, staff should be prepared to advise the Commission on how to expedite that process as much as possible while ensuring a smooth transition for the affected customers. Alternatively, if the Commission decides that deletion of territory is not justified, staff should be prepared to propose next steps and an accompanying timeline to address immediately the underlying concerns of these customers.

My request should not be construed as an indication of my position on the docket. Consistent with requests made in other matters, I simply want to make sure that all potential solutions are *fully* explored by the staff and, ultimately, by the Commission, and that we do all that we can to reach a resolution of this ongoing bitter dispute between the company and its customers. Options, including removal of some portion of the Seven Springs area from the certificated territory of Aloha, may prove to be feasible and justified or unfeasible and



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Memorandum – Dr. Mary A. Bane  
May 5, 2004  
Page 2

unjustified. The deletion of territory option should be thoroughly explored, especially as it has been proposed by a number of the utility's customers following efforts to work out an amicable solution with the utility and because this case presents a number of unique facts and circumstances. Ultimately, the Commission's upcoming decision will be based on the merits of the arguments presented by the parties regarding the options raised, and any affected party will have an opportunity to protest the resulting proposed agency action (PAA) order.

Thank you in advance for seeing that staff includes this and any other reasonable options in its upcoming recommendation in Docket No. 020896-WS and is prepared to advise the Commission as to expedited implementation of our decision. I look forward to staff's recommendation, to deliberation with my fellow Commissioners on the options at an upcoming Agenda conference, and to a swift and equitable resolution of this docket.

Please note that a copy of this memo will be placed in the docket file for Docket No. 020896-WS and will be distributed to all parties of record and known interested persons.

cc: All Parties of Record and Interested Persons, Docket No. 020896-WS  
Docket File for Docket No. 020896-WS  
Rick Melson, General Counsel  
Blanca Bayo, Director, CCA

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

PETITION BY CUSTOMERS OF ALOHA UTILITIES, INC. FOR DELETION OF PORTION OF TERRITORY IN SEVEN SPRINGS AREA IN PASCO COUNTY. DOCKET NO. 020896-WS

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

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PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 5

BEFORE: CHAIRMAN BRAULIO L. BAEZ  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER LILA A. JABER  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER CHARLES M. DAVIDSON

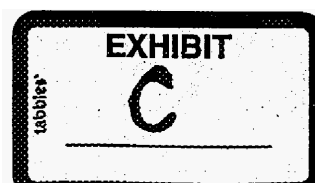
DATE: June 29, 2004

TIME: Commenced at 1:06 p.m.  
Concluded at 4:27 p.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR  
Official FPSC Reporter  
(850) 413-6734

FLORIDA PUBLIC SERVICE COMMISSION



1 Commissioner Jaber. I want to just -- and I guess in a sense  
2 express some frustration with staff. I specifically asked for  
3 at least an option that would consider how we would move  
4 forward with deletion in the event we chose to do it. The  
5 Commission has chosen to do it.

6 I specifically, if I recall, said identify in the  
7 recommendation that I've asked for that so there's no question  
8 about where the option came from. I asked for it. I wanted us  
9 to be in a position today to have the answer to what  
10 Commissioner Jaber just asked: How do we proceed with it? We  
11 will all put our thinking caps on. I'm confident the senator  
12 will go back and work with Pasco County to figure up some  
13 options. And we're getting to the point of where we're  
14 proceeding with the deletion obviously contingent upon  
15 customers getting service, we'll get there. But I asked for  
16 that option, it could have been voted down, but I asked for it  
17 specifically to have those concerns before us today so we could  
18 intelligently address those and not off the cuff do it. Staff  
19 did not provide that. I don't know why. I'm not asking for an  
20 explanation now. I'm a bit frustrated.

21 But Commissioner Jaber hit the nail on the head. How  
22 do we do this? Well, we will figure it out. I'm going to  
23 start thinking about it now. I'm sure all the parties in the  
24 room are going to start thinking about it now. So with that --  
25 and I apologize for sort of venting, but I, I don't know what

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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020896-WS

In the Matter of:

PETITION BY CUSTOMERS OF  
ALOHA UTILITIES, INC. FOR  
DELETION OF PORTION OF  
TERRITORY IN SEVEN SPRINGS  
AREA IN PASCO COUNTY.

