

VOTE SHEET

NOVEMBER 5, 2002

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.

ISSUE 1: Should Aloha's Requests for Oral Argument on its Motion for Clarification, Motion for Reconsideration, and Response to Show Cause Order be granted?

RECOMMENDATION: No. The Requests for Oral Argument should be denied. As such, it is unnecessary for the parties to participate on Issues 2 and 4. Adam Smith's Motion to Strike Aloha's Request for Oral Argument should be considered as a Response but need not be ruled upon. Moreover, because no request for oral argument was filed regarding Aloha's Motion for Emergency Relief, oral argument should not be permitted on Issue 3. Nor should oral argument be permitted on this issue, as there is no right to oral argument on a request for oral argument. In sum, it is unnecessary for the parties to participate on this staff recommendation at the agenda conference.

DEFERRED

COMMISSIONERS ASSIGNED: Deason, Palecki, Bradley

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER DATE

12162 NOV-58

FPSC-COMMISSION CLERK

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(Continued from previous page)

ISSUE 2: Should Aloha's Amended Motion for Clarification and Motion for Reconsideration of Order No. PSC-02-1250-SC-SU be granted?

RECOMMENDATION: No. Aloha's Amended Motion for Clarification and Motion for Reconsideration should be denied. Moreover, Adam Smith's Motion to Strike Aloha's Motions for Clarification should be considered as a Response to Aloha's Amended Motion but need not be ruled upon.

ISSUE 3: Should Aloha's Motion for Emergency Relief be granted?

RECOMMENDATION: Yes. The Motion for Emergency Relief should be granted. Aloha should be required to establish an escrow agreement with an independent financial institution, under the terms set forth in the analysis portion of staff's October 24, 2002 memorandum. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. Aloha should not attempt to disconnect any existing customer from service as a result of any developer's failure to pay any backbilled amount subject to refund pending resolution of the protests.

ISSUE 4: Should the relief requested by Aloha's Response to Show Cause Order No. PSC-02-1250-SC-SU be granted?

RECOMMENDATION: No. The relief requested in Aloha's Response to Show Cause Order No. PSC-02-1250-SC-SU, including the alternative relief that the fine be lowered to \$2,500, should be denied and the \$10,000 fine should be

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(Continued from previous page)

deemed assessed with no further action required by the Commission. Aloha should be required to remit the full amount of the fine within 90 days from the issuance date of the Order arising from this recommendation.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending final resolution of the protests filed to the PAA portions of Order No. PSC-02-1250-SC-SU.