



Public Service Commission  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

RECEIVED PSC  
OCT - 3 AM 10:07  
COMMISSION  
CLERK

DATE: OCTOBER 3, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (FLETCHER, MERCHANT *RM*  
WILLIS) *RFJ*  
OFFICE OF THE GENERAL COUNSEL (JAEGER) *JDJ*

RE: DOCKET NO. 992015-WU - APPLICATION FOR LIMITED PROCEEDING  
TO RECOVER COSTS OF WATER SYSTEM IMPROVEMENTS IN MARION  
COUNTY BY SUNSHINE UTILITIES OF CENTRAL FLORIDA, INC.  
COUNTY: MARION

AGENDA: 10/15/02 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\992015.RCM

CASE BACKGROUND

Sunshine Utilities of Central Florida, Inc. (Sunshine or utility) is a Class B utility which provides water service to approximately 2,871 water customers in 21 separate small systems around the Ocala area in Marion County. All of these systems are under a uniform rate structure. Wastewater service is provided by septic tanks. The utility's last rate proceeding was in Docket No. 900386-WU, resulting in Order No. 25722, issued February 13, 1992. Order No. PSC-94-0738-FOF-WU, issued June 15, 1994, addressed Sunshine's appellate rate case expense for Docket No. 900386-WU.

On December 21, 1999, Sunshine filed an application for a limited proceeding pursuant to Section 367.0822, Florida Statutes, to increase water rates and charges for all of its customers in Marion County. The rate increase requested was intended to be used

DOCUMENT NUMBER DATE  
10660 OCT-38  
PSC-COMMISSION CLERK

to initiate a water facilities plan in which the utility would interconnect and consolidate five of the 21 separate systems owned by Sunshine. These five systems are known as Lake Weir, Lakeview Hills, Oklawaha, Belleview Oaks, and Hilltop. In conjunction, the utility proposes to construct a centralized water treatment plant, pumping, and storage facility to serve the five systems specified in the utility's comprehensive plan. Sunshine states that it has proposed this plan to resolve contamination problems faced by some customers and by a few non-customers near its service area. Further, the plan is designed to meet growth demands in the area of the interconnection. The utility proposed an increase of 22.72% to all of its customers across the board.

After several meetings with staff in 1999 and 2000, it became apparent to the utility that staff did not support its original proposal since it would provide limited benefits to only five of the utility's 21 systems. It was staff's belief that the improvements did little to improve the quality of water or the service provided to the customers of the five affected systems and provided no benefits whatsoever to the other 16 systems. In its original filing, Sunshine requested that the rate increase be passed on to all of its customers, not only to the customers of the five systems involved. In light of staff's comments, Sunshine asked for and was allowed time to revise its proposal.

On September 8, 2000, Sunshine submitted an Amended Application (First Amended Application) in which it presented two alternatives. Under its first alternative, Sunshine submitted essentially the original proposal as discussed above. The utility still proposed a 22.19% rate increase for all of its customers. Under Alternative No. 2, Sunshine proposed a project of a more limited scope that would address only the contamination problems in Little Lake Weir and Lakeview Hills systems as well as the sulfur concerns in the Oklawaha area and the Hilltop system. This alternative resulted in an overall 18.2% increase to all customers.

For this First Amended Application, staff filed a recommendation on November 16, 2000 for the November 28, 2000 Agenda Conference. However, that recommendation was deferred and never presented to the Commission.

On June 7, 2001, Sunshine filed another amendment (Second Amended Application) to its application. In its Second Amended Application, Sunshine proposed to consolidate the original five

systems and included a facilities plan for all proposed system improvements and a used and useful calculation that showed that not all of the new facilities would be 100% used and useful.

According to the utility, the consolidation is to eliminate the existing contamination problems and will improve the level of service that Sunshine can provide to its water customers. The consolidation is proposed to be funded by a combination of grants and low interest loans. The plan includes a proposed 15.73% rate increase for all of Sunshine's customers.

A customer meeting was held in Ocala on September 13, 2001. Four customers spoke at the meeting and three spoke against this project. Of the four customers, only one was from one of the five systems proposed to be interconnected. The three other customers had specific service complaints including iron, sporadic pressure, and excessive chlorine which the utility subsequently addressed with written responses to these customers. The customer that resides in one of the five systems did not have a specific service complaint but stated that he did not agree with this project.

