

State of Florida



ORIGINAL

Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

**DATE:** May 17, 2004

**TO:** Kay B. Flynn, Chief of Records and Hearing Services, Division of the Commission Clerk & Administrative Services

**FROM:** Marshall W. Willis, Chief of Rate Filings, Division of Economic Regulation

**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

Please file the attached letter, dated May14, 2004, from John J. Gallagher, Pasco County Administrator, in the above referenced docket.

- MP \_\_\_\_\_
- OM \_\_\_\_\_
- TR \_\_\_\_\_
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- IMS \_\_\_\_\_
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- CR \_\_\_\_\_
- EC   /
- OTH \_\_\_\_\_

cc: Division of Economic Regulation (Walden)  
Office of the General Counsel (Gervasi)

DOCUMENT NUMBER - DATE

05628 MAY 17 04

FPSC-COMMISSION CLERK



# PASCO COUNTY, FLORIDA

DADE CITY (352) 521-4274  
LAND O'LAKES (813) 996-7341  
WEST PASCO (727) 847-8115  
FAX (727) 815-7010

COUNTY ADMINISTRATOR'S OFFICE  
WEST PASCO GOVERNMENT CENTER  
7530 LITTLE ROAD, SUITE 340  
NEW PORT RICHEY, FL 34654  
E-MAIL: [pcadmin@pascocountyfl.net](mailto:pcadmin@pascocountyfl.net)

## Hand Delivery

May 14, 2004

Roseanne Gervasi, Senior Attorney, and  
John Williams, Senior Analyst  
Office of the General Council  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0863

ECONOMIC REGULATION

04 MAY 17 AM 7:54

FLORIDA PUBLIC SERVICE COMMISSION

RE: Docket #020896-WS – Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County

Dear Ms. Gervasi and Mr. Williams:

Please accept this letter as Pasco County's response to your May 10, 2004, letter. We are pleased to be able to provide information that may assist the Florida Public Service Commission (FPSC) in resolving a matter important to the citizens of Pasco County.

For clarity, we have quoted your questions in italics below, followed by our response.

*Question 1: Has the County offered to purchase Aloha Utilities, Inc. (Aloha)?*

Answer: As part of a Board of County Commissioners initiative, we contacted all of the private water and wastewater utilities in Pasco County about selling to the County. We have enclosed our original "Letter of Interest" dated July 20, 2000, and the Aloha Utilities response letter dated May 26, 2001. The Aloha response states in part "the owners are simply in no way interested in even discussing with Pasco County the potential sale of their system."

*Question 2: Would the County be willing to purchase all or a portion of Aloha if the Florida Public Service Commission were to determine that Aloha is unwilling or unable to provide adequate service to all or to a portion of its currently certificated territory?*

Answer: Assuming the Aloha system or a portion of it was for sale, Pasco County is ready, willing and able to pursue a purchase. As outlined in our July 20, 2000, letter, we have previously established a standard protocol with terms and conditions for such a purchase. (Our detailed Terms and Conditions sheet is also attached). The Board

of County Commissioners on May 11, 2004, discussed the issues surrounding Aloha and directed me to respond to your questions. As you know, numerous legal issues arise regarding the customers' petition for deletion. Legally, a transfer of utility customers or service area can only occur under certain scenarios: (1) a willing sale by the utility owner; (2) exercise of the power of eminent domain; (3) a lease arrangement; or (4) a court ordered sale from a receivership to the highest bidder after the utility owner has abandoned the utility or the PSC has revoked the certificate(s) to operate causing an abandonment.

*Question 3: Has the County made any plans to provide water and wastewater service on a retail basis in the Seven Springs – Trinity areas of the County?*

Answer: We have not developed any plans to provide retail service within the certificated service area of Aloha Utilities, nor do we think it proper to make plans to serve any area that is currently being served by another utility. However, we currently provide retail water and wastewater services to our customers in the Seven Springs/Trinity developments, which are adjacent to Aloha's certificated service area.

*Question 4: Please provide a brief description of what would be involved in running lines to serve those customers.*

Answer: Assuming that ownership of the system would be legally transferred, water transmission mains or wastewater collection systems could be run from Pasco County's nearby mains to interconnect with the existing pipes connecting the individual homes within the area that would be served. We cannot at this time, however, describe the infrastructure needed without additional information about the areas that may be served. Generally, when we have legal authority to serve an area, we would conduct a hydraulic modeling analysis to determine line capacities and thereafter prepare a preliminary design of line extensions or any necessary upgrades of our existing lines.

