

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for approval ) DOCKET NO. 950615-SU  
of Reuse Project Plan and )  
increase in wastewater rates in )  
Pasco County by Aloha Utilities, )  
Inc. )  
\_\_\_\_\_)  
In Re: Investigation of utility ) DOCKET NO. 960545-WS  
rates of Aloha Utilities, Inc. ) ORDER NO. PSC-96-1125-PCO-SU  
in Pasco County. ) ISSUED: September 5, 1996  
\_\_\_\_\_)

Pursuant to Notice, a Prehearing Conference was held on August 29, 1996, in Tallahassee, Florida, before Chairman Susan F. Clark, as Prehearing Officer.

APPEARANCES:

Marshall Deterding, Esquire, Rose, Sundstrom & Bentley,  
2548 Blairstone Pines Drive, Tallahassee, Florida 32301  
On behalf of Aloha Utilities, Inc.

Representative Mike Fasano, 8217 Massachusetts Avenue,  
New Port Richey, Florida 34653  
On behalf of himself.

James Goldberg, Ex-President, Wyndtree Master Community  
Association, 1251 Trafalger Drive, New Port Richey,  
Florida 34655  
On behalf of the Wyndtree Master Community Association

Harold McLean, Esquire, Office of Public Counsel, c/o The  
Florida Legislature, 111 West Madison Street, Suite 812,  
Tallahassee, Florida 32399-1400  
On behalf of the Citizens of Florida.

Ralph R. Jaeger and Bobbie Reyes, Esquires, Florida  
Public Service Commission, 2540 Shumard Oak Boulevard,  
Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

DOCUMENT NUMBER-DATE

09457 SEP-5 96

FPSC-RECORDS/REPORTING

**PREHEARING ORDER**

I. **CASE BACKGROUND**

Aloha Utilities, Inc. (Aloha or utility), is a class A water and wastewater utility located 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 Counties. According to Aloha's 1994 annual report, the utility's total annual water revenues were \$1,585,267, with total expenses of \$1,578,694, resulting in a net operating income of \$6,573. Also, for 1994, the utility's total annual wastewater revenues were \$2,147,817, with total annual expenses of \$2,132,270, resulting in a net operating income of \$15,547. The last rate cases for this utility were in 1976 for the Seven Springs service area and 1992 for the Aloha Gardens service area.

Aloha serves approximately 7,000 water customers and 6,800 wastewater customers in its Seven Springs service area. The utility purchases approximately 80% of its total water supply for resale to its Seven Springs customers. Currently, wastewater is treated by a 1.2 million gallons per day (mgd) extended aeration plant that discharges to a number of percolation/evaporation ponds.

Effluent from Aloha's Seven Springs 1.2 mgd wastewater treatment facility is currently being disposed to ground water by three percolation ponds located adjacent to the plant. The Department of Environmental Protection (DEP) first became concerned about the operational condition of these ponds in 1989. According to the DEP, the pond effluent levels were continuously near the top of the berms. The DEP also believed that the ponds were leaching effluent into adjacent drainage ditches and then to surface waters.

Because the percolation ponds did not appear to be operating properly, the DEP attempted to persuade Aloha to enter into a Consent Order to construct additional effluent disposal capacity. Since Aloha believed that the percolation ponds were functioning properly, they initially refused to enter into a Consent Order with the DEP. In 1993, the DEP filed suit against Aloha alleging that the utility's Seven Springs wastewater treatment plant had effluent discharges into nearby surface waters which, if occurring, were in violation of the plant's operating permit.

On March 25, 1994, the DEP and Aloha entered into a Consent Final Judgment wherein Aloha agreed to add 400,000 gallons per day (gpd) in additional effluent disposal capacity before December 31,

1994 and pay a \$19,500 fine. The Consent Final Judgment also limited the number of new connections to 200 until 400,000 gpd of additional effluent disposal capacity was placed into service.

As a means of complying with the Consent Final Judgment, the utility proposed a project for the disposal of wastewater which would be constructed in three phases over a period of 24 months. The stated goal of the project plan is to ultimately dispose of all effluent from the Seven Springs plant via reuse.

