

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Analysis of Utilities, Inc.'s financial / Docket No: 120161-WS
accounting and customer service computer system. /
_____/ Filed: April 22, 2014

MOTION TO STRIKE PRE-FILED TESTIMONY

The Citizens of the State of Florida, through the Office of Public Counsel (“Citizens” or “OPC”), pursuant to Order No. PSC-14-0041-PCO-WS establishing procedure issued January 16, 2014 (“Order Establishing Procedure” or “OEP”), file this Motion to Strike Pre-Filed Testimony (“Motion”) of Utilities, Inc. (“UI” or “Utility”) witnesses Mr. Lawrence A. Danielson and Ms. Sharon Wiorek as not being relevant to the sole issue in this case. In support of this motion, Citizens state as follows:

1. The Order Establishing Procedure states the sole issue to resolve in this case is “Should any adjustment be made to the Utility’s Project Phoenix Financial/Customer Care Billing System (Phoenix Project)?” As clarified during prehearing activities, this issue relates – not to the prudence of the decision to design or implement Project Phoenix or its overall costs – but to the methodology by which the Commission allocates those costs among UI subsidiaries. Any testimony or exhibits not relevant to this sole issue should be stricken as being outside the scope of this hearing.

2. Mr. Danielson pre-filed direct testimony and exhibits and Ms. Sharon Wiorek pre-filed direct and rebuttal testimony and exhibits in this docket.

3. According to UI’s prehearing statement, Mr. Danielson provides testimony for this issue: “Would the reduction in the number of customers served by UI subsidiaries by 10% have had any impact in reducing the cost of Project Phoenix?” This is not an issue listed in the OEP. This is not a fall-out issue, a sub-issue, nor an issue subsumed in the remaining issue.

4. Order No. PSC-14-0143-PCO-WS, issued March 28, 2014, determined that the prudence of Project Phoenix had been previously decided by numerous Commission orders, and that the prudence of Project Phoenix costs was not an issue in this case. Therefore, the matters to which Mr. Danielson provides testimony – why Project Phoenix was designed, how UI selected the financial and customer care billing system components of Project Phoenix, the number of customers Project Phoenix could serve, or the prudence of the cost associated with serving those customers – are not at issue in this hearing.

5. Since Mr. Danielson does not provide pre-filed testimony relevant to any issue in dispute in this hearing, his testimony is not necessary for the final decision of the Commission to be rendered post-hearing. Therefore, the Citizens respectfully request that all of Mr. Danielson’s pre-filed testimony and exhibits be stricken.

6. In addition, if Mr. Danielson’s testimony and exhibits are stricken, all rate case expense charged by Deloitte and incurred by UI in the preparation of his pre-filed testimony and exhibits should be disallowed as imprudent, since it was unnecessary and therefore unreasonable for the utility’s customers to bear costs for testimony and related legal costs related to a non-issue. The amount of rate case expense associated with the preparation of Mr. Danielson’s testimony and exhibits is approximately \$103,408 (\$101,328 Deloitte charges + \$2,080 Attorney charges) as requested per Ms. Wiorek’s pre-filed testimony.

7. According to UI’s prehearing statement, Ms. Wiorek provides direct and rebuttal testimony for this issue: “What is the appropriate rate case expense?” Rate case expense is not listed as an issue in the OEP. Similarly, rate case expense is not a fall-out issue, a sub-issue, nor an issue subsumed in the remaining issue.

8. Citizens' position on whether rate case expense is an issue in this hearing is more fully explained in OPC's prehearing statement filed on April 18, 2014, and those arguments are adopted and incorporated in this Motion. Moreover, Ms. Wiorek's rebuttal testimony is improper supplemental direct testimony since Commission staff's witness Mr. Fletcher did not pre-file testimony concerning rate case expense.

9. Since rate case expense pursuant to the OEP is not an issue in this hearing, the pre-filed testimony and exhibits of Ms. Wiorek are not necessary for the final decision of the Commission to be rendered post-hearing. Therefore, the Citizens respectfully request that all of Ms. Wiorek's pre-filed direct and rebuttal testimony and exhibits be stricken.

10. This Motion is being filed pursuant to Section V. Paragraph D. of the Order Establishing Procedure issued in this docket. In accordance with Rule 28-106.204(3), Florida Administrative Code, OPC consulted with Counsel for UI prior to the filing of this Motion and UI opposes this Motion.

WHEREFORE, the Office of Public Counsel respectfully requests on behalf of UI's customers that the Commission strike the pre-filed testimony and exhibits of Utilities, Inc.'s witnesses Mr. Lawrence A. Danielson and Ms. Sharon Wiorek.



Erik L. Saylor
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm. 812
Tallahassee, FL 32399-1400
(850) 488-9330

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Office of Public Counsel's **Motion to Strike Pre-Filed Testimony** has been furnished by electronic mail and/or U.S. Mail to the following parties on this 22th day of April, 2014, to the following:

Martha Barrera / Julia Gilcher
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Martin S. Friedman
Friedman, Friedman & Long, P.A.
766 North Sun Drive, Suite 4030
Lake Mary, FL 32746

Patrick C. Flynn
Utilities, Inc.
200 Weathersfield Avenue
Altamonte Springs, FL 32714-4027



Erik L. Sayler
Associate Public Counsel