

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: August 21, 2014

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (T. Brown, Cicchetti, Prestwood) *ALM*
Office of the General Counsel (Barrera) *JSC MB*

RE: Docket No. 120161-WS – Analysis of Utilities, Inc.'s financial accounting and customer service computer system.

AGENDA: 09/04/14 – Regular Agenda – Post-Hearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: Graham, Brisé, Brown

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 24, 2012, Utilities, Inc. (UI or Utility), on behalf of its Florida subsidiaries,¹ requested that the Commission establish a generic docket to address the impact of divested systems on the recovery of the cost of UI's financial accounting and customer service computer system. The petition stemmed from an approved Joint Stipulation and Settlement Agreement between the Office of Public Counsel (OPC) and Utilities, Inc. of Eagle Ridge in Docket No. 110153-SU.² UI and OPC agreed to a 120-day investigatory period to allow time for UI, OPC,

¹ UI's subsidiaries in Florida are as follows: Cypress Lakes Utilities, Inc., Labrador Utilities, Inc., Lake Placid Utilities, Inc., Lake Utility Services, Inc., Mid-County Services, Inc., Sanlando Utilities Corporation, Tierra Verde Utilities, Inc., Utilities, Inc. of Eagle Ridge, Utilities, Inc. of Florida, Utilities, Inc. of Longwood, Utilities, Inc. of Pennbrooke, and Utilities, Inc. of Sandalhaven.

² See Order No. PSC-12-0346-FOF-SU, issued July 5, 2012, in Docket No. 110153-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

and Commission staff to meet informally in a good faith effort to resolve or narrow the disputed issues. OPC's intervention was acknowledged by Order No. PSC-12-0319-PCO-WS, issued June 22, 2012.

On October 17, 2012, UI and OPC (collectively "Parties") filed a joint motion to extend the informal investigatory period through February 28, 2013, which was approved by Order No. PSC-12-0604-PCO-WS, issued November 6, 2012. On February 18, 2013, the Parties filed a second joint motion to extend the informal investigatory period through April 30, 2013, which was approved by Order No. PSC-13-0097-PCO-WS, issued February 21, 2013. On April 19, 2013, the Parties filed a third joint motion to extend the informal investigatory period through June 30, 2013, which was approved by Order No. PSC-13-0202-PCO-WS, issued May 17, 2013.

On June 27, 2013, the Parties filed a fourth joint motion to extend the informal investigatory period through September 30, 2013. At the oral argument held on August 12, 2013, the Parties requested an oral amendment to their motion to allow for additional time through October 31, 2013, at which time the Parties assured the Prehearing Officer that they would be ready to proceed to formal hearing and would not request further extensions of time for the investigatory period. Based upon the Parties' amended request and assurances, the fourth joint motion was granted and the informal investigatory period was extended through October 31, 2013. In order to ensure that the Parties would be ready to proceed to hearing on this matter, the Prehearing Officer ordered the Parties to file a list of issues no later than October 14, 2013.

On October 15, 2013, UI and OPC filed their respective list of issues. On November 8, 2013, the Parties filed a Joint Motion Requesting Commission Approval of Stipulation and Settlement Agreement (Settlement Agreement) which resolved nine issues, dropped one issue, and identified one remaining issue. The Commission approved the Settlement Agreement by Order No. PSC-14-0044-FOF-WS, issued January 22, 2014.

On January 16, 2014, the Order Establishing Procedure, Order No. PSC-14-0041-PCO-WS, was issued. A formal hearing was held May 14, 2014, in Tallahassee. The Parties filed briefs on May 30, 2014.

This recommendation addresses whether any adjustment should be made to the Utility's Project Phoenix Financial/Customer Care Billing System (Phoenix Project) and the appropriate amount of rate case expense. The Commission has jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should any adjustment be made to the Utility's Project Phoenix Financial/Customer Care Billing System (Phoenix Project)?

Recommendation:

Primary Recommendation: Yes. The Commission should determine the net investment in Phoenix Project in UI rate cases using a modified used and useful analysis based on the ratio of the current total company number of equivalent residential connections (ERCs) and the ERCs in place when Phoenix Project was implemented, capped at 100 percent of the net investment in Phoenix Project. If the primary recommendation is approved, regulatory assets or liabilities will need to be determined in the next rate case for each of the affected UI systems identified in the Staff Analysis. Additionally, any future adjustments to computer maintenance expense should be made in a manner consistent with the Commission's decision regarding the allocation of Phoenix Project costs. No change in the amortization period previously ordered by the Commission is necessary. The appropriate amortization period for the Phoenix Project should remain at 10 years. (Cicchetti)

Alternate Recommendation: Yes. Adjustments consistent with the Commission's existing divestiture methodology should be made going forward. Since staff is recommending that the Commission continue making adjustments to the Phoenix Project consistent with its previous decisions, no adjustment is needed to address any potential regulatory asset or liability. In addition, any future adjustments to computer maintenance expense should be made in a manner consistent with the Commission's existing methodology. Alternate staff agrees with the primary staff that the appropriate amortization period for the Phoenix Project should remain at 10 years. (T. Brown)

Position of the Parties

UI: No, the reduction in the number of customers served by UI subsidiaries would not have had any impact on reducing the capital cost invested in Project Phoenix. The opportunity to recover the cost of Project Phoenix should not be reduced as a result of divestitures subsequent to its implementation. Reducing the cost of Project Phoenix for divested utility systems is contrary to Section 367.0813, Florida Statutes.

OPC: No. This issue is barred by the principle of administrative finality. The Commission has already decided this issue in numerous final orders, and should continue making its Project Phoenix adjustments which properly account for the effect of divestitures by UI of its systems and ERCs. The Commission adjustments are just and reasonable, and fairly and equitably balance the interests of the customers and the utility has failed to meet its burden that the Commission's adjustment is improper or unreasonable.

Staff Analysis: Both UI and OPC raised legal arguments in their post-hearing briefs. UI asserted that reducing the cost of the Phoenix Project for divested utility systems is a violation of Section 367.0813, F.S. (UI BR 8) OPC argued that before determining whether any adjustments should be made to UI's Phoenix Project, the Commission must first address whether the issue is

barred by the principle of administrative finality. (OPC BR 1-5) If barred, OPC maintained that the Commission should affirm its prior decisions regarding adjustments to the Phoenix Project. (OPC BR 1, 5) Staff believes the legal arguments tendered by UI and OPC should be addressed before moving into the analysis related to the technical issue at hand.

Legal Analysis

Potential Violation of Section 367.0813, Florida Statutes

UI argues that it is a violation of Section 367.0813, F.S., to use the gains received by the shareholders on the sale of the divested systems to reduce the rate base of the remaining systems. Section 367.0813, F.S., states “. . . gains or losses from a purchase or condemnation of a utility’s assets which results in the loss of customers served by such assets and the associated future revenue streams shall be borne by the shareholders of the utility.” (Emphasis supplied). The clear language of the statute contravenes UI’s argument. When the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no need to resort to the rules of statutory interpretation and construction.” James W. Windham Builders, Inc. v. Overloop, 951 So. 2d 40, 42 (Fla. 1st DCA 2007). “The statute must be given its plain and obvious meaning.” Id., (citing McLaughlin v. State, 721 So. 2d 1170, 1172 (Fla. 1998)). Based on the plain language of the statute, gains or losses stemming from UI’s divestiture of its systems are to be borne by the shareholders as the transactions resulted in the loss of customers.

Additionally, the Commission has previously determined that the divestiture of systems should not affect the remaining customers in Florida:

This adjustment is not related to gain on sale. The adjustment is being made to prevent UI from allocating additional cost to Florida-utility systems. The additional cost UI has proposed to allocate to Mid-County and other UI-systems is the result of UI's unilateral decision to sell assets unrelated to the provision of regulated wastewater service by Mid-County. UI's proposed incremental increase in the Phoenix Project allocation is not related to additional investment in its computer system to improve its functionality or extend its useful life. Instead, this increase in allocation is designed to offset an unrelated business decision. Without any added benefit or an extension of its useful life, it is inappropriate for UI to attempt to raise water and wastewater rates in Florida simply because it sold systems in other states.³

Staff believes this reasoning is still valid.