*Question 5: Does the County have any plans to use its eminent domain powers to acquire all or a part of Aloha?*

Answer: No. It is the policy of Pasco County to pursue the acquisition of private utilities only when the utility is willing to transfer ownership.

*Question 6: Have the Pasco County Commissioners directed their staff to evaluate the feasibility of providing utility services to the Seven Springs – Trinity areas of the County that are currently served by Aloha?*

Answer: No, however, the Pasco County Board of County Commissioners, has indicated a willingness to assist the PSC in this matter. Furthermore, we do not have enough information regarding the area that is the subject of the petition to perform an evaluation.

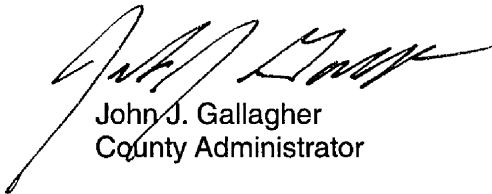
Roseanne Gervasi, Senior Attorney, and  
John Williams, Senior Analyst  
May 14, 2004  
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*Question 7: Please provide an estimate of the costs the customers would incur in order to connect to the County's water and/or wastewater system.*

**Answer:** As explained in the response to Question 4 above, the County is not able to determine specifically what would be involved for the County to provide service to those certain customers if the County were to purchase the portions of the Aloha system that serve those customers since the particular physical area contemplated by the subject petition for deletion is not clear. Accordingly, costs cannot be estimated.

If you have any comments or additional questions, please contact us.

Sincerely,



John J. Gallagher  
County Administrator

JJG/lb

cc: The Honorable Michael Fasano, Representative, House of Representatives  
Steve Watford, Aloha Utilities, Inc., 6915 Perrine Ranch Road, New Port Richey, FL 34655  
Pasco County Board of County Commissioners  
Robert D. Sumner, County Attorney  
Douglas S. Bramlett, Assistant County Administrator (Utilities Services)



# PASCO COUNTY, FLORIDA

## OFFICE OF THE COUNTY ATTORNEY

**Robert D. Sumner**  
County Attorney

**Barbara L. Wilhite**  
Chief Assistant County Attorney

**W. Elizabeth Blair**  
**Edward B. Cole**  
**Patricia J. Hakes**  
**Sidney W. Kilgore**  
**Richard T. Tschantz**  
**Debra M. Zampetti**

July 20, 2000

Mr. Stephen G. Watford  
President  
Aloha Utilities, Inc.  
2514 Aloha Place  
Holiday, Florida 34691-3499

Re: Water and Sewage Utility System

Dear Mr. Watford:

This office has been advised that Aloha Utilities, Inc. is the owner of a private water and sewage utility system.

This letter is to advise you that I have been instructed by the Pasco County Board of County Commissioners to determine whether you have any interest in selling your utility company to Pasco County.

Any purchase by the County would require the acquisition of all of the assets of your company as well as its service area. The general limits of any agreed purchase price of the system would be as follows:

1. The water and sewage system must meet or exceed all Department of Environmental Protection and all other regulatory standards and requirements, and if not, sufficient monies will be withheld to bring the system up to current standards.
2. There will be no value placed upon the system, which would place any value on future connections to the system.
3. The rates for water and sewage as approved and established by the Public Service Commission must be sufficient to provide adequate reserves and retirement of revenue bonds over a 20-year period of time at current interest rates or those rates in effect at the time of the sale of the bonds and purchase of the system.

July 20, 2000

Re: Water and Sewage Utility System

Page Two

4. The value established must be verified by engineering and appraisal reports by a professional approved by the County.

5. Complete in detail the attached questionnaire. Please note that in order for any interest to be expressed as to the sale of the system, it is necessary that I receive a response to this letter within sixty (60) days from the date of this letter.

6. Certify that the information contained in the questionnaire is true and accurate to the best of your knowledge and belief.

7. Return the completed questionnaire to Douglas S. Bramlett, Assistant County Administrator, Utilities Service Branch, Public Works/Utilities Building, Suite 213, 7530 Little Road, New Port Richey, Florida 34654-5598.

Please feel free to call me to discuss this matter.

Very truly yours,



Robert D. Sumner  
County Attorney

RDS:lp  
Enclosure

cc: Douglas S. Bramlett, Assistant County Administrator, Utilities (w/enclosure)

**The Following Is a Questionnaire Which We Request That  
You Complete and Return to Pasco County If You Are Interested  
In Purchase of Your Utility System by Pasco County**

1. What is the current name and address of your utility?
  
2. Provide the Florida Public Service Commission Permit or License Number. Also, include the latest annual report which states your base rate value of the utility and your PSC approved user charge schedule.
  
