

1 **APPEARANCES:**

2 **F. MARSHALL DETERDING**, Rose, Sundstrom &
3 Bentley, 2548 Blairstone Pines Drive Tallahassee,
4 Florida 32301, appearing on behalf of **Aloha Utilities,**
5 **Inc.**

6 **HAROLD MCLEAN**, Office of Public Counsel, 111
7 West Madison Street, Room 812, Tallahassee, Florida
8 32399-1400, appearing on behalf of the **Citizens of the**
9 **State of Florida.**

10 **RALPH R. JAEGER**, Florida Public Service
11 Commission, Division of Legal Services, 2540 Shumard
12 Oak Boulevard, Tallahassee, Florida 32399-0870,
13 appearing on behalf of the **Commission Staff.**

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

(Hearing convened at 1:35 p.m.)

COMMISSIONER CLARK: Call the prehearing to order. Take appearances. We'll read the Notice.

MR. JAEGER: Pursuant to Notice issued October 21, 1999 this time and place has been set for a prehearing conference in Docket No. 960545-WS, Investigation of Utility Rates of Aloha Utilities, Inc. in Pasco County.

COMMISSIONER CLARK: We'll take appearances.

MR. DETERDING: Marshall Deterding here on behalf of Aloha Utilities.

MR. MCLEAN: Harold Mclean, 111 West Madison Street, Tallahassee, Florida, 32399 here on behalf of the Citizens of the state of Florida.

MR. JAEGER: Harold, are you also representing Representative Fasano today?

MR. MCLEAN: Yes.

MR. JAEGER: And I'm Ralph Jaeger and with me is Jason Fudge on behalf of Commission Staff.

COMMISSIONER CLARK: Mr. Deterding, will Mr. Jenkins be representing the utility with you in this case?

MR. DETERDING: At hearing it will likely be Mr. Horton.

1 **COMMISSIONER CLARK:** All right. Well, we'll
2 just show your name on the prehearing. Okay.

3 **MR. JAEGER:** Several preliminary matters.
4 First thing is, I'm not sure -- I think the Chairman
5 is letting the Commissioners know, but he's stated
6 that the hearing needs to be moved to the 16th and
7 17th of December, not 13th and 14th as originally
8 scheduled.

9 **COMMISSIONER CLARK:** Okay.

10 **MR. JAEGER:** And I've talked with Sandy
11 Moses today and she got a room, but it's about
12 two-thirds the size of what we had before. We had
13 like a 300 capacity and now it's a little bit over
14 200. If you remember the number of customers that
15 came to the last hearing, we had close to 500
16 customers, I believe, show up on the first day of the
17 hearing. So this may be tight and it's also moved it
18 closer to Christmas, but the Chairman wanted -- he
19 needed the dates on the 13th, 14th and 15th and he
20 said that this will be moved to the 16th and 17th, if
21 at all possible.

22 **COMMISSIONER CLARK:** When are we going to
23 have the customer hearings?

24 **MR. JAEGER:** They were going to do it the
25 morning on Thursday, or -- well, we were going to do

1 it Monday, of course, but now Thursday at 10:00 and
2 also I think at 6:30 in the evening on the first day.

3 **COMMISSIONER CLARK:** Okay. Well, I
4 appreciate you telling me that. I'm not sure I have a
5 choice. I'm not sure any of us have a choice.

6 **MR. JAEGER:** I don't think any of us were
7 given a choice.

8 Other preliminary matters, Commissioner, on
9 November 10th, OPC and Representative Fasano, as
10 intervenors, filed two motions; one was to correct
11 Schrivener's error and one was to strike certain
12 testimony and exhibits of rebuttal testimony filed by
13 the utility.

14 Uniform Rule 28-106.204(1) states that when
15 time allows the other parties may, within seven days
16 of service of a written motion, file a response in
17 opposition. And, of course, Uniform Rule 28-106.103
18 states that five days shall be added for mailing. So
19 the utility's response is not due until a week from
20 today. They have until the 22nd to respond. And so
21 right now, Staff is saying, it would probably not be
22 best to make a ruling on those motions or to force a
23 ruling today, unless the utility is ready to respond.

