

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase  
in wastewater rates in Seven  
Springs System in Pasco County  
by Aloha Utilities, Inc.

DOCKET NO. 991643-SU  
ORDER NO. PSC-01-0130-FOF-SU  
ISSUED: January 17, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman  
LILA A. JABER  
BRAULIO L. BAEZ

ORDER ACKNOWLEDGING IMPLEMENTATION OF RATES  
SUBJECT TO REFUND AND ACCEPTING ESCROW AGREEMENT

BY THE COMMISSION:

BACKGROUND

Aloha Utilities, Inc. (Aloha or utility), is a Class A water and wastewater utility in Pasco County. The utility consists of two distinct service areas, Aloha Gardens and Seven Springs. These service areas are physically divided by U.S. Highway 19, the major north/south highway through Pinellas and Pasco Counties. The utility's service area is located within the Northern Tampa Bay Water Use Caution Area as designed by the Southwest Florida Water Management District (SWFWMD). Critical water supply concerns have been identified by SWFWMD within this area. The following was obtained from Aloha's 1999 annual report for the Seven Springs systems:

	<u>Number of Customers</u>	<u>Operating Revenues</u>
Water	9,242	\$1,726,029
Wastewater	8,866	\$2,493,675

DOCUMENT NUMBER-DATE

00685 JAN 17 2001

REPORTING

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Rate base was last established for Aloha's Seven Springs wastewater system by Order No. PSC-99-1917-PAA-WS, issued September 28, 1999, in Dockets Nos. 970536-WS and 980245-WS. The Order was consummated by Order No. PSC-99-2083-CO-WS, issued October 21, 1999.

On February 9, 2000, Aloha filed an application for an increase in rates for its Seven Springs wastewater system. The utility was notified of several deficiencies in the minimum filing requirements (MFRs) by our staff. Those deficiencies were corrected and the official filing date was established as April 4, 2000, pursuant to Section 367.083, Florida Statutes.

Aloha's requested test year for interim purposes is the historical year ended September 30, 1999. The utility's requested test year for the setting of final rates is the projected year ended September 30, 2001. The utility requested that this application be set directly for hearing. Two days of hearings were held on October 2 and 3, 2000, at the Spartan Manor in New Port Richey, Florida. A third day of hearing was held in Tallahassee on November 2, 2000.

In its MFRs, the utility requested annual interim revenues of \$2,568,801. This represents a revenue increase of \$48,532 (or 1.92%). For final consideration, the utility has requested total revenues of \$4,374,495. This represents a revenue increase of \$1,593,501 (or 57.29%). The final revenues are based on the utility's request for an overall rate of return of 9.24%.

On May 3, 2000, Order No. PSC-00-0872-PCO-SU was issued (Order Establishing Procedure). That Order set the dates for the filing of testimony and other documents and the procedures to be followed in this case. By Order No. PSC-00-1065-PCO-SU, issued June 5, 2000, we denied interim rates and suspended the utility's proposed rates. On June 27, 2000, the Office of Public Counsel (OPC) filed its Notice of Intervention. By Order No. PSC-00-1175-PCO-SU, issued June 29, 2000, we acknowledged OPC's intervention.

On September 14, 2000, Aloha filed a Motion to Allow Filing of Supplemental Direct Testimony with the Supplemental Direct Testimony of Stephen G. Watford attached as Attachment A with Exhibit SGW-1. This testimony addressed the issue of a new office

building that was not originally included in Aloha's MFRs and on which neither the utility, OPC nor our staff had filed direct testimony.

The Prehearing Conference was held on September 18, 2000. The Prehearing Order and Order Revising Order Establishing Procedure, Order No. PSC-00-1747-PHO-SU, was issued on September 26, 2000. By that Order, we granted Aloha's Motion to Allow Filing of Supplemental Direct Testimony with the Supplemental Direct Testimony of Stephen G. Watford attached as Attachment A with Exhibit SGW-1. We also allowed the Executed Contract for Sale of New Office Building submitted on September 15, 2000, to be identified as Exhibit SGW-2. Moreover, we struck the rebuttal testimony of Stephen G. Watford, concerning the new office building, beginning at page 2, line 20, and going through page 6, line 15.

