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August 21, 2013

Ann Cole
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Re: Ni Florida, LLC's Response to Office of Public Counsel's letter to the Commission dated August 6, 2013 (Staff's Fourth Data Request)

Dear Ms. Cole:

Ni Florida, LLC ("Ni Florida") hereby responds to the Office of Public Counsel's (OPC) letter to the Commission dated August 6, 2013.

OPC's concerns and Ni Florida's responses to each are stated below.

1. As we discussed in our letter dated April 24, 2013, we note that the comparative Balance Sheet (Schedule A-18 and A-19) shows a significant balance in an account titled "Investments in Associated Companies". Our schedule below shows the ending balances for the test year for the three balance sheet accounts that relate to funds between Ni Florida and Associated Companies. The net of these three accounts is almost $1.4 million which translates to an equivalent of 42% of the utility adjusted rate base. We draw no conclusions at this time until staff has heard from the customers and an engineer has completed a review of the systems to determine whether the utility has maintained its systems adequately or has diverted funds through these accounts.

Response: The issue of allocating funds to other utilities was addressed in OPC's 1st Letter of Issues and Concerns. To repeat Ni Florida's position on this matter, Ni Florida believes that it has proven that it has the financial wherewithal to provide for operations, maintenance, and capital expenditures and that it is actively improving the system through capital improvements. Although OPC expresses its concerns for this business model, it tellingly alleges no harm to any of Ni Florida's customers. Ni Florida believes the systems are in better operational shape now than prior to it acquiring them and Ni Florida believes it has provided for all needed operations, maintenance, and capital expenditures. Ni Florida is part of a companywide cash management system and expenses are generally incurred based on need and available resources. This creates inter-company receivables and inter-company payables in the normal course of business.

2. Contractual Services – Management Fee

The staff audit shows a reduction in the amount paid to Florida Utility Group. Audit Finding 9 reflects a decrease of $558 to water and $2,053 to wastewater. As this is a change that will impact future expenses, we agree with the staff audit that these expenses should be reduced.

Response: The issue of adjusting Contractual Services – Management Fee for Florida Utility Group of $558 for water and $2,053 to wastewater is acceptable to Ni Florida.

3. Contractual Services – Other

The utility requested a pro forma adjustment of $100,000 to reflect "new annual line cleaning" program. Audit Finding 6 discusses this pro forma item but defers to the staff analyst, pending additional support that the utility plans to submit. As the audit report points out, the Commission allowed the utility an expense in the last rate case of $143,474 for inflow and infiltration repairs. The chart below summarizes the amounts spent by the utility in 2009, 2010, 2011 and the test year. The audit report discloses the total spent in this account while the chart below indicates the total broken down between the various functions. The I&I function shows extreme variability. In 2009, the utility spent $94,403.95, while it spent zero in 2010, $4,721.57 in 2011, and $44,104.07 in the test year. The majority of the test year amount is from two significant invoices in May that total $35,530 and three smaller invoices for the remaining $8,574. We are concerned that the utility has previously requested funds for this program and has not proven its intent to spend the requested amount. In fact, the average spent in 2009, 2010, 2011 and the test year is only $36,988. We pointed out in Issue 1 that the utility has invested substantial funds in an associated company. This issue is important to us for reasons such as this, where a utility sends utility funds to associated companies instead of investing these funds in an important program such as this I&I program that the utility has previously committed to fund.

However, we agree that a healthy collection system is vital to the utility and if the Commission determines that the utility should be allowed $100,000 for an I&I program, we believe that the Commission should recognize that the utility spent $44,000 in the test year and therefore the annual expense only needs to be increased by $56,000, rather than the entire $100,000. Any pro forma expense allowed should be based on a written plan by the utility detailing the specific work proposed for each of the 3 – 5 future years.

Response: Reducing Ni Florida's requested $100,000 pro forma adjustment for the "new annual line cleaning" program does not seem reasonable to Ni Florida. Although Ni Florida spent $44,104.07 in the test year for inflow and infiltration (I&I), the pro forma adjustment was to be in addition to that spending so that Ni Florida could aggressively address the I&I issue in the Hudson wastewater system. Ni Florida is currently making significant expenditures to investigate and fix I&I issues and believes it is making significant early progress. Ni Florida believes that I&I problems are continuous and not a one –time fix.

