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ROBERT M. C. ROSE  
OF COUNSEL

February 9, 2000  
**VIA HAND DELIVERY**

Blanca S. Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0862

991643 - SU

Re: Aloha Utilities, Inc.  
Petition for Wastewater Rate Increase for its Seven Springs System Customers in Pasco County, Florida  
Our File No. 26038.30

Dear Ms. Bayo:

Attached in accordance with the requirements of PSC Rules and the provisions of Chapter 367.081, Florida Statutes are 16 copies of the Application for Increase in Wastewater Rates filed on behalf of Aloha Utilities, Inc., along with all of the information required by applicable Statutes and Commission Rules (only two copies of the information required in Rule 25-30.440 - Exhibit "3").

*WAW / cgs*  
Also attached hereto are 16 copies of the Petition for Emergency Variance from Rule 25-30.440(1)(a) and (b), F.A.C., also filed on behalf of Aloha Utilities, Inc. in conjunction with the above-referenced file and suspend rate case filing.

Should you have any questions in this regard, please let me know.

Check received with filing and forwarded to Fiscal for deposit.  
Fiscal to forward a copy of check to RAR with proof of deposit.

Sincerely,

ROSE, SUNDBSTROM & BENTLEY

Initials of person who forwarded check:

*FMD*

*F. Marshall Deterding*  
F. Marshall Deterding  
For The Firm

FMD/tmg  
Enclosures

cc: Rosanne Gervasi, Esquire  
Ralph Jaeger, Esquire  
Stephen G. Watford  
Robert C. Nixon, CPA  
David W. Porter, P.E.

*application*

*emergency variance*

*exhs*

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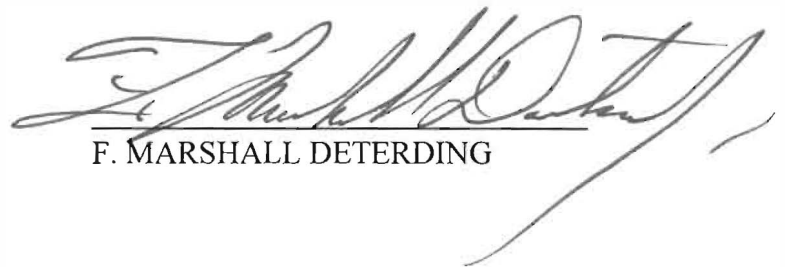
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by  
\*Hand Delivery or U.S. Mail to the following parties this 9<sup>th</sup> of February, 2000.

\*Rosanne Gervasi, Esquire  
\*Ralph Jaeger, Esquire  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

\*Joint Administrative Procedures Committee  
Room 128  
The Holland Building  
Tallahassee, Florida 32399-1300



F. MARSHALL DETERDING

aloha\30\emergency.pet

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ALOHA )  
UTILITIES, INC. for an increase )  
in wastewater rates for its Seven )  
Springs System in Pasco County, )  
Florida. )  
\_\_\_\_\_ )

DOCKET NO. 991643-SU

PETITION FOR EMERGENCY VARIANCE FROM RULE 25-30.440(1)(a) and (b), F.A.C.

COMES NOW, ALOHA UTILITIES, INC. (hereinafter "Petitioner"), pursuant to Rule 28-104.002 and 28-104.004, F.A.C. and files this Petition for Emergency Variance from the requirements of Rule 25-30.440(1)(a) and (b), F.A.C. (hereinafter referred to as the "Rule") and in support thereof states as follows:

1. The name, address, telephone number, and facsimile number of the Petitioner is:

Aloha Utilities, Inc.  
2514 Aloha Place  
Holiday, Florida 34691  
Phone: 727/938-2851  
Fax: 727/938-2853

The name, address, telephone number, and facsimile number of the Attorney and representative of the Petitioner is:

F. Marshall Deterding, Esquire  
Rose, Sundstrom & Bentley  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
Phone: 850/877-6555  
Fax: 850/656-4029

2. The portion of the Rule from which a variance is sought is Rule 25-30.440(1)(a) and (b), F.A.C., which requires:

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“A detailed system map showing:

- (a) the location and size of the Applicant’s distribution and collection lines as well as its plant sites and (b) the location and respective classification of the Applicant’s customers.”

3. The Statute which this Rule is implementing is Section 367.081, F.S.

4. The Petitioner herein is requesting that it be granted a variance from the provisions of the Section of this Rule for all purposes related to the full rate proceeding under the provisions of Section 367.081 that Petitioner has filed on this date with the Florida Public Service Commission.

