

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition by Customers of)
ALOHA UTILITIES, INC., for deletion of)
portion of territory in Seven Springs)
Area in Pasco County, Florida.)
_____)

Docket No. 020896-WS

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**ALOHA UTILITIES, INC.'S RESPONSE TO
MOTION TO REMOVE DOCKET FROM STATE OF ABEYANCE**

Aloha Utilities, Inc., by and through undersigned counsel, hereby files this Response to Motion to Remove Docket from State of Abeyance and in support thereof would state and allege as follows:

1. The Motion to Remove Docket from State of Abeyance (hereafter "OPC's Motion") requests that the PSC schedule a hearing on the report of Dr. Audrey Levine "and on the implications on its findings". The original Petition that initiated this docket requested that the "plan of action" that Aloha had been asked to submit to the PSC (which was previously filed by Aloha in a timely fashion) only be accepted if it contained the minimum requirements adopted by "neighboring utilities" and also that the PSC order Aloha to put into effect "new minimum requirements" for water. In the absence of this, the Petition requests that certain parts of Aloha's territory be deleted and made a "part of the service area of Pasco County Water Utility System". Accordingly, the relief requested in OPC's Motion does not appear to be consistent with the relief requested in the Petition which initiated this docket.

2. As OPC's Motion acknowledges, Dr. Levine's so called "audit report" has not even been completed. Assumably, if the report is being compiled on an independent basis as represented, the contents and suggestions or conclusions of that pending report are

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unknown at this time to both OPC and the customer Petitioners. At a minimum, this matter should remain in abeyance until such time as the report has been issued and its contents studied, reviewed, and discussed between Aloha, the Commission staff, OPC, and the Petitioner customers.

3. Given the fact that the Petitioners are getting exactly what was requested in their original Petition, the current “abeyance” is only a result of awaiting finalization of the “independent audit” OPC requested. It is difficult to reach any conclusion other than that the real motivation for OPC’s Motion is political rather than substantive. That reason, in and of itself, does not change the fact that removing this case from its current state of abeyance will create a significant distraction from the consideration of Dr. Levine’s not yet completed report as such removal will immediately revive certain pending motions, as well as create a vehicle for discovery, depositions, further motions, and all the other accouterments of litigation.

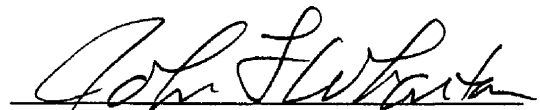
4. By the status quo, the Petitioners have essentially received what they asked for without the necessary expense, cost and time normally required by a formal administrative proceeding. Aloha has submitted a plan to the Commission, as required by the PSC’s prior Order to address water quality concerns. The audit the Petitioners requested is in progress, although not yet completed.¹ At the informal meeting called by the staff and which was attended by the parties on October 20, 2003, the staff confirmed

¹It is notably that while Aloha has cooperated fully and at considerable expense with Dr. Levine in conducting her Independent Audit, Aloha has never been in a position to significantly affect, much less control, the timing of the audit. Dr. Levine works for, and answers to, OPC.

that all parties were in agreement with respect to the audit moving forward and "were also able to agree that no further action should be taken with respect to Docket No. 020896-WS until after the report has been completed, published and until the parties have been given the opportunity to study its contents". See *letter of staff counsel to Mike Fasano dated October 24, 2003*. Aloha agrees with staff counsel's assessment. Nothing has occurred to justify removing the docket from its current state of abeyance at this particular time.

WHEREFORE, Aloha Utilities, Inc. respectfully requests that the Commission continue to maintain this docket in a state of abeyance.

Respectfully submitted this 12th
day of December, 2003, by:



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail or via facsimile (indicated by *) to the following on this 12th day of December, 2003:

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