

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, by Sunshine Water Services Company.

DOCKET NO.: 20240068-WS

FILED: January 15, 2025

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel (OPC), pursuant to Florida Public Service Commission (Commission) Order Establishing Procedure PSC-2024-0259-PCO-WS issued July 23, 2024, and modified by Order No. PSC-2024-0437-PC-WS, issued October 2, 2024, hereby submit this Prehearing Statement.

APPEARANCES:

Walt Trierweiler
Public Counsel

Charles Rehwinkel
Deputy Public Counsel

Octavio Ponce
Associate Public Counsel

Austin A. Watrous
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Suite 812
Tallahassee, Florida 32399-1400
Attorneys for the Citizens of the State of Florida

1. WITNESSES:

Witness	Subject	Issue Numbers
Ralph Smith	Rate Base, Cost of Capital, NOI, and Revenue Requirement	3-5, 13, 16-24, 26-33, 37, 39, and Contested Issue C

2. EXHIBITS:

Witness	Proffered By	Exhibit No.	Description
Ralph Smith	OPC	RCS-1	Qualifications of Ralph Smith
Ralph Smith	OPC	RCS-2	Revenue Requirement and Adjustment Schedules for 2023 Test Year

3. STATEMENT OF BASIC POSITION:

In this case, Sunshine Water Services Company (“Sunshine”) seeks to continue a trend that it started since it was granted consolidation in 2017: to prioritize growing its rate base while shirking its responsibilities to its customers by failing to address the crumbling infrastructure of its wastewater systems and by failing to improve water quality and customer service. At the outset of its own case, the company described the almost \$40 million in improvements needed by its diminished Mid-County and Lake Groves systems. Since then, the Company has opted to drop these higher-priority projects while instead opting to retain its low-priority \$20 million AMI Meter Installation Project, a project that is unnecessary and fails to address much-needed improvements to provide safe and reliable service. Meanwhile, as described in testimony from its customers and continuing from findings in its last rate case, Sunshine continues to provide substandard quality of service while encountering compliance issues with the Florida Department of Environmental Protection.

The burden of proof in a Commission proceeding is always on a utility seeking a rate change and any other parties seeking to change established rates. *Fla. Power Corp. v. Cresse*, 413 So.2d 1187, 1191 (Fla. 1982). Sunshine has the burden to prove that every aspect of their requested rate increase is appropriate. Accordingly, the Commission may only approve the parts of Sunshine’s rate request which are just, reasonable, compensatory, and not unfairly discriminatory.

The Commission has a chance in this case to remind Sunshine that it was granted a monopoly not to grow its rate base, but to provide safe and reliable service to its customers. Sunshine’s request grossly overstates the revenue requirement needed to provide safe and reliable service and therefore should be rejected. OPC expert Ralph Smith has demonstrated that any increase should be limited to no more than \$1,351,181 for water and \$3,283,467 for wastewater. While any increase in an environment in which electric and gas base rates and hurricane cost surcharges are making utility services increasingly unaffordable for many customers, the Commission should

limit any award to the maximum amount shown in Mr. Smith's testimony to keep from the company from growing rate base at its customers' expense.

As mentioned above, Sunshine is attempting to accomplish the unthinkable by requesting water and wastewater rate increases that are simultaneously bloated and deficient. The proposed rates are excessive if for no reason other than the proposed inclusion of a massive AMI meter installation project that is completely unrelated to the Utility's mission to provide safe and reliable service. Other asks are simply piling on and a significant portion of the request is further unsubstantiated by evidence or law. At the same time, the increases are deficient in that they fail to address the issues experienced by the Utility's Mid-County system, issues such as disgusting smelling water and peak flow events during wet weather conditions.

The Utility's desire to grow its rate base while ignoring its significant quality of service issues and needed replacements to critical system infrastructure sets Sunshine's customers up to potentially experience additional rate shock when Sunshine inevitably returns to the Commission hat in hand to address these pressing problems as soon as the ink is dry on this rate case order. The Commission must keep these issues in mind when evaluating Sunshine's application along with the Utility's continued service issues detailed below.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS:

QUALITY OF SERVICE/ INFRASTRUCTURE AND OPERATING CONDITIONS

ISSUE 1: Is the overall quality of service provided by the Utility satisfactory, and, if not, what systems have quality of service issues and what action should be taken by the Commission?

OPC Position: No. At a minimum, the systems at Sanlando (Wekiva Hunt Club) and Mid-County have quality of service issues. The Commission should find these systems have marginal or unsatisfactory quality of service. As the Commission already deemed these systems unsatisfactory in the company's last rate case,¹ the Commission should reduce the leverage graph-determined return on equity for the Utility by 25 basis points which equates to total Company-revenue requirement impact of \$300,000.

¹ Order no. PSC-2021-0206-FOF-WS page 20.

