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JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

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JAN 28 PM 3:24

RECORDS AND
REPORTING

January 28, 1999

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 960545-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Petition for Formal Hearing by Mike Fasano and the Petition for Formal Hearing by James Goldberg.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

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Sincerely,

Harold McLean
Associate Public Counsel

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Goldberg
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Fasano
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FPSC-BUREAU OF RECORDS AND REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

JAN 28 PM 3:25

In Re Investigation of Utility)
rates of Aloha Utilities, Inc.)
In Pasco County, Florida.)

DOCKET NO. 960545-WS

FILED: January 28, 1999

RECORDS AND REPORTING

PETITION FOR FORMAL HEARING BY JAMES GOLDBERG

JAMES GOLDBERG (Petitioner), pursuant to the provisions of Order No. PSC-99-0061-FOF-WS; Rule 28-106.201, Florida Administrative Code; Chapter 120 and Chapter 367, Florida Statutes, petitions the Florida Public Service Commission (Commission) as follows:

1. This Petition is intended to conform with the provisions of Rule 28-106.201(2), F. A. C., the provisions of which are set forth in italics below:


(a) The name and address of each agency affected and each agency's file or identification number, if known;

2. The agency affected is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. The Agency's docket number is Docket No. 960545-WS;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

3. Petitioner's name is James Goldberg; his address is 1251 Trafalger Drive, New Port Richey, Florida 34655; telephone (727) 372-1225; the Petitioner's substantial interests are

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affected because, although he is the current customer of Aloha Utilities, Inc. (Aloha), a regulated investor-owned water and wastewater utility under the jurisdiction of the Commission; and although Petitioner remits to Aloha full, tariffed consideration for potable water delivered to his home, Aloha instead furnishes water which is either dirty, filthy, black and unpotable, or delivers water to Petitioner's home which unjustifiably and without any fault on Petitioner's part attacks the otherwise adequate water distribution system in Petitioners home such as to render the water available to Petitioner in his home dirty, filthy, black and unpotable.

Despite the statutory mandate to the Commission to see that the rates charged to Petitioner and other Aloha customers are based upon the value and quality of the service, the Commission, after noting that:

- ▶ 500 customers attended an April 30, 1996, public hearing to address in quality of service problems and that, of the 500, fifty-six complained of black water, low water pressure, odor, and customer service related problems; and that customers provided many samples of discolored black water (Order PSC-99-0061-FOF-WS, p.2);
- ▶ Although the DEP witness testified that the utility's water was in compliance with DEP standards, we find that Aloha's quality of water service is unsatisfactory. (Order No. PSC-97-0280-FOF-WS;
- ▶ While Aloha has complied with Commission directives issued in this docket so far, it is obvious that problems still exist for some of its customers in the Seven Springs area. (Order PSC-99-0061-FOF-WS, p.3);
- ▶ During their visit to several customer homes in June, 1996, Staff engineers first observed black water coming out of the hot water side of the bathroom tubs and sinks in several homes. (Order PSC-99-0061-FOF-WS, p.4);
- ▶ It is not clear whether the increase in water discoloration complaints in January, 1996 is more related to the lowering of the chlorine levels in September, 1995, or the addition of wells 8 and 9 in December, 1995. (Order PSC-99-0061-FOF-WS, p.4);

- ▶ 73% of the responses to a sponsored customer survey indicated that the respondents had experienced discolored water during the past two years; and that 64% of that number observed either black or gray water. (Order PSC-99-0061-FOF-WS, p.8);
- ▶ 71% of the responses to a sponsored customer survey addressing odor and taste indicated that the taste and odor were unacceptable (Order PSC-99-0061-FOF-WS, p.8);
- ▶ Based upon (cited evidence) it appears that although the utility is in compliance with all DEP standards, both the hearing, the survey, and the site survey indicate there is still a black water problem. (Order PSC-99-0061-FOF-WS, p.12);

the Commission resolved to do nothing. (Order PSC-99-0061-FOF-WS p.13). Petitioner's substantial interests are affected because: the exclusive jurisdiction to establish Aloha's rates rests with the Commission; because the Commission has found that the quality of Aloha's service is unsatisfactory; because it is to be reasonably inferred from the remainder of the observations referencing Aloha's service that it is virtually of no value to Petitioner; and , because Order PSC-99-0061-FOF-WS proposes to do nothing to require either Aloha to improve its unsatisfactory quality of service and its value, or to lower Aloha's rates commensurate with the low quality and value of service which Petitioner receives.