Administrative Finality

OPC argues that UI’s petition should be dismissed under the doctrine of administrative finality because the Commission has already decided the questions in prior UI cases. OPC bases its argument on Commission orders issued in prior rate cases involving UI utilities where the

³ See Order No. PSC-12-0389-PAA-SU, issued December 27, 2012, in Docket No. 120076-SU, In re: Investigation of rates of Mid-County Services, Inc. in Pinellas County for possible overearnings.

Commission disallowed the reallocation of Phoenix Project expenses after divestiture, including the original allowance of the Phoenix Project costs, which constituted a finding of prudence. OPC further argues that any resolution of the instant case would amount to retroactive ratemaking, as it would affect the rate cases in which those expenses were previously disallowed.

For several reasons, OPC misapprehends the doctrines of administrative finality and retroactive ratemaking as applied to the facts of this case. In Docket No. 110153-SU, OPC and UI agreed, and the Commission ordered, that the issue of the allocation of Phoenix Project expenses after divestiture would be addressed in a “generic” docket applicable to all UI utilities. As part of that agreement, OPC agreed that the Commission’s ultimate decision regarding the allocation of Phoenix Project costs applied only to future rate cases. The parties agreed that, in the event the Commission ordered any upward or downward adjustment to prior revenue requirements, a regulatory asset or liability would be created and interest on the regulatory asset or liability would accrue at the 30-day commercial paper rate “until recovered in rates established in the *next rate proceeding*.” The regulatory asset or liability would be amortized over four years.⁴

A regulatory asset typically involves a cost incurred by a regulated utility that would normally be expensed currently but for an action by the regulator or legislature to defer the cost as an asset to the balance sheet. This allows a utility to amortize the regulatory asset over a period greater than one year. An example of a regulatory liability would be the deferral of past overearnings to future periods. By its very nature, a regulatory asset or liability can only be applied prospectively.

In rate cases pending at the time of the Eagle Ridge Order, and during the pendency of the generic proceeding, the Commission authorized the creation of a regulatory asset or liability pending resolution of the allocation of the Phoenix Project expenses in the instant docket.⁵ Each of those orders provide that the regulatory asset or liability will be recovered in the utility’s *next rate proceeding*. There is no provision in any of these orders that allow a modification of the prior rate case orders for these or any other UI utilities.

While the power of the Commission to modify its orders is “inherent by reason of the nature of the agency and the functions it is empowered to perform,” this power is not without limitation. Reedy Creek v. Fla. Public Serv. Com., 418 So.2d 249, 253, (Fla 1982); Richter v Florida Power Corp. 366 So. 2d. 798 (Fla. 3rd DCA 1979). OPC correctly describes the doctrine

⁴ See Order No. PSC-12-0346-FOF-SU, issued July 5, 2012, in Docket No. 110153-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

⁵ See Order Nos. PSC-14-0335-PAA-WS, issued June 30, 2014, in Docket No. 130243-WS, In re: Application for staff-assisted rate case in Highlands County by Lake Placid Utilities Inc.; PSC-14-0283-PAA-WS, issued May 30, 2014, in Docket No. 130212-WS, In re: Application for increase in water/wastewater rates in Polk County by Cypress Lakes Utilities, Inc.; PSC-12-0667-PAA-WS, issued December 26, 2012, in Docket No. 120037-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke; PSC-13-0085-PAA-WS, issued February 14, 2013, in Docket No. 110257-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation; and PSC-14-0025-PAA-WS, issued January 10, 2014, in Docket No. 120209-WS, In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida.

of administrative finality, which limits such power as stated in Peoples Gas v. Mason, 187 So. 2d 335, 339 (Fla. 1966):

Orders of administrative agencies must eventually pass out of the agency's control and become final and no longer subject to modification. This rule assures that there will be a terminal point in every proceeding at which the parties and the public may rely on a decision of such an agency as being final and dispositive of the rights and issues involved therein. This is, of course, the same rule that governs the finality of decisions of courts. It is as essential with respect to orders of administrative bodies as with those of courts.

See also: Austin Tupler Trucking v. Hawkins, 377 So.2d 679 (Fla 1979).

Peoples Gas v. Mason, 137 So. 2d. at 339, cautioned against “too doctrinaire” an approach to administrative finality. Thus, the Commission must be granted a “certain degree of latitude” in order to effectively carry out its functions. Where the Commission had determined that it had erred to the detriment of customers of the utility, it had the inherent authority to amend its order and require the utility to refund overearnings to the customers. The Florida Supreme Court reasoned that the Commission had the authority to modify orders that derive from the nature of its ratemaking powers. Reedy Creek v. Fla. Public Serv. Com., 418 So.2d at 253.

Citing the foregoing case law, where the Commission issued a final order correcting *prospectively* a water utility’s rate base computation affected by a prior order requiring the utility to refund overearnings, the First District Court upheld the Commission, holding that the doctrine of administrative finality did not apply as the issue of prospective ratemaking is “never truly capable of finality.” Sunshine Utils. v. Florida Pub. Serv. Comm’n, 577 So. 2d 663 (Fla. 1st DCA 1991).

Thus, as the instant case applies only prospectively to future rate cases, OPC’s argument regarding retroactive ratemaking and administrative finality do not apply to the facts of this case. Further, regulatory assets were established, and the Commission said that it would decide the issue of divestitures in the generic proceeding.

Technical Analysis:

The following discussion addresses whether any adjustment should be made to the Utility’s Phoenix Project. Primarily, the issue addresses whether the divestiture of UI companies should be considered in determining the costs that are allocated to the surviving utilities. The issue also addresses the appropriate amortization period of the Phoenix Project, the potential creation of a regulatory asset or liability, and additional adjustments related to compute maintenance expense.

Parties' Arguments

UI witness Danielson argued that the design of the Phoenix Project was not dependent on customer count. (TR 33) According to witness Danielson, if customers are added or lost, there is no change in scope, size, complexity, or components. (TR 33) Witness Danielson also explained that there is no linear relationship between the number of customers and the number of system users. (TR 41-42) He concluded that even a 10 percent reduction in the number of customers would have made no difference in the design process because the business and technical requirements would not have changed. (TR 33) Witness Danielson asserted that the only variable portion of the Phoenix Project costs was the approximately \$380,000 spent on hardware and network infrastructure.⁶ (TR 34, 42) Even then, the witness emphasized that only a small portion of this amount would be attributable to the equipment needed to accommodate peak transaction processing periods. As such, witness Danielson asserted the number of users would not change in response to divestment or acquisition activity. (TR 34)

UI witness Hoy outlined the Utility's corporate policies regarding acquisitions and divestitures, pointing out that strategic divestitures are a normal part of any corporate business strategy. (TR 133-134) The Utility's acquisitions and divestitures undertaken after the Phoenix Project was placed in service are provided in Attachments A and B to this recommendation.⁷ According to witness Hoy, UI's divestitures were undertaken to provide needed capital to reinvest in other systems, not for the purpose of generating dividends. (TR 136) During this time, witness Hoy offered that UI continued to make significant capital investment in its systems in order to improve the quality of service and meet regulatory requirements. (TR 135)

At the same time, witness Hoy stressed that UI's new private equity owner has extensive capital to fuel continued growth and that the Utility completed several acquisitions in 2013 and early 2014. (TR 134, 137) Several additional acquisitions are currently under contract. (TR 134) When completed, witness Hoy expects the acquisitions to add over 10,000 ERCs, bringing UI close to serving the same number of customers as when the Phoenix Project went on line. (TR 134; 137, 138) As a result, witness Hoy noted that UI will have only 8 percent fewer ERCs than when the Phoenix Project was placed in service. (TR 138) Additionally, the Utility emphasized in its post-hearing brief that the Commission's divestiture adjustment does not treat the customers and UI equally. (UI BR 3) According to UI, it is penalized for divesting systems, but receives no benefit for growth. (UI BR 3)

