

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of rates) DOCKET NO. 881030-WU
of SUNSHINE UTILITIES in Marion) ORDER NO. PSC-94-1305-FOF-WU
County for possible) ISSUED: October 24, 1994
overearnings.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER DISPOSING OF UNCLAIMED REFUNDS

BY THE COMMISSION:

Background

By Order No. 22969, issued May 23, 1990, this Commission found that for the test year ending December 31, 1987, Sunshine Utilities of Central Florida, Inc., (Sunshine or utility) had overearned. Because of the staleness of the test year data, we did not reduce Sunshine's rates, but we ordered it to refund with interest 7.68 percent of its revenues for service rendered from August 30, 1988, through September 18, 1989, and 9.79 percent of its revenues for service rendered from September 19, 1989, to December 31, 1989, to customers of record as of December 31, 1989.

After we denied Sunshine's motion for reconsideration of Order No. 22969, Sunshine appealed the Order to the First District Court of Appeal (DCA). By Order No. 23898, issued December 19, 1990, this Commission stayed the required refund pending resolution of the appeal. The DCA upheld our decision in Sunshine Utilities v. Florida Public Service Commission, 577 So.2d 663 (Fla. 1st DCA 1991), and issued its mandate on May 29, 1991. The Florida Supreme Court denied Sunshine's request for review on October 2, 1991. Sunshine Utilities v. Florida Public Service Commission, 589 So.2d 293 (Fla. 1991). By Order No. 25394, issued November 25, 1991, we lifted the stay of the refund and required Sunshine to complete the refund. On December 9, 1991, Sunshine filed a Motion for Reconsideration of the Order Lifting Stay. By Order No. 25644, issued January 27, 1992, we denied Sunshine's motion. On February

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26, 1992, Sunshine filed a Notice of Appeal of Order No. 25644. Sunshine moved the DCA to impose a stay of the subject refund, but by an Order entered April 2, 1992, the DCA denied a stay.

On July 16, 1992, Sunshine filed with the Commission a Petition for Emergency Relief From Refund Requirement or For Emergency Rate Relief. Order No. PSC-92-0957-FOF-WU, issued September 9, 1992, denied Sunshine's petition for relief from refund and allowed an extended refund period to an eighteen-month period beginning August 30, 1992. On August 12, 1994, we received Sunshine's final refund report. This Order addresses the disposition of any unclaimed refunds.

Disposition of Unclaimed Refunds

Rule 25-30.360, Florida Administrative Code, was revised subsequent to the filing of this rate case. At the time the rate application was filed, Section 8 of the rule stated that with the last report, the company shall suggest a method for disposing of any unclaimed amounts. Section 8 of the rule was revised to state that any unclaimed refunds shall be treated as cash contributions-in-aid-of-construction (CIAC).

Sunshine completed the required refunds in May, 1994. The computer printouts indicated that the checks returned to the utility totaled \$2,484.63. The outstanding checks, which have not been cashed nor returned to the utility total \$715.03.

We have reviewed the utility's final report and believe it conforms with the requirements of our rules as revised. Therefore, Sunshine shall dispose of the unclaimed refunds by crediting its CIAC accounts with the amount of unclaimed refunds. Further, Sunshine shall honor any remaining refund claim submitted to the utility within twelve months following the date of issuance of this Order. Each refund made within the twelve month period would be accompanied by an appropriate reduction to the CIAC account. The additional twelve month period in which to honor any additional refund claims is a reasonable length of time to extend possible claims. Further, the obligation to maintain the letter of credit securing the refunds shall be terminated. Since no further action is necessary, this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Sunshine Utilities shall dispose of its unclaimed refunds by crediting its contributions-in-aid-of-construction accounts with the amount of unclaimed refunds. It is further

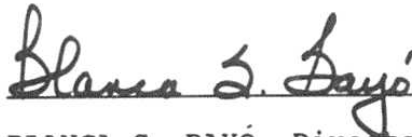
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ORDERED that Sunshine Utilities shall honor any remaining refund claims submitted to it within twelve months following the date of issuance of this Order. Each refund made within that twelve month period shall be accompanied by an appropriate reduction to the contributions-in-aid-of-construction account. It is further

ORDERED that the obligation to maintain the letter of credit shall be terminated. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 24th day of October, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.