

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of deletion proceedings against Aloha Utilities, Inc. for failure to provide sufficient water service consistent with the reasonable and proper operation of the utility system in the public interest, in violation of Section 367.111(2), Florida Statutes.

DOCKET NO. 050018-WU
ORDER NO. PSC-06-0015-FOF-WU
ISSUED: January 4, 2006

The following Commissioners participated in the disposition of this matter:

RUDOLPH "RUDY" BRADLEY, Chairman
J. TERRY DEASON
LISA POLAK EDGAR
ISILIO ARRIAGA

ORDER APPROVING AGREEMENT BETWEEN ALOHA AND OFFICE OF PUBLIC
COUNSEL REGARDING COST RECOVERY

BY THE COMMISSION:

Aloha Utilities, Inc. (Aloha or utility) is a Class A water and wastewater utility located in Pasco County. The utility consists of two distinct service areas: Aloha Gardens and Seven Springs. There are a number of active dockets, appeals or other cases involving Aloha's Seven Springs service area and the Commission. In this docket, the Commission has initiated deletion proceedings for a portion of the Seven Springs service area based on taste, odor, black water and customer service problems that ultimately stem from the presence of hydrogen sulfide in the water.

On August 17, 2005, we deferred consideration of staff's recommendation to accept a comprehensive Offer of Settlement submitted by Aloha in an effort to resolve this docket and all other outstanding matters. At that time, we decided to hold this deletion proceeding in abeyance and directed staff to undertake negotiations with Aloha, the Office of Public Counsel (OPC), customer representatives, and other interested parties in an attempt to reach a resolution that is satisfactory to all parties. Staff and the parties have subsequently held five negotiating meetings and have made substantial progress toward reaching a settlement agreement. We understand that a settlement agreement is expected to involve the installation of anion exchange treatment facilities at several Aloha water plants to remove hydrogen sulfide from the water.

OPC and the customers have stated that before they can reach final agreement, they need to see a conceptual, non-binding capital cost estimate (expressed in dollars, with a range of plus or minus 30%) for the proposed treatment facilities. Aloha has agreed to provide such an estimate, provided that it is able to recover from its customers the cost (up to \$45,000) of preparing such estimate whether or not a settlement is ultimately achieved. OPC and the customers participating in the negotiations have agreed to such cost recovery.

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In order to facilitate further negotiations, on December 14, 2005, Aloha and OPC entered into a letter agreement that recognizes Aloha's right to recover the cost (up to \$45,000) of preparing a conceptual, non-binding capital cost estimate (expressed in dollars, with a range of plus or minus 30%) for the installation of anion exchange facilities. That letter agreement, a copy of which is attached to this order, also specifies the method of recovery, as follows:

(1) In the event a settlement is achieved, Aloha will reduce the amount of the interim refund that will be required by the settlement agreement by the cost (up to \$45,000) of preparing the estimate.

(2) In the event a settlement is not achieved, Aloha will be entitled to recover the cost of preparing the estimate (up to \$45,000) through rates, over only a twelve month period, in the proceeding that Aloha files to increase rates to reflect the purchase of water from Pasco County.

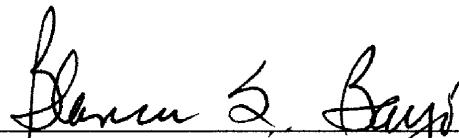
We believe that these are appropriate mechanisms for allowing Aloha to recover the cost of preparing the anion exchange cost estimate, and therefore we approve the agreement between Aloha and OPC for recovery of this cost.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the agreement between Aloha and the Office of Public Counsel regarding recovery of costs for a non-binding capital cost estimate for installation of anion exchange facilities is approved. It is further

ORDERED that this docket shall remain open to allow the parties additional time to negotiate a comprehensive settlement agreement.

By ORDER of the Florida Public Service Commission this 4th day of January, 2006.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

LDH

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.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

COMMISSIONERS:
RUDOLPH "RUDY" BRADLEY, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
LISA POLAK EDGAR
ISILIO ARRIAGA

STATE OF FLORIDA



GENERAL COUNSEL
RICHARD D. MELSON
(850) 413-6248

Public Service Commission

December 14, 2005

Stephen C. Reilly
Office of Public Counsel
111 West Madison Street
Tallahassee, FL 32399

F. Marshall Deterding
Rose Sundstrom & Bentley
2548 Blairstone Pines Drive
Tallahassee, FL 32301

Re: Letter Agreement re Preparation of Cost Estimate by Aloha Utilities

Dear Steve and Marty:

The purpose of this letter is to formalize the parties' understanding regarding cost recovery for the expense (up to \$45,000) that Aloha is incurring to prepare a capital cost estimate for anion exchange in support of the current settlement negotiations.

Given the progress in the negotiations to date, staff and the parties are optimistic that a settlement will be reached that will require the installation of anion exchange at all but two of Aloha's plants. The Office of Public Counsel (OPC) and the customers have stated that before they can reach final agreement, they need to see a conceptual, non-binding capital cost estimate (expressed in dollars with a range of plus or minus 30%) for the treatment facilities. Aloha has agreed to prepare such an estimate, provided that it is able to recover from its customers the cost of preparation (up to \$45,000) whether or not a settlement is ultimately achieved. OPC and the customers participating in the negotiations have agreed to such cost recovery.

I propose the following agreement to memorialize this verbal understanding:

Aloha and OPC agree that Aloha shall be entitled to recover from its customers the cost (up to \$45,000) of preparing a conceptual, non-binding capital cost estimate (expressed in dollars with a range of plus or minus 30%) for the installation of anion exchange facilities at Plants 2, 6, 8, 9 and Mitchell.

In the event a settlement is achieved, Aloha shall reduce the amount of the interim refund required by the settlement agreement by the cost (up to \$45,000) of preparing the estimate. In the event a settlement is not achieved, Aloha shall be entitled to recover the cost of preparing the estimate (up to \$45,000) through rates,

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over only a twelve-month period, in the proceeding that Aloha files to increase rates to reflect the purchase of water from Pasco County.

If this is an acceptable mechanism for implementing the parties' verbal understanding, please indicate your agreement by signing this letter agreement and returning it to me. If you have any questions, please give me a call.

Very truly yours,



Richard D. Melson

ACCEPTED AND AGREED TO:

Stephen C. Reilly
Office of Public Counsel
On behalf of the Citizens of Florida

Date: _____

F. Marshall Deterding
Rose Sundstrom & Bentley
On behalf of Aloha Utilities, Inc.

Date: _____

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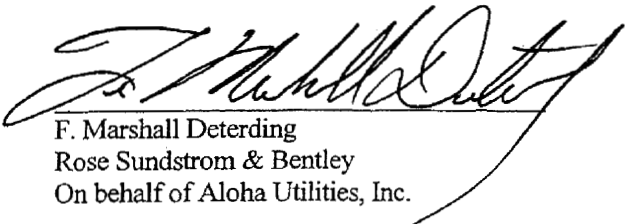
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Rose Sundstrom & Bentley
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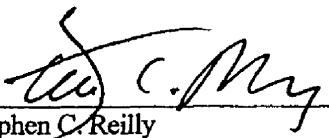
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On behalf of the Citizens of Florida

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Date: _____