

State of Florida



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Public Service Commission

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COMMISSION
CLERK

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

To: Clerk
Approved MAB
9/29/08

DATE: September 26, 2008

TO: Ann Cole, Commission Clerk - PSC, Office of Commission Clerk

FROM: Jennifer Brubaker, Attorney Supervisor, Office of the General Counsel

RE: Docket No. 060122-WU – Joint petition for approval of stipulation on procedure with Office of Public Counsel, and application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc.

SEP 26 2008

RECEIVED DIRECTOR

By Order No. PSC-08-0427-PCO-WU, the above-referenced docket is scheduled for an administrative hearing on November 24-25, 2008, to address protests to Order No. PSC-08-0137-PAA-WU. On August 29, 2008, the Office of Public Counsel (OPC) filed a Motion to Dismiss or in the Alternative Motion to Amend Procedural Order. Aloha Utilities, Inc. (Aloha) filed a Response in opposition to OPC's Motion to Dismiss and a Request for Oral Argument on September 5, 2008. Staff's recommendation on OPC's Motion to Dismiss is currently scheduled to be heard as Item 2 on the September 29, 2008, Agenda Conference.

On September 23, 2008, OPC and Aloha filed a Joint Request for Abatement. Aloha and OPC ask that the Joint Request for Abatement be heard by the full Commission prior to the Commission's consideration of staff's recommendation; if the request for abatement is granted, the parties believe that OPC's pending Motion to Dismiss will be moot.

The Joint Request for Abatement also asks for the following:

- that the Commission abate the litigation in Docket 060122-WU concurrent with the abatement established by the Commission's vote at the September 16, 2008, Agenda Conference, in the above referenced docket and in Docket No. 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;
- that the Commission move the scheduled hearing date from November 24-25, 2008, to April 8-9, 2009 (these dates are currently scheduled for the show cause hearing in Docket No. 060606-WS); and
- that if FGUA and Aloha are unable to reach agreement concerning the sale of the utility, the protests of Order No. PSC-08-0137-PAA-WU be rescheduled for hearing (as referenced above), and the Prehearing Officer issue a revised Order Establishing Procedure to govern the controlling dates of the proceeding.

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DOCUMENT NO. DATE

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FPSC - COMMISSION CLERK

By letter dated September 24, 2008, filed in this docket September 25, 2008, OPC clarified that the Better Water Now Committee, which is also a party to this matter, is in support of the Joint Request for Abatement.

Staff recommends that the Commission address the Joint Motion for Abatement prior to considering staff's recommendation on OPC's Motion to Dismiss. This would be a decision prior to hearing, and participation may be allowed pursuant to Rule 25-22.0021, Florida Administrative Code. Staff recommends that the Commission grant the Joint Motion for Abatement, noting in particular that the Motion is supported by all parties to this proceeding, and that the Motion offers a reasonable and administratively efficient means of addressing the potential sale of Aloha to FGUA as well as the concerns raised in OPC's Motion to Dismiss.

If the Commission votes to grant the Joint Request for Abatement, then staff's recommendation (Item 2) will be moot. The docket should remain open pending the resolution of the protests of Order No. PSC-08-0137-PAA-WU. Staff also notes that, if the Joint Motion for Abatement is granted, new hearing and controlling dates will need to be established for Docket No. 060606-WS.