4. The Miscellaneous Expense account includes the allocations from Ni America Capital Management, LLC and Ni America Operating, LLC. The last rate case identified total allocated overhead of $2,866,039[1]. Schedule B-12 of the current MFR's indicates total allocated overhead of $3,312,516. In the last order, the Commission made adjustments to the amount to be allocated for salaries related to acquisition activities and due diligence expenses, the equity sponsor fee, and various expenses. We address our position on these items in the current case below.

a. Salaries related to acquisition activities and due diligence expenses: In the last rate case order, the Commission removed the amount of salaries related to the acquisition activity for Ni America. In addition, the Commission stated that it is their practice that the costs incurred for acquisitions or transfers that are not related to the jurisdictional utility be recorded as below-the-line costs of the shareholder. The Commission removed the entire expense. In the current docket, the staff audit of the affiliate transactions identified $495,293,36 in salaries, benefits and other due diligence costs that should be removed from costs allocated to the utilities. (Audit Finding 4 adjusted $405,293.36 which reflects a netting of $90,000 that the utility made in the MFR's.) This is a long-standing practice of the Commission and we agree that these costs should be removed.

Response: a. Ni Florida believes that salaries and other due diligence costs incurred in the effort to acquire additional systems/customers is worthwhile as it reduces the allocation of corporate overhead to each customer by spreading the costs over a larger customer base. This reduction was seen in the corporate overhead allocation in this rate filing as a result of adding over 35,000 customers related to the Palmetto, Alpine, Woodland, and City of Columbia acquisitions. Accordingly and to the benefit of the ratepayers, Ni Florida added approximately 11,000 customers for the City of Columbia (SC) acquisition into the corporate allocation for this rate filing even though the customers were acquired March 22, 2013, more than three weeks after this rate filing was made.

b. Equity sponsor fee: In the last rate case order, the Commission found that the Utility's share of the equity sponsor fee is recovered through the approved ROE and removed the entire fee from the expenses. In the current docket, the staff audit of the affiliate transactions identified $315,000 for the equity sponsor fee recorded in the test year. The staff audit further identified various other expenses related to the equity sponsor fee. Our review of the expenses found that some listed expenses were outside of the test year. Our adjusted amount is shown below. We believe that the equity sponsor fee and the related expense should be removed from test year expenses.

Response: b. For the reasons expressed in our Response to Staff's audit report dated July 12, 2013 for Audit Finding No. 5, Ni Florida believes that the equity sponsor fee is similar to director's fees and should be an allowed expense.

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[1] See Order No. PSC-11-0199-PAA-WU, issued April 22, 2011, in Docket No. 100149-WU, In re: Application for Increase in water rates in Lee county by Ni Florida, LLC.

c. Various expenses: In the last rate case order, the Commission found that the following expenses were not related to the Utility or were non-recurring: travel to utilities in other states, shipping expenses to utilities in other states, gifts for employees, legal expenses relating to utilities in other states, background checks, apartment fees, travel for interviews, and CPA study materials. While the last order does not detail the specific accounts adjusted, we believe the following similar items should be examined in the current rate case.

i. Finding 7 in the staff audit of the affiliate transactions identified in an adjustment to remove transportation charges for other states from the Florida allocation and include Florida transportation at 100%. Our review of this adjustment indicates it also includes a similar adjustment for legal fees. We agree with this adjustment.

ii. In the prior rate case, the utility indicated its rent expense include Ni America's corporate office in Houston, Texas, where all employees are housed, except for one. One employee rents space in College Station, Texas where he lives. The monthly rent for the single office space he rents is $750/month or $9,000 for the test year. We believe that it is not reasonable for the utility to incur additional rent for one employee. Therefore, we believe that this expense should be removed from the allocation.

iii. The current test year expenses include $20,696.70 in Account 675.10 – Education & Seminars. The chart below summarizes the amounts charged to this account. We believe that the Commission should review each of the expenses and remove those expenses that are unrelated to the provision of water and wastewater service from the expenses allocated to the Florida systems.

iv. The current test year expenses include $46,885.49 in Account 675.9-Other Miscellaneous. The chart below summarizes the amounts charged to this account. We believe that the Commission should remove those expenses that are unrelated to the provision of water and wastewater service from the recoverable expenses allocated to the Florida systems. We are also concerned with the level of relocation expenses that are included in the test year allocation. Finding 8 in the staff audit of the affiliate transactions identified $34,500 as a cost to relocate an Operation manager to South Carolina. We believe that the $1,653.82 related to the same manager should also be removed. The remaining amount of relocation expense is for a move that was outside the test year. The audit included a statement from the utility that the utility "may pay other relocation fees in the future." Unless the utility can show a pattern of relocation fees that supports an average expense per year, we do not believe that this expense should be included in the allocation to the Florida systems.