In its post-hearing brief, OPC asserted that the Commission's practice of reducing the cost of the Phoenix Project rate base components for divestitures should be continued. (OPC BR 3, 7-8) According to OPC, the Commission's Phoenix Project adjustment properly accounts for

⁶ The major cost components were professional fees (75%), hardware/software/licensing (15%), and training/travel/miscellaneous (10%). (TR 30, 34)

⁷ Staff notes the Commission has recognized December 2008 as the operational date in numerous other UI dockets and Orders. To staff's knowledge, the Utility never challenged that in-service date. In this docket, however, the Utility has stated that the financial portion of Project Phoenix became operational in December 2007, and the customer billing portion of Project Phoenix became operational in June 2008. (EXH 12, BSP 5; EXH 19, BSP 160) For the sake of consistency, and since staff is using a December 31, 2008 ERC count as a starting point when addressing acquisitions and divestitures here, staff believes it remains appropriate to continue using December 2008 as Phoenix Project's in-service date.

the effect of the divestitures, balances the interests of the customers and the utility, and is in the public interest. (OPC BR 3, 5, 8) In support, OPC claimed no change of circumstances have occurred since these orders were issued which “would require or authorize the Commission to revisit or adjust its prior Phoenix Project divestiture adjustment methodology.” (OPC BR 3)

OPC also alleged that UI failed to satisfy its burden of proof in this docket. (OPC BR 1, 5). According to OPC, UI did not provide any evidence that customers would receive any additional benefit by paying an increased share of the remaining Phoenix Project costs or that the Utility has been deprived of the opportunity to recover its Phoenix Project costs. (OPC BR 5) OPC added that a divested system’s sales price includes consideration for the future depreciation expense for that system's portion of the Phoenix Project at the time it was sold. Re-allocating those costs to remaining customers could create an opportunity for double recovery. (OPC BR 6-8) As such, OPC maintained the Commission’s adjustments to the Phoenix Project costs are just and reasonable, and fairly and equitably balance the interests of the customers and the utility. (OPC BR 5, 8)

Additionally, UI witness Hoy advocated an 8-year amortization period instead of a 10-year period. (EXH 19, BSP 160; EXH 20, BSP 179-180) In its post-hearing brief, OPC supports the 10-year amortization period for the Phoenix Project. OPC also recommends that the Commission continue making adjustments to the Phoenix Project consistent with its previous decisions. (OPC BR 7) Staff witness Fletcher also supported a 10-year amortization period. (TR 90, 118)

Primary Staff Analysis:

Appropriate Phoenix Project Adjustment

The Phoenix Project was implemented by UI to improve its accounting, customer service, billing, financial reporting, and regulatory reporting systems. The Phoenix Project became operational in December 2008. (TR 86) Also, in December 2008, the Commission ruled in the Miles Grant Water and Sewer Co. case⁸ that recovery of Phoenix Project costs would be allocated on the basis of ERCs. (EXH 9, 9a)

In June 2008, in the Utilities, Inc. of Pennbrooke case,⁹ and in subsequent dockets, the Commission removed the ERCs of systems divested by UI from total company ERCs when calculating the net investment in Phoenix Project. UI objected to this treatment and argued that the total investment of Phoenix Project should be spread over the surviving total company ERCs. (UI BR 1) However, as pointed out by staff witness Fletcher, taking the Company’s position to its logical conclusion means if UI divested all its systems except one in Florida, the entire cost of Phoenix Project would be borne by one system in Florida. Such a result would be unjust and unfair. (TR 87) Witness Fletcher testified that reallocation of the divested systems’ previous share of Phoenix Project costs is not just or reasonable because the ratepayers of the surviving

⁸ See Order No. PSC-08-0812-PAA-WS, issued December 16, 2008, in Docket No. 070695-WS, In re: Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company.

⁹ See Order No. PSC-10-0400-PAA-WS, issued June 18, 2010, in Docket No. 090392-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke.

systems receive no added benefit associated with bearing the additional allocated Phoenix Project costs. (TR 87) Section 367.081, F.S., states, in part:

The commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. In every such proceeding, the commission shall consider the value and quality of the service and the cost of providing the service. . . .

When UI divests systems, neither the value and quality of service, nor the cost of providing service to the surviving systems increases and therefore, a rate increase to the surviving systems is not justified. The provision of utility service in Florida does not increase costs to any UI Florida system or to UI when UI divests systems. During cross examination, witness Hoy agreed that under the Company's recommended treatment, the revenue requirement could increase and a rate case could be initiated in Florida, simply because Utilities, Inc. sold subsidiaries outside of Florida. (EXH 20, p. 11)

Witness Fletcher testified that under his recommended treatment, there is no positive adjustment for growth in customers whether through acquisitions or organic growth. (TR 105, 112) Conversely, UI argued, "Under Mr. Fletcher's theory, UI can have more customers than when Phoenix Project went on line, yet not recover the full cost." (UI BR 5) Primary staff believes recognizing divestitures but not recognizing acquisitions is inequitable. When the divested systems' previous share of Phoenix Project costs is not reallocated to the surviving systems, the Phoenix Project cost per ERC rightfully remains constant for the surviving ERCs. All other things being equal, if the net investment in Phoenix Project is not increased when ERCs increase, whether due to acquisitions or organic growth, the cost per ERC declines and UI will not recover the net investment in Phoenix Project, even though UI could be serving the same number of customers, or more, as when Project Phoenix was implemented. Such treatment is unfair. The benefits of increased economies of scale (lower cost per ERC) bestowed on customers comes at the expense of losses to UI due to the diminished recovery of the total cost of Phoenix Project.

Applying a modified used and useful analysis to the net investment in Phoenix Project is a reasonable means of addressing the fundamental drawback of the current treatment while preserving the appropriate protections inherent in witness Fletcher's recommended treatment. For example, a typical used and useful adjustment for a water treatment system is made by dividing peak demand by the firm reliable capacity of the water treatment system. The purpose of such an adjustment is to ensure that only the property needed to serve current customers is charged to current customers. Under a modified used and useful approach for determining the allocation of the net investment in Phoenix Project, the current total number of UI ERCs would be divided by the total company ERCs in place at the time Phoenix Project was implemented to determine the net investment in Phoenix Project, capped at 100 percent of the net investment in Phoenix Project. The per ERC allocated costs would be determined by dividing the net investment in Phoenix Project by the number of current ERCs. Table 1-1 illustrates the modified used and useful approach.

Table 1-1

Example of Modified Used and Useful Approach \$1,000,000 Investment						
1	2	3	4	5	6	7
Total Co. ERCs	Percent of Orig. ERCs	Investment Allowed	Annual Cost/ERC	Florida ERCs	Florida Invest. Allocation	Florida Cost per ERC
		(1M x col. 2)	(Col. 3/Col. 1)		(Col. 5/Col. 1)x(Col. 3)	(Col. 6/Col. 5)
100,000	100%	\$1,000,000	\$10.00	10,000	\$100,000	\$10.00
80,000	80%	\$800,000	\$10.00	9,000	\$90,000	\$10.00
90,000	90%	\$900,000	\$10.00	10,000	\$100,000	\$10.00
122,000	122%	\$1,000,000	\$8.20	12,000	\$98,360	\$8.20

This modified used and useful approach for determining allocated Phoenix Project costs is a reasonable means of ensuring the per/ERC cost never exceed the initial per/ERC cost, addressing the Company's concern regarding equal treatment for acquisitions and divestitures, sending a more appropriate price signal, and allowing customers to benefit from economies of scale when the number of ERCs exceeds the ERCs at the time of implementation.