On June 1, 1995, Aloha applied for approval of these three phases in what it designated as a reuse project plan and an increase in rates for wastewater service to its Seven Springs customers purportedly pursuant to Section 367.0817, Florida Statutes. However, because of deficiencies in the application, the official filing date was established as July 13, 1995, the date on which the utility corrected the deficiencies.

Although Aloha filed this plan pursuant to the provisions of Section 367.0817 (entitled "Reuse Projects"), Florida Statutes, the Commission preliminarily determined that, at least in the initial phases, it did not appear to be a reuse plan but just a new plan for disposing of effluent. Therefore, instead of reviewing the plan under the provisions of Section 367.0817, Florida Statutes, the Commission reviewed the filing as if it was made under Section 367.0822 (entitled "Limited proceedings"), Florida Statutes, and issued Proposed Agency Action (PAA) Order No. PSC-95-1605-FOF-SU, which proposed to approve only Phase I of the project.

The PAA Order was issued December 28, 1995, and on January 10, 1996, Representative Mike Fasano timely filed his protest and petition requesting an administrative hearing. Pursuant to this protest, an administrative hearing was scheduled for September 9 and 10, 1996.

On April 30, 1996, Mr. James Goldberg, President of the Wyndtree Master Community Association, filed a petition signed by approximately 262 customers, all within Aloha's Seven Springs service area, requesting that the Commission investigate the utility rates, water quality and other irregularities connected with Aloha Utilities, Inc. The Commission assigned Docket No. 960545-WS to this request.

On May 17, 1996, Aloha filed a Motion to Consolidate Docket No. 960545-WS with Docket No. 950615-SU. By Order No. PSC-96-0791-FOF-WS the Commission consolidated the two dockets for purposes of hearing, but kept both dockets open.

By Order No. PSC-96-0772-PCO-WS, the Commission established the procedures for the consolidated dockets and established the dates by which certain actions had to be completed. However, pursuant to Petitioner's Motion for Additional Time for Filing Testimony and a change in the date for the Prehearing Conference, Order No. PSC-96-0882-PCO-WS revised the dates for the filing of intervenor testimony, staff testimony, and rebuttal testimony. Pursuant to that same order, all other aspects of Order No. PSC-96-0772-PCO-WS were reaffirmed.

On July 18, 1996, the Office of Public Counsel (OPC) filed its "Notice of Intervention", and its prefiled testimony. On July 26, 1996, Aloha filed its motion to strike that testimony. Also, Aloha filed a separate motion to strike a portion of Representative Fasano's testimony. By Order No. PSC-96-1095-PCO-SU, issued on August 27, 1996, the motions to strike and the accompanying requests for oral argument were denied.

Subsequently, a Prehearing Conference was held on August 29, 1996.

## II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

### III. POST-HEARING PROCEDURES

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

### IV. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
David W. Porter, P.E.	Aloha	4-8, 11-12, 16, 19
Stephen G. Watford	Aloha	1-27
Robert C. Nixon, C.P.A.	Aloha	1-3, 6-27
Representative Mike Fasano	Himself	1-3, 5-7, 17, 25-26
Kimberly H. Dismukes	OPC	2, 7-13, 16-23, 26
David MacColeman	Staff	5
Peter Screnock	Staff	5
Jay W. Yingling	Staff	25
Douglas S. Bramlett	Staff	7
Frances Jeanette Lingo	Staff	7, 25-27
<u>Rebuttal</u>		
David W. Porter, P.E.	Aloha	4-8, 11-12, 16, 19
Stephen G. Watford	Aloha	1-27
Robert C. Nixon, C.P.A.	Aloha	1-3, 6-27

VI. BASIC POSITIONS

**UTILITY:** Aloha Utilities, Inc. has filed the Application in this proceeding in accordance with the requirements of Section 367.0817, Florida Statutes, and is entitled to an increase in wastewater rates based upon the increased costs of the proposed reuse system. Aloha has chosen the best alternative available to it for disposal of effluent and those costs should be recognized in wastewater rates.