Staff filed a revised recommendation dated October 25, 2001, in which it recommended that this limited proceeding application, along with all rate case expense, be denied, and that the docket be closed. At the November 6, 2001, Agenda Conference, the Commission determined that it needed additional information before taking any action on this limited proceeding. As a result, the Commission deferred a decision on the recommendation, and directed its staff to further investigate the utility's application and to file another recommendation to allow consideration of other options for allocation of costs, alternative funding, the need for possible certificate amendments, and rate case expense. Accordingly, Order No. PSC-01-2312-PCO-WU, was issued November 26, 2001.

In an attempt to find other sources of funding for this project, staff met with the Marion County Solid Waste Department personnel, the utility, and a representative of the Office of Public Counsel (OPC) in regards to the contamination problems in the area and possible county funding of the project. As a result of these meetings, the Marion County Solid Waste Department proposed that an additional thirty eight lots with contaminated wells be served by extending the proposed water system. The utility would have to amend its certificate before serving these customers. As discussed among staff, the utility, and Marion

DOCKET NO. 992015-WU  
DATE: October 3, 2002

County, this extension is proposed to be funded by a combination of Department of Environmental Protection (DEP) grants and funds from Marion County. Discussions as to whether Marion County will participate in funding a portion of the main project are on-going.

At the April 23, 2002, Agenda Conference, the Commission using the Proposed Agency Action (PAA) procedure, voted to approve with modifications, Sunshine's limited proceeding application, and issued PAA Order No. PSC-02-0656-PAA-WU (PAA Order) on May 14, 2002, accordingly. However, before that Order could become final, both Sunshine and OPC protested the PAA Order. The prehearing and hearing were scheduled for September 23, 2002 and October 9-10, 2002, respectively.

On September 19, 2002, OPC and Sunshine submitted a Joint Motion Seeking Commission Approval of Settlement Agreement and Continuation of Hearing (with Settlement Agreement attached). Consequently, the prehearing conference and hearing dates were cancelled pending the Commission's consideration of the Joint Motion and Settlement Agreement.

This recommendation addresses the parties' Joint Motion and Settlement Agreement. The Commission has jurisdiction pursuant to Sections 367.081 and 367.0822, Florida Statutes.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission approve the settlement agreement between the utility and OPC?

**RECOMMENDATION:** Yes, all terms of the settlement are reasonable and should be approved. The utility should advise staff of the date the project will be complete. Prior to the implementation of any rate increase, the utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates pursuant to Rule 25-22.0407(10), Florida Administrative Code. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice and upon staff's verification that the tariff sheets are consistent with the Commission decision. The utility should provide proof of the date notice was given within 10 days after the date of the notice. When the limited proceeding rate increase has been in effect for four years, the rates should be reduced to reflect the removal of revenues associated with the amortization of rate case expense. Immediately following the expiration of the four-year recovery period, the utility should be required to file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction not later than one month prior to the actual date of the required rate reduction. (FLETCHER, JAEGER)

**STAFF ANALYSIS:** The Settlement Agreement proffered jointly by the utility and OPC contains thirteen items (See Attachment). The Settlement Agreement is basically self-explanatory. Staff will primarily address the appropriate rates and subsequent rate reduction set forth in Provisions 3 and 5. In addition to the agreement on rates and rate reduction, the parties agree that: 1) the original PAA Order No. PSC-02-0656-PAA-WU should be considered null and void; 2) rate case expense incurred subsequent to the PAA Order in the amount of \$20,000 shall be recognized for surveillance purposes only and should be amortized over four years from the date of the Commission's final order approving the settlement agreement; 3) Sunshine shall not file for a rate increase, except for price indexes and pass-throughs for a period of one year from the date of the order approving the settlement agreement; and 4) OPC will not petition the Commission to initiate an overearnings investigation of Sunshine for a period of one year from the date of the order approving the settlement agreement.

Provision 3 of the settlement agreement calls for a 6.11% rate increase over the existing September 2002 service rates. This increase is the exact rate increase approved by the Commission in its PAA Order No. PSC-02-0656-PAA-WU. Provision 3 also states that the rate increase should not go into effect until the utility's project is completed and operational. Further, Provision 3 calls for a corresponding, automatic rate reduction if the DEP grant and the cash contribution from Marion County exceed the amount required to construct the facilities (estimated to be \$195,222) to connect 38 customers on private wells.

