

State of Florida



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

DATE: November 15, 2002
TO: Lila A. Jaber, Chairman
 J. Terry Deason, Commissioner
 Braulio L. Baez, Commissioner
 Michael A. Palecki, Commissioner
 Rudolph "Rudy" Bradley, Commissioner
FROM: Lorena A. Holley, Senior Attorney, Office of the General Counsel *JAM*
RE: Docket No. 020896-WS - Petition by Customers of Aloha Utilities, Inc. for Deletion of Portion of Territory in Seven Springs Area in Pasco County

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 COMMISSION CLERK

Please be advised that the attached letters from customers of Aloha Utilities, Inc. were received by the Chairmans's Office. These letters relate to staff's recommendation, which has been filed in the above-referenced docket for your consideration at the November 19, 2002 Agenda Conference, as Item No. 3.

cc: Division of the Commission Clerk and Administrative Services
 Division of Economic Regulation (Willis, Walden)
 Division of Consumer Affairs (Lowery)
 Office of the General Counsel (McLean, Helton)
 Senator Mike Fasano
 All Parties of Record

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November 13, 2002

Lila Jaber, Chairperson
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

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Florida Public Service Commission
CHAIRMAN JABER

Dear Madam Commissioner:

I am urging the Public Service Commissioners to reject the recommendations of their staff, to hold in abeyance, the petition of the 1,491 customers of Aloha Utilities.

Aloha Utilities has used every means within their power to continue providing thousands of Florida families with a substandard quality of water, with the Commission's blessings.

- The property owners within the Aloha water district have had to bear extraordinary expenses for home water-purifying systems, total copper plumbing replacements and continuous purchases of bottled drinking water.

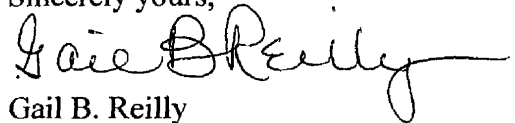
- The majority of these residents shower, instead of bathing. The less time submerged in Aloha's water makes us feel safer, since the long-term effects of exposure to Aloha's water are unknown.

When will the Public Service Commission begin to act on behalf of the citizens and taxpayers within the Aloha water district?

Hundreds of building permits are issued monthly by Pasco County to the area's builders, which brings thousands of uninformed, new residents to "Aloha's water kingdom." A moratorium on plumbing and building permits could prompt Aloha Utilities to deliver an acceptable product to our homes. As your records indicate, this is not a recent occurrence. It has been ongoing for nearly ten years.

We are waiting for Florida's Public Service Commission to act.

Sincerely yours,



Gail B. Reilly
1129 Daleside Lane
New Port Richey, FL
34655

cc: Governor Jeb Bush
The Capitol
Tallahassee, FL 32399-0001

Senator-Elect Mike Fasano
8217 Massachusetts Ave.
New Port Richey, FL 34653-3111

V. Abraham Kurien, M.D
1822 Orchardgrove Avenue
NEW PORT RICHEY, FL 34655

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Chairman Lila Jaber and Commissioners of
The Florida Public Service Commission
2540 Shumard Oak Blvd
TALLAHASSEE, FL 32399-0850

Florida Public Service Commission
CHAIRMAN JABER

November 12, 2002

Dear Commissioners,

PSC DOCKET NO 020896-WS

I am writing this letter in my individual status as a customer of Aloha Utilities and as one of the **1491** petitioners who submitted a petition on July 16, 2002 to the PSC, which now forms the above docket.

I realize that the PSC has to attend to many matters in its busy schedule and customers of utilities have to be patient when they file complaints about poor service. However, in the matter of the **poor quality of drinking water** about which complaints have been made for over a decade, lack of patience cannot be attributed to customers.

I am very distressed by the recommendation of PSC staff that the petition filed on July 16 be held in abeyance until Aloha Utilities' appeal of the PSC order of April 30 PSC 02-0593-FOF-WU in the first District Court of Appeals is argued and a judicial order issued. Since no date is yet set for the hearing of Aloha's appeal, if the staff recommendation of Nov. 7, 2002 were to be accepted by the Commissioners, the petition will not be considered for a very long time.

Aloha's legal counsel in his Motion to Dismiss, dated September 5, 2002 has argued that the petition to which I am a signatory has some "*interrelationship with other pending matters, including the pending appeal before the First District Court of Appeal*". On the other hand, as a lay person innocent of legal maneuvering, I want to submit to you that due to the poor quality of the drinking water and because of the continuing corrosion of copper plumbing in my home, I am at risk for serious physical and financial injury if the hearing of my petition is further delayed without even a specific date being set for its consideration.

It is already 4 months since the petition was submitted but the PSC has yet to **insist** that it has the jurisdiction to hear the petition. Even though the 'Motion to Dismiss' filed on September 5, 2002 contends that the PSC has no jurisdiction, **Aloha** had already conceded that the PSC has the power to "**amend, suspend or revoke any certificate of authorization**" [Florida Statutes 367.161.2] during a discussion on August 20, 2002 concerning the jurisdiction, authority and powers of the PSC. *Indeed, Chapter 367 of the Florida Statutes, which was cited on that occasion, contains numerous references to the authority of the PSC to amend, suspend, revoke or rescind a certificate in the public interest.*

Whereas, the Commissioners will not be making a decision whether the specific relief sought by the long-suffering customers of Aloha should be granted or not until the merit of the petition is established through the powers granted by Florida Statutes to the PSC ***“of making investigations, inspections, examinations and tests”*** [Florida Statutes chapter 367.121 (2)] and

Whereas, these specific powers of the PSC are not being challenged by Aloha in its appeal before the First District Court of Appeal (DCA Case No 1DO2-2147), there is no justification whatsoever for the abeyance recommended by the PSC Staff.

Therefore, I would request that at the very minimum the Commission which has already invoked its authority to receive and consider a petition from the customers of Aloha by assigning it **Docket No 020896-WS**, *also assert its authority to investigate the merits of this petition and make a commitment to do so by setting a specific date for the same. Such an acknowledgement will in no way violate the letter or spirit of Chapter 367 of the Florida Statutes and indeed establish the PSC squarely as a champion of the public welfare, which is the clear mandate of the Florida Statutes 367.011.3.*

To deny the other petitioners and me a speedy hearing is to deny us justice and our rights in this matter in which no objective investigation of the complaints of the customers of Aloha has ever been undertaken. I have myself provided to the PSC many cogent reasons and evidence for undertaking an independent investigation. **To deny such an investigation at this time or even to postpone such an investigation without a specific date for its start, in spite of having eminent authority to order such an investigation, will be adding insult to the injuries each one of us is suffering at this time.**

*I do hope that the Florida PSC will not make itself irrelevant in resolving the matters referred to in **DOCKET NO. 020896-WS** by hesitating in its duty to execute the laws in Chapter 367 of the Florida Statutes **in the public interest** and/or by an abdication of the powers and authority conferred on the PSC Commissioners by the legislature of the State of Florida.*

I look forward to your sympathetic understanding ***of the public's interest*** in this matter.

Yours sincerely,

V. Abraham Kurien

V. Abraham Kurien, M.D.

Cc: Governor Jeb Bush
State Senator Michael Fasano
Ms Mini Drew, Director,
Division of Water Resource Management
Atty. Steve Burgess, OPC