The Company's claim that reducing the cost of Phoenix Project is contrary to Section 367.0813, F.S., is not an issue in this case. (UI BR 7) No mention was made of any gain on sale from a divestiture in relation to Phoenix Project costs by any witness in the instant docket, by any party that protested Order No. PSC-11-0587-PAA-SU in Docket No. 110153-SU, Utilities, Inc. of Eagle Ridge (Eagle Ridge), or by any party to any docket that was pending at the time Eagle Ridge was protested. While gain on sale was referenced in association with Phoenix Project adjustments in three early decisions, the Commission's decisions since then have been based on no added benefit. (TR 94-95, 100-102) Moreover, gain on sale was not a position proffered by witness Fletcher in this docket. Consequently, any gain on sale from a divestiture in relation to the treatment of Phoenix Project costs is a moot point.

Regulatory Asset or Liability

In Docket No. 110153-SU, as part of a proposed settlement of Proposed Agency Action protests, UI, with the consent and support of OPC, petitioned the Commission to open this generic docket to address the protested issue relating to the Utility's Phoenix Project. The Parties agreed, and the Commission subsequently ordered,¹⁰ that if there is an upward or downward adjustment to the previously approved revenue requirement for Eagle Ridge resulting from a final Commission decision in this docket, the Utility shall be authorized to create a regulatory asset or liability, and accrue interest on the regulatory asset or liability, at the 30-day commercial paper rate until the establishment of rates in Eagle Ridge's next rate proceeding. The Commission ordered that the regulatory asset or liability be amortized over four years. This methodology was also ordered for Utilities, Inc. of Pennbrooke, Sanlando Utilities Corporation,

¹⁰ See Order No. PSC-12-0346-FOF-SU; pp. 2, 9.

Utilities, Inc. of Florida, Cypress Lakes Utilities, Inc., and Lake Placid Utilities, Inc.,¹¹ but not for Labrador Utilities, Inc. (Labrador). The Labrador final order preceded the July 5, 2012, settlement Order in Eagle Ridge and does not include the regulatory asset or liability provision.¹² Accordingly, an adjustment is needed in the related dockets to address the regulatory asset or liability resulting from approval of the primary recommendation on Issue 1.

Computer Maintenance Expense

There was no discussion in the record related to the Commission's divestiture adjustment to UI's computer maintenance expense. In several recent rate cases involving UI subsidiaries, the Commission recognized the volatility of computer maintenance expense, determined that a five-year average is an appropriate basis for ratemaking purposes, and excluded the portion of Phoenix Project IT maintenance charges associated with UI divested systems, consistent with the Commission's treatment of the Phoenix Project costs per ERC.¹³ Primary staff recommends that any future adjustments to computer maintenance expense should be consistent with the Commission's decision in this case.

Appropriate Amortization Period

Staff witness Fletcher acknowledged that the Commission set the amortization period for the Phoenix Project at 6 years initially, then 8 years, and finally 10 years over the course of several years. (TR 90, 126-127) The Commission approved a 6-year amortization period in 3 UI dockets in 2007,¹⁴ and then increased the amortization period to 8 years in 5 UI dockets opened in 2008 and 2009.¹⁵ The Commission found that increasing the amortization period from 6 to 8 years was more appropriate at that particular time due to the magnitude of the project. For all other 2009 and subsequent cases, the Commission found that the amortization period for the Phoenix Project should be 10 years. (TR 90, 126-127) Witness Fletcher asserted that the Commission established a 10-year service life for a number of reasons, stating the following:

First, the Phoenix Project was specifically tailored to meet all of UI's needs. Such a project is not "off the shelf" software, but software designed to fulfill long-term accounting, billing, and customer service needs. Second, the software will be used at least 10 years. For example, UI's former Legacy accounting system had

¹¹ See Order Nos. PSC-12-0667-PAA-WS, issued December 26, 2012, in Docket No. 120037-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke; PSC-13-0085-PAA-WS, issued February 14, 2013, in Docket No. 110257-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation; PSC-14-0025-PAA-WS, issued January 10, 2014, in Docket No. 120209-WS, In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida; PSC-14-0283-PAA-WS, issued May 20, 2014, in Docket No. 130212-WS, In re: Application for increase in water/wastewater rates in Polk County by Cypress Lakes Utilities, Inc.; and PSC-14-0335-PAA-WS, issued June 30, 2014, in Docket No. 130243-WS, In re: Application for staff-assisted rate case in Highlands County by Lake Placid Utilities Inc.

¹² See Order No. PSC-12-0206-PAA-WS, issued April 19, 2012, in Docket No. 110264-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

¹³ See Order Nos. PSC-14-0335-PAA-WS, PSC-14-0283-PAA-WS, PSC-14-0025-PAA-WS, PSC-13-0085-PAA-WS, PSC-12-0667-PAA-WS, and PSC-12-0206-PAA-WS.

¹⁴ See Docket Nos. 070693-WS, 070694-WS, and 070695-WS.

¹⁵ See Docket Nos. 080247-SU, 080248-SU, 080249-WS, 080250-SU, and 090121-SU.

been used for 21 years. Third, in a 2009 docketed case involving a UI subsidiary in Nevada, UI responded that any amortization period between 4 and 10 years would be in compliance with Generally Accepted Accounting Principles.

(TR 90)

As stated by witness Fletcher, based on the factors mentioned above, the Commission found that 10 years was a reasonable amortization period in numerous dockets. (TR 90, 126) Staff notes that the 10-year amortization period has been approved by the Commission in 14 other UI dockets since 2010.¹⁶ (EXH 9, 9A) Moreover, UI has previously admitted to the Commission that its own research revealed that computer software could be amortized up to 10 years.¹⁷ Despite acknowledging the Commission-approved 10-year amortization period, witness Hoy testified that 8 years is what UI has been using across all of its systems and added that most commissions have accepted the 8-year time frame. (EXH 20, BSP 179-180) Staff does not believe UI witness Hoy's argument, nor the record here, is compelling enough to alter what has been well-established by this Commission. As such, staff recommends no change in the amortization period previously ordered by this Commission is necessary. Accordingly, primary staff recommends the appropriate amortization period for the Phoenix Project remain at 10 years.

Conclusion

The Commission should determine the net investment in Phoenix Project in UI rate cases using a modified used and useful analysis based on the ratio of the current total company number of ERCs and the ERCs in place when Phoenix Project was implemented, capped at 100 percent of the net investment in Phoenix Project.

Because Primary staff is recommending the Commission change the method of determining allowed Phoenix Project costs, regulatory assets or liabilities will need to be determined in the next rate case of the affected UI systems in Florida identified previously. Additionally, any future adjustments to computer maintenance expense should be made in a manner consistent with the Commission's decision regarding Phoenix Project in this case. Primary staff recommends that the appropriate amortization period for the Phoenix Project should remain 10 years. Therefore, no change in the amortization period previously ordered by this Commission is necessary.

Alternate Staff Analysis:

Appropriate Phoenix Project Adjustment

In regard to whether any adjustment should be made to Phoenix Project, alternate staff believes the Commission's practice of reducing the cost of the Phoenix Project rate base components for divestitures should be continued. The Utility argued that the Commission's

¹⁶ See Docket Nos. 090349-WS 090381-WS 090392-WS, 090402-WS, 090462-WS, 090531-WS, 100426-WS, 110153-SU, 110264-WS, 120037-WS, 110257-WS, 120209-WS, 130212-WS, and 130243-WS.

