

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause	)	DOCKET NO. 890950-W
proceedings against Sunshine Utilities	)	ORDER NO. 22159
for failure to comply with Florida	)	ISSUED: 11-7-89
Statutes and Commission Rules regarding	)	
extension of facilities.	)	
	)	

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, CHAIRMAN  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER IMPOSING FINE

BY THE COMMISSION:

Background

Sunshine Utilities, Inc. (Sunshine or utility) is a Class "B" water utility company serving approximately seven hundred (700) customers in Marion County.

In December, 1988, Sunshine and another Marion County utility company, Tradewinds Utilities, Inc., became involved in a dispute over the right to provide water service to a portion of Marion County, with each utility filing an objection to the other's notice of intent to file an application to amend their respective water certificates. Dockets Nos. 881568-WS, 881606-WU, and 890440-WS were established to process the various objections and counter-objections by the utilities, and the matter was scheduled for an administrative hearing.

During this process, we became aware that Sunshine Utilities, Inc. had apparently installed water lines in at least three (3) unnoticed and uncertificated residential

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subdivisions in Marion County, to wit: Pearl Britain Estates, Pearl Britain in the Pines, and Boulder Hill, in violation of Section 367.061(3), Florida Statutes, and Rule 25-30.030, Florida Administrative Code. Accordingly, on August 8, 1989, through Order No. 21698, we directed Sunshine to show cause in writing by the close of business on August 28, 1989, why it should not be fined for the utility's unauthorized installation of water lines discussed above. The utility filed a belated response to our show cause Order on September 8, 1989, some eleven (11) days after the deadline established in said order.

Consideration of Sunshine's Belated  
Response to Show Cause Order

Our above-identified show cause Order clearly informed the utility that unless a written response was received from the utility prior to the close of business on August 28, 1989, all allegations contained in the show cause Order would be deemed admitted, and the utility would be subject to a fine. Subsequent to the deadline, counsels for Sunshine requested that we consider the utility's late-filed response due to the fact that the Commission's Case Assignment and Scheduling Record (CASR) indicated that their response was not due until September 11, 1989, therefore, the utility's September 8, 1989 response should be accepted as timely filed and considered by us in the disposition of this matter. The utility further argued that we should take into consideration the fact that its attorney at the time was unfamiliar with our procedures.

The CASR does, in fact, reflect the response due date of September 11, 1989. However, the CASR is used for the limited purpose of tentatively scheduling events related to the docket, and is not intended to act as an official calendar for parties before the Commission. Language on the face of the CASR itself warns that, "This schedule is tentative and subject to revision".

In regard to Sunshine's argument relating to its attorney's unfamiliarity with our procedures, we find such argument to be unpersuasive and not a valid excuse for the utility's failure to obey our Order.

Conclusion

Upon due consideration of the above, we will not accept or consider Sunshine Utilities, Inc.'s untimely response to our

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August 8, 1989 show cause Order discussed herein. We find that the utility should be fined for its admitted violations of our rules and state statute. If the Commission is to adequately regulate privately-owned utilities, it is imperative that the Commission be aware of each utility's service territory. The failure of a utility to comply with the proper notice required by law prior to installing water lines in a particular area leads to uncertainty which can lead to the uneconomic duplication of services, confusion of potential customers, and extensive time, effort and money expended by the utilities and the Commission in determining the appropriate utility entitled to serve a particular area.

Accordingly, we find that a penalty of \$1,000.00 per occurrence, or a total of \$2,000.00, is appropriate in this instance. The utility shall pay such fine within thirty (30) days of the date of this Order.

It is, therefore,

ORDERED by the Florida Public Service Commission that Sunshine Utilities, Inc. is hereby fined Two Thousand Dollars (\$2,000.00) for its violations of Section 367.061(3), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, as discussed in the body of this Order. It is further

ORDERED that Sunshine Utilities, Inc. shall pay the Two Thousand Dollars (\$2,000.00) fine imposed herein within thirty (30) days of the date of this Order. It is further

ORDERED that this docket shall remain open until the fine imposed herein has been paid, and upon such payment, the docket shall be administratively closed.

By ORDER of the Florida Public Service Commission  
 this 7th day of NOVEMBER, 1989.

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 STEVE TRIBBLE, Director  
 Division of Records and Reporting

( S E A L )

JRF

by: Kay Flynn  
 Chief, Bureau of Records

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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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.