

State of Florida



ORIGINAL

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

RECEIVED-FPSC
07 MAY 2007 9:39
COMMISSION
CLERK

DATE: May 30, 2007
TO: Ann Cole, Commission Clerk - PSC, Office of Commission Clerk
FROM: Michael G. Cooke, General Counsel *MGC*
RE: Docket Number 060606-WS - Progress Reports on implementation of Anion Exchange in Pasco County, filed by Aloha Utilities, Inc., pursuant to Order PSC-06-0270-AS-WU.

Please file the attached correspondence in the above-referenced docket.

Thank you.

MGC:tf
Attachments

DOCUMENT NUMBER-DATE
04440 MAY 31 5
FPSC-COMMISSION CLERK

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
MATTHEW M. CARTER II
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



GENERAL COUNSEL
MICHAEL G. COOKE
(850) 413-6248

Public Service Commission

May 24, 2007

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

Dear Messrs. Deterding and Wharton:

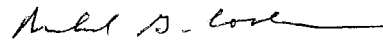
This is to confirm my understanding of the current status of the parties' implementation of the March 9, 2006, settlement agreement entered into by Aloha Utilities, Inc. ("Aloha"), the Office of Public Counsel ("OPC"), Wayne Forehand, John H. Gaul, and Sandy Mitchell, Jr. This also is to address how I expect the company to proceed.

It is my understanding that, by April 11, 2007, representatives of Pasco County provided to Aloha all information necessary for Aloha to complete final engineering designs of the anion treatment system required by Paragraph 4 of the settlement agreement. There now should be no impediments to completing, in the near future, the design of the required treatment system. Therefore, I expect to receive by no later than the date that the next quarterly report is due (i.e., July 3, 2007) the company's position on the revised estimated completion date for implementation and operation of the anion treatment system as a result of the delay in completing the engineering designs. I also expect to discuss this issue with the parties prior to the date the next quarterly report is due.

Finally, I want to emphasize that I expect the company to pursue implementation of the settlement agreement and completion of this project diligently and in good faith, regardless of steps that might be pursued by Pasco County to assert jurisdiction over water utilities within the county pursuant to Chapter 367, Florida Statutes. Similarly, I do not expect the company to use steps that might be taken by the state legislature to address this matter as a reason for delays.

F. Marshall Deterding, Esquire
John L. Wharton, Esquire
May 24, 2007
Page 2

Very truly yours,



Michael G. Cooke
General Counsel

MGC:tf

cc: Senator Mike Fasano
Charles Beck, Esquire
Commissioner Jack Mariano
Stephen Watford
Wayne Forehand
John Gaul
Sandy Mitchell, Jr.

MODE = MEMORY TRANSMISSION

START=MAY-18 17:50


END=MAY-18 17:51

FILE NO.=139

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
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***** -PUBL SUC COMM - ***** 850 413 8996-*****

<p style="text-align: center;">STATE OF FLORIDA</p>  <p style="text-align: center;">PUBLIC SERVICE COMMISSION</p> <p style="text-align: center;">2540 SHUMARD OAK BOULEVARD TALLAHASSEE, FL 32399-0850</p>	<p>May 18, 2007, 5:37 PM</p>
	<p>To: Honorable Mike Fasano The Florida Senate Fax: () 513-0592</p>
	<p>From: Michael G. Cooke</p>
	<p>Voice: (850) 413-6189 Fax: (850) 413-6170</p>
<p>No. of Pages (Including Cover): 3</p>	
<p>Notes:</p> <p>Attached is a facsimile of my letter in response to your May 14, 2007, letter. A hard copy will follow on Monday by way of the U.S. Mail.</p>	

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
MATTHEW M. CARTER II
KATRINA J. MCMURRIAN
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NATHAN A. SKOP

STATE OF FLORIDA



GENERAL COUNSEL
MICHAEL G. COOKE
(850) 413-6248

Public Service Commission

May 18, 2007

The Honorable Mike Fasano
8217 Massachusetts Avenue
New Port Richey, FL 34653-3111

Re: Aloha Utilities, Inc.

Dear Senator Fasano:

I can assure you that we have carefully monitored Aloha Utilities, Inc.'s progress toward the implementation of anion exchange facilities. Our activities in this regard have included a review of Aloha's quarterly progress reports filed pursuant to the settlement agreement, participation in meetings with Aloha and in meetings held quarterly with representatives of Aloha, the Office of Public Counsel ("OPC"), customers Forehand and Andrews, representatives of Pasco County ("County"), and a review of a series of written correspondence between Aloha and the County from August 2006 to April 2007 regarding the implementation of their October 26, 2004, bulk water service agreement. In response to your letter of May 14, 2007, I am happy to share our findings with you.