¹⁷ See Order No. PSC-11-0587-PAA-SU, issued December 21, 2011, in Docket No. 110153-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge, pp. 7-8.

efforts to reduce rate base associated with the investment in Phoenix Project has changed over time. (UI BR 2) UI claimed that staff witness Fletcher and the Commission have ignored the benefits and the associated economies of scale that the Utility's acquisitions bring. (UI BR 7; TR 129-130) As a result, UI maintained that the opportunity to recover the cost of Phoenix Project should not be reduced as a result of divestitures. The Utility emphasized that the Commission's existing divestiture adjustment does not treat UI's customers and the Utility equally. According to UI, it gets penalized for divesting systems, but receives no benefit for growth. (UI BR 3)

Alternate staff does not dispute that the Commission has made certain changes in its handling of Phoenix Project costs over time. The appropriate amortization period was adjusted,¹⁸ the Commission began removing divested systems from the ERC total,¹⁹ and a computer maintenance expense adjustment for divestitures was later added.²⁰ (EXH 9, 9A) In fact, staff witness Fletcher discussed the various changes implemented by the Commission over the past six years throughout his testimony. (TR 94-95, 97, 99-101, 106-107; EXH 9, 9A) The Utility argues that because the Commission's treatment of Phoenix Project costs has changed over time, it is somehow flawed. However, alternate staff advocates that the mere fact the Commission's adjustments to certain Phoenix Project expenses have evolved over time, does not diminish the validity of the adjustment itself.

The Utility claimed that staff witness Fletcher's attempt to clothe his opinion with an economies of scale argument is also flawed. (UI BR 5) Witness Fletcher simply stated that UI's divestitures over the last few years appeared to be "contrary to its stated growth strategy," nothing more. (TR 90) Staff does not consider witness Fletcher's economies of scale comments to be a new justification for the Commission's adjustment. (TR 100-101) As such, alternate staff believes that UI's position is misplaced.

UI also found fault with staff witness Fletcher's testimony that the Utility must show some added benefit, noting that the requirement does not exist in law. (UI BR 4; TR 110-111, 124) However, the added benefit standard stems from the Commission's duty to set just and reasonable rates. (TR 109-110) As staff witness Fletcher stated, the Commission's adjustments are appropriate "because the ratepayers of the surviving systems receive no added benefit associated with bearing the additional allocated Phoenix Project costs." (TR 87) OPC agreed that for remaining customers to pay more with no additional benefit is unjust and unreasonable. (OPC BR 7) Staff notes that the Commission has routinely made adjustments to the Phoenix Project for divested systems and has not made adjustments to account for customer growth from acquisitions. (TR 105, 122) Furthermore, OPC notes in its post-hearing brief that UI provided no evidence showing the added benefit received by the Utility's remaining customers. (OPC BR 8) As such, alternate staff agrees with witness Fletcher that the Commission has previously and

¹⁸ See Order Nos. PSC-08-0812-PAA-WS, issued December 16, 2008, in Docket No. 070695-WS, In re: Application for increase in water and wastewater rates in Martin County by Miles Grant Water and Sewer Company; PSC-09-0264-PAA-SU, issued April 27, 2009, in Docket No. 080247-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge; and PSC-10-0400-PAA-WS, issued June 18, 2010, in Docket No. 090392-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke.

¹⁹ See Order No. PSC-10-0400-PAA-WS, issued June 18, 2010, in Docket No. 090392-WS.

²⁰ See Order No. PSC-12-0206-PAA-WS, issued April 19, 2012, in Docket No. 110264-WS, In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.

correctly determined that the remaining customers receive no additional benefit for paying more for the Phoenix Project. (TR 88)

Alternate staff also believes that re-allocating the Phoenix Project costs to the remaining UI customers might provide UI with an opportunity to double recover undepreciated Phoenix Project costs. (TR 156-158; OPC BR 7) During Commissioner questioning, UI witness Hoy testified that when negotiating the appropriate sales price of a system, UI takes into consideration future lost revenues resulting from the sale of that system. (TR 156) While testifying that Phoenix Project's assets are not sold with a system, witness Hoy acknowledged that a portion of Phoenix Project costs would be included in those lost revenues. (TR 156-157) Alternate staff believes the potential exists for the Utility to negotiate a sales price which could allow the Utility an opportunity to recoup some, if not all, of the future costs, including the remaining undepreciated portion of Phoenix Project allocated to that particular system. In its post-hearing brief, UI asserts that it "does not expect an upside when the number of customers exceeds that which was on line when Phoenix Project went active, but also does not expect a downside; it only seeks equal and fair treatment." (UI BR 3) UI also argues that it should not be denied an opportunity to fully recover its Phoenix Project investment. (UI BR 2) Given the discussion above, alternate staff believes that the Commission's existing divestiture adjustment provides the "equal and fair treatment" the Utility desires. (UI BR 2)

Finally, alternate staff notes that the cost of the Phoenix Project has been well-documented and long-recognized by this Commission. (EXH 9, 9A) The Commission has made a divestiture adjustment in 14 dockets over the course of 4 years. (EXH 9, 9A) UI did not challenge the Commission's adjustment the first 7 times it was made. (EXH 9, 9A) Moreover, nothing has been presented in the instant docket that would lead alternate staff to believe that a change in course is now necessary. Accordingly, alternate staff recommends the Commission continue making adjustments to the Phoenix Project consistent with its previous decisions in order to account for the divestitures of systems and associated reduction in ERCs. Based on the discussion above, alternate staff recommends the Commission determine that the existing Phoenix Project adjustment satisfies the requirements of Section 367.081(2)(a)1, F.S., to "fix rates which are just, reasonable, compensatory, and not unfairly discriminatory."

Regulatory Asset or Liability

Since alternate staff is recommending that the Commission continue making adjustments to the Phoenix Project consistent with its previous decisions, no adjustment is needed to address any potential regulatory asset or liability.

Computer Maintenance Expense

As discussed previously, there was no evidence in the record related to the Commission's divestiture adjustment to UI's computer maintenance expense. In several recent rate cases involving UI subsidiaries, the Commission recognized the volatility of computer maintenance expense, determined that a five-year average is an appropriate basis for ratemaking purposes, and excluded the portion of Phoenix Project IT maintenance charges associated with UI divested

systems, consistent with the Commission's treatment of the Phoenix Project costs per ERC.²¹ Alternate staff believes that any future adjustments to computer maintenance expense should be consistent with the Commission's existing methodology.

Appropriate Amortization Period

Alternate staff believes no change in the amortization period previously ordered by this Commission is necessary. Accordingly, the appropriate amortization period for the Phoenix Project should remain 10 years as recommended by primary staff.

Conclusion

Staff recommends that adjustments consistent with the Commission's existing divestiture methodology be made going forward. Since alternate staff is recommending that the Commission continue making adjustments to the Phoenix Project consistent with its previous decisions, no adjustment is needed to address any potential regulatory asset or liability. In addition, any future adjustments to computer maintenance expense should be made in a manner consistent with the Commission's existing methodology. Alternate staff agrees with the primary staff that the appropriate amortization period for the Phoenix Project should remain 10 years.

²¹ See Order Nos. PSC-14-0335-PAA-WS, PSC-14-0283-PAA-WS, PSC-14-0025-PAA-WS, PSC-13-0085-PAA-WS, PSC-12-0667-PAA-WS, and PSC-12-0206-PAA-WS.

Issue 2: What is the appropriate rate case expense?

Recommendation:

Primary Recommendation: The appropriate amount of rate case expense is \$129,204. The recommended total rate case expense should be allocated to each UI Florida subsidiary based on ERCs and amortized over four years. Recovery of this expense should be included as a separate line item within rate case expense as part of each subsidiaries' next file and suspend rate case, limited proceeding, or staff-assisted rate case. UI's Florida subsidiaries should be authorized to create a regulatory asset and accrue interest at the 30-day commercial paper rate until each system's next rate proceeding. The recommended portion of rate case expense allocated to each UI Florida subsidiary is provided in Attachment C. (T. Brown)

Alternate Recommendation: The appropriate amount of rate case expense is \$58,980. The total amount of rate case expense of \$123,604 associated with Deloitte, and \$2,080 of associated legal expense, should be disallowed as unreasonable. Aside from recommending that the total amount of rate case expense associated with Deloitte be disallowed, including associated legal expense, alternate staff agrees with primary staff regarding the remaining amounts and disposition of rate case expenses. (Cicchetti)

Position of the Parties

UI: Based upon actual and estimated rate case expense, UI should recover \$199,701 in rate case expense, which should be allocated based upon ERC's of UI's regulated utilities in Florida and treated as a regulatory asset until the establishment of rates in the respective utilities' next rate cases, at which time it should be amortized over four years.

