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PUBLIC COUNSEL

STATE OF FLORIDA  
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature  
111 West Madison St.  
Room 812  
Tallahassee, Florida 32399-1400  
850-488-9330

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02 JUN -4 PM 4:30  
COMMISSION  
CLERK

June 4, 2002

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

RE: Docket No 992015-WU

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Petition on Proposed Agency Action for filing in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing the Petition on Proposed Agency Action in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Stephen C. Reilly  
Associate Public Counsel

SCR/dsb

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05851 JUN -4 02  
FPSC-COMMISSION CLERK

**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

**PETITION ON PROPOSED AGENCY ACTION**

The Citizens of the State of Florida (“Citizens”) by and through their undersigned attorney, pursuant to Section 120.57, Florida Statutes, and Rules 25-22.029 and 28-106.201, Florida Administrative Code, file this objection to the Florida Public Service Commission’s (“Commission”) Order No. PSC-02-0656-PAA-WU, issued May 14, 2002, and state:

1. The name and address of the agency affected and the agency’s file number:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Docket No.: 992015-WU

2. The Citizens include customers of Sunshine Utilities of Central Florida, Inc. (“Sunshine”, “Utility” or “Company”) whose substantial interests will be affected by the Order because the Order provides that the Utility will increase the rates charged to its customers to help fund the interconnection of five of Sunshine’s existing water systems (Little Lake Weir, Lakeview Hills, Belleview Oaks, Hilltop and Oklawaha), which interconnection will include the retirement of the five individual treatment plants and the construction of a new treatment plant to serve the interconnected five systems.

DOCUMENT NUMBER - DATE

05851 JUN-4 02

FPSC-COMMISSION CLERK

3. Pursuant to Section 350.0611, Florida Statutes, the Citizens' who file this petition are represented by the Office of Public Counsel ("Citizens," "Petitioner" or "OPC") whose address is: Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400.

4. The Citizens received a copy of the Order by inter-office courier on May 15, 2002.

5. The Citizens' disputed issues of material fact, and the respective ultimate facts alleged are set forth below.

(a) The Commission should not approve the Utility's proposal to interconnect five separate water supply and treatment systems. The project is not prudent or justified.

(b) This interconnection of the five existing systems and the construction of the separate water treatment plant to singularly serve this new water main system is estimated to cost \$2,015,339. The Utility claims this project will address contamination in the water supply, meet peak water demand and fire flow requirements and promote water conservation.

(i) The Lakeview Hills water treatment plant is located across from a Marion County landfill. The Florida Department of Environmental Protection ("DEP") has found the presence of dichloroethylene in one well serving the Lakeview Hills system. The level detected was considered satisfactory, but was very close to the maximum contaminant level ("MCL") as prescribed by DEP rules. At present there are no corrective orders mandating that the Utility correct this contamination problem. While the DEP does require quarterly volatile organic chemical (VOC) tests to monitor the contaminate levels, the county has stepped in and committed to install and maintain a filter at the Lakeview Hills water treatment plant, to correct the potential

contamination problem. This filter is being provided to the Utility without charge and with no time limit on the use of the filter. Marion County has committed to maintain the filter for as long as needed and has recently replaced filtration media within the filter. The contamination problem in the Lakeview Hills system has been resolved without funding the project proposed by the Utility.

(ii) The detection of another contaminant, ethylene dibromide, has been found in the private wells of residents located along S.E. 138th Place road, which is not in Sunshine's territory. If the proposed water system is constructed, Sunshine will be able to provide water service to the lots served by these wells. However, Sunshine has no legal or regulatory responsibility to provide such water service, and would have to add these lots to its territory.

(iii) In the general vicinity of the Marion County Landfill there are thirty-eight lots which have wells contaminated by various compounds. Marion County has requested that these lots be served by an extension of the proposed water system and discussions between the Utility and Marion County concerning funding of these extensions by Marion County are on-going. If the proposed water system is constructed, Sunshine will be able to provide water service to these thirty-eight lots. However, Sunshine has no responsibility to provide such water service, and would have to add these lots to its territory.

