BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to establish rate base value of acquired system using alternative procedure, by Sunshine Water Services Company.	DOCKET NO.: 20260031-WS FILED: July 9, 2026

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel ("OPC"), pursuant to the Florida Public Service Commission ("Commission") Order Establishing Procedure ("OEP"), Order No. PSC-2026-0079-PCO-WS, issued March 24, 2026, hereby submit this Prehearing Statement.

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1. WITNESSES:

Witness	Subject	Issue Numbers
None		

2. EXHIBITS:

Witness	Proffered By	Exhibit No.	Description
None			

3. STATEMENT OF BASIC POSITION:

Historically and presumptively, fair market value was the generally accepted standard for determining a regulated utility's rate base. In *Smyth v. Ames*, 169 U.S. 466 (1898), the United States Supreme Court held that a utility's value could be based upon numerous factors, including original cost, replacement cost, market value of securities, and the utility's anticipated earning capacity. *Id.* at 515. That approach, however, proved controversial because it valued utilities based not on prudent investments, but also on future profitability and market perceptions. *Id.* at 547.

Justice Brandeis, in a dissent, sharply criticized the fair value methodology in *Southwestern Bell Telephone Co. v. Public Service Commission*, 262 U.S. 276 (1923), describing it as creating a "vicious circle." *Id*. at 292. As he explained, a regulated utility's value cannot be determined by capitalizing future earnings when those earnings are largely determined by rates the utility is allowed to charge by regulators. Justice Brandeis further questioned valuation methods that relied upon market and income approaches, observing that utilities are not traded in an ordinary competitive market and that their value cannot be determined by projected earnings that are themselves products of regulation.[1] Justice Brandeis also

[1] "The rule of *Smyth v. Ames* sets the laborious and baffling task of finding the present value of the utility. It is impossible to find an exchange value for a utility, since utilities, unlike merchandise or land, are not commonly bought and sold in the market. Nor can the present value of the utility be determined by capitalizing its net earnings, since the

recognized the inherent subjectivity of appraisal methodologies, noting that experts often reached valuations differing by millions of dollars.[2]

Twenty years later, the Supreme Court adopted the principles advanced by Justice Brandeis's dissent. In *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944), the Supreme Court abandoned the fair value doctrine and rejected the notion that rates should be based upon market valuation. Instead, the Court endorsed the "end results" doctrine, focusing on whether rates are sufficient to maintain the utility's financial integrity while protecting consumers from unreasonable charges. That principle was reaffirmed in *Duquesne Light Co. v. Barasch*, 488 U.S. 299 (1989), which emphasized that utilities are constitutionally entitled to recover only the capital prudently devoted to providing public utility service, not speculative market appreciation or anticipated future earnings.[3]

The fair market value methodology authorized by Section 367.0811, Florida Statutes, bears many of the same characteristics as the historic fair value standard rejected by the United States Supreme Court.[4] Rather than relying upon depreciated original cost or net book value, modern fair market appraisals frequently depend upon market-based and income-based valuation techniques that inherently reflect expectations regarding future revenues, future earnings, and future growth opportunities. Those expectations necessarily incorporate assumptions regarding future regulated rates, recreating the same "vicious circle" concerns identified by Justice Brandeis more than a century ago.

Based on the Historical context above, the available empirical evidence is limited. Nothing in this proceeding or nationally indicates that higher rate bases resulting from fair market

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earnings are determined, in large measure, by the rate which the company will be permitted to charge; and, thus, the vicious circle would be encountered." *Mo. ex rel. Sw. Bell Tel. Co. v. Pub. Serv. Com.,* 262 U.S. 276, 292, 43 S. Ct. 544, 548 (1923).

[2] "When the price levels had risen largely, and estimates of replacement cost indicated values much greater than the actual cost of installation, many commissions refused to consider valuable what one declared to be assumptions based on things that never happened and estimates requiring the projection of the engineer's imagination into the future and methods of construction and installation that have never been and never will be adopted by sane men."
Mo. ex rel. Sw. Bell Tel. Co. v. Pub. Serv. Com., 262 U.S. 276, 299-300, 43 S. Ct. 544, 550 (1923) (footnotes omitted)

[3] ". . . [T]he 'end result' doctrine [was] first enunciated in Jacksonville Gas Corporation v. Florida Railroad & Public Utilities Commission, 50 So.2d 887 (Fla. 1951). See also, Westwood, supra; General Telephone Company of Florida v. Carter, 115 So.2d 554 (Fla. 1959)" *Citizens of State v. Fla. Pub. Serv. Com,* 399 So. 2d 9, 11 (Fla. 1st DCA 1981)

[4] "Although the fair value rule gives utilities strong incentive to manage their affairs well and to provide efficient service to the public, it suffered from practical difficulties which ultimately led to its abandonment as a constitutional requirement." *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 309, 109 S. Ct. 609, 616 (1989).

value acquisitions produce corresponding improvements in infrastructure, service quality, or regulatory compliance. Rather, much of the support for fair market value has been advanced by utilities that benefit from increased rate base growth, while objective data demonstrating corresponding customer benefits remain scarce.

