

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by customers of Aloha Utilities, Inc. for deletion of portion of territory in Seven Springs area in Pasco County.	DOCKET NO. 020896-WS
In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.	DOCKET NO. 010503-WU FILED: OCTOBER 14, 2004

MOTION TO COMPEL AND TO SHORTEN TIME

The staff of the Florida Public Service Commission, by and through its undersigned counsel, and pursuant to Rules 28-106.204 and 28-106.211, Florida Administrative Code, moves the Commission (i) for an immediate order requiring Aloha Utilities, Inc. (Aloha or utility) to file its written objections (if any) to the Commission's First Request for Production of Documents to Aloha (Nos. 1-2) and its response to this Motion to Compel, by Tuesday, October 19, 2004, and (ii) following receipt of Aloha's response and objection (if any), to promptly enter an order compelling Aloha to fully respond to the Commission's First Request for Production of Documents to Aloha (Nos. 1-2) no later than Wednesday, November 3, 2004. As grounds therefor, the staff states:

1. On October 5, 2004, the staff served Aloha with the Commission's First Request for Production of Documents (Nos. 1-2), requesting that the documents be produced within thirty days of service, pursuant to Rule 1.350, Florida Rules of Civil Procedure. Document Request No. 1 states as follows:

Please provide, in electronic format, a list of the names and addresses of all of Aloha's water customers in the seven Springs service area.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Document Request No. 2 states as follows:

Please provide, in electronic format, a list of the names and addresses of all of Aloha's wastewater customers in the Seven Springs service area.

2. Because a Commission decision to grant the petitions for deletion of territory at issue in this proceeding will necessarily affect Aloha's remaining customers, staff plans to mail a survey to all of Aloha's 10,000 or more customers in its Seven Springs area in an effort to determine the level of support for the petitions among the entire body of Aloha's Seven Springs ratepayers.

3. Staff's prefiled testimony is due in this case on January 13, 2005. In order for staff to reproduce and mail 10,000 or more copies of the survey in time to include a compilation of the results of the survey in staff's prefiled testimony, staff has determined that it requires the production of the documents referenced in Paragraph 1 on an expedited basis.

4. In order to compile the results of the survey and prefile testimony on the matter, staff requires the receipt of the survey responses by no later than December 1, 2004. In order to give customers a reasonable time in which to answer and return the survey, staff should mail the survey by no later than the first week of November, 2004.

5. Aloha's response to the Commission's First Request for Production of Documents (Nos. 1-2), or an objection thereto, is currently due on November 9, 2004. This deadline does not afford staff enough time to reproduce, address, and mail 10,000 or more surveys in time to give customers a reasonable time in which to answer the survey by December 1, 2004. If Aloha files an objection to the discovery requests on November 9, 2004, more time will pass in order

for the objection to be considered and ruled upon, making it next to impossible for staff to include a compilation of the survey results in its prefiled testimony on January 13, 2005.

6. Staff has informally requested that Aloha provide the responses to the Commission's First Request for Production of Documents (Nos. 1-2), or its objection thereto, on an expedited basis. Aloha has declined to voluntarily comply with this request.

7. The documents requested pursuant to the Commission's First Request for Production of Documents to Aloha (Nos. 1-2) are not privileged, and are relevant to the subject matter of the pending action. The document request is reasonably calculated to lead to the discovery of admissible evidence derived from customer responses to a survey concerning the subject matter of the pending action.

8. The Commission's First Request for Production of Documents to Aloha (Nos. 1-2) is not an overly burdensome request, nor is it unduly burdensome to require Aloha to produce the documents on an expedited basis. Production of the documents will only necessitate the amount of time required for Aloha to electronically copy the names and addresses of its Seven Springs water and wastewater customers onto a diskette. The requested information consists of data which is readily available to Aloha for routine billing and other purposes.

9. Staff has conferred with Aloha and the Office of Public Counsel (OPC) as to whether they have any objection to this motion. Aloha opposes the motion. OPC supports the motion.

WHEREFORE, the staff requests that the Prehearing Officer (i) enter an immediate order requiring Aloha to file its written objections (if any) to the Commission's First Request for

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Production of Documents to Aloha (Nos. 1-2) and its response to this Motion to Compel by Tuesday, October 19, 2004, and (ii) following receipt of Aloha's response and objection (if any), promptly enter an order compelling Aloha to fully respond to the Commission's First Request for Production of Documents to Aloha (Nos. 1-2) no later than Wednesday, November 3, 2004.

Respectfully submitted,



ROSANNE GERVASI, Staff Counsel

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FILED: OCTOBER 14, 2004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one true and correct copy of the Staff's Motion to Compel and to Shorten Time, has been served by hand-delivery to Marshall Deterding and John Wharton, Esquires, Rose, Sundstrom and Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, FL 32301, and that a true and correct copy thereof has been furnished to the following by U. S. Mail this 14<sup>th</sup> day of October, 2004:

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