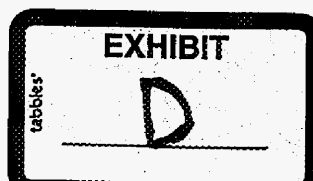
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VOLUME 1

Pages 1 through 147

PROCEEDINGS: NEW PORT RICHEY SERVICE HEARING  
BEFORE: COMMISSIONER J. TERRY DEASON  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER CHARLES M. DAVIDSON  
DATE: Thursday, April 8, 2004  
TIME: Commenced at 9:30 a.m.  
PLACE: West Pasco Government Center  
County Commission Board Room (Suite 160)  
7530 Little Road  
New Port Richey, Florida  
REPORTED BY: LINDA BOLES, RPR  
TRICIA DeMARTE, RPR  
Official FPSC Reporters



1 you know, \$500 a year more to have something done, they know  
2 what's done up front.

3           SENATOR FASANO: And I guess that's what, that's  
4 what, exactly what the customers will, you know, if you were to  
5 survey them, they will let you know. And I believe that you're  
6 going to -- and you're going to find a vast majority of them  
7 will want to, to get out of the Aloha servicing area. I mean,  
8 I hear it all the time. I've been hearing it for ten years.

9           And, Commissioner, I appreciate your comments about  
10 although you haven't been here on the Commission for ten years,  
11 you've seen so far how this has dragged on, you've looked at  
12 the records of what we've been doing for the last ten years.  
13 As I said in my comments, you're our final hope. You're our  
14 last hope. The people here have no one else to turn to. We  
15 have a monopoly that thumbs its nose in the air to the  
16 customers, to the Public Service Commission, to SWFWMD, to DEP,  
17 and now all of the sudden they find themselves backed up into  
18 the wall where that it possibly could happen and all of the  
19 sudden they've hired public relations, all of the sudden  
20 Mr. Watford is now talking to the press and making comments,  
21 all of the sudden he wants to work with the customers. The  
22 opening comments by Mr. Deterding about how we want to hear  
23 from the customers -- why weren't you listening for the last  
24 nine years?

25           COMMISSIONER DAVIDSON: I think my -- I suspect we

1 won't be moved by the hiring of a PR firm, and I would, I would  
2 urge Aloha to take, to take note of the number of folks in this  
3 room. I mean, on a beautiful day like this in the great state  
4 of Florida, nobody wants to worry about their water. We've got  
5 more important things to think about. It's -- and my final  
6 comment, I know we have to speed it up, is I think to Aloha  
7 also a caution that going around the Citizens Advisory Council  
8 that was specifically set up does not inure to your benefit.

9 SENATOR FASANO: Thank you.

10 COMMISSIONER DEASON: Thank you, Senator.

11 Mr. Burgess.

12 MR. BURGESS: Yes, Commissioner. We also have the  
13 office of another elected representative present today.  
14 Representative Tom Anderson has asked that a statement be  
15 presented in his behalf by Evelyn Haas.

16 COMMISSIONER BRADLEY: Excuse me, Mr. Chairman.

17 COMMISSIONER DEASON: Yes, Commissioner Bradley.

18 COMMISSIONER BRADLEY: Before we have a  
19 representative from the Honorable's office come up and speak, I  
20 do, I do see Representative Fiorentino in the back. Would she  
21 care to offer some comments? I think that that would be more  
22 appropriate.

23 COMMISSIONER DEASON: Absolutely. Representative.

24 COMMISSIONER BRADLEY: Based on seniority.

25 MR. BURGESS: Thank you, Commissioner.

1 hope, and the outcome of this hearing will determine what hope  
2 is left for the Aloha Utilities captive customers. I thank you  
3 for allowing me to speak. I thank you for being here today.  
4 God bless you.

5 COMMISSIONER DEASON: Senator, Senator, if I could  
6 request you come back to the microphone, I think Senator --  
7 Commissioner Davidson has a question.

8 SENATOR FASANO: Yes, sir.

9 COMMISSIONER DAVIDSON: Thank you, Senator Fasano.  
10 My question is what possible legal options exist for bringing  
11 another service provider to the customers? What role would the  
12 PSC play, if any, in the exercise of those options, and how  
13 could that role be expedited such that if we agree with you,  
14 that could be done sooner rather than later sort of in the  
15 bureaucratic time frame?

16 SENATOR FASANO: Commissioners -- and I appreciate  
17 the question and let me understand this. You're asking what  
18 role the Public Service Commission -- are you saying that  
19 you're not sure whether you have the authority to go from, from  
20 one provider to another?

21 COMMISSIONER DAVIDSON: Well, I think we, speaking  
22 just for me, we have that authority. And I'm really sort of  
23 looking at --

24 SENATOR FASANO: Yes, sir. Okay. I thought maybe  
25 you needed it legislatively, and I've still got three weeks or