The utility should advise staff when the project will be complete, and the utility should be required to file revised tariff sheets and a proposed customer notice to reflect the appropriate rates pursuant to Rule 25-22.0407(10), Florida Administrative Code. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice and upon staff's verification that the tariff sheets are consistent with the Commission decision. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

Provision 5 states that the rates will be reduced for the removal of revenues associated with the amortization of \$74,929 in rate case expense. This amount is the exact amount approved by the Commission in its PAA Order No. PSC-02-0656-PAA-WU. When the limited proceeding rate increase has been in effect for four years, the rates should be reduced to reflect the removal of revenues associated with the amortization of rate case expense. Immediately following the expiration of the four-year recovery period, the utility should be required to file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction not later than one month prior to the actual date of the required rate reduction.

Based on our review, staff believes that all terms of the settlement are reasonable and recommend that the settlement be approved. Further, Schedule 1 reflects the utility's current rates, the staff recommended and proposed settlement rates, and the four-year rate reduction amounts.

DOCKET NO. 992015-WU  
DATE: October 3, 2002

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. This docket should be closed administratively upon staff's verification that the utility's revised tariff sheets are consistent with the Commission's decision and the appropriate customer notice has been made. (FLETCHER, JAEGER)

**STAFF ANALYSIS:** This docket should be closed administratively upon staff's verification that the utility's revised tariff sheets are consistent with the Commission's decision and the appropriate customer notice has been made.

SUNSHINE UTILITIES, INC. WATER MONTHLY SERVICE RATES SIMPLE AVERAGE TEST YEAR ENDED 12/31/01		SCHEDULE 1 DOCKET NO. 992015-WU	
	Present Rates	Staff Recommended/ Proposed Settlement Rates	Four-Year Rate Reduction(1)
<b>Residential and General Service</b>			
Base Facility Charge:			
Meter Size:			
5/8" x 3/4"	\$7.90	\$8.38	\$0.20
1"	\$19.74	\$20.95	\$0.49
1-1/4"	\$29.60	\$31.41	\$0.74
1-1/2"	\$39.48	\$41.89	\$0.98
2"	\$63.16	\$67.02	\$1.57
3"	\$126.52	\$134.25	\$3.14
4"	\$197.37	\$209.42	\$4.91
6"	\$394.75	\$418.86	\$9.81
Gallonage Charge, per 1,000 Gallons	\$1.93	\$2.05	\$0.05
<b>Typical Residential Bills</b>			
5/8" x 3/4" Meter Size			
3,000 Gallons	\$13.69	\$14.53	
5,000 Gallons	\$17.55	\$18.62	
10,000 Gallons	\$27.20	\$28.86	
<b>Note:</b> (1) This column reflects the rate reduction to be removed from the rates in effect at the conclusion of the four-year amortization of rate case expense.			



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Application for Limited )  
Proceeding to Recover Costs of Water ) Docket No. 992015-WU  
System Improvements In Marion County )  
By Sunshine Utilities of Central Florida, )  
Inc. )  
\_\_\_\_\_ )

**SETTLEMENT AGREEMENT**

This Settlement Agreement is made and entered into this 17<sup>th</sup> day of September, 2002, by and between Citizens of the State of Florida ("Citizens"), and Sunshine Utilities of Central Florida, Inc. ("Utility" or "Sunshine"), through their undersigned counsel.

**WITNESSETH**

WHEREAS, the Florida Public Service Commission ("FPSC" or "Commission") issued Proposed Agency Action Order No. PSC-02-0656-PAA-WU ("PAA Order") in this docket on May 14, 2002, and

WHEREAS, on June 4, 2002, Citizens and Utility both filed timely protests to the PAA Order, and

WHEREAS, Citizens and Utility desire to resolve their disputes in this docket.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, Citizens and Utility agree as follows:

1. Citizens and the Utility agree that as a result of the protests filed by the Utility and Citizens to the PAA Order, the PAA Order is null and void in its entirety and without precedential effect.

