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RECORDS AND
REPORTING

March 30, 1999

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 960545-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Response to Aloha Utilities, Inc.'s Motion for Reconsideration of Order No. PSC-99-0514-PCO-WS for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Harold McLean
Associate Public Counsel

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____ HM/dsb
- EAG _____ Enclosures
- LEG 1 _____
- LIN 3 _____
- OPC _____
- RCH _____
- SEC 1 _____
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- OTH _____

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 960545-WS

FILED: March 30, 1999

**CITIZENS' RESPONSE TO ALOHA
UTILITIES, INC.'S MOTION FOR RECONSIDERATION
OF ORDER NO. PSC-99-0514-PCO-WS**

The Citizens of the State of Florida, by and through JACK SHREVE, Public Counsel, respond to Aloha Utilities, Inc.'s (Aloha) Motion for Reconsideration of Order No. PSC-99-0514-PCO-WS (instant motion) as follows:

- 1.) The instant Motion (augmented by Aloha's Motion to Correct Scribner's Error filed March 24, 1999), seeks reconsideration by the entire Commission panel assigned to this docket of the Order Establishing Procedure, an order entered by the prehearing officer;
- 2.) It is well-established in the law that the purpose of reconsideration is to bring to the Commission's attention some point that it overlooked or failed to consider or a mistake of fact or law. The standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Co. of Miami v. King, 146 So. 2d 889, 891 (Fla. 1962). In Diamond Cab, the Florida Supreme Court declared that the purpose of a petition for reconsideration is to bring to an agency's attention a point of law or fact which it overlooked or failed to consider when it rendered its order. Moreover, numerous Commission decisions have established this standard as a past agency practice, from which the Commission should not deviate without explanation;

DOCUMENT NUMBER-DATE

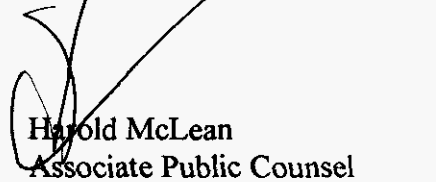
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FPSC-RECORDS/REPORTING

3. The instant petition does not allege that the able Prehearing Officer, Commissioner Susan F. Clark, overlooked or failed to consider any point or committed a mistake of fact or law;
4. The merits of the Motion are consistent with Aloha's posture in the history of this case in that it attempts to allude all responsibility for delivering a safe and adequate product to customers' homes at a fair and not unduly discriminatory price. In the face of numerous findings on the part of the Commission (including a specific finding that its service is unsatisfactory) Aloha would shift to the black water beleaguered customers the burden of going forward to persuade the Commission to do something about Aloha's adjudicated shortcomings.
5. As pointed out in the Petition for formal hearing filed by interested parties in this case, it is the statutory duty of the Commission to ensure the adequacy of service by regulated utilities, including Aloha. It is not the burden of the protestors to craft a remedy for Aloha's shortcomings which have been recognized by the Commission; the Citizens submit that it is the burden of Aloha to come forward and either present a plan to remedy its inadequate service, or to justify its current rates which are paid by customers for safe and adequate service which they do not currently receive. The customers submit that the schedule embodied in the Order Establishing Procedure (Order No. PSC-99-0514-PCO-WS) is the customary and legal means by which the parties are offered an opportunity to proceed.

WHEREFORE, the Citizens of the State of Florida, urge the Prehearing Officer, and the Commission panel assigned to this docket (if appropriate) to deny the instant Motion.

Respectfully Submitted,



Harold McLean
Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Citizens' Response To Aloha Utilities, Inc.'s Motion For Reconsideration Of Order No. PSC-99-0514-PCO-WS has been served by United States Mail or (*) by hand delivery upon the following parties on this the 30th day of March, 1999:

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