**FASANO:** Aloha Utilities, Inc., ("Aloha" or "the Company") has failed to demonstrate a necessity for a rate increase. Aloha's water rates are unjustifiably high, since the price they pay for bulk water delivery has decreased.

**OPC:** Aloha Utilities, Inc., ("Aloha" or "the Company") has failed to demonstrate that the costs of the proposed reuse project are prudent. Rather than require that the costs and risks associated with the reuse project be borne by ratepayers, which have no alternative sources of service, the Commission should require that the Company and its stockholders bear the risk that it can find buyers for its reclaimed water. This will provide the Company with an incentive, which does not currently exist, to find willing buyers for its reclaimed water and to take other steps needed to change the regulatory environment to promote the purchase of reclaimed water. In addition, the Company has overstated the rate base amount associated with the reuse project, understated the amount of revenue that will be generated after completion of each phase of the project, and overstated the amount of expenses associated with the project.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions. The information gathered through discovery and prefiled testimony indicates, at this point, that only Phase I of the utility's reuse project should be approved at this time and that this would entitle Aloha to some level of rate increase. The specific level cannot be determined until the evidence presented at hearing is analyzed. Also, the quality of service provided by Aloha for both water and wastewater cannot be determined pending further development of the record.

VII. ISSUES AND POSITIONS

OTHER

**ISSUE 1:** Should the Commission consider the reduction in the cost of bulk water sales to Aloha in this proceeding?

POSITIONS

**UTILITY:** No. There are no material bulk water cost reductions to Aloha and this issue is outside the scope of the agreed upon character of water issues to be raised in this proceeding. (Nixon and Watford)

**FASANO:** Yes. The Commission should not adjust any of Aloha's rates without first recognizing that Aloha now pays less for water which it sells to its customers than it once did. (Fasano)

**OPC:** Agree with Fasano.

**STAFF:** No. The cost of bulk water sales from Pasco County is being considered in Docket No. 960878-WU.

**ISSUE 2:** Should the Commission investigate the rates associated with the Company's provision of water service?

**POSITIONS**

**UTILITY:** No. There is no basis for such an investigation either within or outside this docket. Consideration within this docket is outside the agreed upon consolidated water issues to be heard in this case and is therefore in violation of agreement resulting in the request for consolidation and the order granting consolidation. (Nixon and Watford)

**FASANO:** In agreement with OPC.

**OPC:** Yes. It appears that the water operations of the Company are in an overearnings situation. Since most or all of the customers receive both water and wastewater service from the Company, it would be inappropriate to raise wastewater rates without also examining the reasonableness of the water rates. (Dismukes)

**STAFF:** No position pending further development of the record.

**ISSUE 3:** Is Aloha's wastewater service availability fee adequate?

**POSITIONS**

**UTILITY:** Yes. Based upon the criteria established by Commission rule, the wastewater service availability fee is adequate and not subject to increase currently. (Nixon and Watford)

**FASANO:** No. Aloha's \$350 service availability fee is much lower than surrounding utilities. Had Aloha's service availability fee been adequate in the past, present

customers would not be called upon to pay for future growth. (Fasano)

**OPC:** No position.

**STAFF:** No position pending further development of the record.

**ISSUE 4:** Should Aloha be required to apply for cost share funding for its reuse project from the Southwest Florida Water Management District?

**POSITIONS**

**UTILITY:** Aloha should not be required to apply for cost share funding for its reuse project from the Southwest Florida Management District. Aloha does agree to investigate the availability of any funds from the program mentioned in the testimony of witness Yingling to determine whether or not the Utility is entitled to any such fund under its proposed reuse plan. The Utility agrees to report back to the Commission concerning such availability and to pursue acquisition of such funds to the extent the project and Aloha qualifies under the proposed project. Thereafter, to the extent any funds are received, the Utility agrees that they will be appropriately treated as CIAC to the Utility. However, such agreement does not rise to anything close to a condition precedent to the recognition of the funds actually expended by the Utility for the reuse project. (Watford and Porter)

**FASANO:** No position.

**OPC:** Yes. If the utility has not applied for such funds, then as a condition precedent to the addition of any investment associated with the reuse project to rate base, the utility should now either apply or justify why it has not done so. Any funds so received from the SWFWMD should be treated as CIAC and as an offset to rate base.

