

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates | DOCKET NO. 010503-WU  
for Seven Springs System in Pasco County by | ORDER NO. PSC-05-0464-PCO-WU  
Aloha Utilities, Inc. | ISSUED: April 29, 2005

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ORDER GRANTING OPC'S MOTION TO SUPPLEMENT POST-HEARING STATEMENTS  
AND DENYING ALOHA'S MOTION TO STRIKE

On April 7, 2005, as required by the Orders Nos. PSC-05-0069-PCO-WU (Order Confirming Controlling Dates) and PSC-05-0235-PHO-WU (Prehearing Order) issued in this Docket, all parties submitted their Post-Hearing Statements of Issues and Positions. However, the Post-Hearing Statements of Issues and Positions of the Office of Public Counsel (OPC) and the customers, Mr. Harry Hawcroft and Edward Wood, only addressed the three issues raised by the customers in their protest, and did not address the fourth legal issue raised by Aloha Utilities, Inc. (Aloha) at the Prehearing Conference.

Upon realizing that it had not addressed this fourth issue, on April 11, 2005, OPC filed its Motion to Supplement Post-Hearing Statement of Issues and Positions (Motion to Supplement) and also filed its proposed Supplement to Post-Hearing Statements of Issues and Positions (Supplement). Counsel for OPC states that he overlooked the additional legal issue which had been added at the Prehearing Conference, and that acceptance of the Supplement will not delay the proceeding and should assist the Commission in making its decision.

On April 18, 2005, Aloha filed its Response to Motion to Supplement Post Hearing Statement of Issues and Positions and its Motion to Strike Supplement to Post Hearing Statement of Issues and Positions (Motion to Strike). Aloha argues that OPC has stated no grounds for this "after-the-fact request for the authority to supplement" and that both the Order Confirming Controlling Dates and the Chairman's directions at hearing placed the deadline at April 7, 2005. Moreover, Aloha alleges that it will be "prejudiced by the filing of such documents after the deadline and after the filing of its positions on Issue No. 4."

On April 20, 2005, OPC filed its Opposition to Aloha's Motion to Strike. OPC argues that the only prejudice to Aloha is "if it is prejudicial for the Commission to be presented with differing views of the Commission's jurisdiction." OPC further notes that, pursuant to Section 367.011(3), Florida Statutes, the Commission must act in the public interest, and that having different viewpoints concerning the Commission's jurisdiction will assist the Commission in fulfilling its responsibility to act in the public interest.

Upon review of the motions and the responses, and noting that Issue No. 4 is a purely legal issue and that OPC filed its Supplement only two working days late, OPC's Motion to Supplement shall be granted and Aloha's Motion to Strike is denied.

It is therefore,

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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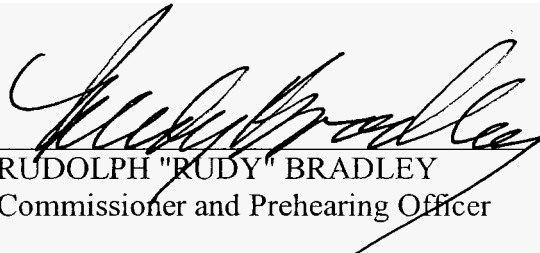
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ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the Office of Public Counsel's Motion to Supplement Post-Hearing Statements of Issues and Positions is granted. It is further

ORDERED that the Motion of Aloha Utilities, Inc., to Strike the Office of Public Counsel's Supplement to Post-Hearing Statement of Issues and Positions is denied and the Office of Public Counsel's Supplement shall be allowed as filed.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 29th day of April, 2005.



RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

(SEAL)

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.