

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase)	DOCKET NO. 900386-WU
in Marion County by Sunshine Utilities)	ORDER NO. 25140
of Central Florida, Inc.)	ISSUED: 09-30-91
_____)	

Pursuant to notice, a prehearing conference was held on September 25, 1991, before Commissioner Michael Mck. Wilson, as Prehearing Officer, in Tallahassee, Florida.

APPEARANCES:

Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida, 32301, and Michael Cooper, Esquire, 321 Northwest 3rd Avenue, Ocala, Florida, 32670, On behalf of Sunshine Utilities of Central Florida, Inc.

Stephen C. Reilly, Esquire, Office of Public Counsel, Auditor General Building, Room 810, 111 West Madison Street, Tallahassee, Florida, 32399-1400
On behalf of Citizens

Matthew Feil, Esquire, and Rex Golden, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida, 32399-0863
On behalf of the Commission Staff

Prentice Pruitt, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida, 32399-0863
Counsel to the Commission

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FPSC-RECORDS/REPORTING

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PREHEARING ORDER

I. Case Background

On October 10, 1990, Sunshine Utilities of Central Florida, Inc., (Sunshine or utility) completed the minimum filing requirements for a general rate increase, and that date was established as the official date of filing. The approved test year for this proceeding is the twelve-month period ended May 31, 1990. Sunshine has requested final rates designed to generate annual water revenues of \$649,235, which exceed annualized test year revenues by \$184,563 (39.72 percent).

By Order No. 23935, issued December 4, 1990, this Commission suspended Sunshine's proposed rates and granted an interim water rate increase, subject to refund. Then, by proposed agency action (PAA) Order No. 24484, issued May 7, 1991, the Commission approved rates designed to generate \$509,703 in annual revenues, an increase of 9.69 percent, and required a refund of the excess interim rates collected. On May 23, 1991, Sunshine protested PAA Order No. 24484 and requested a formal administrative hearing. On July 25, 1991, the Office of Public Counsel (OPC) filed a notice of intervention in this cause. By Order No. 24862, issued July 29, 1991, OPC's intervention was acknowledged.

This case is scheduled for an administrative hearing on October 2nd and 3rd, 1991.

II. Prefiled Testimony and Exhibits

Testimony of all witnesses to be sponsored by Sunshine and the Staff of this Commission (Staff) has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

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Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

III. Order of Witnesses

<u>Witness</u>	<u>Appearing for</u>	<u>Issues #</u>
<u>Direct</u>		
James H. Hodges	Utility	2,3,7,9
JoAnn Schneider	Utility	2,3,7,8,9
Robert C. Nixon	Utility	2,3,7,8,11,13
Robert F. Dodrill (Adverse Party Witness)	Utility	2
Roberto C. Ansag	Staff	1
Ian J. Forbes	Staff	2,3,7,9,10
Marshall W. Willis	Staff	2,3,7,9,12,18
Clarise Hodges (Adverse Party Witness)	Staff, OPC	9
Dewaine Christmas (Adverse Party Witness)	OPC	9
Kimberly Ann Stone (Adverse Party Witness)	OPC	9
James H. Hodges, Jr. (Adverse Party Witness)	OPC	9
<u>Rebuttal</u>		
James H. Hodges	Utility	2,3,7
JoAnn Schneider	Utility	2,3,7,8,9
Robert C. Nixon	Utility	2,3,7,8,9

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(In its prehearing statement, OPC reserved the right to call the remaining persons as rebuttal witnesses. No prefiled testimony has been submitted for these witnesses. The only witnesses listed below which will be allowed to testify at hearing are those for which OPC has submitted some form of prefiled testimony by no later than Friday, September 28, 1991.)

Barbara A. Burley	OPC	1,7,9
Harold E. Pond	OPC	
John M. Holden	OPC	
Michael Helm	OPC	
Pat Smith	OPC	

IV. Basic Positions

UTILITY: Sunshine is entitled to a rate increase for providing water service to its customers in Marion County, Florida, as set forth in the minimum filing requirements filed in this proceeding. Reductions to rate base and operating expenses would be inappropriate.

OPC: The utility's request for a rate increase is excessive and unjustified. The utility has overstated its rate base and its operation and maintenance expenses. The utility has failed to document its investment in a substantial portion of its rate base. Sunshine has engaged in a scheme to create an artificial investment in its rate base by including a fictitious profit, labor, and overhead markup paid to a wholly owned subsidiary company (comprised of the utility's personnel) that purportedly constructs the utility's major plant additions.

STAFF: The information gathered through discovery and prefiled testimony indicates, at this point, that the utility is entitled to some level of increase. The specific level cannot be determined until the evidence presented at hearing is analyzed. Staff's positions on the issues set forth below are preliminary and are offered to apprise

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the parties of those positions. Staff's final positions will be based upon an analysis of the evidence presented at the hearing.