In its most recent quarterly report submitted to this Commission on April 4, 2007, Aloha estimated that the anion exchange project was at least 180 days behind schedule. The delay is attributable to the company not having received information from the County regarding certain improvements that are necessary to meet obligations under a bulk water service agreement between the company and the County. Until the County advised Aloha, by letter dated April 11, 2007, of how much, at what rate, on what schedule, and under what conditions the County will be able to supply Aloha with bulk water, Aloha was unable to fully design the anion exchange facilities required by the settlement agreement. Under the terms of the settlement agreement, project design is the first step towards implementing the project and it is estimated to take six months of the 24-month timetable for completion of the project.

It is our understanding that the County does not accept responsibility for the project delays. Nevertheless, our review shows that Aloha has diligently pursued resolution of all outstanding bulk water supply issues with the County and that the delays experienced to date were beyond Aloha's control. Therefore, in accordance with the settlement agreement, the Commission has taken no enforcement action against Aloha based on these delays, and the timetable for completion of the project will be appropriately tolled and extended. Please note that OPC, a party to the settlement agreement, has not expressed to us a view that is contrary to our understanding of the facts as I have

The Honorable Mike Fasano
Page 2
May 18, 2007

outlined them in this letter or of application of the settlement agreement to the facts and circumstances involved.

It also is important to note that, despite the delay that has occurred, significant actions have been taken by the company on this project. For example, to date the company has completed the process diagrams, site layout drawings and detailed drawings for all five water treatment plants to be upgraded with anion exchange equipment. In addition, Aloha has secured a \$20 million bond financing to fund the bulk water and anion exchange facilities. Moreover, on December 19, 2006, Aloha made an advance payment of \$4.9 million in connection fees to the County for reservation of all of its bulk water service needs. In so doing, Aloha avoided having to pay a substantial increase in County connection fees that became effective on December 20, 2006. These investments create an incentive on the part of Aloha to complete these projects and to have these investments recognized in rate base as soon as possible.

Aloha will need to have rates in place before it begins to accept the Phase I bulk water, and will need to build storage. It is now anticipated that Aloha will begin to receive some County water in less than one year. Two local customer representatives attended the April 11, 2007, quarterly meeting during which the delay and reasons for the delay were discussed. By the end of the meeting, both customer representatives in attendance indicated they understood the reasons for the delays, and one of them expressed that he would encourage the customer base to continue to be patient and allow the process to move ahead.

If you have any further questions, please feel free to contact me at (850) 413-6199.

Sincerely,



Michael G. Cooke
General Counsel

MGC:tf

cc: Marty Deterding, Esq.
Steve Reilly, Esq.
Wayne Forehand



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation and Economic Development
Appropriations, *Chair*
Communications and Public Utilities
Fiscal Policy and Calendar
Health Regulation
Judiciary
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Rules

JOINT COMMITTEE:
Legislative Budget Commission

SENATOR MIKE FASANO

Majority Whip
11th District

May 14, 2007

Michael Cooke, General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Dear Mr. Cooke:

I am extremely disappointed in how you and your staff have been handling the settlement agreement entered into by Aloha Utilities and its customers. It has been almost one year since the agreement was signed. Aloha has only completed 90 days of the agreement even though the agreement is into its 270th day. Black water and other complaints continue to be reported by customers with little or no concern expressed by Aloha.

As you may know Representative Tom Anderson and I passed legislation a few years back that allowed Pasco County to form an ad hoc committee to address customer complaints about Aloha. The county commission did so and eventually passed an ordinance. The outcome of all that work was the settlement agreement that was entered into last summer. Since the settlement agreement was signed the county commission repealed the ordinance with the faith that Aloha was going to keep up its end of the bargain and that the Public Service Commission was going to strictly enforce the agreement. As I understand it that is not the case on either side.

Has the settlement agreement changed? What is the timeline now for Aloha to comply? What sort of enforcement action will the Public Service Commission take if this lack of compliance continues? I would appreciate an immediate response to these questions.

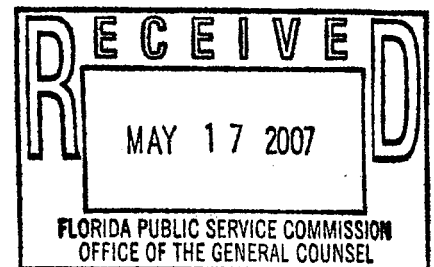
Thank you in advance for your prompt response to this inquiry.

Yours truly,

Mike Fasano
State Senator, District 11

MF/gg

Cc: Wayne Forehand



REPLY TO:

- 8217 Massachusetts Avenue, New Port Richey, Florida 34653-3111 (727) 848-5885
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5062

Senate's Website: www.flisenate.gov

KEN PRUITT
President of the Senate

LISA CARLTON
President Pro Tempore