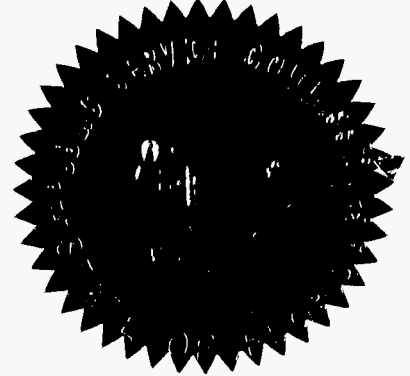


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060122-WU

In the Matter of:

JOINT PETITION FOR APPROVAL OF  
STIPULATION ON PROCEDURE WITH OFFICE  
OF PUBLIC COUNSEL, AND APPLICATION  
FOR LIMITED PROCEEDING INCREASE IN  
WATER RATES IN PASCO COUNTY, BY ALOHA  
UTILITIES, INC.



PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 2

BEFORE: CHAIRMAN MATTHEW M. CARTER, II  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER KATRINA J. McMURRIAN  
COMMISSIONER NANCY ARGENZIANO  
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, September 29, 2008

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

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

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1 APPEARANCES:

2                   JOHN WHARTON, ESQUIRE, appearing on behalf of Aloha  
3 Utilities.

4                   STEPHEN REILLY, ESQUIRE, appearing on behalf of the  
5 Office of Public Counsel.

6                   JEAN HARTMAN, ESQUIRE, appearing on behalf of  
7 Commission staff.

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## P R O C E E D I N G S

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3 CHAIRMAN CARTER: And with that, Commissioners, we  
4 are on Item 2. We'll give staff an opportunity to get  
5 organized.

6 Commissioners, what I'd like to do is we'll give  
7 staff an opportunity to present and then we'll hear from the  
8 parties and then I'll come back to the bench.

9 Staff, you're recognized.

10 MR. HARTMAN: Thank you. Good morning. Jean Hartman  
11 for Commission legal staff.

12 Staff recommends that the Commission consider Aloha  
13 and the Office of Public Counsel's joint request for abatement  
14 filed on September 23rd, 2008, prior to taking up Item 2 on the  
15 agenda for consideration.

16 Item 2 is staff's recommendation filed  
17 September 17th, 2008, regarding OPC's motion to dismiss or in  
18 the alternative amend procedural order and Aloha's response.  
19 Staff believes that if the Commission hears the parties' joint  
20 request to abate and approves the request, then Item 2 is moot  
21 and no further action is necessary. Staff recommends that the  
22 Commission grant abatement of the litigation and order the  
23 abatement to run concurrent with the abatement granted by the  
24 Commission on September 16th, 2008. Consistent with the  
25 parties' request, staff believes the request should be granted

1 because all parties have requested an abatement and also for  
2 reasons of administrative efficiency. Also consistent with the  
3 parties' request, staff recommends that the hearing dates for  
4 litigation be reset from November 24th-25th, 2008, to  
5 April 8th-9th, 2009.

6 Staff further recommends that if after the term of  
7 the abatement period ends and the Florida Governmental Utility  
8 Authority and Aloha are unable to reach agreement concerning  
9 the sale of the utility, then the Prehearing Officer should  
10 issue an amended Order Establishing Procedure and direct Aloha  
11 to refile its testimony and exhibits and establish other  
12 critical dates as needed.

13 Aloha counsel John Wharton and OPC counsel Steve  
14 Reilly are available for questions, as are staff. Thank you.

15 CHAIRMAN CARTER: Let's hear from Mr. Reilly. Mr.  
16 Reilly, we'll hear from you first and then Mr. --

17 MS. RILEY: Actually I'll let them speak on the  
18 motion.

19 CHAIRMAN CARTER: You'd rather defer to your  
20 colleague?

21 MR. WHARTON: We talked about it.

22 MR. REILLY: And then I have, and then I have some  
23 additional comments to add.

24 CHAIRMAN CARTER: Okay. Mr. Wharton, you're  
25 recognized.

1 MR. WHARTON: Thank you, Mr. Chairman.

2 The Commission will recall that it made the  
3 determination that the two pending dockets in which the  
4 activity was the most intense for Aloha should be abated other  
5 than the litigation involving the rate case back in the spring,  
6 and since then that litigation has proceeded.