2. As part of Phase I of the Utility's Water Facilities Plan, the Utility proposes to consolidate 5 of its 21 systems (the Lake Weir, Lakeview Hills, Oklawaha, Belleview Oaks, and Hilltop systems) to eliminate water contamination and to improve water quality (the "Project"). Sunshine intends to completely finance the Project using a combination of grants and low-interest loans from the FDEP Drinking Water State Revolving Fund ("DWSRF") Program. Sunshine shall not proceed to construct the project until it receives FDEP approval for complete financing of the Project which financing structure shall not materially deviate from

*SCP*  
*from*

the financing structure referenced in the PAA Order (\$632,570 of grants and \$1,475,314 in low-interest loans).

3. Without requiring a Commission ruling upon any of the issues presented in this docket, Sunshine shall be entitled to an increase of 6.11% over existing September 2002 service rates, which is the same level of rate increase authorized by the PAA Order, with such rate increase to go into effect only after the Project has been completed and is operational. The 6.11% rate increase over existing rates assumes that as part of the Project: (1) Sunshine shall connect and serve approximately 38 customers on private wells currently outside of the Utility's service territory, that are experiencing problems with contamination in their water supply; (2) the connection of the 38 customers is estimated to cost \$195,222; (3) Sunshine shall not construct the facilities to connect the 38 customers until complete funding is provided by a grant from FDEP and a cash contribution from Marion County; (4) Sunshine shall exercise its best efforts to persuade Marion County to provide cash funding of \$175,000 (amount previously recommended by Marion County staff) to connect the 38 customers; (5) to the extent funding from the FDEP grant and the cash contribution from Marion County exceeds the amount required to construct the facilities to connect the 38 customers, such funding shall be deemed additional CIAC, and Sunshine shall make a corresponding automatic reduction in the 6.11% increase over existing rates.

4. Upon Commission approval of this Settlement Agreement, Sunshine shall immediately begin to amortize, over four years, \$20,000 of post protest rate case expense associated with this docket (\$5,000 per year). The amortization of the \$20,000 of rate case expense is for surveillance purposes only, and except for earnings surveillance shall never be included in any calculation to determine Sunshine's revenue requirement or otherwise be collected from ratepayers.

5. Included in the rate increase of 6.11% is recovery of \$74,929 of pre-protest rate case expense, which shall be amortized for recovery over a four year period (\$18,732 per year) beginning with the implementation of the 6.11% rate increase over existing September 2002 service rates. Upon completion of this amortization, rates will be reduced to reflect the removal of revenues associated with the amortization of this rate case expense.

6. Sunshine shall not file for a rate increase (except for annual indexing and/or pass throughs) nor shall the Citizens petition the Commission to initiate an overearnings investigation of Sunshine for a period of one year from the date of the order approving this Settlement Agreement.

7. This Settlement Agreement is contingent upon the Commission accepting and approving the entire Settlement Agreement without modification. Upon entry by the Commission of a final order approving this Settlement

SCP  
JBM

Agreement, the Utility and the Citizens voluntarily waive their right to further proceedings under Chapter 120 and 367, Florida Statutes, and the right to appeal under such final order.

8. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission order not subject to further proceedings or judicial review, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

9. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total.

10. Pending Commission approval of this Settlement Agreement, Citizens and Utility agree to suspend all discovery immediately upon the date of execution of this Settlement Agreement until such time as the Commission enters a final order addressing this Settlement Agreement.

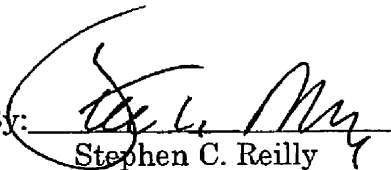
11. Citizens and Utility further agree that within one business day of the execution of this Settlement Agreement, they will jointly move the Commission to continue the hearing currently set for October 9 and 10, 2002, and for approval of this Settlement Agreement.

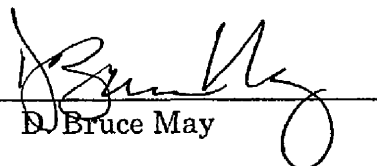
12. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures.

13. The undersigned personally represent that they have authority to execute this Settlement Agreement on behalf of their respective clients.

CITIZENS OF THE STATE  
OF FLORIDA, OFFICE OF  
PUBLIC COUNSEL

SUNSHINE UTILITIES OF  
CENTRAL FLORIDA, INC.

By:   
Stephen C. Reilly

By:   
D. Bruce May