

BEFORE THE PUBLIC SERVICE COMMISSION

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-05-0427-FOF-WU
ISSUED: April 20, 2005

The following Commissioners participated in the disposition of this matter:

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

ORDER CLOSING DOCKET

BY THE COMMISSION:

Sunshine Utilities of Central Florida, Inc. (Sunshine or utility) is a Class B utility that has been providing service in Marion County for more than 25 years, owning and operating more than 20 separate small water systems. With annual operating revenues of \$906,648, and a net income of \$52,806, the utility currently serves approximately 3,500 water customers. Wastewater service is provided by septic tanks.

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 requested rate increase 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 Lake Weir, Lakeview Hills, Oklawaha, Belleview Oaks, and Hilltop. The utility proposed to construct a centralized water treatment plant, pumping, and storage facility to serve the five systems specified in the utility's comprehensive plan. Sunshine proposed this project to resolve contamination problems faced by some customers and by a few non-customers near its service area. Further, the project was designed to meet growth demands in the area of the interconnection. The utility initially proposed an increase of 22.72% to all of its customers across the board. We have jurisdiction over this application pursuant to Section 367.0822, Florida Statutes.

After several meetings with our staff in 1999 and 2000, it became apparent to the utility that our staff had serious concerns about the original proposal because it would provide limited benefits to only five of the utility's 21 systems. In light of these concerns, Sunshine submitted an Amended Application (First Amended Application) on September 8, 2000, in which it presented two alternatives. Under its first alternative, Sunshine submitted essentially the original proposal, which included a request for 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

DOCUMENT NUMBER-DATE

03833 APR 20 05

FPC-05-0427-FOF-WU

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 requested overall 18.2% increase to all customers.

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 was to eliminate the existing contamination problems and would improve the level of service that Sunshine could provide to its water customers. The consolidation was 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.

At the customer meeting held in Ocala on September 13, 2001, only four customers spoke about the utility's service, and three of those spoke against this project. The only customer who spoke that resided in one of the five systems stated that he did not agree with this project.

At the November 6, 2001, Agenda Conference, we determined that additional information was required before we could take action on this limited proceeding. As a result, we deferred a decision on our staff's October 25, 2001, 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.

In regards to the contamination problems and 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). 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. This extension was to be funded by a combination of Department of Environmental Protection (DEP) grants and funds from Marion County. Discussions as to whether Marion County would participate in funding a portion of the main project were on-going as of April 2002.

By Proposed Agency Action Order No. PSC-02-0656-PAA-WU (PAA Order), issued May 14, 2002, we proposed to approve, with modifications, Sunshine's limited proceeding application. On June 4, 2002, both Sunshine and OPC timely protested the PAA Order.

On September 19, 2002, OPC and Sunshine submitted a Joint Motion Seeking Commission Approval of Settlement Agreement and Continuation of Hearing. In the Settlement Agreement between Sunshine and OPC, the parties agreed that:

- (1) Sunshine would not proceed to construct the project until it received the Florida Department of Environmental Protection (FDEP) approval for complete financing of the project which financing structure would not materially deviate from the financing structure referenced in the PAA Order;
- (2) Sunshine would be entitled to an increase of 6.11% over its existing September 2002 service rates only after the project was complete and operational (this increase was the same increase as proposed in the original PAA Order);
- (3) There were certain assumptions about what would be a part of the project and that if funding exceeded the costs of constructing the project, then such extra funding would be considered contributions in aid of construction;
- (4) Post-protest rate case expense of \$20,000 would immediately begin to be amortized over four years and would be for surveillance purposes only;
- (5) Pre-protest rate case expense of \$74,929 would be included in the 6.11% rate increase and would be amortized over four years beginning with implementation of the rate increase, and rates would be reduced accordingly at the end of four years to reflect amortization of the rate case expense; and

We approved the Settlement Agreement in its entirety and issued Order No. PSC-02-1457-AS-WU (Order Approving Settlement Agreement) on October 22, 2002. No interim rates were set, and no funds were held subject to refund. However, we did keep the docket open.

Pursuant to a request by our staff for a written status report on the project, Sunshine filed a written response dated September 27, 2004. In that response, Sunshine advised our staff that it was not going to proceed with the project because the approved increase would not be sufficient to allow the utility to construct and maintain the proposed regional plant and allow any cash reserve for emergencies.

In reviewing Sunshine's September 27, 2004 letter, we note that Sunshine alleges that we "prohibited the development of the Regional Water Plant." We find that this statement is not true, and note that we merely approved in its entirety the Settlement Agreement that was entered into by the utility and OPC. Regardless of this fact, in light of the utility's decision not to proceed and there being no further actions to take, this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of April, 2005.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

RRJ

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.

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.