To give OPC and our staff time to respond to this testimony, the November 2, 2000, hearing date was scheduled to address the issue of whether we should consider the new office building cost for the utility in this rate proceeding. Our staff filed testimony on this issue on October 18, 2000. Aloha filed rebuttal testimony on this issue on October 23, 2000.

The eight-month suspension period for the requested rates expired on December 4, 2000. The twelve-month deadline for this Commission to take final action in this docket expires on April 4, 2001. Our final decision in this case is scheduled for the January 16, 2001 Agenda Conference. We have jurisdiction pursuant to Section 367.081(6), Florida Statutes.

#### IMPLEMENTATION OF RATES

On December 1, 2000, Aloha filed a notice of intent to implement its final proposed rates, along with revised tariff sheets, a proposed customer notice, and a corporate undertaking of the utility, pursuant to Section 367.081(6), Florida Statutes. However, upon being advised by our staff that it appeared Aloha could not support a corporate undertaking, Aloha filed an escrow agreement on December 8, 2000.

Section 367.081(6), Florida Statutes, states in part the following:

The commission may withhold consent to the operation of any rate request or any portion thereof by a vote to that effect within 60 days after the date of filing of the rate request, or within a shorter period established by rule of the commission. The order shall state a reason or statement of good cause for the withholding of consent. The commission shall provide a copy of the order to the utility and all interested persons who have requested notice. Such consent shall not be withheld for a period longer than 8 months following the date of filing. The new rates or all or any portion thereof not consented to may be placed into effect by the utility under a bond, escrow, or corporate undertaking subject to refund at the expiration of such period upon notice to the commission and upon filing the appropriate tariffs. The commission shall determine whether the corporate undertaking may be filed in lieu of the bond or escrow. (Emphasis added)

Rule 25-30.475(1)(a), Florida Administrative Code, states that: metered . . . rates shall be effective for service rendered as of the stamped approval date on the tariff sheets, provided customers have received the notice. The tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that any required security has been provided." The customer notice provided on December 1, 2000 did not include an effective date. However, the effective date could not be established until the appropriate security requirement was met. As discussed below, we find that the escrow agreement filed by the utility on December 8, 2000 meets the security requirement of Section 367.081(6), Florida Statutes. Thus, an effective date of December 8, 2000 was included in the customer notice.

Based on the above, we find the revised tariff sheets, the customer notice as modified above, and escrow agreement provided by the utility meet all of the requirements of Section 367.081(6), Florida Statutes. Therefore, we hereby acknowledge the utility's implementation of the proposed final rates subject to refund pending the outcome of this rate proceeding.

APPROPRIATE SECURITY .

As discussed above, pursuant to Section 367.081(6), Florida Statutes, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund. Further, the statute requires that "[t]he utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond, escrow, or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid."

The utility requested a final revenue increase of \$1,593,501. Utilizing a December 8, 2000 effective date for the proposed final rates and a 30-day period for parties to appeal our final order in this rate case, the potential refund period is approximately three months. As such, we calculated the potential refund to be \$398,375, which represents 3/12ths or 25 percent of the utility's \$1,593,501 proposed final revenue increase.

As discussed earlier, the utility filed a corporate undertaking for the proposed final rates on December 1, 2000. By Order No. PSC-00-1289-FOF-WS, issued July 18, 2000, in Docket No. 000737-WS (an earnings investigation of the utility's Aloha Gardens water and wastewater systems and its Seven Springs water system), we authorized a corporate undertaking in the amount of \$161,140. The corporate undertaking was originally designed to cover a seven-month time frame, which included a 90-day period to administer potential refunds. Due to the time constraints of this rate case, the utility requested and our staff agreed to allow the utility more time to respond to our data requests in the earnings investigation regarding purchased water transactions. In addition, there are several controversial adjustments in this rate case that will also be addressed in the earnings investigation.