OPC: The revised requested \$237,642 rate case expense is excessive and should be reduced by at least \$175,000. It is the Utility's burden to show that its rate case expense is reasonable, prudent, and sufficiently supported. The Utility has failed to meet its burden for the majority of its requested costs.

Staff Analysis:

Parties' Arguments

UI asserted that rate case expense is comprised of legal, consulting, and in-house employee expense. (EXH 7, 8, 12, 21, 22; UI BR 8) UI witness Wiorek presented direct, rebuttal, and deposition testimony on the rate case expenses incurred in the instant docket and provided numerous exhibits in support of the Utility's costs. (EXH 7, 8, 12, 21, 22; UI BR 8-10) As such, the Utility argued that based on actual and estimated expenses, it should be allowed to recover \$199,701 in rate case expense. (UI BR 8) According to the Utility, this amount should be allocated based upon UI's Florida ERCs. Additionally, the Utility argued that the amount should be treated as a regulatory asset until the establishment of rates in each subsidiary's next rate case and then amortized over four years. (UI BR 8)

OPC argued that UI requested \$166,658 in actual rate case expense in this docket, plus an additional \$70,984 estimate to complete the case. (EXH 21, OPC BR 8) OPC submitted that the one disputed issue in this proceeding is barred by the principle of administrative finality and the Commission should disallow all rate case expense. (OPC BR 9) Staff believes that OPC's administrative finality argument was appropriately addressed in Issue 1. Therefore, no additional discussion related to administrative finality will be addressed here.

However, OPC argued that even if the issue in this matter is not barred by administrative finality, rate case expense should be substantially reduced as excessive, unreasonably incurred, or unsupported. (OPC BR 9) OPC contended that UI has the burden to prove that all of its requested rate case expense is reasonable in pursuing its case before the Commission and if the Utility does not carry its burden of proof of reasonableness, rate case expense must be disallowed. (OPC BR 9) Additionally, OPC argued that any rate case expense approved by the Commission should be allocated to UI's Florida systems based on ERCs as of the date of the final order and should be amortized over four years. (OPC BR 17) OPC asserted that the amortization period should begin for all systems the month following the date the order is final in this docket. (OPC BR 17)

As part of UI witness Wiorek's direct testimony, the Utility included an estimate of \$164,978 for rate case expense. (EXH 7) Witness Wiorek provided updated rate case expense of \$240,114 in her rebuttal testimony and updated it again as part of her deposition. (EXH 8, 21) The updated rate case expense submitted as part of the deposition was \$237,642. This amount included adjustments totaling \$2,472 to remove time that had been recorded twice.²² (EXH 21) In its post-hearing brief, the Utility submitted revised rate case expense through completion of the hearing process of \$199,701. (UI BR 8) Staff used this amount as a starting point for any recommended adjustments in this issue.

Primary Staff Analysis:

Appropriate Rate Case Expense

Pursuant to Section 367.081(7), F.S., the Commission shall determine the reasonableness of rate case expense and shall disallow all rate case expense determined to be unreasonable. Upon review of the record, including requested actual expenses, supporting documentation, and estimated expenses, staff believes that several adjustments are necessary to the Utility's requested rate case expense as described below.

Deloitte Consulting, LLP (Deloitte)

In its post-hearing brief, the Utility argued that a total of \$143,536 of rate case expense attributed to Deloitte was supported by the record. (UI BR 8) At the same time, UI acknowledged that there were certain tasks that were not necessary, resulting in a reduction of \$19,932 to Deloitte's expenses, for a revised total of \$123,604. (UI BR 9) UI argued that since Deloitte had sole responsibility for the design of the Phoenix Project systems, there was no party

²² This adjustment includes adjustments of \$2,052 (3 hrs. x \$684/hr.) for 3 hours of principal actual time and \$420 for 1 hour of senior consultant estimated time which had been recorded twice.

that could authoritatively testify on the insignificance that a 10 percent reduction in customers would have had on the design. (TR 36-37) Further, UI asserted that Deloitte used junior staff at a reduced hourly rate to complete those tasks that did not require witness Danielson's direct participation. (TR 53-54) In addition, the Utility claimed that although the hourly rates may seem high by Commission standards, the rates are actually discounted from Deloitte's customary charges. (TR 64-65)

OPC asserted it was unreasonable for UI to retain Deloitte to develop testimony regarding the prudence of the Phoenix Project which was not at issue when testimony was filed on February 14, 2014. In its post-hearing brief, OPC argued that testimony supporting UI's position opposing the Commission's Phoenix Project adjustment could easily have been provided by the Utility's management, such as witness Hoy, the former Chief Operating Officer of UI, who provided rebuttal testimony. (OPC BR 10) According to OPC, witness Danielson's testimony and all of Deloitte's rate case expense was incurred to bolster the prudence of the Phoenix Project. Thus, OPC believes the entire amount of actual and estimated rate case expense from Deloitte should be disallowed. (OPC BR 10) OPC contended that Deloitte's charges also lack reasonable support or justification and should be disallowed in their entirety. (OPC BR 11) Additionally, OPC argued that Deloitte's hourly rates for its principals and senior consultants are excessive and should be reduced. OPC advocated that the Commission reduce the hourly rate of the three Deloitte consultants by a minimum of 50 percent, which would bring these rates more in line with rates approved by the Commission for utility consultants in other dockets. (OPC BR 15)

Based on the adjustments made in the Utility's post-hearing brief, Deloitte's actual fees and expenses are \$115,732. (UI BR 8-9; EXH 21, BSP 246; EXH 22) Only a small portion of this amount, approximately \$13, was for miscellaneous office expenses (photocopies, phone calls). Staff believes that Deloitte's miscellaneous office expense should be approved since there was no dispute regarding them and they were immaterial. (EXH 21, BSP 243-246; EXH 22) However, staff believes that Deloitte's actual hours and fees require additional scrutiny, especially since the record reflects almost 229 hours were spent processing this matter through April 5, 2014. Table 2-1 shows the breakdown of actual hours by reporting period and by activity description based on Deloitte's supporting documentation.

Table 2-1

Actual Hours (as filed)			Description of Activity/Task
Through 1/31/14	2/1/14- 4/5/14	Total	
32	43	75	Review projects materials from 2006 to 2008 and identify key messages
43	43	86	Prepare testimony and exhibits
18	13	31	Conference calls to review materials
12	13	25	Finalize materials
<u>6.6</u>	<u>5</u>	<u>11.6</u>	Review staff recommendation and conference with client
<u>111.6</u> ²³	<u>117</u> ²⁴	<u>228.6</u>	Total

(EXH 21, BSP 243-244; EXH 22)

Discrepancies between the actual hours reflected in Deloitte’s actual hours summaries and its supporting documentation were also identified by staff. In Deloitte’s supporting documentation for the 21-month period ended January 31, 2014, 106 actual hours are reflected, not 111.6 hours, a 5.6-hour difference. However, while the documentation covers almost two years, the supporting documentation reflects that all 106 hours were incurred between May 14 and June 1, 2012. (EXH 8) For the period ended April 5, 2014, 114 actual hours are reflected, not 117 hours, a 3-hour difference. As indicated previously, UI already removed \$2,052 (3 hrs. x \$684/hr.) for the principal’s actual hours and \$420 (1 hr.) for the senior consultant’s estimated hours that had been counted twice. (EXH 21, BSP 246) Staff believes the remaining 4.6-hour discrepancy is adequately addressed within staff’s additional adjustments below.

