

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 930724-SU  
amendment of Certificate No. ) ORDER NO. PSC-94-1537-S-SU  
247-S and for a limited ) ISSUED: December 12, 1994  
proceeding to impose current )  
wastewater rates, charges, )  
classifications, rules and )  
regulations, and service )  
availability policies for Lazy )  
Days Mobile Village by NORTH )  
FORT MYERS UTILITY, INC., and )  
for cancellation of Certificate )  
No. 174-S issued to SUN-UP )  
SOUTH, INC. in Lee County )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER APPROVING STIPULATION,  
GRANTING AMENDMENT OF CERTIFICATE NO. 247-S  
BY NORTH FORT MYERS UTILITY, INC., CANCELING  
CERTIFICATE NO. 174-S ISSUED TO SUN-UP SOUTH, INC.  
AND IMPLEMENTING NORTH FT. MYERS' RATES AND CHARGES FOR  
ADDITIONAL TERRITORY AND HOLDING SERVICE AVAILABILITY  
CHARGES OPEN FOR HEARING

BY THE COMMISSION:

BACKGROUND

North Ft. Myers Utility, Inc. (NFMU or utility) is a Class B utility which provides regional wastewater service to approximately 2,700 customers in northern Lee County. The utility's 1992 annual report indicates an annual operating revenue of \$687,000 and a net operating deficit of \$204,000. Sun-Up South, Inc. is a Class C utility also in Lee County with an annual operating revenue of \$46,065 and deficit of \$15,311.

On July 21, 1993, NFMU filed an application for amendment of its Wastewater Certificate No. 247-S to include service to the Lazy Days Village subdivision (Lazy Days) and an application for a limited proceeding to implement its rates and charges to customers within those subdivisions. Sun-Up's certificate will be cancelled if the amendment is approved.

DOCUMENT NUMBER-DATE

12430 DEC 12 94

FPSC-RECORDS/REPORTING

A customer meeting was held in the service territory on November 15, 1993, for the purpose of hearing the customers' comments concerning the interconnection. Approximately 350 customers attended the meeting. The customers were primarily concerned with the \$740 service availability charge and the increased rates. They also expressed their dissatisfaction with Sun-Up's owner with respect to the lack of notice of the pending sale and the fact that the owner is not attempting to repair the plant. The customers also addressed the necessity of the sale and the owner's obligation to continue providing service under the mobile home park's deed restrictions.

On June 13, 1994, we issued Order No. PSC-94-0726-FOF-SU, a proposed agency action order which granted the amendment of NFMU's certificate, cancelled Sun-up's certificate, and approved the limited proceeding to apply NFMU's rates and charges to the customers of Sun-up. The order provided for temporary rates and charges in the event of protest.

On July 5, 1994, Harold McCort, President of the Lazy Days Property Association (Association), filed a protest to Order No. PSC-94-0726-FOF-SU, on behalf of the Association. On October 24, 1994, the Office of Public Counsel (OPC) filed a notice of intervention in this docket. We acknowledged OPC's intervention by Order No. PSC-94-1343-PCO-SU, issued October 31, 1994.

This matter is set for hearing on January 4, 1995, in Ft. Myers, Florida. On October 27, 1994, the parties filed a Stipulation for our review and approval.

#### APPROVAL OF THE STIPULATION

The Stipulation is an agreement among all of the parties of record: the utility, the association, OPC, and Sun-Up. The parties have agreed to the following pertinent matters:

1. The protestors will withdraw their protests to the Order as it relates to granting NFMU an amendment of its certificate, cancelling Sun-Up's certificate, imposing NFMU's rates on Sun-Up's current customers, imposing NFMU's charges (with the exception of the service availability charges) on Sun-Up's current customers.
2. NFMU will not collect any service availability charges from customers of Sun-Up until the Commission makes a final determination of the proper amount of service availability charge.

3. The parties stipulate that the only remaining issues to be resolved by the Commission are:
  - A. The appropriate amount of service availability charges to be paid to NFMU by the customers formerly served by Sun-up.
  - B. Whether the Commission should establish a new "senior citizen mobile home owners" class of customers for service availability charges.
4. The parties agree that the terms of this stipulation are inadmissible in any judicial proceeding.

Upon consideration, we find it appropriate to approve the stipulation submitted by the parties as set forth in this Order. In essence, the parties have agreed that the protestors have limited their protests to the amount of the service availability charge, and whether the Commission should establish a new "senior citizen mobile home owners" class of customer. Order No. PSC-94-0726-FOF-WS permitted NFMU to collect rates and charges from customers of Sun-up on a temporary basis in the event of a protest, subject to refund. However, the protestors have now stipulated that a refund of the rates will not be necessary as the parties have agreed that the rates have not been protested. A refund of the utility's service availability charges will not be necessary as the parties agree that the service availability charges will not be collected until after a final order resolving the protest is issued. Although NFMU was authorized by Order No. PSC-93-0726-FOF-WS to collect rates and charges on a temporary basis subject to refund, we find it appropriate to approve the parties' stipulation to delay payment of service availability charges pending the resolution of the customers' protest regarding the appropriate service availability charge.

As previously stated, we find it appropriate to approve the stipulation as described in this Order and hereby adopt and make final and effective, the undisputed portions of Order No. PSC-94-0726-FOF-WS. By our approval of this stipulation, we approve NFMU's application for amendment of its certificate and its request for a limited proceeding to implement its currently approved rates and charges for the customers of Sun-up, except, of course, the service availability charge.

This docket shall remain open in order to conduct a formal hearing on the remaining protest at issue in Order No. PSC-94-0726-FOF-WS, as set forth in the stipulation.