**STAFF:** No position pending further development of the record.

QUALITY OF SERVICE

ISSUE 5: Is the quality of service satisfactory?

POSITIONS

UTILITY: Yes. (Watford and Porter)

FASANO: No. The quality is substandard and the pressure is inadequate. (Fasano)

OPC: No. The utility's failure to permit the customers' representative to sample the raw water well(s) is indicative of poor quality of service. The customers' request was tendered in writing on August 16, 1996, and by oral request well before that. Little prejudice or inconvenience would have inured to the utility, had the sampling been permitted. The customers, many of whom the record will show are afraid to drink the water, could have benefited from a disinterested testing of the water. The request was modest; good quality of service demands that a utility honor such an unobtrusive request.

STAFF: No position pending the receipt of customer testimony and further development of the record.

RATE BASE

ISSUE 6: Is reuse the most prudent option for effluent disposal available to the utility at this time?

POSITIONS

UTILITY: Yes. (Porter, Watford and Nixon)

FASANO: No.

OPC: No position pending further development of the record.

STAFF: Yes.

**ISSUE 7: Should the utility's proposed reuse plan be approved?**

**POSITIONS**

**UTILITY:** Yes, all 3 phases are necessary and should be considered in rate setting. (Porter, Nixon and Watford)

**FASANO:** In agreement with OPC.

**OPC:** Unless the Company has paying users for its proposed reclaimed water, construction of Phases II and III of the project do not appear prudent at this time. However, the Commission can minimize the revenue impact of all three phases of the project by imputing revenues associated with future sales of reclaimed water. (Dismukes)

**STAFF:** Only Phase I construction should be approved at this time. (Lingo, Bramlett)

**ISSUE 8: What are the appropriate plant-related costs associated with the provision of reuse that should be recovered in rates?**

**POSITIONS**

**UTILITY:** Those in the original filing, updated for known changes. (Porter, Watford and Nixon)

**FASANO:** No position.

**OPC:** The Commission should remove capitalized interest in the amount of \$95,244 from Phase I of the project, \$109,526 from Phase II of the project, and \$162,336 from Phase III of the project. (Dismukes)

**STAFF:** The appropriate plant-related costs that should be recovered by Aloha at this time for the Phase I portion of the proposed reuse system is \$3,051,429.

**ISSUE 9:** What is the appropriate amount of accumulated depreciation?

**POSITIONS**

**UTILITY:** The amount per the Utility's original filing. Imputation of accumulated depreciation before the facilities are even in service is inappropriate. (Nixon and Watford)

**FASANO:** No position.

**OPC:** The appropriate amount of accumulated depreciation for Phase I is \$76,624, for Phase II it is \$102,410, and for Phase III it is \$262,786. (Dismukes)

**STAFF:** The appropriate amount of accumulated depreciation for Phase I is \$77,097.

**ISSUE 10:** Should the Commission include in the rate base associated with the reuse project CIAC that will be collected during the construction?

**POSITIONS**

**UTILITY:** No. There is no CIAC associated with reuse and imputation of any wastewater CIAC ignores that the reuse project is simply a replacement of effluent disposal capacity for existing customers. (Nixon and Watford)

**FASANO:** No position.

**OPC:** Yes. The net amount of CIAC that should offset rate base is \$146,720 for Phase I, \$200,183 for Phase II, and \$270,607 for Phase III. Since the project is assumed to be 100% used and useful and the Company will add new customers during the construction of the project, it is appropriate to include CIAC in rate base. (Dismukes)

**STAFF:** No position pending further development of the record.

**ISSUE 11:** Should any adjustments be made to the used and useful nature of the percolation ponds, if the Commission determines that all three phases of the project should be included in rate base?

