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Sent: Friday, January 09, 2009 2:01 PM
To: Filings@psc.state.fl.us; Jean Hartman; reilly.steve@leg.state.fl.us; John Wharton
Cc: Marty Deterding; Tonya Simpson; Pam Yacobelli; Steve Watford
Subject: Docket 060122-WU and 060606-WS Aloha Utilities, Inc.
Attachments: Req for Abatement.pdf

- a. John L. Wharton, Esquire
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- b. Docket No. 060122-WU; Joint Petition for approval of a stipulation on procedure with OPC and application for a limited proceeding increase in water rates in Pasco County by Aloha Utilities, Inc.
Docket No. 060606-WS; Progress reports on implementation of Anion Exchange in Pasco County filed by Aloha Utilities to Order No. PSC-06-0270-AS-WU
- c. Aloha Utilities, Inc.
- d. 5 pages
- e. Request for Abatement

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: 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.

Docket No. 060122-WU

In Re: Progress reports on implementation of Anion Exchange in Pasco County, filed by Aloha Utilities, Inc. pursuant to Order No. PSC-06-0270-AS-WU.

Docket No. 060606-WS

REQUEST FOR ABATEMENT

Aloha Utilities, Inc., by and through its undersigned counsel, hereby files this Request for Abatement and in support thereof state as follows:

1. These two dockets are currently under a Commission-granted abatement (see Order PSC-08-0832-PCO-WS). That abatement expires on January 9, 2009. The purpose of this Request is to request an extension of the abatement until January 30, 2009, at which time Aloha will advise the Commission and its staff of the status of the transaction.

2. The background of this matter is well known to the Commission and is adequately set forth in Order PSC-08-0665-PCO-WS and Order No. PSC-08-0694-PCO-WU. FGUA and Aloha continue to direct their efforts to the successful completion of the transaction.

3. By Order No. PSC-08-0832-PCO-WS, issued December 23, 2008, the Commission abated the show cause proceeding initiated by Order No. PSC-08-0266-

SC-WS, and all actions necessary for Aloha to interconnect with Pasco County and the litigation to resolve the protest of Order No. PSC-08-0137-PAA-WU in Docket No. 060122-WU, and all activities in Docket No. 060606-WS until and including January 9, 2009. On or about December 12, 2008, Aloha and FGUA extended the time in which the acquisition of Aloha could close until and including February 27, 2009. By the terms of said extension, FGUA shall advise Aloha by January 27, 2009, whether or not it will close on or before the Closing Date (February 27, 2009). Accordingly, Aloha requests that the abatement granted by Order No. PSC-08-0832-PCO-WS be extended and continued from January 9, 2009 until and including January 30, 2009. It is in the interest of Aloha, OPC, the public, and the Commission and its staff that all activities in these two dockets be abated as requested herein.

4. The delay caused by the protests filed by the Office of Public Counsel and a small group of customers to the limited revenue relief the Commission had proposed to grant to Aloha, the delay in finalizing the financing of a sale of the system which has resulted from FGUA's inability to secure financing, due to the current breakdown in the investment banking market, as necessary to consummate the transaction, and the particularities and posture of Aloha as an on-going business compel Aloha to disclose the following to the Commission. On December 19, 2006, Aloha paid to Pasco County

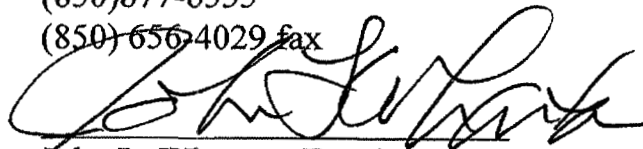
\$4,924,571.10 million which effectively reserved 3.1 mgd of bulk treated water from Pasco County as needed to serve to Aloha's present and future customers. Effective the next day (December 20, 2006) Pasco County began collecting substantially higher fees for the reservation of such capacity. Consistent with a stipulation entered into by Aloha and OPC, the Commission issued an Order (on January 8, 2007) which determined that the payment made by Aloha should be considered prudent; that no used and useful adjustments should be made to that investment; and that Aloha should be allowed to accrue prudently incurred effective debt carrying costs associated with said payment. Notwithstanding the stipulation and subsequent Order, Aloha has incurred debt service on said payments for approximately 26 months without recovery or relief of any form or kind on said investment. This lack of relief has visited substantial adverse financial impacts upon Aloha and will continue to visit such adverse financial impacts upon Aloha until this Commission grants the required relief. If financing for the sale has not been secured and a final closing date on the transaction with the FGUA has not been set by January 27, 2009, Aloha will be compelled, by sound business practices and its particular capital requirements, to demand a refund from Pasco County of the \$4,924,571.10 unless the Commission approves, and Aloha is able to assess, a rate prior to April 1, 2009 which allows recovery of a reasonable

return on and amortization of the full amount invested by Aloha in those Pasco County reservation fees plus all accrued AFUDC up through April 1, 2009. Obviously, such a refund by Pasco County would have the result that all future reservations of needed capacity from Pasco County would have to be paid by Aloha, and ultimately borne by Aloha's customers, at the then-existing Pasco County rate.¹

WHEREFORE, and in consideration of the above, Aloha respectfully requests that all activities in these two dockets be abated, and that Aloha be directed to report to the Commission and its staff, no later than January 30, 2009, the posture and status of the transaction.

Respectfully submitted this 9th day of January, 2009, by

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¹ The implementation of such a rate should not be dependent upon whether the pending sale occurs within the time frames contemplated. Aloha's right to recover this investment is immediately appropriate, and in fact long overdue, under both Florida law and the Commission Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic and U.S. Mail* to the following this 9th day of January, 2009:

Customer Petitioners*
c/o Wayne T. Forehand
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