V. Issues and Positions

QUALITY OF SERVICE

ISSUE 1: Is the quality of service provided by Sunshine satisfactory?

POSITIONS

UTILITY: The utility's quality of service is above satisfactory.

OPC: No position at this time pending receipt of customer testimony.

STAFF: No position pending receipt of customer testimony.
(Ansag)

RATE BASE

ISSUE 2: Should CIAC be increased to reflect the adjustment made per Commission Order No. 22969?

POSITIONS

UTILITY: No. When the original cost of Sunshine's systems was established by PSC Order No. 13014, rate base was reconciled to capital structure. All CIAC was recorded and the tax returns of the owners substantiate the investment in that Order. If the adjustment proposed by Staff is accepted, the resulting rates will be confiscatory in violation of due process. (Hodges, Schneider, Nixon)

OPC: Agree with Staff.

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STAFF: Yes. CIAC should be increased by \$280,753, accumulated amortization of CIAC should be increased by 49,279 and test year amortization expense of CIAC should be decreased by \$7,019. (Willis, Forbes)

ISSUE 3: What amount of plant additions made from 1981 to the test year be excluded from in test year plant-in-service?

POSITIONS

UTILITY: No plant additions should be excluded. The cost of all additions to plant, even though constructed by a related party, were fair and reasonable. If the adjustment proposed by Staff is accepted, the resulting rates will be confiscatory in violation of due process. (Hodges, Schneider, Nixon)

OPC: Agree with Staff.

STAFF: Plant-in-service should be reduced by \$401,399 for overstated plant additions occurring between 1931 and the test year, accumulated depreciation should be reduced by \$32,532 and test year depreciation expense reduced by \$8,538. (Willis, Forbes)

ISSUE 4: What is the appropriate working capital allowance?

POSITIONS

UTILITY: Working capital should be computed using the one-eighth of operation and maintenance (O&M) expense formula method. The actual amount is a fall-out number.

OPC: Working capital allowance should be included in rate base only to the extent of the utility's actual investment in working capital.

STAFF: Agree with utility.

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ISSUE 5: What is the test year rate base?

POSITIONS

UTILITY: Fall-out number.

OPC: Fall-out number.

STAFF: Fall-out number.

COST OF CAPITAL

ISSUE 6: What is the appropriate overall rate of return?

POSITIONS

UTILITY: Fall-out number.

OPC: Fall-out number.

STAFF: Fall-out number.

NET OPERATING INCOME

ISSUE 7: Is an adjustment necessary to reduce salary expense for the utility president?

POSITIONS

UTILITY: No. The use of averaging to reduce the president's salary is inappropriate. The only closely comparable utility on the staff's salary schedule is Marion Utilities, whose president is compensated an amount similar to Sunshine's president. (Hodges, Schneider, Nixon)

OPC: Yes. The president's salary should be reduced by \$36,620 to reflect a proper level of \$32,435.

STAFF: Yes. The president's salary should be reduced by \$31,392 along with a reduction to payroll taxes of \$2,684. (Willis)

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ISSUE 8: Is an adjustment necessary to reduce employees' salaries and wages expense to account for Sunshine employees utilized by a related entity?

POSITIONS

UTILITY: No. Sunshine has made the appropriate allocation of expenses, it allocated expenses based upon actual employee time spent by the related entity on its Citrus County systems. (Schneider, Nixon)

OPC: Agree with Staff.

STAFF: Yes. Employees' salaries should be reduced by \$6,692 to reflect the proper level of salary expense for a related company. Payroll taxes should be reduced by \$572.

ISSUE 9: Should an adjustment be made to reduce the vice-president's salary?

POSITIONS

UTILITY: No. The salary of the vice-president is within the salary range of similar positions as determined by the Florida Department of Labor. (Hodges, Schneider)

OPC: Yes. The vice-president's position should be completely eliminated.

STAFF: Yes. A \$12,169 reduction to the salary of the vice-president should be made. Payroll taxes should also be reduced by \$1,040. (Willis, Forbes)

ISSUE 10: Are the utility's books and records in compliance with Commission rules?

POSITIONS

UTILITY: Yes.

OPC: No. The books and records are not in compliance with the Commission's rules. The utility should be ordered to immediately establish and maintain its books and records

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in accordance with NARUC. If, within six (6) months of the date of the Order, the utility has not substantially brought its books and records in compliance with NARUC, the utility should be ordered to show cause why it should not be fined.

STAFF: No. (Forbes)

ISSUE 11: Should an adjustment be made to increase expenses for the profit sharing/pension plan requested by the utility?

POSITIONS

UTILITY: Yes. (Nixon)

OPC: No.

STAFF: No.