Accordingly, OPC submits that the Commission should scrutinize any fair market appraisal that relies upon speculative market assumptions, projected future revenues, or subjective valuation methodologies to protect modern customers from the ailments that customers faced more than a century ago.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS:

Quality of Service/Infrastructure and Operating Conditions

ISSUE 1: Is the proposed transaction expected to result in improvements in the overall quality of service provided to Placid Lakes' customers pursuant to 367.0811(9)(a), F.S.?

OPC Position: No. Sunshine Water Services ("Sunshine") has not demonstrated that the proposed acquisition will produce measurable improvements in the quality of service provided to Placid Lakes' customers.

ISSUE 2: Is the proposed transaction expected to result in improvements in regulatory compliance for the Placid Lakes' systems pursuant to 367.0811(9)(b), F.S.?

OPC Position: No. Sunshine has not established that the increase in rate base and rates will materially improve regulatory compliance.

ISSUE 3: What reasonable performance goals, if any, should the Commission set, pursuant to 367.0811(10), F.S.?

OPC Position: The Commission should set a framework to develop a cost-benefit analysis of ratepayer impacts to standardize the review of future acquisitions.

Rate Stabilization and Cost Efficiencies

ISSUE 4: Is the proposed transaction under 367.0811(9)(c), F.S., expected to result in rate reductions or rate stability over a long-term period?

OPC Position: When considered as an isolated transaction and on a stand-alone basis, it is clear that customers' rates will increase if the petition is approved. Long term rate stability is speculative based on only one transaction and not without regard considering the totality of Sunshine's system and capital expenditure plans.

ISSUE 5: What is the projected rate impact of the proposed transaction under 367.0811(5)(e), F.S., over the next five years?

OPC Position: See Sunshine Witness Destefano's Exhibit No. DD-1, Document No. 1, Page 4 of 5.

ISSUE 6: If the transaction under 367.0811(5)(h), F.S., is approved, should the Commission institute a rate stabilization plan for Placid Lakes Utilities, Inc.?

OPC Position: The Commission should only institute a rate stabilization plan if the transaction satisfies the minimum statutory public interest factors.

ISSUE 7: Is the proposed transaction under 367.0811(9)(d), F.S., expected to provide cost efficiencies?

OPC Position: No. The Utility has identified generalized efficiencies associated with centralized management and administrative consolidation, but it has not demonstrated that these efficiencies are quantifiable, verifiable, or sufficient to offset the increased costs.

ISSUE 8: Is the proposed transaction under 367.0811(9)(f), F.S., expected to generate economies of scale?

OPC Position: The evidence does not establish meaningful economies of scale benefiting customers. Larger utilities may realize a lower cost per unit to serve, however those savings will not be directly passed through to customers or exceed the increased revenue requirement, instead it will likely increase utility profits.

Net Book Value, Capital, and Contract Details

ISSUE 9: Has Sunshine Water Services Company demonstrated that the purchase of Placid Lakes Utilities, Inc. is being made as part of an arms-length transaction under 367.0811(9)(e), F.S.?

OPC Position: The existence of a purchase agreement does not establish that the agreed purchase price represents an objective measure of value appropriate for ratemaking purposes.

ISSUE 10: Has Sunshine Water Services Company demonstrated that it has a greater access to capital than Placid Lakes Utilities, Inc. under 367.0811(9)(h), F.S.?

OPC Position: Sunshine has generally demonstrated greater financial resources than Placid Lakes. However, greater access to capital alone does not establish that the acquisition is in the public interest or justify adoption of a higher rate base based upon.

ISSUE 11: What is Sunshine Water Services Company's net book value compared to the proposed rate base value of Placid Lakes Utilities, Inc. under 367.0811(9)(g), F.S.?

OPC Position: Placid Lakes' netbook value is approximately $816,405. Sunshine's proposed rate base value for the Placid lakes system is $5,750,000. An approximate $4.9 million increase in rate base substantially exceeds Placid Lakes' current netbook value.

ISSUE 12: What is the appropriate alternative rate base value if the proposed transaction is found to be in the public interest?

OPC Position: The Commission may, in the public interest, grant the petition in whole or in part or with modifications, or may deny the petition under 367.0811(6)(b). Any Commission decision should establish a rate base supported by competent and substantial evidence.

5. STIPULATED ISSUES

OPC is not aware of any issues that can be stipulated at this time.

6. PENDING MOTIONS OR OTHER MATTERS

OPC is not aware of any formal motions to be disposed of at this time.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

There are no pending requests or claims for confidentiality filed by OPC.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT

OPC has no objections to the qualification of any witnesses as an expert in the field in which they pre-filed testimony as of the present date.

9. SEQUESTRATION OF WITNESSES

OPC does not request the sequestration of any witnesses at this time.

10. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE

OPC is unaware of any aspect of the Order Establishing Procedure in this docket with which it cannot comply.

Respectfully submitted,

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CERTIFICATE OF SERVICE
DOCKET NO. 20260031-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 9th day of July, 2026, to the following:

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