



ORIGINAL

Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: May 20, 2002
TO: Division of the Commission Clerk and Administrative Services
FROM: Economic Regulation Section - Office of the General Counsel (Gervasi) *gg*
RE: Docket No. 020413-SU - Initiation of show cause proceedings against Aloha Utilities, Inc. in Pasco County for failure to charge approved service availability charges, in violation of Order No. PSC-01-0326-FOF-SU and Section 367.091, Florida Statutes.

Please file the attached letter dated May 15, 2002, from Gerald A. Figurski, Figurski & Harrill, in the docket file for the above-referenced docket.

Thank you.

RG/jb

cc: Division of Economic Regulation (B. Fletcher)

- AUS _____
- CAF _____
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- OPC _____
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- SEC 1
- OTH _____

DOCUMENT NUMBER-DATE

05361 MAY 20 02

FPSC-COMMISSION CLERK

FIGURSKI & HARRILL

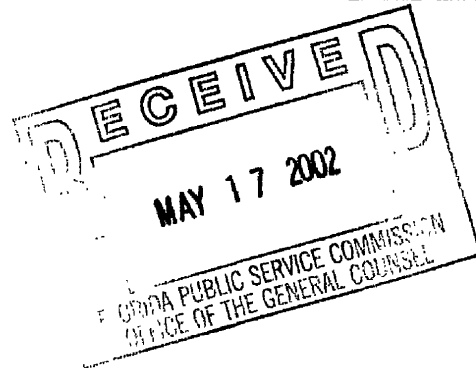
ATTORNEYS AT LAW

THE HOLIDAY TOWER
2435 U.S. HIGHWAY 19 SUITE 350
HOLIDAY, FLORIDA 34691

GERALD A. FIGURSKI, P.A.
J. BEN HARRILL, P.A.
SHELLY MAY JOHNSON

TELEPHONE: (727) 942-0733
FAX: (727) 944-3711
EMAIL: law@figurskiharrill.com

May 15, 2002



Rosanne Gervasi, Esquire
Florida Public Service Commission
Division of Legal Services
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Dear Rosanne:

Thank you for spending time with me last week regarding the increased Service Availability Charge for Aloha Utilities, Inc. I am representing Grove Park Homes, Inc., as to a development called Sunset Lakes in Pasco County. (Aloha uses the old name, "Parklake", for the development.)

I am enclosing for your reference letters from Aloha to Grove Park Homes. As you can see, Aloha is attempting to charge close to \$26,000 above those monies previously paid by Grove Park to Aloha for service availability charges. The previously paid charges were pursuant to contract.

Thank you for referring me to the Hawkins case. After reading, my only question is whether the facts included an existing contract between the utility and builder providing for payment of these charges in advance with an understanding in the contract that once paid, no additional monies would be due therefor.

Further and actually more important, as I explained in our conversation, although a number of the attempted backcharges will be invalid in the event the Commission rules March 11 is the effective date, there are others where my client has executed contracts to build homes with citizens where the purchase price is based on the prior charge. What does the builder do? Does he go back to the citizen and say, "Too bad, the Public Service Commission authorized Aloha to raise this charge." Or, does he absorb the charge? Either answer is not good. Knowing the principal of Grove Park Homes and his integrity, Mr. David Greene will probably absorb the charge. That is truly and simply unfair.

I look forward to seeing the Staff memo to the Commission. If I may be of further service, please do not hesitate to contact me. Again, thank you for your assistance. As I learned quite clearly as we both acted as attorneys for different parties in a case here in Pasco County, you are truly an asset to the Commission.

Best regards,

GERALD A. FIGURSKI

GAF/mjp

Enclosures

cc: David R. Greene

Aloha Utilities, Inc.

6915 Perrine Ranch Road
New Port Richey, FL 34655

(727) 372-0115 Fax (727) 372-2677

April 22, 2002

Mr. Dave Greene
Grove Park Homes
P.O. Box 959
Elfers, FL 34690

VIA CERTIFIED RETURN RECEIPT:
7099-3400-0018-4330-7745

RE: Parklake Unit 8 Phase 2B Development-Wastewater Plant Capacity Charge

Dear Mr. Greene:

Effective May 23, 2001, Aloha Utilities, Inc. was authorized by the Florida Public Service Commission to increase its wastewater service availability charge from \$206.75 to \$1,650.00, a difference of \$1,443.25 per ERC. All connections from that day forward are required to be assessed the new fee. Unfortunately, through a mistake on the part of the Utility, several developers/builders were not assessed the additional fee, either as to their connections made since that time, or assessed for the increase for future connections which have been reserved. Your Company has connected 13 connections since May 23, 2001. As such, we are required by our tariff, Public Service Commission Orders, and by Florida law, to assess you at this increased rate. While the Utility mistakenly failed to charge you for this increase previously, we are authorized both under our Developer Agreement with you and under Public Service Commission Rules to back bill in the case of such a mistake.


