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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Investigation of utility )  
rates of Aloha Utilities, Inc. in )  
Pasco County )  
\_\_\_\_\_ )

DOCKET NO. 960545-WS

RECORDS AND  
REPORTING

**MOTION TO STRIKE**

COMES NOW Aloha Utilities, Inc. (hereinafter "Aloha" or "Utility"), by and through undersigned attorney and pursuant to the provisions of Section 25-22.037(2), Sections 28-103, Section 28-204, Florida Administrative Code and Rule 1.080(b), Florida Rules of Civil Procedure and files this Motion to Strike Citizens' Response to Aloha Utilities, Inc.'s Motion to Establish the Burden and in support thereof states as follows:

1. On April 30, 1999, Aloha Utilities, Inc. filed its Motion to Establish the Burden, pursuant to Rule 25-22.037, Florida Administrative Code.

2. Section 25-22.037(2)(b) allows a seven day response time to such motions, calculated from the date of service. While Section 25-22.037(2)(b) has now been repealed effective May 3, 1999, the provisions of the Uniform Rules under Section 28-106.204(1) also provide a seven day period from service for response to any Motion.

3. Under both the Florida Rules of Civil Procedure, Section 1.080(b) and under the Uniform Rules Section 28-106.103, service by facsimile authorized and is effective as though hand delivered. No additional time for a response is added for mailing.

4. Aloha's Motion to Establish the Burden was filed on April 30, 1999 and served by facsimile and as such under either the Commission's Rules under Chapter 25-22 in effect at the time of filing that Motion, and the Florida Rules of Civil Procedure under Section 1.080(b), or the

AFS \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG 1 \_\_\_\_\_  
MAS 3 \_\_\_\_\_  
OPC \_\_\_\_\_  
RRR \_\_\_\_\_  
SEC 1 \_\_\_\_\_  
WAV \_\_\_\_\_  
OTH \_\_\_\_\_

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*[Signature]*  
FPSC-BUREAU OF RECORDS

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FPSC-RECORDS/REPORTING

Uniform Rules now in effect under Section 28-106.103, the Response of the Citizens filed on May 12, 1999 is untimely and as such, must be stricken.

WHEREFORE, Aloha Utilities, Inc. requests that the Public Service Commission strike the Citizens' Response to Aloha Utilities, Inc.'s Motion to Establish the Burden in accordance with the requirements of the Uniform Rules, the Commission's own Rules, and the Florida Rules of Civil Procedure.

Respectfully submitted this 14<sup>th</sup> day of May, 1999.



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**CERTIFICATE OF SERVICE**

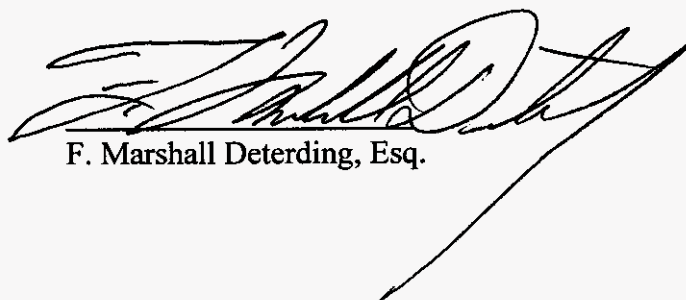
I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished via Telecopy (denoted by \*) and by Regular U.S. Mail to the following on this 14<sup>th</sup> day of May, 1999:

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