Response: c. The issue of disallowing certain expenses because they are non-recurring or not related to providing water and wastewater service is a fundamental concept of regulation with which Ni Florida agrees. However, Ni Florida would not agree that expenses for background checks, educational expenses, and certain other expenses that have the potential to improve the quality of the workforce should be disallowed.

i. The issue of only allocating expenses to Florida for which there is a direct or indirect benefit to the Florida customers is a concept with which Ni Florida agrees.

ii. The issue of not allowing additional rent expense for one employee is not acceptable to Ni Florida. Ni America rents two offices for approximately $3,000/month for 12 employees. Ni America's rent is approximately $11.00 per square foot, which is much less than the national average for Class "B" office space of $18.00 per square foot. Therefore, this is a reasonable amount for housing these employees. Ni Florida believes such a small expense for 12 employees would be deemed a reasonable and prudently incurred cost.

iii. Ni disagrees with disallowing expenses for education and seminars. These expenses are incurred to improve the skillset and quality of the workforce. They allow Ni America to operate with fewer employees whom are highly-trained. To the extent they are reasonable and prudently incurred, they should be allowed.

iv. The issue of disallowing expenses related to employee morale and moving/relocation seems short-sighted. Moving and relocation expenses are a necessary expense to place personnel in the right geographical spot. This includes paying for new employees to move to their place of employment, and relocating employees to the physical location where they will be most effective. This is a common expense which companies extend to certain employees. This represents $45,208.82 of the expenses of this category of expenses. As a compromise to the FPSC allowing all of this expense in the test year, Ni Florida would accept a 3-year amortization of these costs. Ni Florida has incurred 4 moves/relocations in its 6 years of existence, so allowing two of them over 3 years seems fair. The majority of the remaining expenses in this category are for items which might be deemed morale boosters. Plants, birthday cakes, and other small cost items can boost morale and make employees more productive. Ni Florida feels that this is such a small cost for what generally results in improved productivity.

5. The staff audit of the affiliate transactions made several other adjustments that we agree should be made:

a. Finding 1 includes the full value of the Customer Deposits in the calculation of the rate of return. The utility appears to have included customer deposits in the adjustment to reconcile the capital structure to rate base. Commission policy is to bring forward the full amount of customer deposits and reconcile only the debt and equity amounts.

Response: a. The issue of including the value of customer deposits in the cost of capital calculation is a matter of following the FPSC rules. If deemed appropriate to do so, then Ni Florida certainly does not object to it. The more important issues related to cost of capital are including amortization of debt issuance costs and including the costs for interest rate swaps in the weighted average cost of the debt, for which neither was done.

b. Finding 3 addresses two issues. The first is to correct a $9,000 error in the general ledger for capitalized wages. The second is to recognize that some wages included in the salaries and benefits expenses are for officers and employees that only work on the South Carolina system. We support the adjustment in the audit report to salaries and benefits.

Response: b. The issue relates to correcting a $9,000 error and recognizing some salaries and benefits as being related only to South Carolina systems. Ni Florida does not object to either of these adjustments.

c. Finding 6 reduced expenses for the Florida share of $75,945 in expenses for advertising and meals and entertainment. These expenses included a sponsorship of a cook-off, rodeo tickets, college football tickets, and other items unrelated to the provision of water and wastewater service in Florida. We agree with the adjustment in the staff audit report.

Response: c. The issue relates to disallowing certain expenses for advertising and meals & entertainment. Ni Florida does not object to either of these adjustments.

6. The general ledger in the staff audit work papers shows Account 426.6-Charitable Contributions of $1,980 is also included in the amounts allocated to the Florida systems. The Commission has a long standing policy of excluding charitable contributions in that if they are treated above-the-line, effectively they become involuntary contributions on behalf of the Company's ratepayers. Therefore, we believe that the allocated portion of these expenses should be removed.

Response: The issue is related to charitable contributions. Ni Florida does not take exception with removing these costs from allocable expenses.

7. The general ledger included in the staff audit work papers shows Account 632-Accounting Fees includes $197,785.22. The equity sponsor fee issue already addressed $2,730 of this expense.

a. This account also includes an item for $1,730.19 which is described as a charge for the Shaded Lane system. We believe that this amount should be removed from the amount allocated to the Florida systems.

Response: a. The issue relates to a cost specifically for the Shaded Lane system in Texas being removed from allocable expenses. Ni Florida does not object to this.

b. Removing the two previous items results in a remaining balance of $193,325.03, for an amount of $3,654 allocated to Tamiami and $13,958 allocated to Hudson. The general ledger describes the expense as the cost for audit and tax preparation. The support provided for this expense includes a contract for an annual audit of the consolidated company as well as the subsidiaries. The contract quotes a price of $136,000 plus out-of-pocket expenses and travel. We believe that the utility has not fully justified the $193,000 included in the expense.