24 **MR. DETERDING:** I'm not.

25 **MR. MCLEAN:** I might add that I don't -- I

1 am surely not going to insist on oral argument on that
2 particular motion, so as far as the citizens are
3 concerned and as far as Mr. Fasano's concerned, if you
4 want to rule in chambers, it's fine with us.

5 **COMMISSIONER CLARK:** Okay.

6 **MR. JAEGER:** You don't want oral argument?
7 I missed what you said.

8 **MR. MCLEAN:** I didn't quite say that. I
9 said I'm not going to insist on it. If it happens, I
10 will be there.

11 **COMMISSIONER CLARK:** Okay. We'll allow the
12 time to run for the filing of the motion or response
13 and we'll rule then.

14 **MR. JAEGER:** Okay. I sent a draft of the
15 prehearing order to all parties on Friday. We had a
16 pre-pre on the 9th, last Tuesday, and I have just one
17 change that Staff has to make. I don't know if they
18 have any other changes or additions or not.

19 **MR. DETERDING:** Commissioner, can I speak
20 just for a moment to this date -- change of dates?

21 **COMMISSIONER CLARK:** Yes, Mr. Deterding.

22 **MR. DETERDING:** I have previous plans for
23 the 16th and 17th, to be out of town with my family.
24 But if I have to I'll cancel, but I can't speak for
25 any of my other people because I just found out about

1 this 10 minutes ago. So, it's certainly inconvenient,
2 but I'll see if we can -- I'll be there. I will find
3 a way to be there, but I don't know whether my client
4 and our engineer and my --

5 **COMMISSIONER CLARK:** Yes. I think we'll
6 have to see if we can hold the hearing those dates.

7 **MR. MCLEAN:** We, of course, are faced with
8 the same issue. We only have one witness, but I have
9 no idea whether he is available. He normally plans
10 his calendar out a little bit further than a few days
11 like the rest of us do.

12 **COMMISSIONER CLARK:** Like we all do.

13 **MR. MCLEAN:** Yes, ma'am. And I may have to
14 file some sort of objection to having it then. I
15 don't know whether he's available or not. And when
16 you have one witness, you'd sure love to have them
17 there.

18 **COMMISSIONER CLARK:** I think you're right.
19 I think what we need to do is, let's go through the
20 prehearing order. Get that out of the way. And then
21 set a time certain for everybody getting back and
22 letting us know if we can hold the proceedings on
23 those days.

24 **MR. DETERDING:** I think Harold shares my
25 concern, I'm sure the Staff does to; that reducing the

1 size of this hearing room is going to cause an awful
2 lot of heat, most likely to come to you at that
3 hearing, because I suspect 300 was already too small.

4 **MR. MCLEAN:** We do indeed share that concern
5 because some of it might spill over on us.

6 **MR. DETERDING:** Not me.

7 **MR. JAEGER:** What I've been told by
8 Ms. Moses is we need to know in an hour and a half if
9 we are going to want that room on Thursday and Friday
10 because the people are -- and I think we've got a
11 deposit on the room. And if we don't take it on those
12 days we're probably going to lose the deposit anyhow,
13 but they need to know quickly if we're going to
14 reserve the room.

15 **COMMISSIONER CLARK:** When we leave here
16 we'll go up to the Chairman's office and explain to
17 him what some of our problems may be.

18 **MR. DETERDING:** I will make the phone call
19 as soon as I get back and should be able to know
20 something within an hour and a half, but, I mean, I
21 can cancel. I just -- more rate case expense or
22 whatever you want. Nonrefundable tickets.

23 **COMMISSIONER CLARK:** Well, you know, I think
24 that point needs to be made. And we'll see -- well,
25 when we're through here we'll go up and see about the

1 changes. I can make it. Has Commissioner Jacobs
2 indicated he can make it?