The total amount that is due to Aloha from your Company for prior connections is \$12,989.25. For reservation of capacity and connections not yet made, the additional amount owed is \$5,773.00 (4 connections X \$1,443.25 increased charge) per additional connection.

We apologize for this mistake and we will be glad to work with you on the method of repayment. However, we must receive all of these overdue monies for prior connections in order to comply with PSC requirements.

We need to hear from you shortly or we will have to consider alternative measures in order to collect these monies. If you have any questions, please let me know. Again, we appreciate your cooperation in resolving this matter quickly.

Sincerely,

ALOHA UTILITIES, INC.


Stephen C. Watford
President

SGW/ck

Letters/02gencorr/dev sewer impact due

Aloha Utilities, Inc.

6915 Perrine Ranch Road
New Port Richey, FL 34655

(727) 372-0115 Fax (727) 372-2677

April 22, 2002

Mr. Dave Greene
Grove Park Homes
P.O. Box 959
Elfers, FL 34690

VIA CERTIFIED RETURN RECEIPT:
7099-3400-0018-4330-7752

RE: Parklake Development-Wastewater Plant Capacity Charge

Dear Mr. Greene:

Effective May 23, 2001, Aloha Utilities, Inc. was authorized by the Florida Public Service Commission to increase its wastewater service availability charge from \$206.75 to \$1,650.00, a difference of \$1,443.25 per ERC. All connections from that day forward are required to be assessed the new fee. Unfortunately, through a mistake on the part of the Utility, several developers/builders were not assessed the additional fee, either as to their connections made since that time, or assessed for the increase for future connections which have been reserved. Your Company has connected 5 connections since May 23, 2001. As such, we are required by our tariff, Public Service Commission Orders, and by Florida law, to assess you at this increased rate. While the Utility mistakenly failed to charge you for this increase previously, we are authorized both under our Developer Agreement with you and under Public Service Commission Rules to back bill in the case of such a mistake.

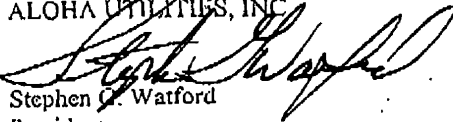
The total amount that is due to Aloha from your Company for prior connections is \$7,216.25. For reservation of capacity and connections not yet made, the additional amount owed is \$0.00 (0 connections X \$1,443.25 increased charge) per additional connection.

We apologize for this mistake and we will be glad to work with you on the method of repayment. However, we must receive all of these overdue monies for prior connections in order to comply with PSC requirements.

We need to hear from you shortly or we will have to consider alternative measures in order to collect these monies. If you have any questions, please let me know. Again, we appreciate your cooperation in resolving this matter quickly.

Sincerely,

ALOHA UTILITIES, INC.



Stephen G. Watford
President

SGW/ek

Letters/02gencorr/dev sewer impact due

Apr 24 02 02:23p

ALOHA UTILITIES

727-372-2677

p.2

Increased Sewer Impacts

Park Lake

Date	# of Lots	Account #	Address/Lot #
July-01	2	36041	8238 Baytree Drive, Lot #62
		36909	8246 Baytree Drive, Lot #61
August-01	1	36908	8303 Baytree Drive, Lot #22
November-01	1	36901	8328 Cambria Court, Lot #54
April-02	1	38126	Springside Drive, Lot #151
	<u>5</u>		

Parklake Phase 2B

Date	# of Lots	Account #	Address/Lot #
December-01	2	38517	8406 Basalisk Court, Lot #9
		38518	8331 Basalisk Court, Lot #4
January-02	8	38520	8339 Basalisk Court, Lot #5
		38568	8401 Basalisk Court, Lot #7
		38570	8407 Basalisk Court, Lot #8
		38573	8347 Basalisk Court, Lot #6
		38574	8400 Basalisk Court, Lot #10
		38575	8348 Basalisk Court, Lot #11
		38576	8336 Basalisk Court, Lot #12
		38577	8330 Basalisk Court, Lot #13
March-02	3	38519	8251 Basalisk Court, Lot #1
		38521	8305 Basalisk Court, Lot #2
		38578	8240 Basalisk Court, Lot #17
	<u>13</u>		
	+ 4	Open Lots	
	<u>17</u>	Total	