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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Aloha Utilities, Inc. )  
for Increase in Wastewater Rates in its Seven )  
Springs System in Pasco County, Florida )

DOCKET NO. 991643-SU

RECORDS AND REPORTING

MOTION FOR RECONSIDERATION OF ORDER NO. PSC-00-1288-PCO-SU

COMES NOW, Aloha Utilities, Inc. ("Aloha" or "Utility") by and through its undersigned counsel, and pursuant to Rule 25-22.0376, F.A.C., and files this Motion for Reconsideration by the Commission panel assigned to this proceeding, of Order No. PSC-00-1288-PCO-SU issued by the Prehearing Officer in this case on July 17, 2000 and in support thereof states as follows:

1. The Staff propounded its First Set of Interrogatories and Request for Production of Documents to Aloha Utilities, Inc. on May 24, 2000. On June 30, 2000, Aloha filed its responses to these requests. On July 10, 2000, the Staff filed a Motion to Compel and a Request for Extension of Time to File Prefiled Testimony. On July 10, the Office of Public Counsel ("OPC") filed their own Motion for Extension of Time. On July 13, 2000, Aloha filed its response to the Staff's and OPC's Motions.

2. Over the next two work days immediately following the filing of Aloha's response to the Staff and OPC Motions, the Commission Staff and representatives of Aloha worked out an agreement whereby Aloha agreed to provide certain additional information to the Staff by Thursday, July 20, 2000 and the Staff would withdraw their Motion to Compel as a result of that agreement.

*Merchant*

3. On the morning of July 18, 2000, the undersigned attorney for Aloha Utilities, Inc. received the Prehearing Officer's Order disposing of the Staff's and OPC's Motions and

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recognizing the settlement of the dispute concerning discovery between the Commission Staff and Aloha, and recognizing the withdrawal of the Motion to Compel.

4. On Wednesday, July 19, 2000, the undersigned counsel contacted Staff counsel to express concern with the wording of the Order in light of the agreement and supposed settlement of the issues related to discovery and the withdrawal of the Motion to Compel. On Friday, July 21, 2000, the undersigned counsel again contacted Staff counsel and expressed concern that unless three offending sentences were removed from the Prehearing Officer's Order, that the Utility felt that it would be necessary to file a Motion for Reconsideration to have those sentences removed.

5. Aloha contends that the second to last sentence of the first paragraph on page one of the Order, and the first sentences in paragraphs two and three of page two of the Order are not only violative of the letter of the agreement between the Utility and the Staff to withdraw their Motion to Compel, but are violative of the spirit of that agreement and the spirit of any good faith settlement negotiations of outstanding disputes.

The three offending sentences are also plainly contrary to the position taken by Aloha in its Motion to Compel and effectively constitute a ruling by the Prehearing Officer in favor of the Staff's Motion to Compel, and legal interpretations and conclusions reached therein, despite the fact that the parties had agreed that no such "ruling" would be forthcoming, nor was it necessary or appropriate in light of the withdrawal of the Motion to Compel by the Staff.

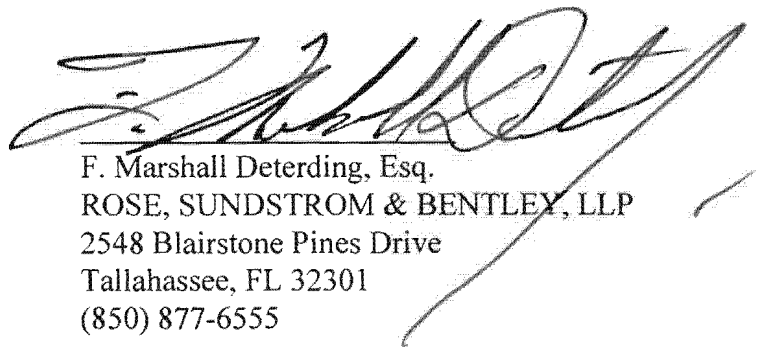
6. The inclusion of these statements within the Order settling the discovery dispute discourages any attempts at settlement, in that it takes the unnecessary and inappropriate opportunity to chastise the Utility for alleged wrongdoing when in fact the Utility in its sincere beliefs, as stated in its Response to the Motion to Compel, maintains that it was fully in compliance

with applicable Civil Rules in its response to discovery, and had no obligation to provide the information requested by the Staff. While there might be arguments on both sides, the Order presents only the positions of the Staff in detailing the course of events leading up to the Order.

7. While Aloha believes that the great majority of the first two pages of the Order are wholly unnecessary in order to accomplish the goal of ruling on the settlement of extension and discovery issues, the Utility strenuously objects to the three sentences outlined above as being violative not only of the letter and spirit of the agreement between the parties, but wholly inappropriate for an Order whose sole purpose is to recognize settlement and withdrawal of emotion.

WHEREFORE, Aloha Utilities, Inc. requests that the Commission panel assigned to this case issue an amended version of Order No. PSC-00-1288-PCO-SU in order to exclude these inappropriate sentences in the interest of complying with the Agreement, with withdrawal of the Motion, and promotion of dispute resolution through negotiation and settlement.

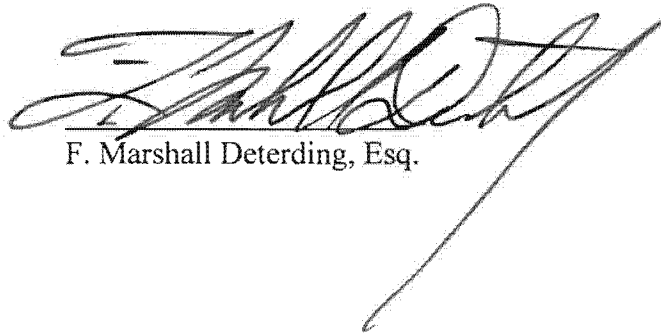
DATED this 27<sup>th</sup> day of July, 2000.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by Hand Delivery to Ralph Jaeger, Esquire and Jason Fudge, Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850 and via facsimile to Stephen Burgess, Esq., Office of Public Counsel, 111 Madison Street, Room 812, Tallahassee, FL 32399-1400 on this 27th day of July, 2000.



F. Marshall Deterding, Esq.

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