

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ALOHA )  
UTILITIES, INC. for an increase )  
in water rates for its Seven )  
Springs System in Pasco County, )  
Florida. )  
\_\_\_\_\_ )

DOCKET NO. 010503-WU

**ALOHA UTILITIES, INC. MOTION FOR EXTENSION OF TIME**  
**TO COMPLY WITH ORDER NO. PSC-02-0593-FOF-WU**

ALOHA UTILITIES, INC. ("Aloha") by and through the undersigned counsel, hereby files this Motion for Extension of Time to Comply with Order No. PSC-02-0593-FOF-WU, and hereby states and alleges as follows:

1. On April 30, 2002, the PSC issued Order No. PSC-02-0593-FOF-WU (the "Order") which required, *inter alia*, that Aloha implement a treatment process designed to remove at least 98% of the hydrogen sulfide in its raw water "starting with Well Nos. 8 and 9", but also thereafter for all other wells. Such treatment process for all wells was required by the Order to be placed into service no later than December 31, 2003.

2. This case has been on appeal, and a Mandate in said appeal was issued by the First District Court of Appeal on June 30, 2003 upholding the Commission Order. Recent correspondence from the Commission Staff counsel, dated July 15, 2003, takes the position that the 20 month deadline for accomplishing the water plant improvements required by the Order are now to be completed by February 12, 2005.

3. Aloha, counsel for the Citizens, and the Staff have been engaged in various discussions over the last several months about the plant improvement requirements of the Order. There can be no dispute that the implementation of these particular directives of the Order will be

DOCUMENT NUMBER 0017

06838 JUL 29 8

FPSC-COMMISSION CLERK

substantial in terms of effort, planning, man hours, and cost. It is Aloha's position, and continues to be Aloha's position, that the time line established for these particular directives in the Order was and is unreasonable given the scope of the directives and the lack of precedent and clear direction on how the directives would be accomplished. The directives contemplated by the Order cannot, in Aloha's opinion, be accomplished even upon diligent and good faith effort within the time frames set forth therein.

4. The primary basis for this Request for Extension of Time is that Aloha and the Citizens have been engaged in extensive discussions to determine whether they can agree that some or all of the costs which will be incurred implementing the directives of the Order can be avoided by mutual agreement on some alternative course of action. As the Commission is aware, Citizens have contracted with an expert, Dr. Audrey Levine, who has been studying the water quality improvement alternatives, the process directed by the Order, and related issues. Aloha and its consulting engineer have met with Ms. Levine on numerous occasions over the last two months and have discussed various issues and alternative treatment options with her.

5. It appears quite possible that there can be an agreement between the Citizens and Aloha for some alternative course of action based upon Ms. Levine's analysis. Ms. Levine's final report was hoped by all to have been produced prior to this date, but to date has not been finally produced or shared with Aloha. Citizens and Aloha have informally agreed that to the extent any costs directed by the Order (as referenced above) can be avoided, until such time as it is determined whether an agreement for an alternative course of action can be reached, those costs should be avoided. The receipt and analysis of Ms. Levine's report is a necessary condition precedent to any agreement on the part of the Citizens and Aloha as to what, if any, alternative courses of action should be pursued.

6. Ms. Levine is presently away on vacation and is expected to return sometime in the first week of August.

7. It is the present expectation of Aloha that once Ms. Levine returns, her report will be produced within approximately one week of her return date, as Ms. Levine had indicated just prior to her departure (approximately one week ago) that she was very near completion of her report and that she expected her report would be produced prior to her departure date. Aloha and its counsel believe that Citizens' counsel agrees that this is the expected time line for the production of Ms. Levine's report.

8. Aloha believes that once Ms. Levine's report is produced, it will take no longer than one week for Citizens and Aloha to analyze that report and the parties can meet very soon thereafter to determine whether a reasonable alternative course of action can be mutually recommended by both parties.

9. If an agreement can be reached between the parties, then they would jointly request that Order No. PSC-02-0593-FOF-WU be modified, at least in part, to the benefit of Aloha and its customers. However, the Commission will obviously ultimately decide whether such proposed modifications are appropriate or not.

10. In order to attempt to meet the deadlines imposed under the Order, Aloha must immediately begin the expenditure of significant amounts of time, energy, and money in addition to those already expended. Both the Citizens and Aloha agree that expenditures in the interim would be inappropriate until such time as alternatives to the Order's requirements, as proposed by Dr. Levine, are examined.