3. Provide copies of the current Florida Department of Environmental Protection (FDEP) operating permit for your wastewater treatment and potable water plants.
  
4. Provide copies of any and all FDEP citations, warning letters, notices of violation, or consent orders from the past ten years.
  
5. What is your current number of customers as listed below:
 

Single Family		Industrial	
Multifamily		Commercial	
Mobile Home		Medical	
Recreation Vehicle			
  
6. If you have established a purchase price to be considered by Pasco County, provide in detail the method of value you used and your engineering analysis of current conditions of the system.
  
7. Provide in detail all engineering drawings and plans which show the following items:
  - Miles or feet of all water mains, gravity sewer mains, and force mains and all diameters of pipe.
  - Number and locations of all sewer manholes, pump stations, valves, pressure-relief valves, and all service laterals.
  - Number and locations of all water meters, backflow prevention devices, valves, and service laterals.
  
8. All logs, information, and letters on file which provide the type and number of citizen complaints over the past five years.
  
9. Provide a printout of all customer accounts which shows payment history and delinquent accounts over the past two years.
  
10. Provide a list of current employees and their respective positions and responsibilities.
  
11. Provide detailed information of any utility debts owed, mortgages, liens, etc., and the names and addresses of such debt holders.

**PASCO COUNTY**  
**PRELIMINARY TERMS AND CONDITIONS FOR UTILITY ACQUISITION**

**I. DUE DILIGENCE EVALUATION**

1. All contracts, customer service agreements, developer agreements, and other agreements for service shall be provided to County. If a contract is non-assignable, the Utility shall provide a listing of all such contracts and agreements and note specifically which ones will be assigned to the County at closing.
  
2. Utility shall allow County to perform inspections of the assets and have access to records that will assist the County in its acquisition. Such inspections include, but are not limited to, Engineering and Financial Due Diligence and Environmental Site Assessments on the assets a shall occur prior to execution of the terms and conditions for purchase. The Utility shall provide, at no cost to the County, information required to perform such utility inspections. Such information includes but is not limited to:
  - Record Drawings/Site Plans
  - Detailed Service Area Map
  - Developer/Service Agreements with all third parties
  - Utility Rate Tariff (current and prior)
  - Four years Annual Reports filed with the FPSC
  - Fixed Assets Listing, including details regarding General Plant
  - Operating/Construction/Water Use Permits and any regulatory order or action items
  - Listing of Employees by Title and total compensation, including benefits
  - Listing of insurance coverage on facilities
  - Billing register/Account History by Rate Code and any bill frequency reports prepared by Utility
  - Capital Improvement Plan and information regarding construction work in progress
  
3. Forty-five days prior to closing a specific listing and information concerning all vendors, vendor accounts, corporate name, location and billing addresses, account status as contracts outstanding (dollars), amount spent to date, accounts payable and due, and any agreements for vendors to provide services shall be provided by Utility to County.

**II. UTILITY TRANSCATION REQUIREMENTS**  
**County Responsibilities**

4. County shall pay for documentary stamps, and recording costs.



5. County shall pay for Environmental Site Assessments.
6. The County will be responsible for the preparation for and presentation of the public hearing required by Chapter 125, Florida Statutes and that both the County and Utility will attend a customer meeting (public) prior to the public hearing to present the plan of acquisition for customer input and support.

#### Utility Responsibilities

7. Utility must renew all expired permits or correct system deficiencies in such permits if there is a regulatory order or demand in existence. Utility transfers all permits and rights associated with such permits to the County. Deficiencies could be corrected by connection to the County system(s) at time of closing or as a condition of closing, which will be considered a capital deficiency and reflected in the purchase price determination.
8. Utility shall satisfy all liens, encumbrances and/or title problems prior to date of closing to assure the County of free and clear title.
9. Utility representatives will conduct themselves in an appropriate fashion through transfer, will operate the system in compliance with all regulatory agencies, and will not reduce the value of the Utility in any manner through the date of transfer.
10. Utility staff will be available for transition activities for up to six months after the closing. Availability shall mean, specific staff, will be identified by name, address telephone number and each specific staff member shall be so employed or contracted to be available on-site within a two hour notice of need.
11. Utility shall provide for a minimum of one month materials, supplies, and consumables to be transferred to the County at closing to provide for the continued operation of the Utility without a change in level of service or impacting regulatory compliances. Utility shall provide a listing of such materials, supplies and consumables and amounts of each 30 days prior to closing and the amounts shall be field verified by County at closing.
12. Utility shall pay its taxes including payroll, property, intangible, and income taxes up to and including closing.
13. Utility shall maintain insurance and shall indemnify County up to and including closing.
14. Utility represents it has proper authority to sell utility assets.