(c) OPC believes that Sunshine's customers are not responsible for the contamination in the area and should not be required to pay for facilities to eliminate the contamination, which is not even in Sunshine's current service territory. To the extent any contamination does exist

within Sunshine's territory, such contamination has been resolved without the need to build the proposed facilities.

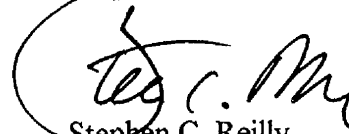
(d) OPC does not believe the plan as currently approved in the Commission's Order No. PSC-02-0656-PAA-WU provides a benefit for Sunshine's existing customers in the five systems to be interconnected. Also, the plan does not provide any benefit to the other sixteen Sunshine Water systems. Therefore OPC believes the proposed plan is not prudent or justified and should be abandoned and the rate increase proposed by Order No. PSC-02-0656-PAA-WU should be completely denied.

(e) OPC believes that the Utility's decision to file for rate relief was imprudent because without the proposed pro forma costs associated with the proposed new construction the Utility would not be entitled to a rate increase. As such, the customers should not have to bear this cost. Section 367.081(7), Florida Statutes, states that the Commission "shall disallow all rate case expense determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a customer." Moreover, the Commission has broad discretion with respect to the allowance of rate case expense. Meadowbrook Utility Systems, Inc. v. FPSC, 518 So. 2d 326 (Fla. 1st DCA 1988). The Commission has previously disallowed rate case expense in a limited proceeding in which the requested rate increase was denied. See Order No. PSC-98-1583-FOF-WS, issued November 25, 2998, in Docket No. 971663-WS; and Order No. PSC-99-1917-PAA-WS, issued September 28, 1999, in Docket Nos. 970536-WS and 980245-WS. Therefore, the utility should not be granted any rate case expense associated with this docket.

- (f) Since the proposed interconnection project should be totally rejected, there should be no pro forma additions to rate base.
  - (g) Since the proposed interconnection project should be totally rejected, there should be no pro forma expenses approved for Sunshine.
  - (h) For the reasons stated above there should be no increase in the revenue requirement or service rates for Sunshine.
6. Chapter 367.081, Florida Statutes, is a specific statute the Petitioner contends requires reversal of the agency's proposed action.
7. The Petitioner seeks the Commission to take the following actions with respect to the agency's proposed action:
- (a) The Commission should deny the Company's request to construct the interconnection of the five systems and the new water treatment facility to supply the water for the interconnected distribution system.
  - (b) The Commission should not grant Sunshine any rate increase or any rate case expense associated with this docket.

WHEREFORE, the Citizens hereby protest and object to Commission Order No. PSC-02-0656-PAA-WU, as provided above, and petitions the Commission to conduct a formal evidentiary hearing, under the provisions of Section 120.57(1), Florida Statutes, and further petitions that such hearing be scheduled at a convenient time within or as close as practical to the Utility's certificated service area.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen C. Reilly", is written over a circular stamp or seal that is partially obscured.

Stephen C. Reilly  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

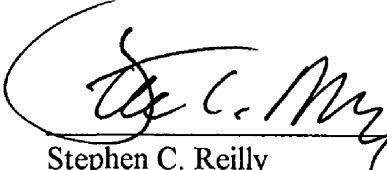
Attorney for the Citizens  
of the State of Florida

**CERTIFICATE OF SERVICE  
DOCKET NO. 992015-WU**

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition on Proposed Agency Action has been furnished by U.S. Mail or \*hand-delivery to the following parties this 4th day of June, 2002.

Ralph Jaeger, Esquire\*  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, FL 32399-0850

D. Bruce May, Esquire  
Holland & Knight, LLP  
315 South Calhoun Street  
Suite 600  
Tallahassee, FL 32301

A handwritten signature in black ink, appearing to read "S. C. Reilly", is written over a horizontal line. The signature is stylized and cursive.

Stephen C. Reilly  
Associate Public Counsel