

In re: Application for limited proceeding to recover costs of water system improvements in Marion County by Sunshine Utilities of Central Florida, Inc.

DOCKET NO. 992015-WU  
ORDER NO. PSC-02-1457-AS-WU  
ISSUED: October 22, 2002

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY

ORDER APPROVING SETTLEMENT AGREEMENT

BY THE COMMISSION:

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 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. The utility proposes to construct a centralized water treatment plant, pumping, and

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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 our staff in 1999 and 2000, it became apparent to the utility that our staff did not support its original proposal since it would provide limited benefits to only five of the utility's 21 systems. It was our 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 our 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, and 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 a proposed 18.2% increase to all customers.

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

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 which 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 included 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.

Our 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, we determined that we needed additional information before taking any action on this limited proceeding. As a result, we deferred a decision on the recommendation, and directed our 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, we issued Order No. PSC-01-2312-PCO-WU on November 26, 2001.

In an attempt to find other sources of funding for this project, our 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 38 lots with contaminated wells be served by extending the proposed water system. The utility would have to amend its certificate before serving these customers. This extension was 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, using the Proposed Agency Action (PAA) procedure, we approved, 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 our consideration of the Joint Motion and Settlement Agreement.

This Order addresses the parties' Joint Motion and Settlement Agreement. We have jurisdiction pursuant to Sections 367.081 and 367.0822, Florida Statutes.

#### SETTLEMENT AGREEMENT

The Settlement Agreement, attached to and made a part of this Order, proffered jointly by the utility and OPC contains thirteen items, and is basically self-explanatory. The parties agree on the appropriate rates and subsequent rate reduction as 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 our 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 this 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 we approved in 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 (cost is estimated to be \$195,222) to connect 38 customers on private wells.

The utility shall advise our staff when the project will be complete, and the utility shall 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 shall 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 our staff's verification that the tariff sheets are consistent with our decision. The utility shall 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 us in PAA Order No. PSC-02-0656-PAA-WU. When the limited proceeding rate increase has been in effect for four years, the rates shall be reduced to reflect the removal of revenues associated with the amortization of rate case expense. Not later than one month prior to the actual date of the required rate reduction for the expiration of the four-year recovery period, Sunshine shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction.

Based on our review, all terms of the settlement are reasonable, and the Settlement Agreement is approved in its entirety. Further, Schedule 1 reflects the utility's current rates, the approved settlement rates, and the four-year rate reduction amounts.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that all terms of the settlement are reasonable and the Settlement Agreement is approved in its entirety. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the Settlement Agreement and Schedule 1 which are attached hereto are incorporated herein by reference. It is further

ORDERED that Sunshine Utilities of Central Florida, Inc., shall advise our staff of the date the project will be complete. It is further

ORDERED that prior to the implementation of any rate increase, Sunshine Utilities of Central Florida, Inc., shall 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 shall 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 our staff's verification that the tariff sheets are consistent with our decision. It is further

ORDERED that Sunshine Utilities of Central Florida, Inc., shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that upon the limited proceeding rate increase, as approved in this Order, having been in effect for four years, rates shall be reduced to reflect the removal of revenues associated with the amortization of rate case expense. It is further

ORDERED that not later than one month prior to the actual date of the required rate reduction for the expiration of the four-year recovery period, Sunshine Utilities of Central Florida, Inc., shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction. It is further

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ORDERED that this docket shall be closed administratively upon our staff's verification that the utility's revised tariff sheets are consistent with our decision and the appropriate customer notice has been made.

By ORDER of the Florida Public Service Commission this 22nd day of October, 2002.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

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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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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.



SUNSHINE UTILITIES, INC. WATER MONTHLY SERVICE RATES SIMPLE AVERAGE TEST YEAR ENDED 12/31/01		SCHEDULE 1 DOCKET NO. 992015-WU	
	Present Rates	Approved 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
Galorage 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.	)	
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**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

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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

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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.

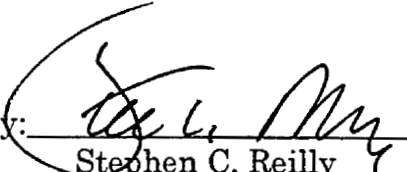
10. Pending Commission approval of this Settlement Agreement, Citizens and Utility agree to suspend all discovery immediately upon the date of execution of this Settlement Agreement until such time as the Commission enters a final order addressing this Settlement Agreement.

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.

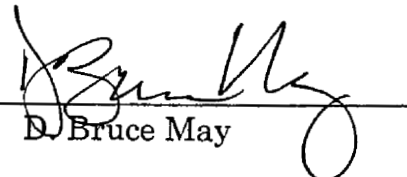
12. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures.

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

By:   
Stephen C. Reilly

SUNSHINE UTILITIES OF  
CENTRAL FLORIDA, INC.

By:   
D. Bruce May