**POSITIONS**

**UTILITY:** No. The ponds are handling and will handle after the implementation of the reuse project, all of the effluent disposal capability that the DEP will permit. Therefore, they are 100% used and useful either as percolation ponds or holding ponds at all times during the implementation of the reuse plan. (Porter, Watford and Nixon)

**FASANO:** No position.

**OPC:** No position pending further development of the record. (Dismukes)

**STAFF:** No.

**ISSUE 12:** What is the amount of the rate base associated with the reuse project?

**UTILITY:** Those in the original filing, updated for known changes. (Porter, Watford and Nixon)

**FASANO:** No position.

**OPC:** The amount of rate base associated with the reuse project for Phase I is \$2,828,084, for Phase II it is \$3,205,793, for Phase III it is \$4,146,743. (Dismukes)

**STAFF:** The appropriate rate base for Phase I of Aloha's reuse plant should be \$2,974,332, for Phase II it is zero, for Phase III it is zero.

**COST OF CAPITAL**

**ISSUE 13:** What is the appropriate amount and cost rate for long-term debt?

**POSITIONS**

**UTILITY:** Those in the original filing, updated for known changes. (Nixon and Watford)

**FASANO:** No position.

**OPC:** No position pending further development of the record.  
(Dismukes)

**STAFF:** The appropriate amount should be \$3,051,429 with a cost  
rate of 10.25%. (prime + 2%)

**ISSUE 14:** Should an equity component be considered in the overall  
cost of capital for the reuse project?

**POSITIONS**

**UTILITY:** Equity should not be considered. (Nixon and Watford)

**FASANO:** No position.

**OPC:** Agrees with staff.

**STAFF:** Yes.

**ISSUE 15:** What is the appropriate overall cost of capital?

**POSITIONS**

**UTILITY:** Those in the original filing, updated for known changes.  
(Nixon and Watford)

**FASANO:** No position.

**OPC:** This is a fall-out issue.

**STAFF:** The final amount is subject to the resolution of other  
issues.

**NET OPERATING INCOME**

**ISSUE 16:** Who should bear the risk that the Company will not find  
buyers for its reclaimed water?

**POSITIONS**

**UTILITY:** The customers of the Utility must bear the risk of new  
reuse customers, both under the provisions of Section  
367.0817, Florida Statutes, and because this system

simply represents a replacement of wastewater disposal capacity which is required by the environmental regulators. Even if the Utility must give away its treated wastewater, the construction of the reuse system through Phase III is still the least cost alternative available to the Utility for meeting these environmental requirements for disposal of existing effluent flows. (Watford, Nixon and Porter)

**FASANO:** No position

**OPC:** The Company and its stockholders should bear this risk. (Dismukes)

**STAFF:** No position pending further development of the record.

**ISSUE 17:** Should the Commission impute reuse water revenue to Aloha?

**POSITIONS**

**UTILITY:** No. Except for revenue to be derived from Morton Plant Hospital and the school as previously provided to the Commission by the Utility, and only because these reuse customers have known quantities of reuse that will be taken immediately upon availability, have on-site reuse systems in place, and are adjacent to Phase III facilities. No reuse revenue should be imputed if any portion of Phase II or III of the Utility's reuse plan are excluded from consideration in rates because no reuse water will be available to any paying customers without inclusion of the cost of these phases. (Nixon and Watford)

**FASANO:** Yes, the Commission should establish a preliminary reuse rate in this proceeding, and it should be imputed to Aloha. In addition, Aloha should do everything it can to develop this market before passing reuse costs along to its customers. In the absence of such a measure, there is no incentive for Aloha to develop the market for reuse water. (Fasano)

**OPC:** Yes. The Commission should impute reuse revenue over the next thirty years, determine the present value of this revenue, levelize the present value, and reduce the requested increase in this proceeding by that amount.

