

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

JANUARY 4, 2005

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.

Issue 1: What action, if any, should the Commission take in the event that Aloha's Motion for Termination is granted?

Primary Staff Recommendation: If the Commission votes to grant Aloha's Motion for Termination, the Commission must determine whether there is probable cause to believe that Aloha has violated a statute, rule, or order that warrants the imposition of a penalty. Primary staff recommends that the Commission should decline to initiate deletion proceedings against Aloha because there is not probable cause to believe that Aloha has violated a statute, rule, or order that warrants the imposition of a penalty. Because Aloha provides potable water which meets all state and federal drinking water standards up to the point of connection to its customers' meters, primary staff does not believe that the facts relating to Aloha's provision of water service to Trinity, Riviera Estates, Villa del Rio, and Riverside Village Unit 4 provide probable cause that Aloha has violated its statutory duty under section 367.111(2), Florida Statutes, to provide service to customers in those areas that "shall not be . . . less sufficient than is consistent with . . . the reasonable and proper operation of the utility system in the public interest." Aloha should be required to continue to submit monthly project status reports up to the time of implementation of the treatment standard imposed by Order No. PSC-04-0712-PA-WS.

DENIED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures of majority commissioners: L. E. Egan, R. G. Brockley, M. L. G. G., T. M. G., and J. M. D.

Four horizontal lines for dissenting signatures.

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

00115 JAN-4 05

FPSC-COMMISSION CLERK

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Alternate Staff Recommendation: If the Commission votes to grant Aloha's Motion for Termination, the Commission must determine whether there is probable cause to believe that Aloha has violated a statute, rule, or order that warrants the imposition of a penalty. Alternate staff believes the facts relating to Aloha's provision of water service to Trinity (south of Mitchell Boulevard and east of Seven Springs Boulevard), Riviera Estates, Villa del Rio, and Riverside Village Unit 4 provide probable cause that Aloha has violated its statutory duty under section 367.111(2), Florida Statutes, to provide service to customers in those areas that "shall not be . . . less sufficient than is consistent with . . . the reasonable and proper operation of the utility system in the public interest." Alternate staff recommends that the appropriate penalty pursuant to section 367.161(2), Florida Statutes, for such statutory violation is to amend or partially revoke Aloha's Water Certificate No. 136-W to delete these insufficiently served areas from its service territory. The Commission's decision to revoke any portion of Aloha's certificated territory should be made contingent upon provisions being made for an alternative service provider to be in place. Procedurally, alternate staff recommends that the Commission open a new docket for this deletion proceeding, provide 30 days' notice of the initiation of such action pursuant to section 367.045(6), and, at the expiration of that 30 days, issue the Order to Show Cause appended to this recommendation as Attachment C, to initiate the deletion proceeding and provide a point of entry for Aloha to request a hearing. The requisite notice should be served on Aloha by personal service or certified mail, and submitted for the next available publication of the Florida Administrative Weekly and to a newspaper of general circulation in the area affected within seven days of the Commission's vote on the matter.

APPROVED