ISSUE 2: Are the infrastructure and operating conditions of the Utility’s water and wastewater systems in compliance with Florida Department of Environmental Protection regulations?

OPC Position: Sunshine has entered into at least two consent orders with the Florida Department of Environmental Protection post-2023 test year and has had other issues with the agency prior to then. While Sunshine may be in technical compliance with these latest orders, its trend of encounters with the Florida Department of Environmental Protection continued from its last rate case is indicative of compliance problems.

RATE BASE

ISSUE 3: Should any adjustments be made to test year plant-in service balances?

OPC Position: Yes. The Commission should remove approximately \$20 million in utility plant-in service by rejecting the Utility’s proposed AMI Meter Installation Project. This will also necessitate an approximately \$500,000 adjustment to increase rate base to account for reversing meter retirements.

ISSUE 4: Should any adjustments be made to the Utility's pro forma plant additions?

OPC Position: Yes. For the reasons stated in OPC Witness Smith’s testimony, the Commission should reject the Utility’s proposed AMI Meter Installation Project. Any related operating expenses should not be included.

ISSUE 5: What are the appropriate plant retirements to be made in this docket?

OPC Position: This issue is effectively a fallout of AMI Meter Installation Project issue. Retirements should be adjusted to reflect the reversal of the assumed test year retirements of existing meters upon the rejection of the proposed uninstalled AMI meters.

ISSUE 6: Do any water systems have excessive unaccounted for water and, if so, what adjustments are necessary, if any?

OPC Position: Yes. The following systems have excessive unaccounted for water: Labrador (3.3%), Lake Placid (9.3%), Orangewood (8.7%), Summertree (4.5%), Golden Hills (.9%), Little Wekiva (1.4%), Bear Lake (5.3%), and Four Lakes (11.2%). Adjustments to chemical, purchase power, and/or purchase water accounts may be necessary.

ISSUE 7: Do any wastewater systems have excessive infiltration and/or inflow and, if so, what adjustments are necessary, if any?

OPC Position: Yes. The Ravenna Park system has excessive infiltration and/or inflow of 41.27%. Adjustments to chemical, purchase power, and/or purchase wastewater accounts may be necessary.

ISSUE 8: What are the appropriate used and useful percentages for the water treatment and related facilities of each water system?

OPC Position: 100% for each applicable system.

ISSUE 9: What are the appropriate used and useful percentages for the water storage and related facilities of each water system?

OPC Position: 100% for each applicable system.

ISSUE 10: What are the appropriate used and useful percentages for the water distribution and related facilities of each water system?

OPC Position: 100% for each applicable system.

ISSUE 11: What are the appropriate used and useful percentages for the wastewater treatment and related facilities of each wastewater system?

OPC Position: 74.78% for the Golden Hills/Crownwood system, 42.24% for the Sandalhaven system, and otherwise 100% for each remaining applicable system.

ISSUE 12: What are the appropriate used and useful percentages for the collection lines and related facilities of each wastewater system?

OPC Position: 100% for each applicable system.

ISSUE 13: Should any adjustments be made to test year accumulated depreciation?

OPC Position: Yes. Depreciation on test year plant should be at the 13-month average test year amounts, not on year-end annualized amounts. Otherwise, a mismatch is created. OPC's adjustment decreases water utility depreciation expense by at least \$187,796 and decreases wastewater utility depreciation expense by at least \$330,459 for the impact of test year annualization. Also, adjustments should be made for incorrect net salvage percentage-driven depreciation rates in violation of Rule 25-30.140, F.A.C. This issue also contains fallout from other issues.

ISSUE 14: Should any adjustments be made to test year CIAC balances?

OPC Position: Yes, pending the resolution of Audit Finding 4.

ISSUE 15: Should any adjustments be made to test year accumulated amortization of CIAC?

OPC Position: Should the Commission authorize the Utility’s annualized depreciation for test year plant additions, then adjustments are necessary for accumulated amortization of CIAC for CIAC received during the test year.

ISSUE 16: What is the appropriate working capital allowance?

OPC Position: The appropriate working capital allowing for water is no more than \$1,808,256 and no more than \$2,545,757 for wastewater as shown on Exhibit RCS-2, Schedule B. Pending further review of rebuttal testimony and the resolution of other issues, the proposed working capital allowances water and wastewater are subject to change.

ISSUE 17: What is the appropriate rate base for the December 31, 2023 test year?

OPC Position: The appropriate rate base for the December 31, 2023 test year for water is \$64,423,284, as shown in Exhibit RCS-2, Schedule B, Page 1 of 2. The appropriate rate base for the December 31, 2023 test year for wastewater is \$101,954,536, as shown on Exhibit RCS-2, Schedule B, Page 2 of 2. Pending further review of rebuttal testimony and the resolution of other issues, the proposed rate bases for water and wastewater are subject to change.