The amount of reuse revenue that should be imputed is \$292,816. (Dismukes)

**STAFF:** No position pending further development of the record.

**ISSUE 18:** Should any adjustments be made to the revenue projected during each Phase of the project?

**POSITIONS**

**UTILITY:** The only revenue that should be considered is that outlined in response to Issue 17 and only to the extent all of Phase II and III costs are included in rate base. (Nixon and Watford)

**FASANO:** No position.

**OPC:** Yes. The Commission should increase the level of revenue to recognize the year-end level of revenue at each phase of the project consistent with the use of a year-end rate base. In addition, the Commission should recognize the increased time frames associated with completion of each phase of the project and increase revenues for growth accordingly. (Dismukes)

**STAFF:** No position pending further development of the record.

**ISSUE 19:** What are the appropriate operation and maintenance expenses associated with the provision of reuse that should be recovered?

**POSITIONS**

**UTILITY:** Those in the original filing, updated for known changes. (Nixon, Watford and Porter)

**FASANO:** No position.

**OPC:** If the Commission adopts the Citizen's recommendation to recognize year-end revenue, variable expenses -- chemicals and purchased power -- should be increased to a year-end level. (Dismukes)

**STAFF:** The operation and maintenance costs of \$114,024 associated with the Phase I portion of the reuse system are the appropriate costs for recovery.

**ISSUE 20:** What is the appropriate amount of regulatory commission expense and the amortization period associated with this filing?

**POSITIONS**

**UTILITY:** Per the filing as updated in rebuttal. (Nixon and Watford)

**FASANO:** No position.

**OPC:** The Commission should remove from the requested expenses, the costs associated with this application. These costs should be added to the cost of the plant, and depreciated over the life of the project. In the alternative, the Commission should amortize these expenses over five years consistent with its rules on nonrecurring costs. (Dismukes)

**STAFF:** The appropriate amount of regulatory commission expense and amortization period is unknown at this time pending receipt and review of proper documentation.

**ISSUE 21:** What is the appropriate amount of property tax expense to be included?

**POSITIONS**

**UTILITY:** Those in the original filing, updated for known changes. (Nixon and Watford)

**FASANO:** No position.

**OPC:** Phase I is \$61,319; Phase II is \$69,508; and Phase III is \$89,910.

**DISMUKES:**

**STAFF:** The appropriate amount of property tax expense is \$62,818 for Phase I.

**ISSUE 22:** What is the appropriate amount of income tax expense to be included in the determination of rates?

**POSITIONS**

**UTILITY:** Zero, because capital structure should be 100% debt. (Nixon and Watford)

**FASANO:** No position.

**OPC:** For consistency with using the overall cost of capital to determine revenue requirements, the Commission should include in the cost of service the associated income taxes. (Dismukes)

**STAFF:** The final amount is subject to the resolution of other issues.

**REVENUE REQUIREMENT**

**ISSUE 23:** Should the Commission allocate the revenue increase associated with the project in proportion to the capacity of each Phase of the project?

**POSITIONS**

**UTILITY:** No. All revenue is associated with existing customers because this reuse plan constitutes a replacement of existing wastewater disposal capacity. The only other revenue that should be considered is that outlined in response to Issue 17 hereof and only to the extent that all of Phases, I, II and III of the project are recognized in rate setting. (Nixon and Watford)

**FASANO:** No position.

**OPC:** Yes. (Dismukes)

**STAFF:** No position pending further development of the record.

**ISSUE 24:** What is the appropriate revenue requirement of the reuse project?

**POSITIONS**

**UTILITY:** The amount contained within the Utility's filing updated for known changes including the cost of this proceeding. (Nixon and Watford)

**FASANO:** No position.

**OPC:** This is a fall-out issue dependent on the resolution of other issues.

**STAFF:** This is a fall-out issue dependent on the resolution of other issues.

**RATES AND CHARGES**

**ISSUE 25:** How should the revenue requirement approved in this docket be allocated among the utility's water, wastewater and reuse customers?

