

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of deletion proceedings against Aloha Utilities, Inc. for failure to provide sufficient water service consistent with the reasonable and proper operation of the utility system in the public interest, in violation of Section 367.111(2), Florida Statutes.

DOCKET NO. 050018-WU
ORDER NO. PSC-06-0373-FOF-WU
ISSUED: May 4, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

ORDER DENYING REQUEST FOR RECONSIDERATION

BY THE COMMISSION:

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. In this docket, we initiated deletion proceedings for a portion of the Seven Springs service area based on taste, odor, black water and customer service problems that ultimately stem from the presence of hydrogen sulfide in the water.

By Order No. PSC-06-0270-AS-WU, issued April 5, 2006, we approved a Settlement Agreement (Settlement), executed by Aloha, the Office of Public Counsel (OPC), and certain individual intervenors (Parties). The Settlement resolves all outstanding dockets and court proceedings between Aloha and this Commission, including this docket. A key element of the Settlement is the agreement by the Parties that it is prudent for Aloha to implement a new water treatment method, anion exchange, to address the current problems that stem from the presence of hydrogen sulfide in the water.

On April 17, 2006, Mr. Edward O. Wood, the only individual intervenor in this docket who did not sign the Settlement, timely filed a letter requesting reconsideration of Order No. PSC-06-0270-AS-WU. Aloha timely filed a response in opposition thereto on April 21, 2006. Oral argument was not requested.

In his letter, Mr. Wood states that the information submitted to the Commission in the staff recommendation to approve the Settlement regarding his objection was inaccurate, that the statement that he believes the Commission should move forward with the deletion of a portion of Aloha's territory is unfounded, and that because no one from the staff contacted him regarding his position, the statement was fabricated or is hearsay. Mr. Wood further states that the only

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party who contacted him to find out anything about his position was OPC, that he gave OPC some specifics that are not included in the Settlement which caused him to not be in favor of the Settlement, and that those specifics did not appear in the staff recommendation to approve the Settlement.

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law that the Commission overlooked or failed to consider in rendering its Order.¹ Moreover, in a motion for reconsideration, it is not appropriate to reargue matters that have already been considered.² A motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review."³

Mr. Wood's request for reconsideration does not identify any of the specifics that he asserts cause him not to be in favor of the Settlement. We note that the transcript of Item 6 from the April 4, 2006, agenda conference, at which we ruled on the Settlement, reveals that Mr. Wood's concerns were brought to our attention in advance of our ruling on the merits of the Settlement.⁴ See transcript at page 6, line 14, through page 8, line 3, addressing three specific concerns of Mr. Wood which he discussed with OPC in advance of the agenda conference. The Order specifically states that "we [the Commission] also considered Mr. Wood's other objections to the Settlement and do not find them persuasive." Order, at page 6.

In summary, Mr. Wood's request for reconsideration fails to identify a point of fact or law that we overlooked or failed to consider in rendering our Order. The request for reconsideration is therefore denied.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Mr. Wood's request for reconsideration of Order No. PSC-06-0270-AS-WU, issued April 5, 2006, is denied. It is further

ORDERED that this docket shall be closed after Order No. PSC-06-0270-AS-WU has become final and non-appealable.

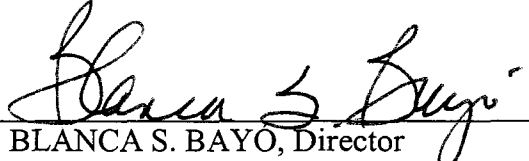
¹ See Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981).

² Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959) (citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958)).

³ Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974).

⁴ Item 6 from the April 4, 2006, agenda conference was noticed as being open to participation by interested persons. We note that Mr. Wood did not avail himself of the opportunity to speak at the agenda conference.

By ORDER of the Florida Public Service Commission this 4th day of May, 2006.


BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

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NOTICE OF 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.

Any party adversely affected by the Commission's final action in this matter may request 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 by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.