ISSUE 12: What is the unamortized balance of prior rate case expense to be included in rates?

POSITIONS

UTILITY: The balance of unamortized prior rate case expense which should be included in current rates is \$34,824. The balance should be amortized, along with current rate case expense, over four years.

OPC: Agree with Staff.

STAFF: The balance of unamortized prior rate case expense which should be included in current rates is \$16,674. The balance should be amortized, along with current rate case expense, over four years. (Willis)

ISSUE 13: What is the appropriate amount of rate case expense for this proceeding?

POSITIONS

UTILITY: \$81,027.45. (Nixon)

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OPC: No position at this time. All requests for rate case expense should be closely scrutinized and justified.

STAFF: No position at this time.

REVENUE REQUIREMENT

ISSUE 14: What is the appropriate level of test year operating income?

POSITIONS

UTILITY: Fall-out number.

OPC: Fall-out number.

STAFF: Fall-out number.

ISSUE 15: What is the total revenue requirement?

POSITIONS

UTILITY: Fall-out number.

OPC: Fall-out number.

STAFF: Fall-out number.

ISSUE 16: Is an adjustment necessary to comply with Section 367.0815, Florida Statutes, regarding the limitation of rate case expense?

POSITIONS

UTILITY: No.

OPC: No position at this time.

STAFF: No position at this time.

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RATES AND RATE STRUCTURE

ISSUE 17: What final rates should be authorized?

POSITIONS

UTILITY: Fall-out number.

OPC: Fall-out number.

STAFF: Fall-out number.

ISSUE 18: Should the utility be required to begin collecting customer deposits?

POSITIONS

UTILITY: Agree with Staff.

OPC: No position at this time.

STAFF: Yes. The utility should be required to begin collecting customer deposits from all of its new customers and those customers with a bad credit history in accordance with Rule 25-30.311, Florida Administrative Code. (Willis)

ISSUE 19: Should the utility's service availability policy be adjusted in order to comply with the requirements of Rule 25-30.580, Florida Administrative Code?

POSITIONS

UTILITY: No.

OPC: No position at this time.

STAFF: Yes, if necessary, and the CIAC level should be calculated at the 75% level.

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VI. Proposed Stipulations

Prior to the prehearing conference, Sunshine, OPC, and Staff agreed to the following stipulations:

1. Neither the treatment plant nor the distribution system used and useful calculations should include a margin reserve.
2. All accounts for the water treatment plant are 100% used and useful, and the distribution system is 71% used and useful.
3. General plant should be reduced by \$6,536 to reflect the shared use of facilities by a related company. Average accumulated depreciation should be reduced by \$4,703 and test year depreciation should be reduced by \$483.
4. The transportation equipment account should be reduced by \$14,036 to properly reflect the retirement of a utility vehicle. Accumulated depreciation should be reduced by the same amount, and test year depreciation expense should be reduced by \$156.
5. The cost of common equity should be established using the Commission leverage formula in effect at the time of the final decision of this case.
6. Purchased power expenses should be reduced by \$702 to remove out-of-period non-utility charges.
7. Test year operating expenses should be reduced by \$9,670, and that amount should be capitalized as plant-in-service. Accumulated depreciation and test year depreciation expense should be increased by \$270.
8. Legal contractual services and regulatory commission expense (other) should be reduced by \$5,044 and \$2,000, respectively, to reflect a disallowance of charges in connection with a territorial dispute.
9. Bad debt expense should be reduced by \$4,797 to reflect out-of-period charges and the implementation of customer deposits.
10. In accordance with Section 367.0816, Florida Statutes, rate case expense should be amortized over a four-year period, and

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there should be an appropriate reduction to rates at the end of that period.

11. The parties and Staff have agreed to produce without subpoena those witnesses under their control.
12. The parties and Staff have agreed to insert into the record the prefiled testimony of Roberto C. Ansag and the deposition of Robert F. Dodrill without requiring their presence.

VII. Other

Although Staff and the parties do not dispute the following issues, the Commission will render a decision on same.

1. That the utility's water service rates and charges be made uniform for all its systems in Marion County.
2. The following miscellaneous service charges should be established.

TYPE OF SERVICE	DURING REGULAR HOURS	AFTER REGULAR HOURS
INITIAL CONNECTION	\$15.00	\$15.00
NORMAL RECONNECTION	\$15.00	\$15.00
VIOLATION RECONNECTION	\$15.00	\$20.00
PREMISES VISIT (in lieu of disconnection)	\$10.00	N/A

VII. Rulings

Staff's motion to strike prefiled testimony of Robert F. Dodrill is granted. However, as is noted above, Staff and the parties have stipulated to inserting Mr. Dodrill's deposition into the record without requiring his presence.