**POSITIONS**

**UTILITY:** The utility is agreeable to a \$.25 per thousand gallon reuse rate being established in this proceeding. However, nothing greater than the County rate of \$.28 per thousand gallons should be approved. Anything higher will result in an inability or a substantially reduced ability of the utility to attract reuse customers in the an expeditious manner as necessary in order for the utility to comply with environmental requirements and applicable court orders. (Nixon and Watford)

**FASANO:** In agreement with OPC.

**OPC:** The Commission ought not to change water rates without a review of the existing earnings level of the water system.

**STAFF:** There are identifiable benefits of reuse to the water customers which should be recognized within the water rates. (Lingo, Yingling)

**ISSUE 26:** Should the Commission determine a reuse rate in this proceeding, and if so, what is the appropriate rate?

**POSITIONS**

**UTILITY:** The Utility is agreeable to a \$.25 per thousand gallon reuse rate being established in this proceeding. However, nothing greater than the County rate of \$.28 per thousand gallons should be approved. Anything higher will result in an inability or a substantially reduced ability of the Utility to attract reuse customers in the an expeditious manner as necessary in order for the Utility to comply with environmental requirements and applicable court orders. (Nixon and Watford)

**FASANO:** Agrees with OPC.

**OPC:** Yes, the Commission should establish a preliminary reuse rate in this proceeding. The rate that should be established is \$.84. (Dismukes)

**STAFF:** The appropriate reuse rate for the Mitchell property is zero. With regard to rates for other potential reuse customers, staff has no position pending further development of the record. (Lingo)

**ISSUE 27:** What is the appropriate rate structure for the water and wastewater systems and what are the appropriate rates?

**POSITIONS**

**UTILITY:** The appropriate rates for wastewater service are those contained in the original application filed by the Utility updated for known changes including the cost of this proceeding. No changes to water rates are appropriate for consideration in this proceeding. No changes in rate structure for either water or wastewater are appropriate as those are outside the scope of the matters which should appropriately be heard in this case. Any proposed change in water rate structure is also outside of the scope of the order of consolidation and the specifically agreed upon issues related to water. (Nixon and Watford)

**FASANO:** No position at this time.

**OPC:** No position.

**STAFF:** The base facility/gallongage charge rate structure should be implemented for the wastewater system. To the extent that reuse revenue is allocated to the water customers, the water rate structure should be changed to the BFC rate structure. The level of the rates will be dependent on the resolution of other issues. (Lingo)

**LEGAL ISSUE**

**ISSUE 28:** Does the application filed by Aloha constitute a proposed reuse project plan as authorized under Section 367.0817, Florida Statutes, and should the increase requested be considered under that statute?

**POSITIONS**

**UTILITY:** The application filed by Aloha constitutes a proposed reuse project plan as authorized by Section 367.0817, Florida Statutes, and the increase requested should be considered under that statute. (Legal)

**FASANO:** No position.

**OPC:** No.

**STAFF:** In Proposed Agency Action Order No. PSC-95-1605-FOF-SU, the Commission preliminarily determined that Phase I did not constitute reuse, and proposed to approve only Phase I of the project under Section 367.0822, Florida Statutes. Pending further development of the record, only Phase I of the project should be approved under Section 367.0822, Florida Statutes (as a limited proceeding).

VIII. **EXHIBIT LIST**

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u> Stephen G. Watford	Aloha	_____ (SGW-1)	Listing of anticipated and possible reuse customers

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Robert C. Nixon	Aloha	_____ (RCN-1)	Special Report - Seven Springs Wastewater Effluent Reuse Project
Robert C. Nixon	Aloha	_____ (RCN-2)	Four letters from the banks denying Aloha's construction financing requests
Robert C. Nixon	Aloha	_____ (RCN-3)	Impact of proposed reuse rate and estimated usage on the rates originally requested for Phase III
Rep. Mike Fasano	Himself	_____ (MF-1)	Water and Sewer Impact Fee Rate Comparison
Rep. Mike Fasano	Himself	_____ (MF-2)	Two page letter; Ed Collins, Pasco County Commission Chairman to Mike Fasano dated July 3, 1996
Rep. Mike Fasano	Himself	_____ (MF-3)	St. Petersburg Time Article "Reclaimed Water System Suffers From Popularity" May 23, 1996
Rep. Mike Fasano	Himself	_____ (MF-4)	Text version of (MF-3)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Kimberly H. Dismukes	OPC	_____ (KHD-1)	10 schedules attached to the prefiled direct testimony of Kimberly H. Dismukes
David MacColeman	Staff	_____ (DWM-1)	Consent Final Judgement dated March 25, 1994, between Aloha and FDEP
Jay W. Yingling	Staff	_____ (JWY-1)	Depiction of major public supply well-fields within the Northern Tampa Bay Water Resources Assessment Project (WRAP) area
Jay W. Yingling	Staff	_____ (JWY-2)	Depiction of water production of major public suppliers in the Northern Tampa Bay WRAP area for the 1994 analysis period
Jay W. Yingling	Staff	_____ (JWY-3)	Depiction of lake rating in the Northern Tampa Bay WRAP area for the 1994 analysis period

