

ORIGINAL

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From: on behalf of Filings@psc.state.fl.us
To: ROBERTS.BRENDA
Subject: RE: e-filing

From: ROBERTS.BRENDA [mailto:ROBERTS.BRENDA@leg.state.fl.us]
Sent: Tuesday, May 03, 2005 11:13 AM
To: Filings@psc.state.fl.us
Cc: Charles Beck
Subject: e-filing

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 010503-WU

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

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 4 ages.

e. The document attached for electronic filing is OPC's Opposition to Aloha's Motion to Strike.

(See attached file: 010503 OPC's Opposition to Aloha's Motion to Strike Petitions Post Hearing Statement.doc)

JMP _____
COM 5 _____ Thank you for your attention and cooperation to this request.

CTR _____ Brenda S. Roberts
ECR _____ Secretary to Charles J. Beck, Deputy Public Counsel
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OPC _____

MMS _____

RCA _____

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SEC 1 _____

OTH Kim P. 5/3/2005

DOCUMENT NUMBER-DATE
04324 MAY-3 2
FPSC-COMMISSION CLERK

BEFORE THE 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
Filed May 3, 2005

OPC'S OPPOSITION TO ALOHA'S MOTION TO STRIKE

The Office of Public Counsel (OPC) files this response in opposition to the motion to strike filed by Aloha Utilities, Inc. (Aloha) on April 27, 2005, and states the following:

1. On April 27, 2005, Aloha filed a motion to strike portions of the Post-Hearing Statement filed by Petitioners Harry Hawcroft and Ed Wood. Although Aloha admits that many portions of the Post-Hearing Statement it seeks to strike contain specific references to the record, it states that the comments about the record are "in reality ... further opinion testimony regarding such exhibits" and "an attempt to introduce uncrossexamined and unsworn evidence after the close of the record." Motion to Strike at 3.

2. It is perfectly proper to draw inferences and make arguments about the meaning of record evidence in a party's Post-Hearing Statement. Characterizing portions of the Post-Hearing Statement as "opinion testimony regarding such exhibits" does not make those portions improper. In fact,

providing argument and opinion about the meaning of record evidence is exactly what a party is supposed to do in its post-hearing statement.

3. Additionally, the Commission typically gives greater leeway to customers filings before Commission. Providing such leeway here will not change the fact that the Commission's ultimate decision in this proceeding must be based on competent, substantial evidence in the record.

WHEREFORE, OPC requests the Prehearing Officer to deny Aloha's motion to strike.

Respectfully submitted,

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

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**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 3rd day of May, 2005.

s/ Charles J. Beck
Charles J. Beck

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