Response: b. The issue relates to the corporate governance costs of providing for audit of the Accounting records and preparation of the corporate and partnership income tax returns. The audit of Ni America's financial statements (including Ni Florida's financial data) is mandated by the bank loan agreement. The filing of corporate and partnership income tax returns is mandated by federal laws. Ni Florida believes these costs are legitimate business costs and should be allowed in setting rates. Ni Florida therefore does not agree with this proposed adjustment.

c. We also believe that the cost incurred by Ni is unreasonable considering the size of the Tamiami and Hudson systems. A brief review of a few other systems in Florida shows the following accounting expenses and the average annual impact on customers. The chart shows that Ni has a much higher cost for accounting. We believe that the accounting expense should be adjusted to a more reasonable level.

Response: c. This issue concerns OPC deeming the level of Accounting and Audit costs to be excessive when compared to other systems in Florida. Ni Florida feels that the level is not excessive and tries to control the level of costs each and every year. Ni Florida is part of a borrowing group for purposes of obtaining debt financing and feels that obtaining an audit of its financial statements from a "Big Four" firm is a prudent expense. Ni Florida is unsure if other system owners incur costs for audit and tax return preparation, whether they are equal in size to Ni America and whether they are under bank covenants to provide audited financial statements. For these reasons, Ni Florida does not agree with this adjustment.

d. We are also concerned with the allocation methodology for this expense. The utility allocated these expenses based on ERC's. However, there appear to be several entities affiliated with Ni that are not included in the ERC allocation calculation. Schedule B-12, Page 2 of 2 lists eight systems in Florida, Texas, and South Carolina. However, the Trial Balance included in the staff audit work papers on WP 12-3 lists at least 15 LLC's and Holding Companies. We believe that the number of these other entities may be a contributing factor to the high cost of the accounting fees if the CPA firm is performing separate audits and preparing separate tax returns for each of these 15 plus systems.

Response: d. The issue relates to whether or not Ni America has excluded other companies from its allocation of corporate overhead. OPC notes that Ni America has at least 15 other companies. Ni Florida agrees that Ni America has companies that are not included in the corporate overhead allocation, but the reason for this relates to the fact that these other companies do not have any operations or employees. They are "holding" companies set up to hold the assets of utilities once acquired, but for which there are currently no assets or operations included under them. Thus, ALL customers of Ni America ARE included in the allocation and no companies with operations/customers are left out of the allocation.

8. The Miscellaneous Expense account includes allocations for Directors fees. The last rate case appears to have included $100,000 for Directors' Fees. The current test year includes $238,875 for Directors' Fees. (Total Directors' Fees are $553,875, but the prior issue on the equity sponsor fee addresses $315,000 of this amount, leaving a balance of $238,875) We believe that this cost is unreasonable considering the size of the Tamiami and Hudson systems and when these costs are added to the salaries for employees and officers it is a burdensome cost for the Florida ratepayers. In addition, it appears that the test year expense includes three

Directors compared to one Director in the prior rate case. The increase of $138,875 is a 138% increase in the 2009 expense. The utility has not justified why this cost should have increased so much since the last rate case, especially considering these difficult economic times when many of the ratepayers in the Florida systems are struggling to live on a limited fixed income. If the parent required additional directors for new responsibilities in other utilities or enterprises, it would appear that the additional costs should be allocated to those other states or enterprises.

Response: Ni America was "understaffed" with only one outside director in the prior rate filing. Ni America had one officer that resigned his position with the company and became an outside director. Ni America added one additional outside director. Ni Florida feels that having a fully-staffed complement of outside directors is a legitimate part of appropriate corporate governance and this is a legitimate cost of doing business.

9. We are also concerned with the level of direct charges for Hudson for Legal fees and Transportation expense. The chart below shows a listing of these charges. It appears that the utility has held meetings to discuss a possible sale of the system to the Florida Governmental Utility Authority (FGUA). We do not believe that these expenses are recurring and ordinary expenses for the operation of the system. We believe that they should be capitalized and absorbed by the shareholders as part of the cost of any future sale. The expenses listed below should be reviewed and those relating to the possible sale of the system to FGUA or those that are deemed excessive should be removed.

Response: The issue relates to certain costs incurred for investigating a potential sale of the Florida utilities. While Ni Florida agrees that the legal costs incurred in potentially selling the Florida utilities ($39,147.55) to FGUA should not be included in rates, the transportation expenses associated with travel to Florida are not related to those costs. The travel costs are for meeting with operations personnel and legitimate reasons other than for selling the Florida assets to FGUA. Therefore, Ni Florida agrees with excluding from rates the legal and other costs related to a possible sale, but does not agree with excluding the costs for corporate travel from the costs allocated or specifically assigned to Ni Florida.

If you have further questions, comments or comments, please do not hesitate to contact me. Thank you.

Sincerely,

M.P. McDonell

Martin P. McDonnell

MPM/vp

cc: Melissa L'Amoreaux
Stan Rieger
Suzanne Brownless