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Public Service Commission

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: February 16, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Melson) *ROR*
 Division of Economic Regulation (Rendell) *R* *JDJ*

RE: Docket No. 060122-WU – Joint petition for approval of stipulation on procedure by Aloha Utilities, Inc. and Office of Public Counsel.

AGENDA: 02/28/06 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\060122.RCM.DOC

Case Background

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 Docket Number 050018-WU, the Commission has initiated deletion proceedings for a portion of the Seven Springs service area based on a number of problems that ultimately stem from the presence of hydrogen sulfide in the water.

On August 17, 2005, the Commission deferred consideration of staff's recommendation to accept a comprehensive Offer of Settlement submitted by Aloha in an effort to resolve Docket Number 050018-WU and all other outstanding matters. At that time, the Commission decided to hold the deletion proceeding in abeyance and directed staff to undertake negotiations with Aloha,

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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 subsequently have held six negotiating meetings and have made substantial progress toward reaching a settlement agreement. Staff expects that a settlement agreement will involve the installation of anion exchange treatment facilities at several Aloha water plants to remove hydrogen sulfide from the water.

It appears that Aloha needs to purchase approximately 1.5 million gallons of water per day in order to meet the needs of current and future customers. Aloha has contracted to purchase this water from Pasco County, and expects there will be significant costs associated with the purchase of this water and the installation and operation of related chloramination facilities.

As part of the negotiations between the parties, on February 13, 2006, OPC and Aloha filed a Joint Petition to Approve Stipulation on Procedure. The Stipulation on Procedure formalizes an agreement between Aloha and OPC regarding the procedure to be followed and the issues to be addressed in the event Aloha files a future limited proceeding to recover the costs of purchasing water from Pasco County, and the cost of installing and operating related chloramination facilities. The Commission has jurisdiction pursuant to Sections 120.569 and 367.0822, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the Stipulation on Procedure, filed February 13, 2006, between Aloha and the Office of Public Counsel regarding the procedures to be followed in the event Aloha files a limited proceeding to recover the costs of purchasing water from Pasco County and installing and operating related chloramination facilities?

Recommendation: Yes. The Stipulation on Procedure should be approved. (Melson, Rendell)

Staff Analysis: In order to facilitate further negotiations, Aloha and the Office of Public Counsel have entered into a Stipulation on Procedure (Attachment A) which details certain procedures to be followed in the event Aloha files a limited proceeding to recover the costs of purchasing water from Pasco County and installing and operating related chloramination facilities. This Stipulation on Procedure was filed February 13, 2006, and Aloha and OPC are joint petitioners in asking the Stipulation be approved.

The Stipulation is clear that it will only be effective if approved by the Commission without modification, and if an overall settlement agreement is ultimately reached to resolve the deletion proceeding and related issues. Staff believes that the issues to be considered and the timetables enumerated in the Stipulation are reasonable. In addition, approval of the Stipulation should facilitate the ultimate goal of the parties reaching a global agreement to resolve the outstanding issues between them and with the Commission. Accordingly, staff recommends that the Commission approve the Stipulation on Procedure.

Issue 2: Should this docket be closed?

Recommendation: No. (Melson, Rendell)

Staff Analysis: This docket should remain open to allow Aloha the opportunity to file a Petition for Limited Proceeding. If the parties fail to negotiate a comprehensive settlement agreement, or the Limited Proceeding is otherwise not filed, this docket should be closed.

STIPULATION ON PROCEDURE

This STIPULATION is entered into this 3rd day of February, 2006, by and between Aloha Utilities, Inc. ("Aloha") and the Office of Public Counsel on behalf of the Citizens of the State of Florida ("OPC") (collectively, "Parties").

WHEREAS, Aloha intends to file a limited proceeding in order to recover through water rates (i) the cost of the additional 1.5 million gallons per day of water that Aloha has contracted to purchase from Pasco County, and (ii) the cost and operating expenses of the chloramination facilities that will be in operation prior to Aloha purchasing any water from Pasco County, and which facilities have been installed subsequent to its last rate case; and

WHEREAS, the Parties agree that the purchase of supplemental water from Pasco County is the only option reasonably and feasibly available to Aloha to insure that Aloha has sufficient water to serve the potable water needs of its present and future customers.

WHEREAS, the Parties are willing to agree on certain procedures and timeframes for the processing of such limited proceeding, subject to the execution of an overall Settlement Agreement that is currently under negotiation to address anion exchange and other matters ("Settlement Agreement").

NOW, THEREFORE, Aloha and OPC stipulate and agree as follows:

1. The Commission will process such application as a limited proceeding and will not expand the scope of the proceeding beyond issues related to the chloramination facilities and the additional water purchased (including the cost of any interconnection facilities, any required impact fees, and any related reduction in Aloha's water treatment costs).

2. The Commission will make its decision within 120 days after the receipt of the petition and will issue its PAA Order no more than 20 days thereafter.

3. No customer meeting shall be held by the Commission or staff in connection with the issuance of the PAA order.

4. In the event the PAA Order is protested, the Commission will issue its Final Order within 8 months of the date of such protest.

5. The limited proceeding shall not address "repression" in gallons of usage.

6. Aloha has provided to the Commission and OPC a report detailing its attempts to locate alternative sources of water in order to conform to the maximum limits of its water use permit while meeting the water supply needs of its existing and future customers. Based upon that report and on the previous information provided to the Commission in Docket No. 020896-WS, the Parties agree that Aloha has now complied with the requirements of Order No. PSC-02-0593-FOF-WU with regard to the further issues that needed to be analyzed and information that needed to be produced by Aloha to demonstrate that the purchase of water from Pasco County is

the most cost effective alternative for obtaining additional water resources as contained on Pages 52 and 53 of that Order.

7. This stipulation shall bind the parties only if it is approved by the Commission, without change, is incorporated by reference in a procedural order, and the time for reconsideration of such order has passed. This stipulation shall be submitted to the Commission for approval at the first available agenda conference after the date of its execution.

8. Notwithstanding approval by the Commission, this stipulation shall be of no force and effect until the date that Aloha, OPC and Intervenors have executed an overall Settlement Agreement and the Commission has approved the overall Settlement Agreement. If this stipulation becomes null and void because of the failure of either of the above contingencies, this Stipulation on Procedure shall not be admissible in any present or future judicial or administrative proceeding.

EXECUTED this 3rd day of February, 2006.

ALOHA UTILITIES, INC.

By: 

OFFICE OF PUBLIC COUNSEL

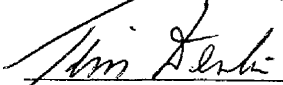
By: 

STATEMENT BY COMMISSION STAFF

The staff of the Commission participated in the negotiation of this stipulation. Based on that participation, staff will recommend to the Commission that it issue a procedural order approving this stipulation.

Staff further states that, subject to timely completion of its audit, it will endeavor in good faith to present a recommendation in the limited proceeding to the Commission for a decision within 90 days following the filing of the petition.


GENERAL COUNSEL


DIRECTOR OF ECONOMIC REGULATION