Staff agrees with OPC that Deloitte’s supporting documentation is lacking in detail. Deloitte provided a breakdown of hours that included the date, employee, and some broad activity descriptions in support of actual hours through January 31, 2014. In addition, Deloitte provided the actual hours and activity descriptions in its rate case expense summary, but the information did not tie to the corresponding support documentation. In support of its actual expenses through April 5, 2014, Deloitte provided additional documentation with employee names, titles, hourly rates, and the number of hours for each week. (EXH 22) Once again, no detailed information regarding the services provided, or the activities and tasks completed, was noted. Additional information was provided in Deloitte’s updated actual and estimated rate case expense summary for that period, but it was impossible to match employees with services rendered due to the lack of detail. As such, staff does not believe the supporting document is sufficient to justify the sizable number of hours and fees being claimed. (EXH 8, 22) Staff believes adjustments to Deloitte’s actual hours are necessary due to the lack of detailed supporting documentation.

²³ The 111.6 hours listed in Deloitte’s actual and estimated through January 31, 2014, does not match the 106 hours provided in Deloitte’s support documentation.

²⁴ The 117 hours listed in actual and estimated through April 5, 2014, does not match the 114 hours provided in Deloitte’s support documentation.

Staff believes that because of witness Danielson's knowledge of the project and this Utility, substantially less time should have been required to review project materials and prepare his testimony and exhibits. In fact, witness Danielson stated that he and one other person are probably the only ones that could speak to the work that has been done. (TR 37, 62) Staff also considered the fact that witness Danielson's prefiled direct testimony was just slightly over 8 pages and included an additional 6 pages of exhibits. (TR 27-35; EXH 2-6) Even then, most of the exhibits were copies of documents that already existed and were not original to this docket. (EXH 2, 3, 6) Of the remaining two exhibits, one was an excerpt from a Commission Order and the other showed a comparison of the ERCs when the Project Phoenix was implemented versus current ERCs. (EXH 4, 5) This particular exhibit appeared to be the only exhibit specifically developed for inclusion with witness Danielson's testimony. Given witness Danielson's familiarity with the project and Utility, the brevity of the witness' testimony, and lack of original exhibits, staff fails to see why 75 hours of project review and another 86 hours for the preparation of testimony and exhibits was required.

As referenced in Table 2-1, Deloitte also billed a total of 31 hours for conference calls to review materials, 25 hours to finalize materials, and 11.6 hours to review staff's recommendation and conference with client. (EXH 21, 22) Based on the support documentation provided, it is unclear why 31 hours of conference calls were necessary to review materials, or why an additional 25 hours were required to "finalize" materials. Moreover, it is impossible to ascertain what "materials" Deloitte is actually referring to given the documentation available. Staff acknowledges that several hours of conference calls would have been necessary to discuss the outcome of the project review and to discuss the witness' draft testimony, but the details surrounding the conference calls is unclear. Absent additional support, staff believes the hours related to finalizing materials and conference calls should be reduced.

Deloitte also included 11.6 actual hours to "Review Staff Recommendation and conference with Client." (EXH 22) Staff identified two recommendations through January 31, 2014, that Deloitte might be referencing. One related to the stipulation and settlement of the Eagle Ridge docket, and the other related to the resolution of most of the issues in the instant docket. Staff notes that neither recommendation was more than 11 pages. As such, staff believes a minimal amount of time would have been required to review those recommendations and discuss with Deloitte's client. For the period of February 1 through April 5, 2014, Deloitte included 5 hours for recommendation review. At a minimum, staff believes 5 hours should be removed since no staff recommendations were filed in this docket during that period.

Based on the information available, staff believes that adjustments are necessary to the actual time and expense due to the lack of detailed support. Absent additional detailed information, staff believes Deloitte's actual hours are excessive, unreasonable, and unsupported. As stated previously, it is the Utility's burden to justify its requested costs.²⁵ In those cases where rate case expense has not been supported by detailed support documentation, it has been this Commission's practice to disallow some portion or remove all unsupported amounts. In this docket, there was no detailed accounting of time spent by each Deloitte employee on the particular tasks described above that would allow staff to make pinpoint adjustments as it

²⁵ See Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982).

normally would. While the lack of detail makes it more difficult to review the expense for reasonableness and to make necessary adjustments, staff acknowledges that some portion of the actual requested expense is justified, especially since testimony was filed and other services were rendered by Deloitte. Based on the foregoing, staff recommends that the hours directly attributable to witness Danielson be included in rate case expense. That includes 14 hours for the period from May 14 through June 1, 2012, and an additional 5 hours for the period from March 8 through April 5, 2014, based on the documentation provided. (EXH 8, 22) As such, a total of 19 hours, or \$12,996 (19 hrs. x \$684/hr.), should be included for Deloitte's actual expense. No additional adjustment to witness Danielson's actual hours are required.

In addition, a portion of the 28 hours included in the support documentation for a second principal should be included in the total to account for peer review and discussion. Staff believes the 4 hours included in the Deloitte's actual and estimated rate case expense ending January 31, 2014 for the second principal appear reasonable when compared to witness Danielson's 14 hours. (EXH 8) Based on the record, the second principal's hours represent approximately 29 percent of witness Danielson's hours. Absent additional detailed support documentation, staff believes this ratio should also be applied to witness Danielson's hours included in the summary through April 5, 2014, in order to determine the appropriate number of hours that should be included for the second principal. The record reflected 5 hours for witness Danielson and 24 hours for the second principal were included in actual hours. (EXH 22) As such, staff believes 1.50 hours (5 hrs. x 0.29) for the second principal is appropriate. This represents a 22.5 hour (24 hrs. - 1.5 hrs.) reduction. Accordingly, staff recommends that rate case expense be reduced by \$15,390 (22.5 hrs. x \$684/hr.) for lack of support.

Staff believes that additional adjustments to both the manager and senior consultant hours are also necessary to account for the lack of support documentation discussed previously. The record reflects 88 hours for the manager and 85 hours for the senior consultant have been included in rate case expense. (EXH 8, 22) Staff believes the hours requested for these positions are excessive and unsupported. In addressing costs related to the principals above, staff recommended that 24.5 of the 47 hours, or approximately 52 percent, of the principals' requested time be approved. Staff believes that any reductions proposed here should use the ratio calculated above since the manager and senior consultant functioned in a support capacity to the principals. As such, staff believes that approximately 48 percent of the hours for the manager and senior consultant should also be removed. Accordingly, staff recommends that rate case expense be reduced by \$22,134 (42.24 hrs.²⁶ x \$524/hr.) and \$17,136 (40.8 hrs.²⁷ x \$420/hr.) for the manager and senior consultant, respectively. In total, staff recommends that Deloitte's actual expenses be reduced by \$54,660 (\$15,390 + \$22,134 + \$17,136).

In regard to Deloitte's estimated hours, the Utility asserted that 47 hours would be needed to complete the case. (EXH 22) The estimated hours cover a period from April 6, 2014 through the hearing on May 14, 2014. As noted above, UI revised some of Deloitte's estimated expenses in its post-hearing brief.²⁸ The Utility removed 33 hours, including 8 hours for the preparation

²⁶ Reflects result of 88 hours for manager multiplied by 48 percent (100 percent - 52 percent).

²⁷ Reflects result of 85 hours for senior consultant multiplied by 48 percent (100 percent - 52 percent).

²⁸ Staff believes the revised amount includes a 1-hour reduction to the senior consultant's estimated hours for time counted twice. (TR 246)

and filing of pre-filed rebuttal testimony and exhibits, 9 hours for attendance at the hearing since only one principal attended, and 16 hours for research and drafting post-hearing documentation and reviewing staff's recommendation and conferencing with client. (UI BR 9) Staff notes that of the 14 remaining hours, 6 hours are related to assisting with responses to discovery, 6 hours are for hearing preparation and attendance, and 2 hours for post-hearing documentation and conference with client. Staff believes the Utility's revised estimated hours to complete appear reasonable. Within the estimated time frame, responses to staff discovery were filed on the following dates: April 14, 15, and 17. Furthermore, the hearing lasted approximately 3.25 hours, leaving witness Danielson with 2.75 hours to prepare for the hearing. Staff notes that witness Danielson does not bill for travel time. (TR 56-57) Staff agrees that Deloitte's estimated hours should be reduced by 33 hours, or \$19,932, as outlined in UI's post-hearing brief. The "Revised Utility Total" shown on Table 2-2 already reflects this reduction. As such, staff recommends Deloitte's estimated hours to complete should be 14 hours (47 hrs. – 33 hrs.)

