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June 4, 2002

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VIA HAND DELIVERY

Blanca S. Bayo  
Division of Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

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COMMISSION CLERK

Re: 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

Dear Ms. Bayo:

Enclosed for filing on behalf of Sunshine Utilities of Central Florida, Inc. ("Sunshine") are the original and seven (7) copies of Sunshine's Petition for Expedited Limited Formal Proceeding. Also enclosed is a diskette containing this filing in Wordperfect format.

For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter. Thank you for your consideration.

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DBM:kjg  
Enclosure

Sincerely,

HOLLAND & KNIGHT LLP

*D. Bruce May*  
D. Bruce May

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*R. Blackman*  
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Blanca Bayo  
June 4, 2002  
Page 2

cc: Ralph Jaeger  
Office of Public Counsel  
James Hodges  
Pamela Christmas

TAL1 #252026 v1

**BEFORE THE FLORIDA 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.

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Docket No. 992015-WU

Filed: June 4, 2002

**SUNSHINE UTILITIES OF CENTRAL FLORIDA, INC.'S  
PETITION FOR EXPEDITED LIMITED FORMAL PROCEEDING**

Sunshine Utilities of Central Florida, Inc. ("Sunshine") by and through undersigned counsel and pursuant to Section 120.80(13)(b), Florida Statutes, and Rules 25-22.029 and 28-106.201, Florida Administrative Code, files this Petition for Expedited Limited Formal Proceeding ("Petition") disputing the following portions of the Florida Public Service Commission's May 14, 2002 Notice of Proposed Agency Action Order Approving In Part and Denying in Part a Limited Proceeding for Increased Water Rates, Order No. PSC-02-0656-PAA-WU (the "PAA Order"):

- (i) The proposed reduction in the annual salary of Sunshine's President from its present level of \$91,731 to \$45,233. [PAA Order, p. 17].
- (ii) The proposed disallowance of \$27,239 in legal fees incurred by Sunshine in participating in the proceeding that resulted in the issuance of the PAA Order. [PAA Order, pp. 18-20].
- (iii) The impact of the proposed salary reduction and the proposed disallowance of legal fees identified in subparagraphs (i) and (ii) above on the proposed revenue requirement and monthly rates for Sunshine.

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FPSC-COMMISSION CLERK

Sunshine does not dispute any other issues relating to the PAA Order. In accordance with Section 120.80(13)(b), Florida Statutes, all non-disputed issues are deemed stipulated and any formal proceeding arising out of this Petition must be limited to the issues in dispute. In support of its Petition, Sunshine states:

**Parties**

1. Petitioner, Sunshine, is a Florida corporation and a Class B utility that provides water service to approximately 2,871 customers by way of 21 separate systems in Marion County, Florida. Sunshine is the applicant in this proceeding and a party to this docket. Sunshine's principal place of business is 10230 S.E. Highway 25, Belleview, Florida 34420-5531.

2. The Commission is the agency affected by this Petition. The Commission's address is 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

**Factual Background**

3. On December 21, 1999, Sunshine filed an Application for Limited Proceeding to Recover Costs of Water System Improvements in Marion County. In its filing, Sunshine requested that the Commission approve an increase in Sunshine's rates to initiate a water facilities improvement plan in which Sunshine would interconnect and consolidate five of its 21 systems. The proposed water system improvements would address water contamination and other service quality issues. Funding for the proposed water system improvements would be provided

through grants and low-interest loans from the Florida Department of Environmental Protection ("DEP").

4. On September 8, 2000, Sunshine filed an Amended Application for Limited Proceeding (the "First Amended Application") which presented two alternatives, including a water system improvement project of more limited scope. The First Amended Application was filed to address issues and concerns raised by Commission staff in meetings held regarding the initial application for limited proceeding.

5. On June 7, 2001, Sunshine filed a Second Amended Application for Limited Proceeding (the "Second Amended Application") which included a facilities plan for all proposed system improvements and incorporated a used-and-useful calculation. The Second Amended Application was filed to address issues and concerns raised by Commission staff in meetings held regarding the First Amended Application.

6. On May 14, 2002, the Commission issued its PAA Order granting, in part, the rate relief requested by Sunshine in its Second Amended Application. The approved rate increase is based on certain adjustments, including several downward adjustments to Sunshine's operation and maintenance expenses.

7. One such adjustment is a proposed reduction in the salary of Sunshine's President. Sunshine's President currently receives an annual salary of \$91,731. The PAA Order, however, proposes to decrease the President's salary by

\$46,498, resulting in an annual salary of \$45,233. [PAA Order, p. 17].<sup>1</sup> Sunshine disputes the proposed reduction in the President's salary.

8. The PAA Order also contains a proposed reduction in the legal fees incurred by the utility as part of its rate case expense. The utility's revised actual and estimated legal fees incurred in connection with its limited proceeding total \$45,692. [PAA Order, pp. 19-20]. The PAA Order, however, proposes that \$27,239 of the legal fees be disallowed as rate case expense. [PAA Order, pp. 19-20]. Sunshine disputes this proposed reduction in the utility's rate case expense.

