

TOM LEE  
President



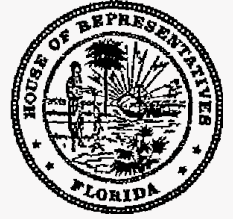
Harold McLean  
Public Counsel

**ORIGINAL**  
**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

EMAIL: OPC\_WEBSITE@LEG.STATE.FL.US  
WWW.FLORIDAOPC.GOV

ALLEN BENSE  
Speaker



Charles J. Beck  
Deputy Public Counsel

March 7, 2005

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RECEIVED FPSC  
COMMISSION  
CLERK  
MAR - 7 PM 4: 08

Re: Docket No. 010503-WU

Dear Ms. Bayo:

Enclosed for filing in the above-referenced dockets are the original and 15 copies of Citizens' Response to Aloha's Motion for Continuance.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

*Charles J. Beck*  
Charles J. Beck  
Deputy Public Counsel

- CMP \_\_\_\_\_
- COM S
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL CJB:bsr
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SEC L
- OTH \_\_\_\_\_

Enclosures

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DAT  
02302 MAR-7 05  
FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for Increase in Water Rates ) Docket No. 010503-WU  
for Seven Springs System in Pasco County )  
by Aloha Utilities, Inc. ) Filed: March 7, 2005  
\_\_\_\_\_ )

**CITIZENS' RESPONSE TO ALOHA'S MOTION FOR CONTINUANCE**

The Citizens of Florida, through Harold McLean, Public Counsel, file this response in opposition to the motion for continuance filed by Aloha Utilities, Inc., on March 1, 2005.

1. Aloha begins its motion with the bold claim that no party will be prejudiced from a continuance of this matter. This may be true for Aloha, but it is certainly not true for customers who have been waiting for a decade to see improvements to their water.

2. The final order issued in this case almost three years ago recognized the outcry from customers concerning black, smelly water they receive from Aloha. During the hearings held in conjunction with Aloha's rate case, customers cited black or discolored water, odor / taste problems, low pressure, sediment /sludge, and the utility's unresponsiveness to customer complaints or inquiries. Final order at 8. The Commission found that the quality of customer service provided by Aloha was unsatisfactory and that Aloha treats its customers poorly. Final order at 20. The Commission further found that a significant number of customers had been receiving black water from Aloha for over 6 years and that it was time for Aloha to do something about it. In particular, the Commission decided that the

actions Aloha had taken were slow-moving and ineffective and that it lacked a proactive approach to finding acceptable solutions to these problems. As a consequence the Commission ordered Aloha to remove at least 98% of the hydrogen sulfide from its water.

3. This requirement never went into effect. Aloha's unsuccessful appeal of the final order led to a stay of this provision at first, and after the Court denied Aloha's appeal, Aloha filed a motion to change this portion of the final order requiring them to remove at least 98% of the hydrogen sulfide from its water. The Commission issued a proposed agency action order tentatively accepting the changes proposed by Aloha, and three customers of Aloha protested that order. The proposed agency action order never went into effect. This hearing is designed to hear evidence from the customers concerning their protest of the order and to put this matter finally to rest.

4. Without providing evidence, Aloha declares it is in compliance with the proposed agency action order which never went into effect, and it is that claimed compliance with an ineffective order which Aloha cites as the basis for its claim that no party will be prejudiced by a continuance of this case. To the contrary, customers remain harmed every day until the Commission hears their evidence and implements standards governing the water Aloha delivers to its customers.

5. Aloha next claims that the case should be continued until the completion of the deletion docket because the three persons who protested the order either lived in or are living in areas subject to the deletion proceeding.

6. The standards which the Commission will set in this proceeding will apply to all of Aloha's water operations, not just the areas subject to the deletion proceeding. The complaints the Commission received about Aloha's water are not restricted to the areas proposed for deletion. Moreover, after probable appeals, it will likely be years before there is a final order in the deletion proceedings. Setting standards for Aloha's water simply cannot wait that long.

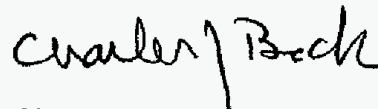
6. As another basis for a continuance, Aloha cites its objection to the issues in this case which are taken word-for-word from the protest of proposed agency action filed by customers. Aloha claims that the consummating order issued after the protest of proposed agency action implicitly denied two of the three issues raised in the protest. As Aloha well knows, consummating orders simply allow the unprotested portions of a proposed agency action to go into effect pending resolution of the protest. The Commission never voted on the consummating order since it is simply a ministerial action taken by staff. During the prehearing conference, staff explained that the language used in the consummating order was intended to encompass the three issues raised in the protest. Transcript of Prehearing Conference at 21. The consummating order did not and cannot deny any of the issues raised in the protest, and any reliance to the contrary claimed by Aloha is unreasonable.

7. Another ground for a continuance put forth by Aloha is that it filed a motion for summary order at the same time as its motion for a continuance, and there hasn't been a ruling on that motion. That motion will be dealt with in due course by the Commission and is not in itself a grounds for a continuance.

Moreover, Aloha's dissatisfaction with the Prehearing Officer's order granting staff's motion for a protective order is not a grounds for a continuance. Finally, the fact that the parties are engaging in mediation is not a grounds for a continuance. Mediation can continue without delaying the hearing in this case.

**WHEREFORE**, Citizens oppose Aloha's motion for continuance and request the Commission to proceed with the hearing in this case as scheduled.

Respectfully submitted,

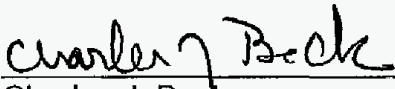


Charles J. Beck  
Deputy Public Counsel  
Fla. Bar. No. 217281

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400  
(850) 488-9330

**DOCKET NO. 010503-WU  
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by  
U.S. Mail or hand-delivery to the following parties on this 7<sup>th</sup> day of March,  
2005.

  
Charles J. Beck

Rosanne Gervasi, Esquire  
Division of Legal Services  
Fla. Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

F. Marshall Deterding, Esquire  
John Wharton, Esquire  
Rose, Sundstrom and Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301

Mr. Harry Hawcroft  
1612 Boswell Avenue  
New Port Richey, FL 34655

V. Abraham Kurien, M.D.  
7726 Hampton Hills Loop  
New Port Richey, FL 34654

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

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

Aloha Utilities, Inc.  
Mr. Stephen G. Watford  
6915 Perrine Ranch Road  
New Port Richey, FL 34655-3904

John H. Gaul, Ph.D.  
7633 Albacore Drive  
New Port Richey, FL 34655

Wayne T. Forehand, Chairman  
Citizens' Advisory Committee  
1216 Arlinbrook drive  
Trinity, FL 34655-4556

James Mitchell, Jr.  
Riviera Home Owners Association  
5957 Riviera Lane  
New Port Richey, FL 34655

Ann Winkler  
Riverside Village Estates, Unit 4  
4417 Harney Court  
New Port Richey, FL 34655

John Parese  
Riverside Villas  
4029 Casa del Sol Way  
New Port Richey, FL 34655