



Public Service Commission

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DATE: DECEMBER 20, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (DRAPER, FLETCHER, MAUREY WILLIS) *WJ* *RF* *MS*
DIVISION OF LEGAL SERVICES (FUDGE, JAEGER) *RF* *PS* *TS* *ALM*

RE: DOCKET NO. 991643-SU - APPLICATION FOR INCREASE IN WASTEWATER RATES IN SEVEN SPRINGS SYSTEM IN PASCO COUNTY BY ALOHA UTILITIES, INC.
COUNTY: PASCO COUNTY

AGENDA: January 02, 2001 - REGULAR AGENDA - POST-HEARING - PARTICIPATION LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: 8-MONTH EFFECTIVE DATE: DECEMBER 4, 2000

SPECIAL INSTRUCTIONS: This item should immediately follow the recommendation filed in Docket No. 000737-WS.

FILE NAME AND LOCATION: S:\PSC\ECR\WP\991643.RCM

CASE BACKGROUND

Aloha Utilities, Inc. (Aloha or utility), is a Class A water and wastewater utility in Pasco County. The utility consists of two distinct service areas, Aloha Gardens and Seven Springs. These service areas are physically divided by U.S. Highway 19, the major north/south highway through Pinellas and Pasco County. The utility's service area is located within the Northern Tampa Bay Water Use Caution Area as designed by the Southwest Florida Water Management District (SWFWMD). Critical water supply concerns have been identified by SWFWMD within this area. The following was obtained from Aloha's 1999 annual report for the Seven Springs systems:

	<u>Number of Customers</u>	<u>Operating Revenues</u>
Water	9,242	\$1,726,029
Wastewater	8,866	\$2,493,675

Rate base was last established for Aloha's Seven Springs wastewater system by Order No. PSC-99-1917-PAA-WS, issued September 28, 1999, in Dockets Nos. 970536-WS and 980245-WS. This Order was consummated by Order No. PSC-99-2083-CO-WS, issued October 21, 1999.

On February 9, 2000, Aloha filed an application for an increase in rates for its Seven Springs wastewater system. The utility was notified of several deficiencies in the minimum filing requirements (MFRs) by staff. Those deficiencies were corrected and the official filing date was established as April 4, 2000, pursuant to Section 367.083, Florida Statutes.

Aloha's requested test year for interim purposes is the historical year ended September 30, 1999. The utility's requested test year for the setting of final rates is the projected year ended September 30, 2001. Also, the utility requested that this application be set directly for hearing. Two days of hearings were held on October 2 and 3, 2000, at the Spartan Manor in New Pt. Richey, Florida. A third day of hearing was held in Tallahassee on November 2, 2000.

In its MFRs, the utility requested annual interim revenues of \$2,568,801. This represents a revenue increase of \$48,532 (or 1.92%). For final consideration, the utility has requested total revenues of \$4,374,495. This represents a revenue increase of \$1,593,501 (or 57.29%). The final revenues are based on the utility's request for an overall rate of return of 9.24%.

On May 3, 2000, the Commission issued its Order Establishing Procedure, Order No. PSC-00-0872-PCO-SU. That Order set the dates for the filing of testimony and other documents and the procedures to be followed in this case. By Order No. PSC-00-1065-PCO-SU, issued June 5, 2000, the Commission denied interim rates and suspended the utility's proposed rates. On June 27, 2000, the Office of Public Counsel (OPC) filed its Notice of Intervention. By Order No. PSC-00-1175-PCO-SU, issued June 29, 2000, the Commission acknowledged OPC's intervention.

On September 14, 2000, Aloha filed a Motion to Allow Filing of Supplemental Direct Testimony with the Supplemental Direct Testimony of Stephen G. Watford attached as Attachment A with Exhibit SGW-1. This testimony addressed the issue of a new office building that was not originally included in Aloha's MFRs and on which neither the utility, OPC nor staff had filed direct testimony.