9. The proposed revenue requirement and monthly rates established in the PAA Order are based on the proposed reduction in the President's salary as described in paragraph 7 above, and the proposed disallowance of \$27,239 in legal fees as described in paragraph 8 above. Thus, Sunshine also disputes the impact of the proposed reduction in the President's salary and rate case expense on the approved revenue requirement and monthly rates.

#### **Disputed Issues of Material Fact and Ultimate Facts Alleged**

10. The issues of material fact disputed by Sunshine and ultimate facts alleged are:

(a) What is the appropriate salary for Sunshine's President? The current salary of \$91,731 is appropriate. Using Commission-approved price index adjustment factors, the President's current annual salary of \$91,731 is entirely consistent with the President's salary established by the Florida First District

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<sup>1</sup> The PAA Order reflects that "Commissioners Baez and Bradley dissented concerning the reduction of the President's salary." [PAA Order, p. 26].

Court of Appeal in the utility's last rate case. See Sunshine Utilities v. Florida Public Service Commission, 624 So. 2d 306 (Fla. 1<sup>st</sup> DCA 1993).

(b) What is the appropriate amount of legal fees and other expenses that Sunshine should be allowed to be recovered as a rate case expense? Sunshine should be allowed to recover no less than \$45,692 in legal fees incurred through the issuance of the PAA Order, plus all other legal fees and rate case expense reasonably incurred through the entry of a final, non-appealable order in this proceeding.

(c) What is the appropriate revenue requirement and monthly rates for Sunshine? The appropriate values for the revenue requirement and the monthly rates will simply fall-out as the two previously identified disputed issues are resolved and are integrated into the other portions of the PAA Order which have not been protested.

### **Notice of Proposed Agency Action**

11. Sunshine received notice of the Commission's proposed agency action when undersigned counsel received a copy of the PAA Order from the Commission on or about May 14, 2002.

### **Substantial Interests Affected**

12. Sunshine's substantial interests are affected by the PAA Order because that order proposes to establish rates for its water utility system in Marion County. Sunshine submits that because of the Commission's proposed reduction in the salary of Sunshine's President and in the legal fees recoverable as rate case

expense, the rates proposed in the PAA Order are insufficient to provide the utility with an opportunity to earn a fair rate of return on its investment in property used and useful in the public service.

**Statutes and Rules That Entitle Sunshine To Relief**

13. Sunshine is entitled to relief pursuant to Chapters 120 and 367, Florida Statutes; Chapters 25-22 and 25-30, Florida Administrative Code; and the established decisional law of the Commission and of Florida courts.

**Request for Expedited Formal Proceeding**

14. Sunshine respectfully requests that the Commission conduct the formal proceeding addressing this Petition on an expedited basis. When Sunshine filed its initial application for limited proceeding in December of 1999, Sunshine requested expedited consideration because the proposed DEP funding for the water system improvements was conditioned upon the Commission granting Sunshine a rate increase. That was two and a half years ago. Because Sunshine does not dispute the rate relief approved by the Commission, except to the extent that the monthly rates are impacted by the proposed reduction in the President's salary and recoverable rate case expense, DEP should be in a position to move forward with the funding for the project. Nonetheless, from the perspective of the utility, the continuing viability of the overall project depends on complete and expedited resolution of the limited issues disputed herein.

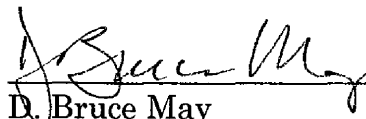
WHEREFORE, Sunshine requests that the Commission conduct a limited formal proceeding pursuant to Chapter 120, Florida Statutes, on an expedited basis,



addressing only the portions of the PAA Order which are disputed by Sunshine as reflected in this Petition and, based on the record of such proceeding:

- (a) set rates which reflect a salary for the utility's President of \$91,731;
- (b) set rates which allow the utility to recover no less than \$45,692 in legal fees incurred through the issuance of the PAA Order, plus all other legal fees and rate case expense reasonably incurred through the entry of a final, non-appealable order in this proceeding; and
- (c) grant such further relief as the Commission deems appropriate.

Respectfully submitted,

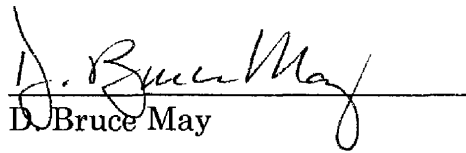


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**Attorneys for Sunshine Utilities  
of Central Florida, Inc.**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to Ralph Jaeger, Florida Public Service Commission, Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399 and Office of Public Counsel, 111 West Madison Street, Suite 812, Tallahassee, Florida 32399-6588 this 4th day of June, 2002.

  
D. Bruce May

TAL1 #251912 v3