

ORIGINAL



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May 12, 1999

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RECORDS AND REPORTING

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 960545-WS

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Response to Aloha Utilities, Inc.'s Motion to Establish the Burden for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Harold McLean
Associate Public Counsel

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1
- MAS 3
- OPC _____
- RPR _____
- SEC 1
- VAW 1
- JTH _____

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Enclosures

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DOCUMENT NUMBER-DATE

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EPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re Investigation of Utility)
rates of Aloha Utilities, Inc.)
In Pasco County, Florida.)
_____)

DOCKET NO. 960545-WS

FILED: May 12, 1999

CITIZENS' RESPONSE TO ALOHA
UTILITIES, INC.'S MOTION TO
ESTABLISH THE BURDEN

The Citizens of the State of Florida by and through JACK SHREVE, Public Counsel, respond to Aloha Utilities, Inc's Motion to Establish the Burden and say:

1) The burden, whether it be the burden of going forward, the burden of proof, or the ultimate burden of persuasion, is established by law and not within the discretion of the Commission to establish;

2) For reasons set forth in the Citizens' March 30, 1999 Response to Aloha Utilities, Inc's Motion for Reconsideration of Order No. PSC-99-0514-PCO-WS, the Citizens submit that it is the burden of Aloha to answer the Commission finding that its service is unsatisfactory; or in the alternative, so show why its existing rates -- rates which are supposed to be based upon safe and satisfactory service -- should not be adjusted accordingly;

3) Even if it were within the discretion of the Commission to adjust the locus of the burden whether of proof, of going forward, or of ultimate persuasion, it would be manifestly unjust to do so: the customers of this utility undertook a burden to prove, to the apparent satisfaction of the Commission, that Aloha's service was and is unsatisfactory. To now require the customers to prove why Aloha's service is unsatisfactory and require customers to suggest an appropriate remedy ignores that Aloha is in sole control of the factors which should be utilized to provide satisfactory service and

DOCUMENT NUMBER-DATE

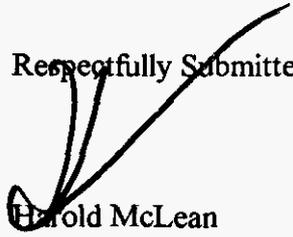
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FPSC-RECORDS/REPORTING

it is only Aloha that can say why that level of service is not provided and only Aloha that can justify rates based upon satisfactory service.

WHEREFORE, the Citizens submit that the burden is established by law, is not a matter of Commission discretion, and in any case, ought to lie -- as Order No. PSC-99-0514-PCO-WS correctly implies -- with Aloha Utilities, Inc.

Respectfully Submitted,



Harold McLean
Associate Public Counsel

111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
(850) 488-9330

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

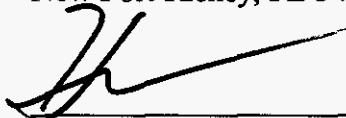
I HEREBY CERTIFY that a true copy of the foregoing CITIZENS' RESPONSE TO ALOHA UTILITIES, INC.'S MOTION TO ESTABLISH THE BURDEN has been served by United States Mail or (*) by hand delivery upon the following parties on this the 12th day of May, 1999:

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