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Jay W. Yingling	Staff	_____ (JWY-4)	Depiction of location and relative health of wetlands in the Northern Tampa Bay WRAP area
Jay W. Yingling	Staff	_____ (JWY-5)	1995 Annual Reuse Report of the SWFWMD
Jay W. Yingling	Staff	_____ (JWY-6)	Draft of the "Review of Cooperative Funding Reuse Projects' 25% Offset Requirement," written by Mark A. Hammond of SWFWMD
Douglas S. Bramlett	Staff	_____ (DSB-1)	Pasco County Reclaimed Water Flow by Month from July 1995 through June 1996
Douglas S. Bramlett	Staff	_____ (DSB-2)	Letter dated November 14, 1995, from Bramlett to Watford (Aloha) stating Bramlett's position relative to a reclaimed water interconnect between Aloha and Pasco County

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Douglas S. Bramlett	Staff	_____ (DSB-3)	Map of Pasco County's West Pasco Looped System
Frances J. Lingo	Staff	_____ (FJL-1)	Map indicating the three phases of the reuse project
Frances J. Lingo	Staff	_____ (FJL-2)	Copy of Aloha's current water rate schedules for its Seven Springs service area
Frances J. Lingo	Staff	_____ (FJL-3)	Copy of Aloha's current wastewater rate schedules for the Seven Springs service area

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

IX. PROPOSED STIPULATIONS

1. Aloha and staff agreed that if an equity component is considered, the current leverage formula at the time of the Commission's decision should be used. OPC agreed that this would not be an issue and that they would not put on evidence in regards to the cost of equity.
2. The parties agree that the Commission can take notice of any Commission Order.
3. The Utility agreed that the following documents would not be objectionable on the grounds of authenticity:
  - a. Exhibit B to original application - DEP Permits & Applications.

- b. Reclaimed water agreements with Rexbo Realty and Fox Hollow Golf Course provided by F. Marshall Deterding letter.
- c. Mitchell Agreement provided by F. Marshall Deterding letter of July 13, 1995.
- d. Exhibits C, D, E and J provided by F. Marshall Deterding letter of August 2, 1995.

C - contracts and bids  
D - Engineering drawings and maps  
E - Developer agreements  
J - RS and GS customers for past 5 years  
and wastewater flows at plant

X. PENDING MOTIONS

There are no pending motions at this time.

XI. RULINGS

1. The Prehearing Officer ruled that all responses to staff's interrogatories and requests for production of documents shall be filed by September 4, 1996.
2. That Staff Witness Bramlett would be available to testify beginning at 1:00 p.m. on September 9, 1996, and that his testimony would be taken that afternoon.
3. That Staff Witness Yingling, Screnock, and MacColeman would not be required to be present for testifying until September 10, 1996.

It is therefore,

ORDERED by Chairman Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

ORDER NO. PSC-96-1125-PCO-SU  
DOCKETS NOS. 950615-SU, 960545-WS  
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By ORDER of Chairman Susan F. Clark, as Prehearing Officer,  
this 5th day of September, 1996.

  
\_\_\_\_\_  
SUSAN F. CLARK, Chairman and  
Prehearing Officer

( S E A L )

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.