The Prehearing Conference was held on September 18, 2000. The Prehearing Order and Order Revising Order Establishing Procedure, Order No. PSC-00-1747-PHO-SU, was issued on September 26, 2000. This Order granted Aloha's Motion to Allow Filing of Supplemental Direct Testimony with the Supplemental Direct Testimony of Stephen G. Watford attached as Attachment A with Exhibit SGW-1. The Order also allowed the Executed Contract for Sale of New Office Building submitted on September 15, 2000, to be identified as Exhibit SGW-2. The Order also struck the rebuttal testimony of Stephen G. Watford, concerning the new office building, beginning at page 2, line 20, and going through page 6, line 15.

To give OPC and staff time to respond to this testimony, November 2, 2000, was scheduled to consider the issue of whether the Commission should consider the new office building cost for the utility in this rate proceeding. Staff filed testimony on this issue on October 18, 2000. Aloha filed rebuttal testimony on this issue on October 23, 2000.

The eight-month deadline for the suspension of the requested rates expired on December 4, 2000. The twelve-month deadline for the Commission to take final action in this docket expires on April 4, 2001. The Commission's final decision in this case is scheduled for the January 16, 2001 Agenda Conference. On December 1, 2000, Aloha filed a notice of intent to implement its final proposed rates, along with revised tariff sheets, a proposed customer notice, and a corporate undertaking of the utility. However, upon being advised by staff that it appeared Aloha could not support a corporate undertaking, Aloha filed an escrow agreement on December 8, 2000. The notice of implementation of the rates will be the subject of Issue No. 1 and the security will be discussed in Issue No. 2. The Commission has jurisdiction pursuant to Section 367.081(6), Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the implementation of the proposed final rates by Aloha Utilities, Inc.?

RECOMMENDATION: Yes, the Commission should acknowledge the utility's implementation of the proposed final rates subject to refund pending the outcome of this rate proceeding. (FLETCHER, FUDGE, JAEGER)

STAFF ANALYSIS: As discussed in the case background, Aloha filed a notice of intent to implement its proposed final rates, along with revised tariff sheets, a proposed customer notice, and a corporate undertaking of the utility. Section 367.081(6), Florida Statutes, states in part the following:

The commission may withhold consent to the operation of any rate request or any portion thereof by a vote to that effect within 60 days after the date of filing of the rate request, or within a shorter period established by rule of the commission. The order shall state a reason or statement of good cause for the withholding of consent. The commission shall provide a copy of the order to the utility and all interested persons who have requested notice. Such consent shall not be withheld for a period longer than 8 months following the date of filing. The new rates or all or any portion thereof not consented to may be placed into effect by the utility under a bond, escrow, or corporate undertaking subject to refund at the expiration of such period upon notice to the commission and upon filing the appropriate tariffs. The commission shall determine whether the corporate undertaking may be filed in lieu of the bond or escrow. (Emphasis added)

Rule 25-30.475(1)(a), Florida Administrative Code, states in part the following: "The tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that the any required security has been provided." The customer notice provided on December 1, 2000 did not include an effective date. However, the effective date could not be established until the appropriate security requirement was met. As discussed in Issue 2, staff recommends that the escrow agreement filed by the utility on December 8, 2000 meets the security requirement of Section 367.081(6), Florida Statutes. Thus, an

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effective date of December 8, 2000 was included in the customer notice.

Based on the above, staff believes the revised tariff sheets, the customer notice as modified above, and escrow agreement provided by the utility meet all of the requirements of Section 367.081(6), Florida Statutes. Therefore, staff recommends that the Commission acknowledge the utility's implementation of the proposed final rates subject to refund pending the outcome of this rate proceeding.

ISSUE 2: What is the appropriate security to guarantee the increased revenues collected under the proposed final rates?

RECOMMENDATION: The escrow agreement filed by the utility on December 8, 2000, should be accepted to guarantee any potential refund of revenues collected under the proposed final rates. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should be required to provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Further, in no instance should the administrative costs of any refunds be borne by the customers. The costs are the responsibility of, and should be borne by, the utility. (FLETCHER, D.DRAPER)

STAFF ANALYSIS: As discussed in Issue 1, pursuant to Section 367.081(6), Florida Statutes, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund. Further, this statute requires that "[t]he utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond, escrow, or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid."