15. That rolling stock, moveable equipment, laboratory equipment, tools, accessories, and appurtenances shall be inventoried and delineated by Utility as to which items would be paid for by and transferred to County.
16. Utility shall disclose any and all litigation and legal actions to which it is a party. The dispensation of such litigation and legal actions shall remain the liability of Utility.
17. Utility shall petition for the transfer of the FPSC certificate. The cost of such transfer shall be paid by Utility.
18. Utility shall assist County in obtaining the transfer of all permits. The cost of such transfers shall be paid for by the County.
19. Utility shall pay for title search and title policy and other costs of closing.
20. One Hundred Twenty (120) days prior to closing, Utility shall provide for a complete billing register and billing information of the customers of the system in File Transfer Protocol (FTP) format. Utility shall cooperate with the County to integrate the billing information into the County's system.
21. Utility shall pay for surveys and legal descriptions for the real property assets and other investigation necessary for closing.

### III. UTILITY TRANSACTION ACTIVITIES

22. County pays Utility \$ \_\_\_\_\_ cash at closing.
23. Bill of Sale provided for all assets.
24. All necessary easements, land rights, or other utility rights transferred which are necessary for the operation and maintenance of the utility system shall be transferred to the County.
25. A minimum of 10% of the purchase price will be held in escrow for 18 months after closing. County may utilize such escrowed funds to correct latent defects after closing. Such defects shall be defined as a hidden, not apparent or unobserved defect. Such defect may be the result of faulty of substandard material, manufacturing, construction, pollution or other reason that existed prior to the closing date. Substandard material shall be defined as materials that are not in accordance with Pasco County, FDEP, AWWA, and WEF standards latest revision for water and wastewater utility systems.
26. The value of outstanding prepaid connections shall be deducted from the purchase price, which will be inventoried and accounted for prior to closing. The Utility shall provide an accounting of all reserved but unused capacity and whether

supported by the reservation analysis to any outstanding developer agreements and to the provision of such developers paying guaranteed revenues to hold such capacity.

27. All customer deposits will be transferred at closing which will include any interest earnings accrued on each customer deposit.
28. Accounts receivable at closing will be collected by County and transferred back to Utility for a period of ninety (90) days after closing. The County shall read all meters at the time of closing to establish a clear line of ownership of the revenues.
29. All vendor invoices incurred (billed or unbilled) for services rendered or attributable to the Utility prior to closing will be the responsibility of the Utility except for services which are incurred in a period which crosses owners will be allocated on a prorated basis.
30. The transaction is an asset purchase. Any debt, liability, balance of loan payment, or other instrument of indebtedness shall remain the sole liability of Utility.
31. Transaction is on an "as is, where is" basis, subject to modifications from the latent defect escrow account.
32. Each party shall pay for their own representative fees and costs associated with the acquisition due diligence, preparation and execution of purchase and sale documents, and closing costs.
33. It is contemplated that no construction work in progress will be on going at the time of closing. To the extent that such construction projects are necessary for the continued proper operation and management of the system, such projects shall be delineated by Utility. Utility shall be responsible for the completion of such projects and full payment of all contractor invoices or alternatively the Utility shall provide complete funding for the completion of the project to the County.
34. The terms represent a memorandum of understanding between the parties but are not a contract for the purchase of the Utility by the County and the County shall not be bound by these terms and conditions until final execution of a contract by the County.
35. All records, reports, drawings, and related documents for the management, operation, and service to customers in the Utility's total service area, including all record drawings and operations and maintenance manuals shall be provided to the County. All accounting information shall also be provided which shall at a minimum include the following:
  - General ledger of the Utility at year end and most recent month
  - Fixed assets listing at year-end and most recent month
  - Payroll records for employees

- Schedules of property, plant and equipment insurance
- Information of property taxes and other taxes other than income
- Copy of last four years of annual reports submitted to the Florida Public Service Commission (FPSC)
- Listing of prepaid expenses
- Summary and reconciliation of all cash accounts
- Supporting documentation of specific expense items
- Copies of last four years Federal income tax forms

36. The Utility is not a foreign person as defined by US tax laws.

37. Except as disclosed by Environmental Site Assessments, the Utility has not violated federal, state, or local pollution laws