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State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

RECEIVED
07 MAY 2007 11:26
COMMISSION CLERK

DATE: May 21, 2007
TO: Office of Commission Clerk
FROM: Bart Fletcher, ^{BF} Professional Accountant Specialist, Division of Economic Regulation
RE: Docket No. 070146-WS – Emergency complaint of Pasco Health Investors, LLC against Aloha Utilities for apparent violation of Sections 367.081 and 367.101, F.S.

Enclosed is an e-mail dated May 3, 2007, from Mr. F. Marshall Deterding. The attachment to this e-mail is an executed Addendum to a Special Service Availability Agreement between Pasco Health Investors, LLC and Aloha Utilities, Inc. Please place this letter in the docket file for this docket.

- CMP _____
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- SCR _____
- SGA _____
- SEC _____
- OTH _____

Joanne Kim

DOCUMENT NUMBER-DATE

04145 MAY 22 07

FPSC-COMMISSION CLERK

Bart Fletcher

From: Marty Deterding [martyd@rsbattorneys.com]
Sent: Thursday, May 03, 2007 1:00 PM
To: Bart Fletcher; Rosanne Gervasi; Troy Rendell
Subject: RE: Addendum to Special Service Availability Agreement
Attachments: _0503125712_001.pdf

Bart, Troy & Rosanne

Attached is the fully executed Addendum as promised. Please let me know ASAP what your plan is .

As I said previously, we are opposed to using the complaint proceeding (which should now be closed); or the Filing of a Special Service Availability Agreement as a vehicle to revise the language of the tariff and we are also opposed to the language which was suggested a few days ago.

We are not opposed to taking a look at some of the language or even at the "Appendix B" at some date in the future and would be glad to arrange a conference call or meeting in the near future to do so if Staff wants to. But when we do so we need to make sure it clarifies rather than exacerbates the problems from our perspective.

In the mean time we want to get these two pending matters resolved on their own ASAP

Please let me know where we stand on this. Thanks.

F. Marshall Deterding, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

(850) 877-6555 Phone
(850) 656-4029 Fax

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Thank you.

From: Marty Deterding
Sent: Tuesday, May 01, 2007 3:58 PM
To: BFletche@PSC.STATE.FL.US; RGervasi@psc.state.fl.us; TRendell@PSC.STATE.FL.US
Subject: Addendum to Special Service Availability Agreement

Bart, Troy, & Rosanne

As you requested I have drafted an Addendum to the Special Service Availability Agreement to show that both the Developer and Aloha recognize that Service availability charges have changed since the Agreement was signed and that they may change again before the permanent connection to developer is made. The Addendum recognizes this and that the charges applicable are those in effect at the time of that final connection for service.

5/21/2007

Both Parties have now agreed to the form of that Addendum and it is attached . This final approved version is being sent around for signatures and I will get the executed version to you as soon as received. Hopefully that will be Thursday

F. Marshall Deterding, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

(850) 877-6555 Phone

(850) 656-4029 Fax

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Thank you.

PROJECT NAME/PHASE/UNIT: _____

This instrument prepared by:
F. Marshall Deterding, Esquire
Rose, Sundstrom and Bentley LLP
254B Blairstone Pines Drive
Tallahassee, FL 32301
(850) 877-6555

Return to:
Pamela Yacobelli
Aloha Utilities, Inc.
6915 Perrine Ranch Road
New Port Richey, FL 34655
(727) 372-0115

ADDENDUM TO SPECIAL SERVICE AVAILABILITY AGREEMENT

THIS ADDENDUM TO SPECIAL SERVICE AVAILABILITY AGREEMENT made and entered into this 1ST day, of May, 2007 by and between PASCO HEALTH INVESTORS, LLC, a Virginia limited liability company hereinafter referred to as "Developer", and ALOHA UTILITIES, INC., a Florida corporation, hereinafter referred to as "Service Company",

WHEREAS, Service Company and Developer entered into a Special Service Availability Agreement dated April 23, 2007 (the "Agreement"); and

