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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

MOTION FOR RELEASE OF ESCROWED FUNDS

COMES NOW, Aloha Utilities, Inc. (hereinafter referred to as "Aloha" or the "Utility"), pursuant to the provisions of Sections 28-106.204 and 28-106.111, Florida Administrative Code, and requests release of funds currently escrowed and those required in the future to be escrowed and held subject to refund in the above-referenced docket, for the purpose of paying debt service on the loan, the proceeds of which were utilized by the Utility to construct wastewater facilities required by the Florida Department of Environmental Protection (hereinafter referred to as "DEP") and in support thereof states as follows:

1. Aloha was required, pursuant to the amended and restated Consent Final Judgment dated March 9, 1999 in Case No. 93-4356 in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, to construct certain facilities necessary in providing wastewater service to the public within its certificated service territory. The Utility filed a rate increase application with the Florida Public Service Commission (hereinafter referred to as the "PSC" or "Commission") that has been processed in the above-referenced docket, primarily aimed at recovery of the costs related to those required facilities. One of the largest additional costs included within the request for recovery within that application, are costs related to the debts undertaken by the Utility to finance construction of those substantial facilities.

2. While several matters within this case have been contested, the Commission has issued its Final Order No. PSC-01-0326-FOF-SU on February 6, 2001 approving a rate increase, including recognition of such costs related to that debt and depreciation on the new facilities, which

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are now in service.

3. A formal reconsideration request was filed on February 21, 2001 by the Office of Public Counsel (hereinafter referred to as the "OPC") on two issues related to this proceeding. Aloha filed both a response to OPC's Motion for Reconsideration, and a Cross Motion for Reconsideration on three other issues on March 5, 2001. However, no party has filed for reconsideration on issues related to the investment in the facilities required by the DEP, nor affecting debt service, depreciation, or return on those facilities.

4. The Utility's loan for construction of those facilities, require it to begin making full monthly payments of interest and principal on February 1, 2001 and the Utility has done so. All of the increases recognized by the Commission in rates, including both contested and all uncontested amounts, are being held subject to refund in accordance with the requirements of Order No. PSC-01-0130-FOF-SU (issued on January 17, 2001), which recognized the Utility's implementation of the requested rates effective December 8, 2000.

5. In order to meet its debt service requirements, avoid default, and meet the requirements of the Consent Final Judgment, the Utility must have access to the additional net operating income granted out of the increased rates authorized, specifically related to those required and now uncontested improvements. The Utility cannot meet its regular costs of operation and maintenance and the debt service payments utilizing revenues not held subject to refund, nor will existing revenues not held subject to refund enable the Utility to make any significant partial payments under the loan agreement. As such, the Utility is in danger of defaulting on its loan arrangements, thereby substantially affecting its long-term creditworthiness, ability to borrow funds as needed, as well as its financial integrity. Such detrimental impacts are not in the public interest, nor in the long-term interest of the Utility or its customers.


6. The Utility needs to have access to some of the monies currently held in escrow, to

meet debt service payments during the pendency of reconsideration and any appeal of the Commission's Final Order No. PSC-01-0326-FOF-SU, issued on February 6, 2001. In order to do so, Aloha is asking that the increased net operating income authorized by PSC Order No. PSC-01-0326-FOF-SU (which is not the subject, nor affected by, either of the reconsideration requests currently pending) be released from existing escrow and on a going forward basis immediately.

7. No other parties would be adversely affected by such an arrangement, and it is in the public interest to grant this Motion. Because the debt service payments begun to be paid on February 1, 2001, the Utility is currently bordering on default under its loan agreement.

WHEREFORE, Aloha Utilities, Inc. moves that the Florida Public Service Commission authorize the release from escrow of the net operating income increase authorized under Order No. PSC-01-0326-FOF-SU to allow the Utility to meet its debt service costs. Unless the Commission acts on an emergency basis to grant some relief to allow withdrawal of funds from existing and future escrow requirements to meet debt service payments, Aloha will likely be unable to meet its debt service obligations and, as such, will be in default on its loans. As such, the Utility requests that the Commission take immediate action on this request.

Respectfully submitted this 9th day of March, 2001.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via hand delivery to the following on this 9th day of March, 2001:

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