

ORIGINAL



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

June 25, 2001

RECEIVED-FPSC
01 JUN 25 PM 4:27
RECORDS AND REPORTING

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 000737-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Petition on Proposed Agency Action and Objection to Proposed Agency Action for filing in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing the Petition on Proposed Agency Action and Objection to Proposed Agency Action in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Burgess
Deputy Public Counsel

RECEIVED & FILED
Mon R.
FPSC-BUREAU OF RECORDS

- APP _____
- CAF _____
- CMP _____
- COM 5 SCB/dsb
- CTR _____
- ECR _____
- LEG 1
- OPC _____
- PAI _____
- RGO _____
- SEC 1
- SER _____
- OTH _____

Henry
Done 6/27/01

DOCUMENT NUMBER-DATE
07839 JUN 25 01
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Investigation of rates of Aloha Utilities, Inc.)
in Pasco County for possible overearnings for)
the Aloha Gardens water and wastewater systems)
and the Seven Springs water system.)
_____)

DOCKET NO. 000737-WS
FILED: June 25, 2001

**PETITION ON PROPOSED AGENCY ACTION
AND OBJECTION TO PROPOSED AGENCY ACTION**

The Citizens of the State of Florida, through their attorney, the Florida Public Counsel, pursuant to section 120.80(13), Florida Statutes, and Rule 28-106.201, Florida Administrative Code, hereby object to certain specified portions of Order No. PSC-01-1245-PAA-WS and put in dispute the issues specified in this pleading. In support of this objection, the Citizens submit the following:

1. The agency affected is the Florida Public Service Commission (PSC), 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. The docket number is Docket No. 000737-WS.

2. During the course of these proceedings, service is to be directed to:

Stephen C. Burgess
Deputy Public Counsel
Office of Public Counsel
111 W. Madison Street, Room 812
Tallahassee, Florida 32399-1400

3. Because Aloha Utilities, Inc. (Aloha, or the Utility) is a protected monopoly, its customers have no alternative for obtaining water and wastewater service. They must bear the price charged by Aloha, as approved by the Commission through this proceeding. As will be demonstrated in subsequent paragraphs, Order No. PSC-01-1245-PAA-WS allowed Aloha to retain excessive rates and proposes to allow Aloha to continue to collect excessive rates. Participation in this procedure is the only opportunity for the customers to affect the rates which they are required to pay and the refund to which they are entitled. Accordingly, the customers' substantial interest is affected by this

DOCUMENT NUMBER-DATE

07839 JUN 25 01

FPSC-RECORDS/REPORTING

docket. Section 367.0611(1) empowers the Public Counsel, in the name of utility customers, to petition for any action in any proceeding before the Commission.

4. The Public Counsel's office received notice of the PSC's proposed agency action by receipt of a copy of Order No. PSC-01-1245-PAA-WS on June 14, 2001.

5. The Citizens raise the following disputed issues of material fact, along with the respective specific facts that merit modification of the proposed agency action:

(a) Should the customers receive an additional refund for overearnings which resulted from Pasco County's underbilling of water sold to Aloha during 1999 and 2000?

Yes. This deficiency was discovered and corrected in October 2000. Pasco County, however, did not charge Aloha for the past underbilling. The PAA normalized the purchased water cost for test year earnings, but this treatment does not address Aloha's historic earnings that were excessive by the amount of the underbilling. This excess should be added to the refunds.

(b) Does the PAA properly adjust for an error that was made in a previous docket to the land balance?

No. The PAA adjusts the land balance for an error made in a previous docket. The correction increases the write-off of a portion of the land which was determined to be non-used and useful in 1991. The Commission's adjustment to the amortization expense does not recognize that ratepayers have paid a portion of the amortization in the years 1999 and 2000. The Commission's PAA has recognized costs which are known and measurable to the end of the year 2000. It would also be appropriate to recognize the amortization recovered by the company through the end of the year 2000. The amortization of the remaining balance

should then be recovered over a seven year period rather than the remaining period of the original amortization.