In consideration of the foregoing, the decision on the earnings investigation has been scheduled for the February 20, 2001, Agenda Conference. This is primarily to allow our staff to incorporate our decisions on the rate case, to be made in this docket at the January 16, 2001, Agenda Conference, into the earnings investigation on several similar issues. This results in a three-month extension of the initial seven-month time frame for the earnings investigation. To extend the earnings investigation

for three months, we required Aloha to increase its corporate undertaking in the amount of \$70,910. This \$70,910 amount was determined by multiplying the annual revenue subject to refund determined in Order No. PSC-00-1289-FOF-WS, issued July 18, 2000, by 3/12ths or 25% and is the subject of Order No. PSC-01-0101-PCO-WS, issued January 12, 2001, in Docket No. 000737-WS.

With regard to the earnings investigation, as discussed in Order No. PSC-01-0101-PCO-WS, we conducted an analysis to determine if the company could support a corporate undertaking for the additional \$70,910. The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. The 1997, 1998, and 1999 annual reports of Aloha were used to determine the financial condition of the utility. Based on our analysis, by Order No. PSC-01-0101-PCO-WS, we found that the utility has sufficient equity capitalization, interest coverage and profitability over this three-year period to support a corporate undertaking for the additional \$70,910.

We have subsequently conducted an analysis to determine if the company can support the additional corporate undertaking amount of \$398,375 associated with the implementation of the utility's proposed final rates in this docket. Including the additional \$70,910 for the earnings investigation, the total corporate undertaking would be \$630,425 (\$161,140 plus \$70,910 plus \$398,375). Without the additional \$70,910 for the earnings investigation, the total corporate undertaking would be \$559,515 (\$161,140 plus \$398,375). Based on our analysis, the utility's average net income for 1997 to 1999 is significantly below both the \$559,515 amount and the \$630,425 amount. Further, we find that the utility's net income and liquidity have been declining over the same three-year period and it does not appear that it is sufficient to cover either the \$559,515 amount or the \$630,425 amount of corporate undertaking if a rate increase is denied.

Therefore, we agree with our staff and find that the utility cannot support the additional corporate undertaking amount of \$398,375 associated with the implementation of the utility's proposed final rates.

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However, the escrow agreement executed on December 8, 2000, between the utility, the bank, and this Commission is appropriate to support the potential refund of \$398,375. Accordingly, we hereby approve the escrow agreement as the security for the increased revenues collected under the proposed final rates. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Further, in no instance shall the administrative costs of any refunds be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Aloha Utilities, Inc.'s Notice to Implement its final proposed rates, subject to refund, pending the outcome of this proceeding, is hereby acknowledged as set forth in the body of this order. It is further

ORDERED that the rates shall be effective for service rendered on or after December 8, 2000, provided that the customers have received a copy of the notice of a change in rates in accordance with Rule 25-30.475, Florida Administrative Code. It is further

ORDERED that the escrow agreement between Aloha Utilities, Inc., Bank of America, and this Commission, dated December 8, 2000, is hereby approved. It is further

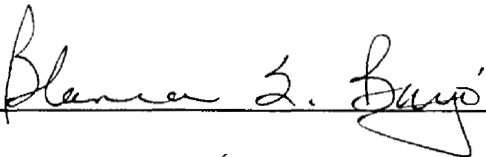
ORDERED that, pursuant to Rule 25-30.360(6), Florida Administrative Code, Aloha Utilities, Inc. shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. It is further

In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. It is further

ORDERED that this docket shall remain open pending the outcome of this rate proceeding.

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By ORDER of the Florida Public Service Commission this 17th  
day of January, 2001.



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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

JKF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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,



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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.