

State of Florida



Public Service Commission

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COMMISSION
CLERK

DATE: JULY 26, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (JAEGER) *PS*
DIVISION OF ECONOMIC REGULATION (FLETCHER) *BS RTM DM*

RE: DOCKET NO. 000737-WS - INVESTIGATION OF RATES OF ALOHA
UTILITIES, INC. IN PASCO COUNTY FOR POSSIBLE OVERTURNINGS
FOR THE ALOHA GARDENS WATER AND WASTEWATER SYSTEMS AND THE
SEVEN SPRINGS WATER SYSTEM. *MW*

AGENDA: AUGUST 7, 2001 - FINAL AGENCY ACTION - PARTIES MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\000737SO.RCM

CASE 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. This recommendation relates to the Aloha Gardens water and wastewater systems, and the Seven Springs water system. The utility's service area is located within the Northern Tampa Bay Water Use Caution Area as designated by the Southwest Florida Water Management District (SWFWMD). Critical water supply concerns have been identified by SWFWMD within this area.

By Order No. PSC-00-1289-FOF-WS, issued July 18, 2000, in Docket No. 000737-WS, the Commission initiated a formal investigation of the rates and charges of the Aloha Gardens water and wastewater systems and Seven Springs water system, based on the

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utility's 1999 annual report. Pursuant to that Order, the Commission held revenues subject to refund as follows:

<u>System</u>	<u>Test Year Revenues</u>	<u>Amount Subject To Refund</u>	<u>% Subject To Refund</u>
Aloha Gardens Water	\$519,976	\$133,977	25.77%
Aloha Gardens Wastewater	\$1,001,716	\$84,076	8.39%
Seven Springs Water	\$1,723,085	\$52,378	3.04%

By Proposed Agency Action (PAA) Order No. PSC-01-1245-PAA-WS, issued June 4, 2001, the Commission determined that the Aloha Gardens water and wastewater systems had overearned by \$29,325 and \$67,624, respectively, and required refunds and rate reductions for those systems. Dividing those overearning amounts by adjusted revenues, net of miscellaneous service revenues and above-the-line interest income, the Commission determined the refund percentage to be 5.70% for Aloha Gardens water and 6.42% for Aloha Gardens wastewater, from June 29, 2000 until the effective date of the new final rates. Moreover, the Commission denied the utility's requested 2000 index and pass-through for the Aloha Gardens systems because the utility was found to be overearning and the increased expenses for the index and pass-through were considered in the Commission's overearnings determination.

On June 25, 2001, the Office of the Public Counsel (OPC) timely filed its Petition on Proposed Agency Action and Objection to Proposed Agency Action in which it raised approximately six issues. This was the only protest to the Order, and, based on this protest, Order No. PSC-01-1245-PAA-WS has not yet been finalized.

By PAA Order No. PSC-01-1374-PAA-WS, issued June 27, 2001, the Commission determined that the Seven Springs water system had overearned in the amount of \$15,559 for the test year 2000, and that that amount, plus interest, should be recorded on the utility's books as a deferred credit. However, on July 18, 2001, Aloha filed its timely protest of that Order raising approximately six issues.

On the same day that Aloha filed its protest, representatives of Aloha, OPC, and staff met to discuss the possibility of

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settlement. A comprehensive settlement was reached, and Aloha and OPC filed their Settlement Agreement on that same day.

This recommendation addresses the Settlement Agreement and the finalization of Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS. If approved, the Settlement Agreement will require a modification to Order No. PSC-01-1245-PAA-WS, to reflect that the utility has agreed to refund an additional \$12,000 to its Aloha Gardens water customers. The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the Dismissals of the Petitions on Proposed Agency Action Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS, approve the Settlement Agreement, and finalize Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS?

RECOMMENDATION: Yes, the Commission should acknowledge the dismissals, approve the Settlement Agreement in its entirety, and finalize Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS with a modification to Order No. PSC-01-1245-PAA-WS, to include that Aloha Utilities, Inc. has agreed to refund an additional \$12,000 to its Aloha Gardens water customers. The utility should proceed with that refund plus all refunds ordered by Order No. PSC-01-1245-PAA-WS. (JAEGER, FLETCHER)

STAFF ANALYSIS: Pursuant to the Settlement Agreement, OPC agreed to voluntarily dismiss its Petition on Proposed Agency Action filed on June 25, 2001 to Order No. PSC-01-1245-PAA-WS. Moreover, Aloha agreed that it would increase the amount of the ordered refund by \$12,000 to its Aloha Gardens water customers, and withdraw its protest of PAA Order No. PSC-01-1374-PAA-WS if no other protests to that Order were filed by any third parties. No other protests were filed, and the time for filing of such protests has expired. Finally, Aloha and OPC agreed that the provisions and rulings in PAA Orders Nos. PSC-01-1245-PAA-WS and PSC-01-1374-PAA-WS would be affirmed except for the modification to include the increased refund of \$12,000 to the Aloha Gardens water customers.

On July 20, 2001, OPC filed its Notice of Withdrawal of its Petition on Proposed Agency Action Contingent on Commission Approval of the Settlement Agreement. Also, on July 25, 2001, Aloha withdrew its protest of PAA Order No. PSC-01-1374-PAA-WS.

For the Aloha Gardens water customers, the Commission initially held \$133,977 or 25.77% of annual revenues subject to refund. Also, as stated in the Case Background, the Commission only found overearnings of \$29,325, and ordered a rate reduction of 5.7%. Staff notes that the amount ordered to be refunded, plus the additional \$12,000 does not exceed the amount held subject to refund.

Based on all the above, and because the Settlement Agreement represents a fair compromise reached by the utility and OPC, staff

recommends that the Commission approve the Settlement Agreement in its entirety. Upon approval of the Settlement Agreement, all petitions protesting the PAA Orders will be withdrawn. Therefore, both Orders should become final and effective upon the issuance of the Order. Finally, Order No. PSC-01-1245-PAA-WS should be modified to include Aloha's agreement to increase the refund amount to its Aloha Gardens water customers by an additional \$12,000, as reflected in the Settlement Agreement. The utility should proceed with that refund plus all refunds ordered by Order No. PSC-01-1245-PAA-WS.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending staff's verification that the required refunds have been made and the utility's submission of tariff sheets for the Aloha Gardens water and wastewater systems are consistent with the Commission's decision in Order No. PSC-01-1245-PAA-WS. Upon staff's verification, this docket should be administratively closed. Accordingly, the corporate undertaking filed for this docket should be released upon the refunds being completed. (FLETCHER, JAEGER)

STAFF ANALYSIS: By Order No. PSC-01-1245-PAA-WS, the Commission ordered Aloha to make refunds to its Aloha Gardens water and wastewater customers and to lower rates for these systems. Aloha has now agreed to refund an additional \$12,000 to its Aloha Gardens' water customers. This docket should remain open pending staff's verification that the required refunds are made and the utility's submission of tariff sheets for the Aloha Gardens water and wastewater systems are consistent with the Commission's decision in Order No. PSC-01-1245-PAA-WS. Upon staff's verification, this docket should be administratively closed. Accordingly, the corporate undertaking for this docket should be released upon the refunds being completed.