7 There has been a motion to dismiss or in the  
8 alternative a motion to abate the procedure order filed in that  
9 case. Commissioner Skop, as the Prehearing Officer,  
10 determined, I think reasonably so, that the date should be  
11 tolled while that motion was pending. Since then matters have  
12 occurred and in the negotiations that are known to the  
13 Commission things have come forward. The parties believe that  
14 given the posture of the litigation and given the posture of  
15 the negotiations that it is appropriate that for most of the  
16 same reasons that you determined the other docket should be  
17 abated that this case be abated. We think that now is the time  
18 that an application of time and resources to those particular  
19 negotiations is when those time and resources could be best  
20 used and could come to fruition.

21 This particular request for abatement, I believe, is  
22 consistent with Aloha's responsibility to the Water Management  
23 District. It is supported by Aloha, the Office of Public  
24 Counsel and the customer parties, and we do request that the  
25 Commission grant the joint request for abatement.

1 CHAIRMAN CARTER: Mr. Reilly.

2 MR. REILLY: I had a few things. There have been  
3 some very significant positive developments on Aloha since we  
4 last met. Aloha has entered into a global and complete  
5 settlement of its past withdrawal problems with the Water  
6 Management District that paid them \$175,000 and entered into an  
7 agreement to settle all their past consumptive use problems.  
8 They, of course, they're now determined that they're not in  
9 violation even of their current consumptive use permit which is  
10 allowing them to do additional withdrawals until such time as  
11 they're actually able to begin buying water from the county.  
12 So the Water Management District situation has certainly been  
13 improved.

14 The significant development on the sale is staff of  
15 FGUA and Aloha have actually reached an agreement on the sale  
16 of the utility and have reduced that to writing, and that  
17 formal agreement is actually going to the Pasco County  
18 Commission at its October 7th meeting. Of course, nothing is a  
19 done deal until they look at it, but they've actually scheduled  
20 a public hearing of the FGUA board the very next day on the 8th  
21 in New Port Richey. So it looks very strong and very positive.  
22 Of course, we represent the customers. They're a very  
23 organized group, as you know, and they are in support of this  
24 motion, joint motion for abatement, as well as in support of  
25 the sale and have been writing, you know, documents to the

1 Commission expressing that support.

2           So, so we just think this is the time to do anything  
3 we can to encourage and nurture that potential sale, and so we  
4 would urge you to approve this abatement and make it run  
5 concurrent with the other abatement in the, relating to Aloha.  
6 Thank you.

7           CHAIRMAN CARTER: Thank you, Mr. Reilly.

8           Commissioners? Commissioner Skop, you're recognized.

9           COMMISSIONER SKOP: Thank you, Mr. Chairman. And,  
10 again, I think Mr. Wharton's addressed my concern to the extent  
11 that the abatement would not step upon any agreements that have  
12 been made with the Water Management District and also as echoed  
13 by Public Counsel. So I'm fine with, on those representations,  
14 I'm fine with the abatement.

15           CHAIRMAN CARTER: Thank you. Commissioners, anything  
16 further?

17           Commissioner Edgar, you're recognized.

18           COMMISSIONER EDGAR: I'm just so pleased to hear  
19 encouraging comments about the way the discussions are  
20 proceeding. I'm very, very pleased to hear that. And I've  
21 mentioned before that an Aloha docket was on the first agenda  
22 that I ever had sitting up here, and so I'm pleased to see it  
23 moving forward.

24           If there is no further discussion, Mr. Chairman, I'm  
25 prepared to offer a motion.

1 CHAIRMAN CARTER: You are recognized.

2 COMMISSIONER EDGAR: Okay. Then I would move that we  
3 grant the motion for abatement, recognizing that the docket  
4 would remain open and that future dates would be determined by  
5 the Prehearing Officer and the Chairman's office.

6 COMMISSIONER SKOP: Second.

7 CHAIRMAN CARTER: It's been moved and properly  
8 seconded. Commissioners, anything further on the motion for  
9 abatement? Hearing none, all those in favor, let it be known  
10 by the sign of aye.

11 (Unanimous affirmative vote.)

12 All those opposed, like sign.

13 Show it done. Thank you very much.

14 (Agenda Item 2 concluded.)

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