

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ALOHA)
UTILITIES, INC. for an increase)
in water rates for its Seven)
Springs System in Pasco County,)
Florida.)
_____)

DOCKET NO. 010503-WU

**PARTIALLY OPPOSED MOTION FOR EXTENSION OF TIME
TO FILE REBUTTAL TESTIMONY**

Aloha Utilities, Inc. ("Aloha"), by and through its undersigned counsel, hereby files this Partially Opposed Motion for Extension of Time to File Rebuttal Testimony and in support thereof would state and allege as follows:

1. Aloha hereby requests an extension of time to file its Rebuttal Testimony From the current due date of December 10, 2001 to December 17, 2001.

2. Even before the events described herein below, it was extremely difficult for Aloha to prepare its rebuttal testimony in a timely fashion. The Commission staff is presenting the testimony of six witnesses, the Office of Public Counsel is presenting testimony of four witnesses, and the Water Management District is presenting testimony of four witnesses. There are more than twice the number of witnesses being presented by the various parties in this proceeding than have been presented in any of Aloha's recent formal cases before the Commission. Rebuttal Testimony must respond to each of these witnesses, to the extent Aloha seeks to rebut that testimony.

3. Aloha's counsel and consulting engineer are both involved in a proceeding in another jurisdiction with almost identical timetables to those within this case and as such, the demands on these individuals has been extensive.

4. The depositions of Commission staff witnesses, after discussions between all parties, were scheduled for Friday, November 30, 2001. The Utility completed these discussions on the same day the staff testimony was filed. On the morning of the depositions, the undersigned counsel was told that Jennie Lingo, the staff member providing the most extensive testimony in this case on

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several key issues, was sick and would not be available for deposition on that day. The deposition was tentatively rescheduled for Monday, December 3, 2001. On Sunday, December 2, 2001, the undersigned was contacted by staff counsel and told that the witness would still not be available on Monday, December 3, 2001, and that she could tentatively be rescheduled for deposition on the morning of Wednesday, December 5, 2001, if Ms. Lingo's health situation improved.

5. Aloha finds itself in a difficult situation which is not of its own making. It was always Aloha's intention to take the deposition of Ms. Lingo in that brief span between staff's testimony and the due date for Aloha's testimony. Aloha has diligently pursued that intention. Ms. Lingo is providing extensive testimony on issues that are rather unique to this case and are definitely in opposition to the positions taken by the Utility. Therefore, her deposition is essential to the final preparation of testimony from all of the Utility's primary witnesses. Even with the original Friday, November 30, 2001 scheduling, the Utility would have been in a position of having to obtain transcripts on Ms. Lingo's deposition on an expedited basis in order to allow review of that transcript by the Utility's witnesses in preparing their rebuttal, currently due on December 10, 2001. Now with the change in the deposition date no earlier than Wednesday, December 5, 2001, there will be no time to obtain the transcript, much less for Aloha's witnesses to obtain it or review it, prior to the due date for their rebuttal testimony.

6. For these reasons, Aloha is requesting that it be given an extension of time to file its rebuttal testimony equal to the number of days after the originally scheduled deposition of Jennie Lingo, to the date that deposition is actually held. If that deposition is held on Wednesday, December 5, 2001, the Utility would propose to have that rebuttal testimony filed on Monday, December 17, 2001.

7. Aloha has conferred with PSC staff counsel on this Motion. The staff has agreed that the time for filing rebuttal testimony on those issues which Ms. Lingo addresses should be extended until December 17, 2001. However, staff has taken the position that the testimony on issues not

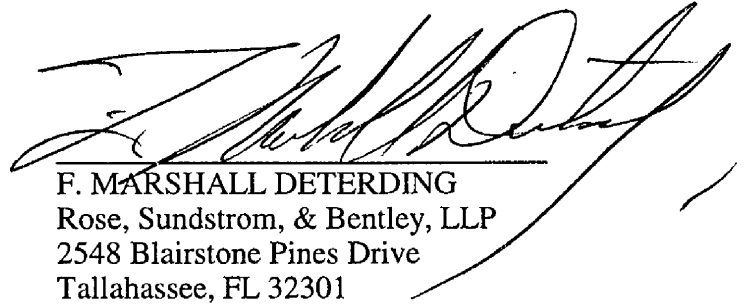
raised in Ms. Lingo's testimony, should be filed by the December 10, 2001 due date. Aloha contends that such a proposal is unworkable for several reasons as outlined below:

- A. It is impossible until such time as clarification of Ms. Lingo's testimony is obtained through her deposition to determine what issues she is addressing, much less to what extent other witnesses' testimony is effected by Ms. Lingo's positions. Aloha had set up the deposition schedule so that it could draft its testimony based on the totality of the testimony (including deposition testimony). It is through no fault of Aloha's that these delays have occurred and the potential bifurcation of rebuttal testimony prejudices Aloha and places Aloha at substantial additional risk.
- B. Preparation of separate rebuttal testimonies, the second of which is limited by "issues raised by Ms. Lingo" is subject to substantial disagreement, which will only result in further motion practice, both before and at the final hearing, at substantial additional cost and the potential of great prejudice to Aloha, depending upon the information that is discovered through Ms. Lingo's deposition.
- C. The preparation of two separate sets of rebuttal testimony will destroy the flow of the testimonies of the Utility's witnesses to be provided in rebuttal testimony, and will result in substantial additional rate case costs in this proceeding, in addition to those already incurred because of the delays in Ms. Lingo's deposition.

8. Aloha has conferred with Mr. Edward O. Wood regarding this Motion. He states that he does not oppose an Extension of Time through December 17, 2001 for the filing of Rebuttal Testimony as the Utility requested. The OPC has agreed with the Commission staff position on a limited extension. Counsel for the Water Management District is opposed.

WHEREFORE, in consideration of the above, Aloha Utilities, Inc. respectfully requests that the Prehearing Officer grant an extension of time from December 10, 2001 to December 17, 2001 for the filing of all Rebuttal Testimony in this proceeding assuming Ms. Lingo's deposition occurs on December 5, 2001, otherwise, an equal number of additional days if later.

Dated this 3rd day of December, 2001.



F. MARSHALL DETERDING
Rose, Sundstrom, & Bentley, LLP
2548 Blairstone Pines Drive
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CERTIFICATE OF SERVICE

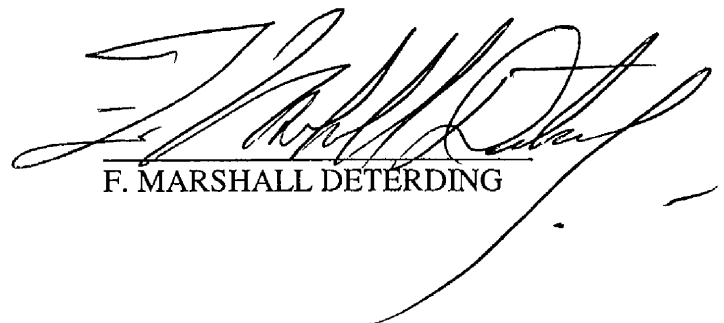
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile or (*) Hand Delivery to the following on this 3rd day of December, 2001:

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