5. The facts that demonstrate that a substantial hardship or violation of the principles of fairness that would justify a variance for the Petitioner are as follows:

- (a) Petitioner has no such maps currently in its possession. While Petitioner is in the process of developing system maps showing its main trunk lines, the information requested by the Rule implies a need for information relative to individual subdivisions and phases of subdivisions. The only maps that Petitioner currently maintains which show the location of such facilities are those provided by the developer and contributor of those facilities provided prior to their connection to Petitioner’s System, and which constitute literally hundreds of maps which cannot easily be organized and reproduced, much less filed with the Commission.

Even if Petitioner was in a position to file those maps, such maps would not serve the purposes intended by the Rule or the underlying Statute. The requirements of the Rule will, therefore, create a financial hardship and a violation of the principles of fairness by requiring Petitioner to spend substantial amounts of money on the creation of a whole new set of maps which ultimately must be recouped from its customers, for the purpose of providing

information that is not pertinent to the review of the Application for Rate Relief filed by Petitioner for which the Rule requirement was intended.

(b) The purpose of the information required by the Rule is to assist the Commission and its staff in analyzing the portion of the facilities operated by Petitioner which are used and useful in providing service to the public under the provisions of Section 367.081, F.S. With the exception of two recently construction line relocations, which involve relatively small portions of main lines, all of the water distribution and sewer collection facilities operated by Petitioner are contributed property, and as such, there is no value in determining the used and useful portion of the great majority of Petitioner's facilities as such determination will have no affect on rate base or rate setting. The information requested by this Rule provision is neither necessary nor helpful to the Commission or its staff in reviewing the Petitioner's Application for Rate Relief, or to fulfilling its statutory duties under Section 367.081, F.S.

6. The reasons why the variance requested would serve the purposes of the underlying Statute are (i) that the information provided by the Rule is intended for the purposes of allowing the Commission to review the used and useful portion of Petitioner's water distribution and sewage collection facilities in accordance with the Commission's responsibility under the provisions of Section 367.081, F.S., and (ii) this underlying purpose of the Statute will not be served by the creation and filing of this information as outlined in Paragraph 5 above. Therefore, the variance requested would serve the purposes of the underlying Statute, since the information proposed to be provided under the Rule Section referenced herein for which a variance is sought, do not assist in any way in the review or analysis of the used and useful portion of Petitioner's water distribution

or sewage collection system, and therefore, the filing of such information and such review would have no ultimate impact on the rates of Petitioner as the Commission is required to establish pursuant to this Statute.

7. The variance requested is a temporary variance for the purposes of Petitioner's rate application filed pursuant to Section 367.081, F.S. on this same date. The duration of the variance will, therefore, be for the duration of the rate application as filed, which according to Statute should be concluded within a twelve month period from the date of filing (up to and including February 9, 2001).

8. The facts which make this situation an emergency, and therefore, require emergency action on this Petition for Variance are as follows:

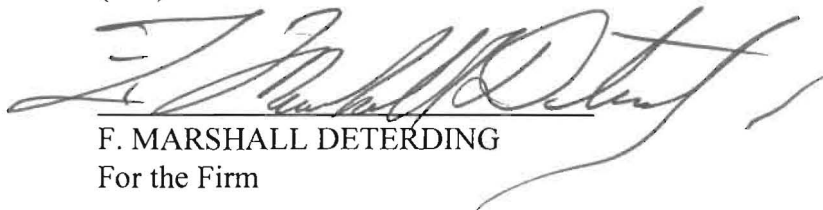
- (a) The environmental regulatory agency (Florida Department of Environmental Regulation hereinafter "FDEP"), has required Petitioner to make substantial changes in its operations over the last several months, which changes are continuing for at least the next eighteen months. The costs incurred in making these changes have already begun to be incurred by Petitioner, and as such, Petitioner is in need of immediate rate relief in order for it to receive adequate revenues to allow it to recover its expenses and earn a fair return on its investment as required under Section 367.081, F.S. Until such time as this variance is granted, the Commission will likely consider the application of Petitioner deficient, and will, therefore, not begin the process of establishing interim rates, nor begin to process Petitioner's Application for Rate Relief, either interim or permanent. As such, Petitioner will continue to suffer immediate adverse effect and continuing economic harm, for which it has no

recourse for recovery, until this variance is granted. Specifically, if the Petition is processed pursuant to the time frames specified in Section 120.542, F.S., Petitioner will be placed in a position of incurring substantial economic loss as a result of its immediate and continuing need for interim and permanent rate relief to recover the cost of facilities and expenses required by the FDEP which have been invested, or will be invested, by Petitioner.

WHEREFORE, Petitioner, Aloha Utilities, Inc., requests that the Florida Public Service Commission grant this Emergency Petition for Variance from the provisions of Commission Rule 25-30.440(1)(a) and (b) on an emergency basis.

Respectfully submitted this 9<sup>th</sup>  
day of February, 2000 by:

ROSE, SUNDSTROM & BENTLEY, LLP  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301  
(850) 877 - 6555

  
F. MARSHALL DETERDING  
For the Firm