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VIII. Exhibits

<u>Witnesses</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
James H. Hodges	Utility	JHH-1	Excerpt from PSC Order No. 8841
	Utility	JHH-2	Excerpt from original cost study in Docket No. 810386-W ^f
	Utility	JHH-3	Excerpt from original cost study in Docket No. 810386-W
James H. Hodges	Utility	JHH-4	Excerpt from deposition of Robert Dodrill
	Utility	JHH-5 (composite)	Developer Agreements
	Utility	JHH-6	PSC Order No. 881030-WU
	Utility	JHH-7	Excerpt from testimony of Patricia Wood in Docket No. 881030-WU
	Utility	JHH-8 (composite)	Distribution system quotes
	Utility	JHH-9 (composite)	Labor credits to Sunshine
	Utility	JHH-10	Excerpt from Fla. Jun. 2d
	Utility	JHH-11	Salary comparisons
	Utility	JHH-12	Salary comparisons

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<u>Witnesses</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
James H. Hodges	Utility	JHH-13 (composite)	Dept. of Labor Salary Analysis
	Utility	JHH-14 (composite)	Personal financial statements
JoAnn Schneider	Utility	JS-1 (composite)	Investment in utility plant
	Utility	JS-2	Plant additions 1988-1990
	Utility	JS-3	ERC analysis of Marion & Citrus Counties
	Utility	JS-4	Plant additions
	Utility	JS-5	Salary analysis of President
Robert C. Nixon	Utility	RCN-1	Financial, Rate and Engineering Minimum Filing Requirements
	Utility	RCN-2	Consolidated billing analysis
	Utility	RCN-3	A d d i t i o n a l e n g i n e e r i n g i n f o r m a t i o n
	Utility	RCN-4	S c h e d u l e o f i n v e s t m e n t i n s y s t e m s c o n s t r u c t e d i n 1 9 8 1 & 1 9 8 2
	Utility	RCN-5	Schedule of CIAC received 1974-1982

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<u>Witnesses</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Robert C. Nixon	Utility	RCN-6	Net investment by system based upon original cost
	Utility	RCN-7	Computation of accumulated amortization of imputed CIAC
	Utility	RCN-8	Comparison of job costs with third party bids
	Utility	RCN-9	Profit sharing plan
	Utility	RCN-10	PSC Order No. 13014
	Utility	RCN-11	PSC Order No. 13131
	Utility	RCN-12	Individual income tax returns 1975-1983
	Utility	RCN-13	Schedule of investment in depreciable plant per tax return
	Utility	RCN-14	Current and projected rate case expense
	Marshall W. Willis Staff	Staff	MWW-1
Staff		MWW-2	Copy of Order No. 23354

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<u>Witnesses</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Marshall W. Willis	Staff	MWW-3	Copy of the First District Court of Appeal opinion filed on March 29, 1991, affirming Order No. 22969
	Staff	MWW-4	Calculation of the markup and labor charged by Water Utilities, Inc. to Sunshine Utilities of Central Fla. for the years 1983 through 1987. Schedule also calculates the accumulated depreciation recorded on the markup and labor at the depreciation rate of 2.5%.
	Staff	MWW-5	Analysis of Comparable Utility President's Salaries to that requested by Sunshine Utilities of Central Florida, Inc.
	Staff	MWW-6	Analysis of bad debt expense for utilities that require customer deposits compared to Sunshine Utilities of Central Florida, Inc.

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<u>Witnesses</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Marshall W. Willis	Staff	MWW-7	Schedule showing the calculation of unamortized rate case expense that should be included in this case to be amortized over four years
Ian J. Forbes	Staff	IJF-1	Commission Staff Supplemental Audit of Sunshine Utilities of Central Florida, Inc., dated February 18, 1991
	Staff	IJF-2	Commission Staff Audit of Sunshine Utilities of Central Florida, Inc., dated January 24, 1991
	Staff	IJF-3	1982 through 1990 Federal Income Tax Returns of Water Utilities, Inc.
	Staff	IJF-4	Comparison of Employees Before and After Field Audit
	Staff	IJF-5	Comparison of Salaries for 1989 and 1990

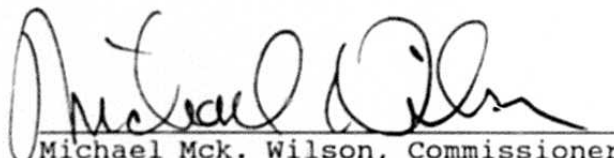
Parties and Staff reserve the right to identify exhibits for the purpose of cross-examination.

Based upon the foregoing, it is

ORDERED by Commissioner Michael Mck. Wilson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings unless modified by the Commission.

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By ORDER of Commissioner Michael Mck. Wilson, as Prehearing
Officer, this 30th day of SEPTEMBER, 1991.



Michael Mck. Wilson, Commissioner
and Prehearing Officer

(S E A L)

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