COST OF CAPITAL

ISSUE 18: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

OPC Position: Rule 25-30.433(4), F.A.C., states, in pertinent part, “[u]sed and useful debit deferred taxes shall be offset against used and useful credit deferred taxes in the capital structure. Any resulting net debit deferred taxes shall be included as a separate line item in the rate base calculation. Any resulting net credit deferred taxes shall be included in the capital structure calculation.” The Company made non-used and useful adjustments to wastewater rate base and non-used and useful adjustments for depreciation expense and property taxes. However, the Company’s filing makes no adjustments to accumulated deferred taxes in order to reflect only used and useful deferred taxes in its capital structure. The appropriate amount of accumulated deferred taxes should be calculated in compliance with provision (4) of Rule 25-30.433, F.A.C.

ISSUE 19: What is the appropriate amount of customer deposits to include in the capital structure?

OPC Position: The appropriate amount of customer deposits to include in the capital structure is \$319,453 as reflected in Exhibit RCS-2, Schedule D.

ISSUE 20: What is the appropriate cost rate for short-term debt for the test year?

OPC Position: The appropriate cost rate for short-term debt is as reflected in Exhibit RCS-2, Schedule D.

ISSUE 21: What is the appropriate cost rate for long-term debt for the test year?

OPC Position: The appropriate cost rate for long-term debt is as reflected in Exhibit RCS-2, Schedule D.

ISSUE 22: What is the appropriate return on equity (ROE) for the test year?

OPC Position: The appropriate ROE is 10.35%, representing a slight difference from the Utility's ROE of 10.36%. This issue should be reduced by 25 basis points for deficient service quality. See Issue 1.

ISSUE 23: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?

OPC Position: The appropriate weighted average cost of capital is as reflected in Exhibit RCS-2, Schedule D. Pending the resolution of other issues (including issue 1), the weighted average cost of capital is subject to change.

NET OPERATING INCOME

ISSUE 24: What are the appropriate test year revenues?

OPC Position: With the exception of revenues from AFPI charges, the Company's proposed test year revenues should be adjusted as reflected in Exhibit RCS-2, Schedules C-19-21. Pending further review of rebuttal testimony and the resolution of other issues, the appropriate test year revenues is subject to change.

ISSUE 25: What is the appropriate amount of rate case expense?

OPC Position: Any rate case expense associated with MFR deficiencies or other imprudent costs should be disallowed.

ISSUE 26: Should any adjustment be made to the Utility's proposed pro forma expenses?

OPC Position: Yes. Several adjustments to the Company's expense claims should be made, as discussed in OPC witness Smith's testimony and his Exhibit RCS-2.

ISSUE 27: Should any adjustment be made to the Utility's proposed management expenses?

OPC Position: Yes. Several adjustments to the Company's expense claims should be made, as discussed in OPC witness Smith's testimony and his Exhibit RCS-2.

ISSUE 28: Should any further adjustments be made to the Utility's test year O&M expenses?

OPC Position: Yes. Several adjustments to the Company's expense claims should be made, as discussed in OPC witness Smith's testimony and his Exhibit RCS-2.

ISSUE 29: Should any adjustments be made to test year taxes other than income?

OPC Position: Yes, adjustments consistent with the removal of AMI Meter Installation Project and any other associated property taxes and along with fallout from any other pro forma investment removal.

ISSUE 30: Should any adjustments be made to test year depreciation expense?

OPC Position: Yes. As reflected in Exhibit RCS-2, adjustments should be made to depreciation expenses relating to the AMI Meter Installation Project, reversing meter retirements, and test year depreciation annualization. Also, adjustments should be made for incorrect net salvage percentage-driven depreciation rates in violation of Rule 25-30.140, F.A.C.

ISSUE 31: Should any adjustments be made to test year amortization of CIAC expense?

OPC Position: Should the Commission authorize the Utility's annualized depreciation for test year plant additions, then adjustments are necessary for CIAC amortization expense for CIAC received during the test year.

ISSUE 32: What is the appropriate amount of test year income taxes?

OPC Position: Pending the resolution of other issues, the income taxes will depend upon the specific level of revenues authorized by the Commission.

REVENUE REQUIREMENT

ISSUE 33: What is the appropriate revenue requirement for the December 31, 2023 test year?

OPC Position: The appropriate revenue requirement should be calculated using a base revenue increase of no more than \$1,351,180 for water, as shown in Exhibit RCS-2, Schedule A, Page 1 of 4, and a base revenue increase of no more than \$3,283,467 for wastewater, as shown in Exhibit RCS-2, Schedule A, Page 2 of 4. However, the revenue requirement issue is a fallout issue and is subject to change based on the resolution of other issues.

RATE AND RATE STRUCTURE

ISSUE 34: What are the appropriate rate structures and rates for the water systems?