As stated in the case background, the utility requested a final revenue increase of \$1,593,501. Utilizing a December 8, 2000 effective date for the proposed final rates and a 30-day period for parties to appeal the Commission's order, the potential refund period is approximately 3 months. As such, staff has calculated the potential refund to be \$398,375, which represents 3/12ths or 25 percent of the utility's \$1,593,501 proposed final revenue increase. As discussed earlier, the utility filed a corporate undertaking for the proposed final rates on December 1, 2000.

In Docket No. 000737-WS (an earnings investigation of the utility's Aloha Gardens water and wastewater systems and its Seven Springs water system), the Commission issued Order No. PSC-00-1289-FOF-WS, on July 18, 2000, authorizing a corporate undertaking in the amount of \$161,140. The corporate undertaking was originally designed to cover a 7-month time frame, which included a 90-day period to administer potential refunds. Due to the demanding time constraints of this rate case, the utility requested and staff agreed to allow the utility more time to respond to our data requests in the earnings investigation, regarding purchased water transactions. In addition, there are several controversial adjustments in this rate case that will also be addressed in the earnings investigation.

Based on the above, staff believed it would be appropriate to schedule the earnings investigation to an agenda conference subsequent to the January 16, 2001 Agenda Conference for which the rate case is currently scheduled. This is primarily to allow staff to incorporate the Commission's decisions on several similar issues. As such, staff revised the case assignment scheduling record (CASR) of the earnings investigation for a February 20, 2001 Agenda Conference, which represents a three-month extension of the initial 7-month time frame. To extend the earnings investigation for three months, Aloha requires an increase of \$70,910 in the amount of its corporate undertaking. This \$70,910 amount was determined by multiplying the annual revenue subject to refund determined in Order No. PSC-00-1289-FOF-WS, issued July 18, 2000, by 3/12ths or 25% and is the subject of the recommendation to be filed in Docket No. 000737-WS also for the January 2, 2001 agenda conference.

With regard to the earnings investigation, as discussed in the recommendation to be filed in Docket No. 000737-WS, staff conducted an analysis to determine if the company could support a corporate undertaking for the additional \$70,910. The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guaranteed any potential refund. The 1997, 1998, and 1999 annual reports of Aloha were used to determine the financial condition of the utility. Based on staff's analysis, the utility has sufficient equity capitalization, interest coverage and profitability over this three-year period to support a corporate undertaking for the additional \$70,910.

Staff conducted a subsequent analysis to determine if the company could support the additional corporate undertaking amount of \$398,375 associated with the implementation of the utility's proposed final rates. Including the additional \$70,910 for earnings investigation, the total corporate undertaking would be \$630,425 (\$161,140 plus \$70,910 plus \$398,375). Without the additional \$70,910 for earnings investigation, the total corporate undertaking would be \$559,515 (\$161,140 plus \$398,375). Based on our analysis, the utility's average net income for 1997 to 1999 is significantly below both the \$559,515 amount and \$630,425 amount. Further, the utility's net income and liquidity have been declining over the same three-year period and may not be sufficient to cover either the \$559,515 amount or the \$630,425 amount of corporate undertaking if a rate increase is denied.

On December 5, 2000, staff informed the utility that based on staff's analysis, the utility could not support the additional

corporate undertaking amount of \$398,375 associated with the implementation of the utility's proposed final rates. On the same day, the utility submitted an unsigned escrow agreement for approval. Based on our review, the escrow agreement would be appropriate to support the potential refund of \$398,375.

On December 8, 2000, the escrow agreement was executed between the utility, the bank, and the Commission. Thus, staff recommends that the escrow agreement be accepted as the security for the increased revenues collected under the proposed final rates. Additionally, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Further, in no instance should the administrative costs of any refunds be borne by the customers. The costs are the responsibility of, and should be borne by, the utility.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open pending the outcome of this rate proceeding. (FLETCHER, FUDGE, JAEGER)

STAFF ANALYSIS: As stated in the case background, the official filing date for this docket is April 4, 2000. Section 367.081(6), Florida Statutes, states in part the following: "The Commission shall take final action on the docket and enter its final order within 12 months of the official date of filing." The twelve-month deadline for the Commission to take final action in this docket expires on April 4, 2001. This case is scheduled for a January 16, 2001 Agenda Conference for the Commission's final decision in this case. Thus, staff recommends that this docket should remain open pending the outcome of this rate proceeding.