

State of Florida



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

DATE: July 15, 2002
TO: Division of the Commission Clerk and Administrative Services
FROM: Office of the General Counsel (Gervasi) JB
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 from Suzanne Brownless, Esquire, dated July 3, 2002, with attached Settlement Agreement, in the docket file for the above-referenced docket.

RG/dm

cc: Division of Economic Regulation (Fletcher, Merchant, Willis)

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DOCUMENT NUMBER-DATE

07279 JUL 15 8

FPSC-COMMISSION CLERK

*Sent to
Roseann*

SUZANNE BROWNLESS, P. A.

ATTORNEY AT LAW
1975 Buford Boulevard
Tallahassee, Florida 32308

ADMINISTRATIVE LAW
GOVERNMENTAL LAW
PUBLIC UTILITY LAW

TELEPHONE (850) 877-5200
TELECOPIER (850) 878-0090

July 3, 2002

VIA HAND DELIVERY

Harold McLean, General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

IN RE: Docket No. 020413-SU
Initiation of Show Cause Proceedings against Aloha
Utilities, Inc. for failure to charge approved
service availability charges in violation of Order
No. PSC-01-0326-FOF-SU and Section 367.091, Florida
Statutes.

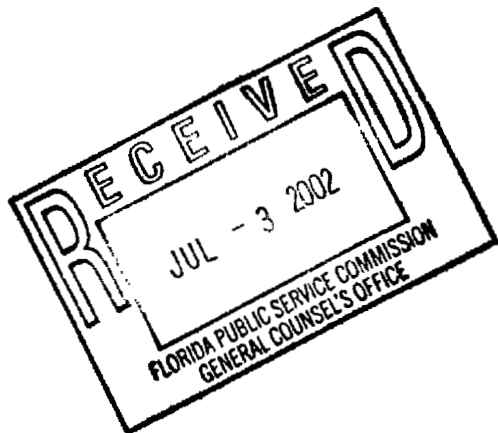
Dear Harold:

Attached please find a copy of the Settlement Agreement in the
above docket which Aloha discussed with you a few weeks ago. My
understanding is that you are talking with the Staff in order to
propose a counteroffer.

I appreciate your cooperation in working to resolve this issue
to all parties' satisfaction and look forward to talking with you
soon to discuss the Staff's ideas.

Very truly yours,

Suzanne Brownless
Attorney for Aloha Utilities, Inc.

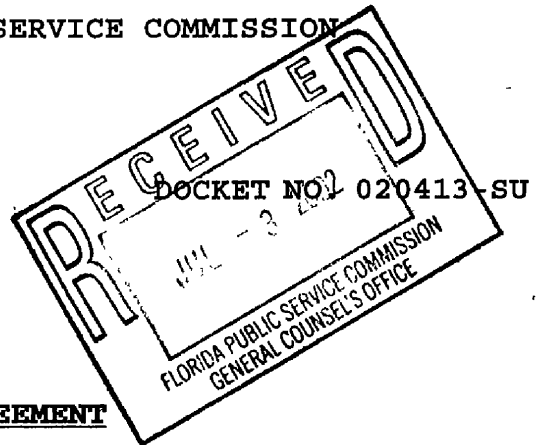


cc: S. Watford
Roseann Gervasi, Esq.
Marshall Willis

c: 3610

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Initiation of Show Cause Proceedings against Aloha Utilities Inc. for failure to charge approved service availability charges in violation of Order No. PSC-01-0326-FOF-SU and Section 367.091, Florida Statutes.



SETTLEMENT AGREEMENT

WHEREAS, the Florida Public Service Commission (Commission) has initiated a show cause proceeding to investigate the collection of service availability charges by Aloha Utilities, Inc. (Aloha);

WHEREAS, MHC Financing Limited Partnership d/b/a County Place Village (MHC), Trinity Communities, Thousand Oaks Development, Grove Park Homes, I.H. Suncoast Homes, Inc., Village at Wyndtree, Windward Homes,

parties who have expressed an interest in this docket have signed this Settlement Agreement (Settlement);

WHEREAS, these interested parties and Aloha have undertaken to resolve the issues raised in this docket in order to provide a prompt and equitable resolution for all interested parties;

WHEREAS, the service availability charges for Aloha were increased by Order No. PSC-01-0326-FOF-SU, issued on February 6, 2001, in Docket No. 991643-SU, the Commission increased Aloha's service availability charges from \$206.75 per equivalent residential connection (ERC) to \$1,650 per residential ERC and \$12.79 per gallon for all other connections;

WHEREAS, Aloha unintentionally failed to file revised tariff

sheets for its increased service availability charges until March, 2002 and did not collect the increased service availability charges until April, 2002;

WHEREAS, the Commission administratively approved the tariff sheet changing Aloha's service availability rates effective May 23, 2001 based upon the mistaken belief that Aloha had been collecting the higher service availability charges since that date; and

WHEREAS, in reliance upon the May 23, 2001 effective date of the revised service availability tariff, Aloha advised developers and builders who had connected to Aloha's wastewater system after May 23, 2001 but prior to April, 2002 that they would be required to pay the increased service availability charges;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the undersigned hereby stipulate and agree as follows:

1. The effective date of the revised service availability tariff shall be April 16, 2002;

2. For connections made before April 16, 2002, developers and builders will not be required to pay the new wastewater service availability charges.

3. For connections made on or after April 16, 2002, developers and builders will be charged the new service availability charges reflected on the current tariff: \$1,650 per residential ERC and \$12.79 per gallon for all other connections.

4. Aloha will agree to pay a fine of \$2,500.00, pursuant to Section 367.161, Florida Statutes, for failure to file the

appropriate service availability tariff on May 23, 2001.

5. No further penalties or adjustments to rate base or CIAC in this or any other proceeding before the Commission will be assessed or made associated with this matter.

6. To the extent that developers, builders or individuals who connected to Aloha's wastewater utility system prior to April 16, 2002 paid the increased service availability charges, refunds will be made, with interest calculated at the thirty-day commercial paper rate for the appropriate time period, within 30 days of the effective date of the Commission order approving this Settlement. Further, Aloha will comply with the reporting requirements of Rule 25-30.360, Florida Administrative Code.

7. This Settlement is contingent on approval in its entirety by the Commission. This Settlement will resolve all matters in this docket pursuant to, and in accordance with, §120.57(4), Florida Statutes. This docket will be closed effective the date the Commission order approving this Settlement becomes final.

8. This Settlement dated as of the _____ day of _____, 2002 may be executed in counterpart originals, and a facsimile of an original signature shall be deemed an original.

IN WITNESS WHEREOF, the undersigned evidence their acceptance and agreement with the provisions of this Settlement by their signature.

For Aloha Utilities, Inc.

Stephen G Watford, President
Aloha Utilities, Inc.
6915 Perrine Ranch Road
New Port Richey, Florida 34655

For MHC Financing Limited
Partnership d/b/a Country Place
Village

Kathryn G.W. Cowdery, Esq.
Ruden, McClosky, Smith,
Schuster & Russell, P.A.
2115 South Monroe Street
Suite 815
Tallahassee, FL 32301

For Grove Park Homes, Inc.

Gerald A. Figurski, Esq.
Figurski & Harrill
The Holiday Tower
2435 U.S. Highway 19, Suite 350
Holiday, Florida 34691

For Thousand Oaks

For Village at Wyndtree

Michael P. Donaldson, Esq.
Carlton Fields
215 South Monroe Street
Suite 500
Tallahassee, Florida 32301-1866

For Trinity Communities

For I.H. Suncoast Homes

For Windward Homes

c: 3604