OPC Position: No position.

ISSUE 35: What are the appropriate private fire protection charges?

OPC Position: The appropriate private fire protection charges should be calculated in compliance with Rule 25-30.465, F.A.C.

ISSUE 36: What are the appropriate rate structures and rates for the wastewater systems?

OPC Position: No position.

ISSUE 37: What are the appropriate reuse rates?

OPC Position: The appropriate reuse rates are as reflected on Exhibit RCS-2, Schedule C-20.

ISSUE 38: What are the appropriate customer deposits?

OPC Position: The appropriate customer deposits should be calculated in compliance with Rule 25-30.311, F.A.C.

ISSUE 39: What are the appropriate miscellaneous service charges?

OPC Position: The appropriate miscellaneous service charges should be calculated with OPC witness Smith's adjustments in Exhibit RCS-2 Schedule C-21.

ISSUE 40: What are the appropriate guaranteed revenue charges?

OPC Position: These charges are dependent on the resolution of other issues.

ISSUE 41: What are the appropriate meter installation charges?

OPC Position: The Utility has not justified its proposed 194% increase to its current meter installation charge increasing the present 5/8" x 3/4" Meter Installation Charge from \$201.21 to a proposed \$591.83.

ISSUE 42: Should the Utility's request to establish deferral accounts related to the Corix Infrastructure Inc. and SW Merger Acquisition Corp. merger be approved?

OPC Position: No.

ISSUE 43: What is the appropriate amount by which rates should be reduced after the established effective date to reflect the removal of the amortized rate case expense?

OPC Position: This is a fallout issue pending the resolution of Issue 25.

ISSUE 44: Should the Utility be required to notify, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission approved adjustments?

OPC Position: Yes. The Utility should be required to notify the Commission in writing that it has adjusted its books in accordance with any Commission ordered adjustments. Sunshine should submit a letter within 90 days of the final order in this docket confirming that the adjustments to all applicable NARUC USOA accounts have been made to the Utility's books and records.

ISSUE 45: Should this docket be closed?

OPC Position: No at this time.

CONTESTED ISSUES

ISSUE A: Is the overall value to a customer provided by the Utility satisfactory, and, if not, what systems have value issues and what action should be taken by the Commission?

OPC Position: No. Pursuant to Section 367.081(2)(a)1., F.S., the Commission shall consider the value of the service provided to customers. As customers have testified at the service hearings in this case, there are issues with the value of the Utility's customer service and other service matters provided by certain Utility systems. The Commission should consider measures for customers of specific systems related to the value of service provided to them.

ISSUE B: Are the resulting rates affordable within the meaning of fair, just, and reasonable pursuant to Sections 367.081 and 367.121 Florida Statutes?

OPC Position: Pursuant to Section 367.081(2)(a)1., F.S., the Commission may only approve the parts of Sunshine's rate request which results in rates that are just, reasonable, compensatory, and not unfairly discriminatory. Sunshine has requested that the Commission approve an increase of \$4,561,183, or 19.9%, in base revenues for its water utility and an increase of \$4,701,373, or 15.87%, in base revenues for its wastewater utility. This request includes a totally unnecessary AMI project and does not include the unknown but surely large amount that Sunshine will need to request in the future to address its Mid-County woes. The Commission should consider affordability in this proceeding, and all future water and

wastewater utility base rate proceedings, in evaluating rate increase requests consistent with the trends in other U.S. regulatory jurisdictions.

ISSUE C: Should the Commission approve the Utility’s Advanced Metering Infrastructure (AMI) project?

OPC Position: No. This project has nothing to do with providing safe and reliable service and never should have replaced the identified top-tier infrastructure needs of this utility. The utility has further failed to meet its burden as described in OPC witness Smith’s testimony.

Respectfully submitted,

Walt Trierweiler
Public Counsel

/s/ Octavio Ponce
Octavio Ponce
Associate Public Counsel
Florida Bar No. 96511

Charles J. Rehwinkel
Deputy Public Counsel
Florida Bar No. 527599

Austin Watrous
Associate Public Counsel
Florida Bar No. 1044249

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

*Attorneys for the Citizens
of the State of Florida*

CERTIFICATE OF SERVICE
DOCKET NO. 20240068-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 15th day of January, 2025, to the following:

Martin S. Friedman
John L. Wharton
Dean Law Firm
420 S. Orange Ave., Suite 700
Orlando FL 32801
mfriedman@deanmead.com
jwharton@deanmead.com
agilmore@deanmead.com

Ryan Sandy
Saad Farooqi
Florida Public Service Commission
Office of General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
rsandy@psc.state.fl.us
sfarooqi@psc.state.fl.us

/s/ Octavio Ponce
Octavio Ponce
Associate Public Counsel
ponce.octavio@leg.state.fl.us