

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of rates of)	DOCKET NO. 881030-WS
SUNSHINE UTILITIES in Marion County)	ORDER NO. 25394
for possible overearnings)	ISSUED: 11/25/91
_____)	

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
BETTY EASLEY

ORDER LIFTING STAY

BY THE COMMISSION:

By Order No. 22969, issued May 23, 1990, this Commission found that for the test year ended 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 the utility's rates. However, we ordered Sunshine to refund with interest 7.68% of its revenues for service rendered from August 30, 1988, through September 18, 1989, and 9.79% of its revenues for service rendered from September 19, 1989, to December 31, 1989, to customers of record as of December 31, 1989.

In Order No. 22969, we explained that there were two separate refund percentages and periods because we had initially designated only 7.68% of Sunshine's earnings subject to refund. See Order No. 20038, issued September 20, 1988. When we discovered that Sunshine's overearnings might exceed 7.68% of revenues, we ordered that from September 19, 1989, forward, the amount of revenues held subject to refund would be 15.43%. See Order No. 21958, issued September 19, 1989. In Order No. 22969, we found that Sunshine collected revenues which exceeded its revenue requirement by 9.79%. Since only 7.68% of revenues were held subject to refund from August 30, 1988, through September 18, 1989, only 7.68% could be ordered refunded for that period.

By Order No. 23354, issued August 15, 1990, the Commission denied Sunshine's motion for reconsideration of Order No. 22969. On September 13, 1990, Sunshine filed a notice of appeal of and a motion for stay of Order No. 22969. By Order No. 23898, issued December 19, 1990, the Commission granted Sunshine's request for a stay of the effectiveness of Order No. 22969 pending judicial appeal.

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By opinion filed March 29, 1991, in case no. 90-2742, the First District Court of Appeal (DCA) upheld Commission Order No. 22969. The DCA denied Sunshine's Motion For Rehearing on April 15, 1991. On May 30, 1991, Sunshine filed a notice to invoke the discretionary jurisdiction of the Florida Supreme Court to review the First DCA's opinion. By opinion filed October 2, 1991, the Florida Supreme Court declined to accept jurisdiction over the case and stated that it would not entertain a motion for rehearing.

Since the appeal process is over for Sunshine, we shall lift our stay of the effectiveness of Order No. 22969, and reinstate the refund required in Order No. 22969, which should be completed in accordance with Rule 25-30.360, Florida Administrative Code.

Since no further action other than monitoring the refund is required, this docket should be closed upon our Staff's verification of the completion of the required refund.

It is, therefore

ORDERED by the Florida Public Service Commission that the stay of the effectiveness of Order No. 22969 as established in Order No. 23898 is hereby lifted. It is further

ORDERED that the docket shall be closed upon staff's verification of the refund required in Order No. 22969.

By ORDER of the Florida Public Service Commission, this
25th day of NOVEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MJF

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