

**Marguerite McLean**

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**From:** DAVIS.PHYLLIS [DAVIS.PHYLLIS@leg.state.fl.us]  
**Sent:** Tuesday, September 02, 2008 2:34 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** 060122-WU Filing  
**Attachments:** 060122 Page Substitution - Motion to Dismiss or in the Alternative Motion to Amend Procedural Order.doc1.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 060122-WU

In re: Application for limited proceeding increase in water rates in Pasco County, by Aloha Utilities, Inc.

c. There are a total of 15 pages.

d. The documents attached for electronic filing are Citizens' Substitute pages (2) and (6) of recently filed Motion to Dismiss or in the Alternative Motion to Amend the Procedural Order

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9/2/2008

DOCUMENT NUMBER-DATE

08040 SEP-2 8

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September 2, 2008

Ms. Ann Cole  
Division of Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

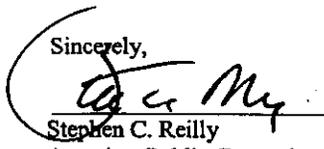
**In re: Application for limited proceeding increase in water rates in Pasco County  
by Aloha Utilities, Inc. FPSC Docket No. 060122-WU**

Dear Ms. Cole:

Please accept for filing substitute pages 2 and 6 for the recently filed Citizens' Motion to Dismiss or in the Alternative Motion to Amend Procedural Order. The substitute pages correct a single scrivener's error found on each page. Substitute page 2 is unchanged except for substituting the word "Aloha" for the words "Aqua Utilities, Inc." in paragraph 6. Substitute page 6 is unchanged except for substituting the word "Aqua" for the word "Aloha" in the last sentence of paragraph 14.

Thank you for your assistance in this matter.

Sincerely,

  
Stephen C. Reilly  
Associate Public Counsel

SCR/ppg  
Enclosure  
cc: all parties of record (w/enc.)

DOCUMENT NUMBER - DATE

08040 SEP-28

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constructed in order to purchase water from Pasco County, the payment of impact fees for this water, the estimated payments for bulk water purchases from Pasco County, and the expenses of the chloramination conversion.

4. On March 24, 2008, Aloha, OPC, and members of the Better Water Now Committee ("BWN") protested the order and requested a hearing on the matter.

5. Controlling dates for this proceeding were established by Order No. PSC-08-0427-PCO-WU, Order Establishing Procedure ("Procedural Order") issued June 27, 2008.

The controlling dates are as follows:

- |  |                      |
|--|----------------------|
| (1) Utility's testimony and exhibits       | August 5, 2008       |
| (2) Intervenors' testimony and exhibits    | September 16, 2008   |
| (3) Staff's testimony and exhibits, if any | October 1, 2008      |
| (4) Rebuttal testimony and exhibits        | October 15, 2008     |
| (5) Prehearing Statements                  | October 30, 2008     |
| (6) Prehearing Conference                  | November 12, 2008    |
| (7) Discovery Deadline                     | November 12, 2008    |
| (8) Hearing                                | November 24-25, 2008 |
| (9) Briefs                                 | December 24, 2008    |

#### MOTION TO DISMISS

6. In accordance with the Procedural Order, Aloha, filed direct testimony of Stephen Watford, David Porter PE, and Robert C. Nixon, CPA on August 5, 2008.

7. In its direct testimony, filed on August 5, 2008, to support its protest of the PAA Order, the Company essentially refiled its original case by resubmitting its Special Report, dated

Aloha knowingly disavowed its original expense adjustments at the time it filed its direct testimony and does not intend to provide new significantly increased adjustments until one month after OPC files its testimony.

14. In the Aqua proceeding, Staff filed its recommendation for the Commission to grant the Motion to Dismiss the Aqua rate case on August 16, 2007. In the recommendation Staff noted that:

...the utility is attempting to revise its rate case application by submitting additional information seven months after it filed its MFR's, four months after the official date of filing, and one month after the Commission concluded its service hearings in this rate case. The filing of this revised data is also one month before testimony is due from intervenors and staff. (page 12).

Faced with an unfavorable Staff recommendation Aqua elected to withdraw its rate increase request rather than suffer a dismissal of the case.

15. In the instant case, Aloha proposes to materially alter all of the numbers associated with all of the protested issues in this case, one month after OPC is required to file its testimony critiquing the Company's disavowed numbers, and a little more than a month before the hearing is scheduled. Permitting Aloha to materially change all of the numbers associated with all of protested issues in this proceeding when it files its rebuttal testimony would make a mockery of the Commission's procedures and the due process rights of the customers. The Commission should dismiss this case. To do otherwise would set a bad precedent permitting utilities to increase their original rate request every time a Commission's PAA Order is protested.