(c) Should working capital be reduced to reflect the property taxes attributable to the new office building?

Yes. The PAA includes a pro forma adjustment to the December 31, 1999 test year for the cost associated with the Company's new office building. As part of that cost, the Commission recognized property taxes in the amount of \$12,167. Property taxes are paid in arrears, and the accrual of such property taxes should have been recognized as a reduction of working capital in the working capital calculation, shown on page 14 of the Commission's PAA.

(d) Should working capital be reduced to reflect the additional current liability resulting from normalizing the amount of water purchased from Pasco County?

Yes. The additional arrearage resulting from the higher purchased water expense provides a source of capital that should be recognized as a reduction to working capital.

(e) Should Aloha's miscellaneous expense be reduced by the unsupported discrepancy between the general ledger and the detail of the accounts payable?

Yes. The utility converted its general ledger to a new software system in July 1999, and a difference arose between the detail of accounts payable and the general ledger. The accounts payable detail was less than the amount shown in the general ledger. The Company wrote this amount off to chemicals and material supplies in the Seven Springs system. The Commission's PAA allocates this amount based on ERCs to each of the four entities, including Aloha Gardens water and wastewater. There is no invoice or documentation which

supports the amount written-off by the Company. It is inappropriate to record an expense and ask ratepayers to pay for that expenses when there is no substantiation or documentation which supports that cost.

(f) Should Aloha's annualized billing costs be reduced by the apparently inappropriate inclusion of the 1999 post card billing expenses?

Yes. The PAA includes an increase for Aloha Gardens water and wastewater in the amount of \$4,543 and \$4,064, respectively. The PAA states: "Upon review, we find that these amounts represent the annualized billing cost for the year 2000 calendar year end and appears reasonable. As such, O&M expenses shall be increased by \$4,543 for Aloha Gardens water and \$4,064 for Aloha Gardens wastewater." If these costs are the annualized cost for the year 2000 and they are added on to the 1999 O&M costs, there has been a double count. Since 1999 includes costs associated with postcard billing, that billing should have been deducted from the annualized cost for 2000 and the difference added to O&M. This appears to be a double count and should be corrected.

6. The Citizens allege the following ultimate facts:

(a) Order No. PSC-01-1245-PAA-WS, contains certain errors specified above which understate Aloha's actual earnings during the historical period captured by the earnings investigation. As such, the proper amount of excessive earnings was understated. The refund should be increased to reflect the correction of errors cited above.

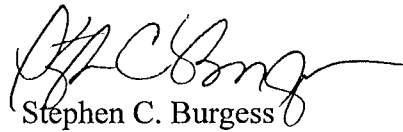
(b) In addition, Order No. PSC-01-1245-PAA-WS, contains certain specified errors which overstated the proper revenue requirement on a going forward basis. Those errors should be corrected to reflect a proper revenue requirement.

7. The rates which Aloha has collected, and would continue to collect violate the requirements of Section 367.081, Florida Statutes. Order No. PSC-01-1245-PAA-WS should be modified to order a refund and establish rates that meet the requirements of Section 367.081, F.S.

8. As relief, the Citizens seek a refund of all excessive rates that have been collected by Aloha and a further reduction of future rates to be paid by the customers of Aloha.

WHEREFORE, the Citizens of the State of Florida object to Order No. PSC-01-1245-PAA-WS, and seek modifications consistent with the disputed issues described herein.

Respectfully submitted,



Stephen C. Burgess
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
(850) 488-9330

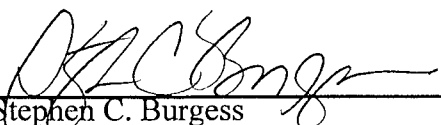
Attorneys for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 000737-WS**

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition on Proposed Agency Action and Objection to Proposed Agency Action has been furnished by U.S. Mail or *hand-delivery to the following parties, this 25th day of June, 2001.

Ralph Jaeger, Esquire*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

F. Marshall Deterding, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301



Stephen C. Burgess
Deputy Public Counsel