(c) A statement of when and how the petitioner received notice of the agency decision;

4. Petitioner received notice of the proposed agency decision by receipt of a copy of PSC-99-0061-FOF-WS sent to Petitioner by the Commission;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

5. Petitioner disputes the following issues of material fact which the Proposed Agency

Action purportedly resolves adversely to Petitioner:

- a. Petitioner says that Aloha's quality of service is unsatisfactory;
- b. Petitioner says that Aloha's value of service does not support existing rates;
- c. Petitioner says that Aloha's current recurring monthly water rates cannot be justified given the unsatisfactory quality and value of Aloha's water service;
- d. Petitioner denies that construction and operation of the three treatment plants and other water system upgrades would increase customer rates by 398%;
- e. Petitioner denies that the black water problem arose "between the PAA order and the September, 1996 customer hearings", but says to the contrary that the black water problem arose long before that time;
- f. Petitioner does not know whether there is a significant concentration of hydrogen sulfide present in Aloha's transmission and distribution system, but disputes whether the staff findings to the contrary are based upon evidence, the quality of which this Commission should rely upon;
- g. Petitioner denies that copper corrosion has been experienced by other water systems within the state to the extent that they have been in Aloha's system (assuming for the purpose of this issue that there is a copper corrosion problem) and Petitioner says that Aloha's black water is atypical of water delivered in Pasco County by utilities which obtain their raw water from Pasco County sources;
- h. Petitioner denies that the number of community water systems failing their copper testing is in any way probative of the quality and value of service provided by Aloha's water system;
- i. Petitioner says that if homes must be refitted to accommodate the peculiarities of Aloha's water, it should not be at the expense of the Petitioner, but should be at the expense of Aloha which has a duty to furnish water of quality and value which support the prices already charged to and paid by Petitioner;
- j. Petitioner denies that "there are no further actions for this Commission to take in regards to quality of service in this docket" and says to the contrary that it is the statutory responsibility of this Commission to act upon its own finding that the

quality of service furnished by Aloha is unsatisfactory, and upon its numerous observations of the shortcomings of Aloha's water service and value; and that the Commission should either order Aloha to improve both the quality and value of service provided to customers or to lessen Aloha's rates accordingly.

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

6. Petitioner reiterates paragraphs 5(a) through 5(J) above and in addition says:

The quality and value of Aloha's water service are unsatisfactory. The action proposed by the Commission finds that the quality of service is unsatisfactory; the action proposed by the Commission ignores the diminished value of unsatisfactory service; and the action proposed by the Commission is to propose that nothing be done in contravention of the Commission's statutory mandate to establish rates for regulated utilities with due regard for the quality and value of service.

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action;

7. Section 367.081, Florida Statutes, requires this Commission upon petition, or upon its own motion, to establish rates which are based upon the costs of providing service and upon the quality and value of the service. This docket is an investigation of the rates charged by Aloha Utilities for its water service; the Commission has found in this docket that the water quality is unsatisfactory, yet proposes not to act upon that finding. Petitioner says that Section 367.081 requires the Commission to act upon this finding.

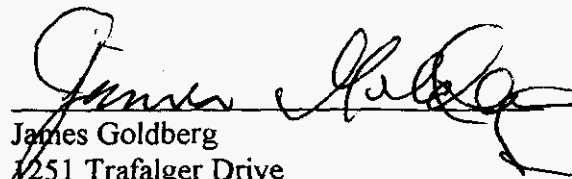
(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

8. Petitioner wishes and demands that the Commission either order an immediate reduction in the rates charged by Aloha commensurate with the unsatisfactory quality and value of service

or, in the alternative, order Aloha to improve its quality and value of service by whatever means Aloha sees fit at its own expense, and Petitioner demands an formal, evidentiary hearing under the auspices of Sections 120.569 and 120.57(1), F. S.

Wherefore, Petitioner demands the relief identified in the body of this petition, relies upon the allegations as set forth therein, demands a formal hearing under Sections 120.569 and 120.57(1), F. S., and petitions for such other relief as may be appropriate in the premises.

Respectfully Submitted



James Goldberg
251 Trafalger Drive
New Port Richey, Florida 34655

Customer of Aloha Utilities, Inc.

**CERTIFICATE OF SERVICE
DOCKET NO. 960545-WS**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 28th day of January, 1999.



Harold McLean

Ralph Jaegar
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Marshall Deterding, Esq.
Rose, Sundstrom & Bentley
2548 Blairstone Pines Drive
Tallahassee, FL 32301

James Goldberg, President
Wyndtree Master Community Assoc.
1251 Trafalger Drive
New Port Richey, FL 34655

Representative Mike Fasano
8217 Massachusetts Avenue
New Port Richey, FL 34653