11. By letter dated July 23, 2003, Mr. Burgess has written to the Commission staff, on behalf of the Citizens, proposing that no improvements be undertaken at this time, until the parties

have a chance to analyze Ms. Levine's report and discuss possible agreement on alternative courses of action to those proposed in the Order. Aloha agrees with that conclusion and is hereby requesting that the Commission grant a 100 day extension of the deadline outlined in Order No. PSC-02-0593-FOF-WU for completion of those facilities, to allow the parties to at least discuss alternatives to the Order requirements for treatment plant improvements.

12. Thereafter, if an agreement can be reached, Aloha will return to the Commission within 60 days of the date of this Motion and request modification to Order No. PSC-02-0593-FOF-WU for such alternative improvements in accordance with any agreement between the Citizens and Aloha as well as an appropriate extension or revision of the time line for completion of those improvements.<sup>1</sup>

13. If after 60 days Aloha and the Citizens cannot come to an agreement as to an appropriate alternative course of action for treatment plant improvements, Aloha will file with the Commission a request for modification of the Order to recognize appropriate time constraints for construction of the facilities required by the Order and/or for modification of other aspects of the treatment plant improvements outlined in the Order.

14. Time is of the essence both as to whether Aloha is able to reach an agreement on an alternative course of action for water plant improvements with the Citizens and as to the implementation of the water plant improvements outlined in the Commission's Order and modification to the time schedule outlined therein. As such, all discussions of potential alternatives will be completed within 60 days of the date of this Motion, and Aloha will file an additional Motion

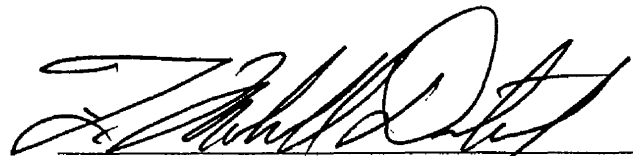
---

<sup>1</sup>The 100 day extension request is calculated by adding the 40 days already expended in discussions with the Citizens and Dr. Levine on possible settlement options, and 60 days to complete that process and file a Motion for Modification of Order PSC-02-0593-FOF-WU.

with the Commission, as outlined above, dependant upon the outcome of discussions with the Citizens.

15. The delay of this matter will not prejudice any person or Aloha's customers and will allow the Citizens and Aloha to bring to fruition the discussions in which they are currently engaged which they hope will result in achieving the goals of the Order as referenced herein above at a lower cost to the customers and the Utility than the Order currently requires.

WHEREFORE, and in consideration of the above, Aloha respectfully requests that the time for complying with the directives related to plant improvements in Order No. PSC-02-0593-FOF-WU that Aloha make improvements to all of its wells and to implement a treatment process designed to remove at least 98% of the hydrogen sulfide in its raw water be tolled or extended such that 100 days are added to the time frames contemplated by the Order as interpreted by the Commission staff in their July 15, 2003 letter.



F. MARSHALL DETERDING, ESQ.  
JOHN L. WHARTON, ESQ.  
Rose, Sundstrom, & Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301  
Counsel for *Aloha Utilities, Inc.*

**CERTIFICATE OF SERVICE**

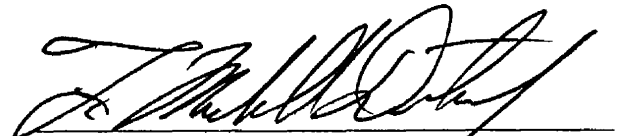
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Hand Delivery (\*) or Facsimile to the following on this 29<sup>th</sup> day of July, 2003:

Ralph Jaeger, Esq. (\*)  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Stephen C. Burgess, Esq.  
Deputy Public Counsel  
Office of Public Counsel  
111 Madison Street  
Tallahassee, FL 32399-1400

Edward O. Wood (Via U.S. Mail)  
1043 Daleside Lane  
New Port Richey, FL 34655-4293

Margaret Lytle, Esq.  
S.W. Florida Water Management District  
2379 Broad Street  
Brooksville, FL 34604-6899



F. MARSHALL DETERDING, ESQ.  
JOHN L. WHARTON, ESQ.