

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: 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.

Docket Number 020413-SU

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WINDWARD HOMES' RESPONSE TO ALOHA UTILITIES, INC.'S MOTION FOR  
CLARIFICATION AND MOTION FOR RECONSIDERATION

Pursuant to Rules 25-22.060 and 28-106.204, Florida Administrative Code, (FAC),  
Windward Homes files this Response to Aloha Utilities, Inc.'s (Aloha's) Motions for  
Clarification and Reconsideration of Order PSC-02-1250-SC-SU (Show Cause Order),  
issued September 11, 2002, and in support thereof states as follows:

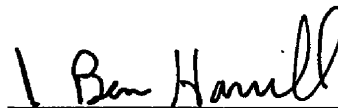
1. Filed in conjunction with this Response, Windward Homes has filed a Petition for Formal Hearing pursuant to Rule 28.106.201, FAC; Chapter 120 and Chapter 367, Florida Statutes.
2. In that Petition for Formal Hearing, Windward Homes contends that the FPSC violated the Florida Statutes, the Florida Administrative Code, exceeded its statutory authority, and violated the Contracts Clause of the United States Constitution, when, in its Show Cause Order, it permitted Aloha to backbill developers, such as Windward Homes, for increased service availability charges that were not in effect, nor lawful, for the period of time from May 23, 2001 to April 16, 2002.

DOCUMENT NUMBER DATE  
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FPSC-COMMISSION CLERK

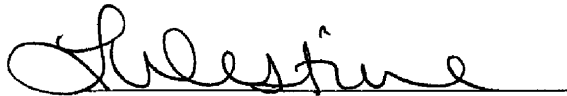
3. In light of the fact that Windward Homes believes that specific provision of the Show Cause Order which grants Aloha the ability to backbill developers for the increased fees is illegal, Windward Homes objects to any clarification or reconsideration of the Show Cause Order prior to its Petition for Formal Hearing addressed.
4. At that time, Aloha's Motion for Clarification and Reconsideration may be moot.

WHEREFORE, Windward Homes respectfully requests that the Commission deny Aloha's Motion for Clarification and Reconsideration.

RESPECTFULLY submitted this 27<sup>th</sup> day of September, 2002 by:



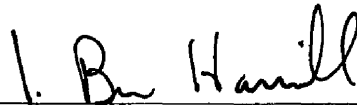
J. Ben Harrill, Esq.  
Figurski & Harrill  
2435 U.S. Highway 19  
Suite 350  
Holiday, FL 34691

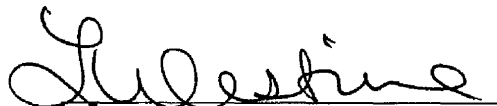


Lauralee G. Westine, Esq.  
Figurski & Harrill  
2435 U.S. Highway 19  
Suite 350  
Holiday, FL 34691

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and <sup>fifteen</sup>~~seven~~ copies of the foregoing Windward Homes' Response to Aloha Utilities, Inc.'s Motion for Clarification and Motion for Reconsideration have been furnished to Ms. Blanca Bayo, Director, Department of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Betty Easley Building, Room 110, Tallahassee, Florida 32399-0850, by U.S. Mail this 27<sup>th</sup> day of September, 2002, and that copies of the foregoing have been furnished to Rosanne Gervasi, Esquire, Florida Public Service Commission, Legal Division, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 and Suzanne Brownless, Esquire, Suzanne Brownless, P.A., 1975 Buford Boulevard, Tallahassee, Florida 32308, by United States Mail this 27<sup>th</sup> day of September, 2002.

  
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J. Ben Harrill, Esq.  
Florida Bar Number 275557

  
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Lauralee G. Westine, Esq.  
Florida Bar Number 0055964