

ORIGINAL

JAMES E. "JIM" KING, JR.
President

JOHNNIE BYRD
Speaker



STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330



Harold McLean
Public Counsel

August 2, 2004

RECEIVED PSC
AUG - 2 PM 3: 24
COMMISSION
CLERK

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 010503-WU

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens Response in Opposition to Aloha's Motion to Terminate Informal Proceeding and Convene a Formal Proceeding for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Harold McLean
Public Counsel

CMP _____

COM 5

CTR _____

ECR _____

GCL _____

OPC Enclosure

MMS _____

RCA _____

SCR _____

SEC 1

OTH _____

DOCUMENT NUMBER-DATE

08376 AUG-2 04

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase)
in water rates for Seven Springs)
System in Pasco County by Aloha)
Utilities, Inc.)
_____)

DOCKET NO. 010503-WU
DATED: August 2, 2004

**CITIZENS RESPONSE IN OPPOSITION TO ALOHA'S
MOTION TO TERMINATE INFORMAL PROCEEDING AND
CONVENE A FORMAL PROCEEDING**

The Citizens of the State of Florida, through their attorney, the Public Counsel, hereby respond in opposition to Aloha's Motion to Terminate Informal Proceeding and Convene a Formal Hearing ("Motion to Terminate"). The Citizens submit:

1. Aloha's Motion to Terminate does not provide any valid reason to terminate the informal hearing process established by the Commission. Aloha argues that the briefs filed by Aloha and OPC demonstrate disputed issues of material fact. Aloha is incorrect; Aloha has cited no disputed issues of material fact. Aloha continues to cite differences in the interpretation of existing legal documents, and mischaracterizes those differences as factual disputes.

2. In paragraph 6 of its Motion to Terminate, Aloha restates an earlier claim that the PAA's treatment of interim refunds departed from "all prior cases." Aloha correctly points out that OPC disputes Aloha's "statement of PSC precedent policy and procedure." Aloha then mischaracterizes this disagreement as a factual dispute, when in reality it is a dispute of legal interpretation. Aloha has made a blanket assertion about the PSC's precedent. Aloha was given the full opportunity to provide in its brief any of the

DOCUMENT NUMBER-DATE

08376 AUG-2 8

FPSC-COMMISSION CLERK

PSC precedents that it believed support its claim. Just as in any appellate brief, the assertions about applicable precedent does not require factual testimony. It is a legal argument.

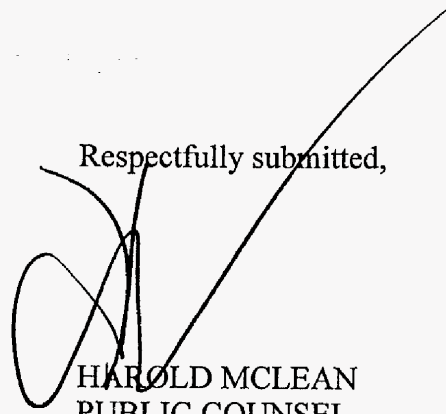
3. In paragraph 6, Aloha also disputes OPC's interpretation of Final Order. Once again, this is a legal dispute. The Final Order is an existing legal document. Its interpretation is open to debate. Aloha had the opportunity to brief its interpretation of the Final Order. That Aloha's interpretation of the Final Order differs from OPC's interpretation is not surprising, nor is it a factual dispute.

4. In its paragraph 4, Aloha claims that "OPC disputes the factual assertions made in Aloha's Petition regarding the relationship between the revenues collected during the appeal period and the revenues which would have been collected under the rate structure approved in the PSC's Final Order" Again, this does not amount to a factual dispute. Aloha had submitted a detailed calculation of the revenues that would have been generated by imposing the revised rate design on the actual usage figures during the appeal period. OPC has not disputed the factual accuracy of those calculations. Instead, OPC has presented arguments about the relevance of that information.

5. In its paragraph 8, Aloha cites "[t]wo prime material issues ...," and then raises underlying issues which it considers to be factual in nature. These issues, however, appear to be a realignment of the same issues that Aloha described in earlier paragraphs 4 and 6. Those issues were addressed earlier in this response and need not be repeated.

WHEREFORE, for the foregoing reasons, the Citizens of the State of Florida oppose Aloha's Motion to Terminate and urge the Commission to deny that motion.

Respectfully submitted,



HAROLD MCLEAN
PUBLIC COUNSEL

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

Attorneys for the Citizens of the
State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 010503-WU

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Response in Opposition to Aloha's Motion to Terminate Informal Proceeding and Convene a Formal Proceeding has been furnished by hand-delivery(*) or U.S. Mail to the following parties on the 2nd day of August, 2004

Marshall Deterding, Esquire
Rose Law Firm
2548 Blairstone Pines Drive
Tallahassee, FL 32301

Ralph Jaeger, Esquire*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Edward O. Wood
1043 Daleside Lane
New Port Richey, FL 34655-4293

Margaret Lytle, Esquire
SWFWMD
2379 Broad Street
Brooksville, FL 34604

Charles J. Crist, Jr., Attorney General
Jack Shreve, Senior Special Counsel
for Consumer Affairs
Office of the Attorney General
PL-01 The Capitol
Tallahassee, Florida 32399-1050

Senator Mike Fasano
8217 Massachusetts Avenue
New Port Richey, FL 34653-3111



Harold McLean
Public Counsel