WHEREAS, effective April 24, 2007, the Florida Public Service Commission has substantially increased the amount of water system capacity charges applicable to all customers connecting on or after the effective date of those tariffs; and

WHEREAS, as a result of discussions with the Florida Public Service Commission staff, concern has been expressed with the amount of water system capacity charges as delineated in Paragraph 5 of that Agreement; and

WHEREAS, the parties hereto desire to clarify the intent of the Special Service Availability Agreement Paragraph 5, as to the amount of water system capacity charges to be imposed under the Agreement by entering into this Addendum to Special Service Availability Agreement (the "Addendum");

NOW, THEREFORE, for and in consideration of the premises the mutual undertakings and agreements herein contained and assumed, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer and Service Company hereby covenant and agree as follows:

1. The foregoing statements are true and correct and an integral part hereof.

2. All of the provisions of the Special Service Availability Agreement dated April 23, 2007 between Developer and Service Company hereby remain in effect unchanged and unmodified, except to the extent specifically modified by this Addendum.

3. Developer and Service Company recognize and agree that under established Commission policy and case law, the service availability charges, including water system capacity charges to be assessed to any customer, are those in effect at the time permanent connection to Service Company's system is completed and the Developer or customer begins receiving service from Service Company.

4. Under the terms of the water tariffs, which became effective on April 24, 2007, and the water demands for Developer's property as outlined in the Special Service Availability Agreement in Paragraph 5 (14,700 gallons per day of water demand)

the water system capacity charges applicable to Developer will be \$147,000 rather than the \$48,995.10 outlined in the Agreement.

5. Notwithstanding anything contained herein to the contrary, the system capacity charges to be imposed upon Developer will be the above amounts if no changes are made to the system capacity charges by the date the Developer connects for permanent service to Service Company's system. However, to the extent there are further changes in those system capacity charges or any other provisions of Service Company's Service Availability Policy, those in effect at the time of permanent and final connection of Developer's property to Service Company's system will be applied in accordance with applicable law.

IN WITNESS WHEREOF, Developer and Service Company have executed or have caused this Addendum to Special Service Availability Agreement, to be duly executed in several counterparts, each of which counterparts shall be considered an original executed copy of this Addendum to Special Service Availability Agreement.

WITNESSES:

Pamela Jacobelli
Print Name: Pamela Jacobelli

Donna Tall
Print Name: DONNA TALL

Crystal Hinton
Crystal Hinton.

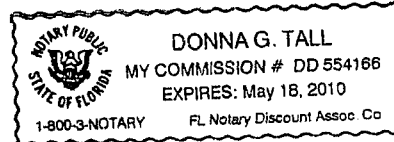
WITNESSES:

William W. Terry II
Print Name: WILLIAM W. TERRY II

H.D. Ewald
Print Name: HEIDI D. EWALD

ALOHA UTILITIES, INC.

By: Stephen Walford
Stephen Walford, President

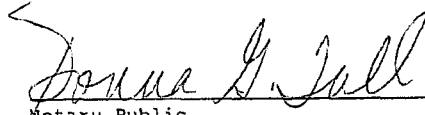


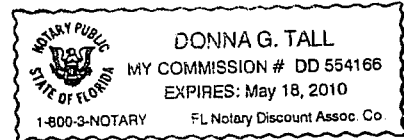
Pasco Health Investors, LLC

By: James R. Pietrzak
James R. Pietrzak
Vice-Chairman/Manager

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 2nd day of May, 2007, by Stephen Watford, President of ALOHA UTILITIES, INC., a Florida Corporation, who is personally known to me, on behalf of said Corporation.



Notary Public



My Commission Expires: 5/18/2010

COMMONWEALTH OF ^{Virginia}~~FLORIDA~~
COUNTY OF ROANOKE

The foregoing instrument was acknowledged before me this 1st day of May, 2007, by James R. Pietrzak, Vice-Chairman/Manager of Pasco Health Investors, LLC, a Virginia limited liability company, who is personally known to me or produced _____ as identification on behalf of said limited liability company.


Notary Public

My Commission Expires: 10-31-08