

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for approval) DOCKET NO. 950615-SU
of Reuse Project Plan and)
increase in wastewater rates in)
Pasco County by Aloha Utilities,)
Inc.)
_____)
In Re: Investigation of utility) DOCKET NO. 960545-WS
rates of Aloha Utilities, Inc.) ORDER NO. PSC-96-0791-FOF-WS
in Pasco County.) ISSUED: June 18, 1996
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER GRANTING THE MOTION OF ALOHA UTILITIES, INC., FOR
CONSOLIDATION OF DOCKETS FOR PURPOSES OF HEARING

BY THE COMMISSION:

BACKGROUND

Aloha Utilities, Inc. (Aloha or utility), is a class A water and wastewater utility located in Pasco County. The utility consists of two distinct service areas -- Aloha Gardens and Seven Springs. For its Seven Springs customers, wastewater is treated by a 1.2 million gallons per day (mgd) extended aeration plant that discharges to a number of percolation/evaporation ponds.

Effluent from Aloha's Seven Springs 1.2 mgd wastewater treatment facility is currently being disposed to ground water by three percolation ponds located adjacent to the plant. The Department of Environmental Protection (DEP) became concerned about the operational condition of these ponds in 1989.

Because of DEP's belief that the percolation ponds were not operating properly, the DEP and Aloha, on March 25, 1994, entered into a Consent Final Judgment wherein Aloha agreed to add 400,000 gallons per day (gpd) in additional effluent disposal capacity before December 31, 1994, and pay a \$19,500 fine. As a means of complying with the Consent Final Judgment, the utility proposed a

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project for the ultimate disposal of all effluent which would be constructed in three phases over a period of 24 months.

The utility has entered into what was designated a reuse agreement with James W. Mitchell, the owner of agricultural land (the Mitchell property) nearby which is suitable as a disposal site. This five-year agreement gives Aloha access to approximately 400 acres of property and provides for a least 1.2 mgd of disposal capacity. A portion of the effluent will replace irrigation water pumped from wells on the Mitchell property.

On July 13, 1995, Aloha completed its filing for approval of what it has designated as a reuse project plan and an increase in rates for wastewater service to its Seven Springs customers purportedly pursuant to Section 367.0817, Florida Statutes. The filing was assigned Docket No. 950615-SU.

Although Aloha filed this plan purportedly pursuant to the provisions of Section 367.0817 (entitled "Reuse Projects"), Florida Statutes, our review of the plan showed that, at least in the initial phases, it was not in fact a reuse plan but just a new plan for disposing of effluent. Therefore, instead of reviewing the plan under the provisions of Section 367.0817, Florida Statutes, we reviewed the filing as if it was made under Section 367.0822 (entitled "Limited proceedings"), Florida Statutes. Through Proposed Agency Action (PAA) Order No. PSC-95-1605-FOF-SU, we proposed to approve only the first phase of the project.

The PAA Order was issued December 28, 1995, and on January 10, 1996, Representative Mike Fasano timely filed his protest and petition requesting an administrative hearing. An administrative hearing for this docket is now scheduled for September 9 and 10, 1996.

On April 30, 1996, Mr. James Goldberg, President of the Wyndtree Master Community Association, filed a petition signed by approximately 262 customers, all within Aloha's Seven Springs service area, requesting that the Commission investigate the utility rates, water quality and other irregularities connected with Aloha Utilities, Inc. The Commission assigned Docket No. 960545-WS to this request.

Our staff has contacted Mr. Goldberg and inquired as to the specific desires of the customers with regard to this petition and request for investigation and has learned that the primary concerns are that the customers be given an opportunity to present live evidence and comments concerning the quality of water and the appropriateness of a rate increase in wastewater given those water

quality concerns. In addition, the customers are concerned about the effect that the three phases of construction for the "reuse" project will have on the customers' rates, and want some assurance that there will be a check to see how much money is actually spent.

Aloha also contacted Mr. Goldberg, and, after talking with him, filed a Motion to Consolidate on May 17, 1996. This Order addresses Aloha's Motion to Consolidate.

MOTION TO CONSOLIDATE

In its Motion to Consolidate, Aloha asserts that the separate matters currently pending before the Commission involve similar issues of law and fact, and while the parties are not currently identical, Aloha is willing to agree to have the petitioners act as intervenors in the ongoing proceeding before the Commission or simply provide testimony at hearing. Aloha specifically requests and agrees that we should consolidate Dockets Nos. 950615-SU and 960545-WS and allow evidence to be presented by the persons who signed the petition either as intervenors through prefiled testimony and exhibits due to be filed with the Commission on July 10, 1996, or as concerned customers, orally, at hearing on the issues of water quality of Aloha's Seven Springs system and its effect on the proposed wastewater rate increase resulting from the "reuse" plan filed in Docket No. 950615-SU.

Aloha states that it believes that consolidation will promote the just, speedy and inexpensive resolution of both proceedings and would not unduly prejudice the rights of any party. Aloha also states that both Mr. James Goldberg, President of Wyndtree Master Community Association, whose residents filed the petition, and Representative Mike Fasano, the customer protestant in Docket No. 950615-SU, have advised the utility that they have no objection to consolidation of these proceedings. Also, our staff has contacted Mr. James Goldberg, and he states that both he and Representative Fasano agree that the cases should be consolidated, and the Commission should grant Aloha's Motion to Consolidate.

Rule 25-22.035(2), Florida Administrative Code, governs consolidation and states:

Consolidation: If there are separate matters before the presiding officer which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party. Any party to a proceeding may request

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that it be consolidated with proceedings, or the presiding officer may on his or her own initiative order separate proceedings to be consolidated.

We find that this situation meets the criteria set forth in Rule 25-22.035(2), Florida Administrative Code, in that consolidation would promote the just, speedy and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party. Also, it appears that all parties agree that consolidation is appropriate.

Therefore, Dockets Nos. 950615-SU and 960545-WS shall be consolidated for purposes of hearing. However, both dockets shall remain open, and all filings shall be combined in the file for Docket No. 950615-SU.

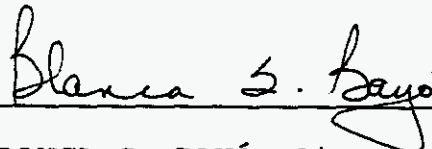
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Motion to Consolidate of Aloha Utilities, Inc., is granted as set out in the body of this Order. It is further

ORDERED that Dockets Nos. 950615-SU and 960545-WS shall be consolidated for purposes of hearing, but that both dockets shall remain open. It is further

ORDERED that all filings shall be combined in the file for Docket No. 950615-SU.

By ORDER of the Florida Public Service Commission, this 18th day of June, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.