

Ruth Nettles

From: Bronwyn Revell [BRevell@RSBattorneys.com]
Sent: Thursday, March 26, 2009 4:14 PM
To: Filings@psc.state.fl.us
Subject: FW: Dockets 010503-WU; 060122-WU; 060606-WS
Attachments: Aloha Response to Motion to Establish a Rate Stabilization Escrow Account.pdf

- a. John L. Wharton, Esquire
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- b. Docket No. 010503-WU In Re: Application for an increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

Docket No. 060122-WU In Re: Application for limited proceeding increase in water rates in Pasco County by Aloha Utilities, Inc.

Docket No. 060606-WS In Re: Progress reports on implementation of Anion Exchange in Pasco County, filed by Aloha Utilities, Inc. pursuant to Order PSC-06-0270-AS-WU.

- c. Aloha Utilities, Inc.

- d. four pages

- e. Aloha's Response to "Customer Intervenors' and Petitioner's Motion to Establish a Rate Stabilization Escrow Account"

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for an increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.

Docket No. 010503-WU

In Re: 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 PSC-06-0270-AS-WU.

Docket No. 060606-WS

ALOHA UTILITIES, INC.'S RESPONSE TO "CUSTOMER INTERVENORS' AND PETITIONER'S MOTION TO ESTABLISH A RATE STABILIZATION ESCROW ACCOUNT"

ALOHA UTILITIES, INC. ("Aloha"), by and through its undersigned attorneys, hereby files this Response to "Customers Intervenors' and Petitioners' Motion to Establish a Rate Stabilization Escrow Account" (hereafter the "Motion"), and would state as follows:

1. This response is filed under this style only for the purpose of lessening confusion, and not as an acknowledgement that the three dockets in which six

former Aloha customers have ostensibly filed the "Motion" are active dockets, which they are not.

2. The customers who have filed the Motion ask the Commission to "convert" certain monies (mischaracterized as a "Refund Escrow Account") and then to hand the money to the Florida Governmental Utility Authority ("FGUA").

3. Any reasonable doubt as to the lawful existence of a particular power that is being exercised by the Commission must be resolved against the exercise thereof. *The City of Cape Coral v. GAC Utilities Inc. of Florida*, 281 So.2d 493 (1973). This Commission has no authority or jurisdiction to entertain the "Motion"; no authority or jurisdiction to direct any order or demand to Aloha with regard to the these monies, no authority or jurisdiction to gift the monies to the FGUA; nor any authority or jurisdiction to force the acceptance of the money by the FGUA, or to control what FGUA does with this windfall once it receives it.

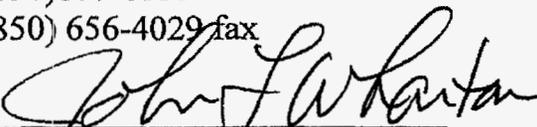
4. The customers' representation in numbered paragraph 5 of the "Motion" regarding FGUA's "position" is entirely irrelevant. FGUA and Aloha agree, and have a complete meeting of the minds, that the monies here at issue were an excluded asset in the transaction by which FGUA purchased the assets of Aloha. FGUA's position on this issue would not be relevant even if the

Commission did have jurisdiction over these monies, which the Commission does not.

WHEREFORE, Aloha requests that the Commission appropriately dispense with the "Motion" and acknowledge that the Commission lacks jurisdiction over these monies and has no authority or jurisdiction to entertain the relief requested therein.

Respectfully submitted this 26th day of March, 2009, by

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John L. Wharton
For the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail and/or electronic mail(*) to the following this 26th day of March, 2009:

Customer Movants
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