

ORIGINAL

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

January 27, 2003.

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0800

RECEIVED - FPSC
03 JAN 27 PM 4:37
COMMISSION
CLERK

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 PSC-01-0326-FOF-SU and Section 367.091, F.S.

Dear Ms. Bayo:

Please find the original and fifteen copies of Aloha Utilities, Inc.'s Objection to, and Request for Clarification of, Adam Smith Enterprises, Inc.'s Second Set of Interrogatories Nos. 12-14 to be filed in the above-stated docket. Also attached is a copy to be stamped and returned to our office.

Should you have questions or need any additional information, please contact me. Thank you for your assistance in this matter.

Very truly yours,

Suzanne Brownless
Suzanne Brownless
Attorney for Aloha Utilities, Inc.

SB:smh
Bayo-lu-Aloha wpd

AUS _____
CAF _____
CMP _____
COM 3 _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC _____
OTH _____

RECEIVED & FILED

L.V.N
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

00854 JAN 27 8

FPSC-COMMISSION CLERK

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 NO. 020413-SU

OBJECTION TO, AND REQUEST FOR CLARIFICATION OF,
ADAM SMITH ENTERPRISES, INC.'S SECOND
SET OF INTERROGATORIES NOS. 11-14

Pursuant to Rule 28-106.206, Florida Administrative Code, and Order PSC 02-1460-PCO-SU (Order 02-1460), issued on October 23, 2002, Aloha Utilities, Inc. (Alpha) files this Objection to Adam Smith Enterprises, Inc.'s (Adam Smith) Second Set of Interrogatories Nos. 11-14, and in support thereof states as follows:

1. Order 02-1460 directs all parties to file objections to, or requests for, clarification of discovery requests within 10 days of service of the discovery request. [Order 02-1460 at 1]
2. Adam Smith served its Second Set of Interrogatories Nos. 11-14 on January 17, 2003 by electronic mail on Aloha's counsel.
3. Objections and requests for clarification are thus due on or before January 27, 2003.

OBJECTIONS AND REQUESTS FOR CLARIFICATION

4. Interrogatory 11 states as follows:

Aside from the issues associated with its attempt to apply the revised \$1650 service availability charge to connections occurring during May 23, 2001 - April 16, 2002, has Aloha ever been in a situation in which a builder or lot owner applied for a lot connection at a time when the amount of service availability charge applicable to the connection, exceeded the amount that was prepaid

by the developer, and the applicant seeking connection was an entity other than the developer who prepaid the service availability charges?

OBJECTION: This interrogatory is so broad in duration of time and scope as to be burdensome and vague. The interrogatory is vague because it is not clear the time period which the interrogatory covers - all of the years that the utility has been in operation (approximately 50 years) or since April 16, 2002? To the extent that Adam Smith wishes to inquire for all years in which Aloha has been in operation the request is highly burdensome. Further, Aloha keeps records of what service availability fees are prepaid for each lot in a subdivision, however, Aloha does not keep records of who pays for any additional service availability charges due at the time of connection, only that the proper amount of service availability fees are paid. Thus, Aloha has no list of payees to which it can readily refer. This information would have to be compiled by Aloha by reviewing all of its receipts, a timely and cumbersome process. Finally, Aloha does not ask for, or keep records of, the relationship of the person or entity who pays any additional service availability fees due and the entity or persons who prepaid for the lot for which connection is sought.

5. Interrogatory 12 states:

If the answer to Interrogatory No. 11 above is yes, in such circumstances has Aloha ever collected the increment of service availability charge applicable at the time of connection from the entity applying for the connection rather than the developer who prepaid the service availability charges for the subject lot?

OBJECTION: As discussed above, for the reasons stated in objection to Interrogatory No. 11, this interrogatory is so broad and vague as to be burdensome. Additionally, while Aloha might for the last several years be able, at great time and expense, to compile a list of who paid

connection fees for specific lots, it does not require or inquire concerning the payee's relationships.

6. Interrogatory 13 states as follows:

If the answer to Interrogatory No. 12 above is yes, has Aloha ever collected such incremental amounts of service availability charges from entities who acquired their lots from Adam Smith Enterprises, Inc.? Is so, please provide, for each such connection in which the applicant for connection paid Aloha the increment of service availability charges that exceeded the prepaid amount:

- (a) the identification of the property, including all known address information;
- (b) the name of the applicant for connection;
- (c) the amount of incremental service availability charges paid by the applicant;
- (d) the date on which the applicant for connection paid the incremental service availability charge.

OBJECTION: Again, this interrogatory is, as is Interrogatory 12, to which it refers, too broad in scope and too vague as to be burdensome for the reasons stated above. Further, while Aloha might be able, at great time and expense, to compile a list of who paid connection fees for specific lots for the last several years, it does not require, or inquire concerning, the payee's relationships.

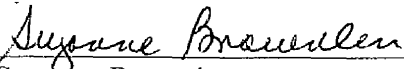
7. Interrogatory 14 states as follows:

If the answer to Interrogatory No. 12, is yes, has Aloha ever collected such incremental amounts of service availability charges from applicants for connection who acquired their lots from developers other than Adam Smith? If so, please provide, for each such connection, the information identified in Interrogatory No. 13 above and the name of the developer from whom the applicant acquired the lot.

OBJECTION: This interrogatory, as Interrogatory 12 to which it refers, is so broad in scope and so vague as to be burdensome for the reasons stated above. Further, while Aloha might be able, at great time and expense, to compile a list of who paid connection fees for specific lots for the last several years, as explained above, it does not require, or inquire concerning, the payee's relationships.

8. Finally, Aloha would object to these interrogatories on the grounds of irrelevance to the extent that these interrogatories request information regarding Aloha's actions subsequent April 16, 2002. There is no question that Aloha has collected \$1,650 per equivalent residential connection in service availability charges for each connection made after April 16, 2002. CIAC collected after April 16, 2002 is not included in the calculation of the CIAC which has been proposed to be imputed nor in the amount to be backbilled to Adam Smith or any other entity as a result of Order PSC-02-1250-SC-SU, issued on September 11, 2002. Thus, information would be irrelevant to the instant proceeding.

Respectfully submitted this 27th day of January, 2003 by:


Suzanne Brownless
1975 Buford Blvd.
Tallahassee, Florida 32308
Phone: (850) 877-5200
FAX: (850) 878-0090
E-mail: sbrownless@comcast.net

Attorney for Aloha Utilities, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of the foregoing has been provided to the persons listed below by U.S. Mail, (*) Hand Delivery, or (**) E-Mail, this 27th day of January, 2003.

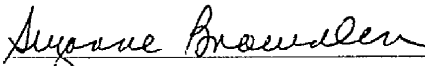
*Rosanne Gervasi
Senior Attorney
Florida Public Service Commission
Tallahassee, FL 32399-0850

*Joe McGlothlin, Esq.
McWhirter Reeves Law Firm
117 South Gadsden Street
Tallahassee, FL 32301

Kathryn G.W. Cowdery
Ruden, McClosky Law Firm
215 South Monroe Street
Suite 815
Tallahassee, FL 32301

Stephen C. Burgess
Jack Shreve
Office of Public Counsel
c/o Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Stephen Watford
President
Aloha Utilities, Inc.
6915 Perrine Ranch Road
New Port Richey, FL 34655-3904



Suzanne Brownless, Esq.

c: 3774