3 **MR. JAEGER:** I have not talked to
4 Commissioner Jacobs, and what I was trying to do is,
5 Sandy was scrambling to see if we could even find a
6 place because if she couldn't find a place then it
7 wouldn't be on the 16th and 17th at all. And this
8 happened just before lunch, and so I just have not had
9 a chance to even notify all the parties or all the
10 Commissioners.

11 **COMMISSIONER CLARK:** Is there a preference
12 we just find another date?

13 **MR. DETERDING:** Again, I will cancel rather
14 than find another date that's going to put us back two
15 months. We want to get through this thing.

16 **COMMISSIONER CLARK:** You know, nonrefundable
17 tickets you can get other places and just pay \$75 or
18 whatever.

19 **MR. DETERDING:** I think \$75 and they'll give
20 me a credit towards another ticket. I can cancel
21 that. I don't know about the place I'm staying, but
22 we'll find a way. I'm not -- it's not me. I'm not
23 going to be the hold up because I'll find a way to be
24 there, but I don't know about the other people.

25 **COMMISSIONER CLARK:** Okay. Well, after this

1 prehearing is adjourned I would appreciate it if you
2 go back and contact your witnesses and find out if we
3 can do this on those two dates. And we'll go up to
4 the Chairman's office and indicate we may have
5 problems.

6 **MR. JAEGER:** Okay. I've asked Bob Crouch to
7 call our DEP witnesses and so I don't know if he's
8 gotten -- you haven't gotten ahold of them yet? So we
9 don't know if even the DEP witnesses can be there.

10 **COMMISSIONER CLARK:** All right. Well, let's
11 go back to the prehearing order. You had a change.

12 **MR. JAEGER:** On Page 10, Staff's position on
13 Issue 1, and it's the third -- Line 3 from the bottom
14 of that position it says, "Staff does note that the
15 witnesses for the DEP". And we want to change that
16 "for the DEP", because they are Staff witnesses, but
17 just say, "Staff does note that the DEP witnesses
18 state". It's sort of a slight distinction. Cross out
19 "for the DEP" and just put "DEP witnesses". That's
20 the only change Staff had.

21 **COMMISSIONER CLARK:** Okay. Mr. Deterding,
22 do you have any changes to the prehearing order?

23 **MR. DETERDING:** No, Commissioner.

24 **COMMISSIONER CLARK:** Mr. Mclean?

25 **MR. MCLEAN:** No, ma'am, I don't neither. I

1 want to point out that item -- I'm sorry. Issue 3
2 would probably rise or fall with your ruling on the
3 motion to strike testimony.

4 **COMMISSIONER CLARK:** Right. Okay. All
5 right.

6 **MR. MCLEAN:** Other than that, I have
7 nothing.

8 **COMMISSIONER CLARK:** Okay. Anything else?

9 **MR. JAEGER:** That's all.

10 **COMMISSIONER CLARK:** If you could, head back
11 to your offices and let us know what you find out.
12 And with that, this prehearing is adjourned. Thank
13 you.

14 (Thereupon, the hearing concluded at
15 1:45 p.m.)

16 - - - - -

17

18

19

20

21

22

23

24

25

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, KIMBERLY K. BERENS, CSR, RPR, Official
4 Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 960545-WS was heard by the
7 Prehearing Officer at the time and place herein
8 stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed by me; and that this transcript,
12 consisting of 11 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 16th day of November, 1999.

11

12

13

14

15

16

17

18

19

20

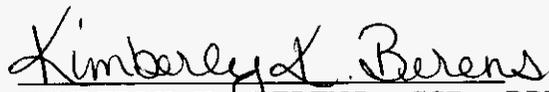
21

22

23

24

25


KIMBERLY K. BERENS, CSR, RPR
Florida Public Service Commission
Official Commission Reporter