Deloitte also estimated \$1,200 in travel costs. (EXH 21, 22) These expenses were not specifically addressed in the Utility's post-hearing brief. Deloitte's most recent estimate to complete reflected that two principals and a senior consultant were expected to attend the hearing. (EXH 21, BSP 244) Only one principal, witness Danielson, actually attended the hearing. Staff believes it is reasonable to assume that if two-thirds of Deloitte's expected staff did not attend the hearing, a similar reduction should be made to the estimated travel costs for that staff. Accordingly, staff recommends Deloitte's estimated travel costs be reduced by \$800 ($\$1,200 \times 0.66$).

Friedman, Friedman & Long, P.A. (FFL)

UI asserted that total legal rate case expense in this docket should be \$55,376, comprised of \$30,316 for actual and \$25,060 for estimated expenses. (EXH 21, UI BR 8) The Utility argued that evidence in the record in regard to this portion of rate case expense includes detailed descriptions of the various tasks performed and those that are yet to be performed. Additionally, the Utility suggested that because Commission staff and OPC did not present evidence on cross-examination challenging the reasonableness of the expense, it should be approved. (UI BR 8) While it is true that no cross-examination as to the reasonableness of the legal expenses occurred during the hearing, staff believes that it still has an obligation to review the accuracy and prudence of such expenses and make its recommendation.

OPC argues that if the Commission disallows all Deloitte rate case expense, then legal rate case expense should be reduced by \$2,080 for the legal services related to Deloitte testimony. (OPC BR 17) Similarly, OPC suggests that if the Commission disallows the rate case expense incurred prior to the issuance of the Order Establishing Procedure (OEP), then rate case expense for legal services should also be disallowed for this period. (OPC BR 17) Staff believes that it has addressed OPC's position related to the disallowance of Deloitte and pre-OEP rate case expense elsewhere in this issue.

In regard to actual fees and costs, FFL provided documents indicating billed and unbilled fees and costs (i.e., courier, photocopies, travel expenses) of \$30,317. (EXH 22) As mentioned above, OPC recommended reducing FFL's actual fees and costs by \$2,080 for the legal services

related to Deloitte testimony. (OPC BR 17) However, the only mention of this particular adjustment comes in OPC's post-hearing brief, which contains no explanation of how the approximately 6-hour adjustment was calculated.²⁹ There is no evidentiary support for OPC's recommended adjustment. Staff has identified a total of approximately 14 billable hours related to the testimony of UI witnesses Danielson (Deloitte), Hoy, and Wiorek. (EXH 22) Even then, most of the descriptions related to work performed included other activities with no breakdown for time spent on each activity. Based on the record, staff identified only 2.8 hours, or \$980 (2.8 hrs. x \$350/hr.), which were exclusively related to witness Danielson's pre-filed direct testimony. (EXH 22) Given the lack of detail related to OPC's adjustment, staff cannot justify making the reduction here. Staff identified no other adjustments related to actual legal fees and costs requiring an adjustment.

The Utility included \$23,450 in legal fees and \$1,610 in costs to complete the rate case. (EXH 21, 22) The Utility provided support documentation detailing this expense through April 10, 2014. (EXH 22) FFL estimated a total of 67 hours would be necessary to complete the case. Staff notes that 48 of the 67 hours are related to the pre-hearing, hearing, and Commission Conference.³⁰ (EXH 22) Staff does not take exception to the 20 total hours associated with the Prehearing Conference and Commission Conference estimated by FFL. Staff believes that the 10 hours estimated for each conference is consistent with entries identified in FFL's actual fees for attending other Commission hearings. As part of the estimate to complete, FFL also included 28 hours to prepare, travel to Tallahassee, and attend the hearing. (EXH 22) Staff does not take exception to the 10 hours related to attending the hearing based on the entries discussed above. However, the remaining 18 hours seem excessive. While acknowledging that some additional time would typically be required for hearing preparation in order to prepare witnesses and formulate cross examination questions, staff does not believe those activities would require almost 18 hours in this docket. As such, staff believes that 9 hours is an ample amount of time to review testimony, prepare UI's witnesses, and develop cross examination questions. Accordingly, staff recommends that the estimated hours to complete should be reduced by 9 hours, or \$3,150 (9 hrs. x \$350/hr.).

Water Service Corp. (WSC) In-House Staff

UI asserted that actual and estimated in-house employee rate case expense was \$23,045. In response to staff's discovery, UI provided a breakdown by employee of the hours worked and type of work performed in support of this amount. (EXH 12) In its post-hearing brief, UI reduced this amount by \$2,624 since several WSC employees did not have to attend the hearing. (TR 153-154; UI BR 10)

OPC argued that UI did not support why its in-house labor more than doubled from the initial estimate of \$10,326. (OPC BR 16) Additionally, because of "vague, all-purpose descriptions for work performed," OPC argued there is no way of knowing whether the employees listed actually worked in this docket or how they may have spent their time during the last two years. (OPC BR 16) As such, OPC claimed that UI has not met its burden, and its in-

²⁹ The number of hours mentioned was calculated by taking OPC's \$2,080 adjustment and dividing it by the \$350 hourly rate charged by FFL's attorney.

³⁰ The pre-hearing was held on April 29, 2014 and a formal hearing was held May 14, 2014.

house expense should be denied as unreasonable, unsupported, and unjustified. (OPC BR 16) In addition, OPC asserted that the estimated rate case expense should be disallowed in its entirety, or at least substantially reduced.

Staff agrees with OPC that the level of detail supporting UI's in-house employees is lacking. However, staff believes that some level of rate case expense should be allowed and can be determined from the information that has been provided. UI originally estimated that it would take 216.5 WSC in-house hours, totaling \$10,236 to complete the case. (EXH 8) Staff noted that this initial estimate was provided with witness Wiorek's testimony filed on February 14, 2014, well after the instant docket was under way. Witness Wiorek provided an update as part of her deposition in late April, which included 350.5 hours, totaling \$23,045 to complete the case. Of that, \$16,925 was actual WSC in-house expense. (EXH 12, 22) Almost 80 percent of that total amount, or \$13,436, was ascribed to witness Wiorek for preparing responses to discovery requests as well as drafting pre-filed direct and rebuttal testimony among other activities. (EXH 12) As for the five other WSC employees included in actual expense, the record indicates the majority of their time was spent on processing and responding to data requests. (EXH 8, 21, 22)

The record reflects that the WSC in-house actual expense provided with witness Wiorek's direct testimony covered the period between May 31, 2012 and January 31, 2014. As such, the costs associated with responding to the numerous informal discovery requests sent by OPC during the almost two-year informal discovery process in this docket, and at least a portion of the expense related to the preparation of direct testimony was included in the Utility's initial rate case expense analysis. (TR 152, 165) In addition, the updated in-house rate case expense added expenses from February 1 through March 31, 2014, which should have included UI's responses to OPC's discovery on February 28, March 11, and March 21, 2014.³¹

Based on the record, staff does not understand how actual WSC in-house expense increased from \$4,603 in January to almost \$17,000 at the end of March. (EXH 8, 21, 22) Staff does not believe the docket activity in the record supports such a sizable increase. Witness Wiorek's direct testimony amounted to a single page with two exhibits totaling 30 pages and her rebuttal testimony was one page with one 32-page exhibit. (TR 79-80; EXH 7, 8, 21, 22) Moreover, despite the length of the exhibits, witness Wiorek admitted that the exhibits were emailed to her and that she did not prepare them. (EXH 21, BSP 226) In addition, only a handful of the discovery responses filed in this proceeding occurred during the period reflected in actual expenses. While it is possible that some of that increase could be related to work responding to additional discovery filed later, absent detailed information showing the time associated with each activity, staff can only make general assumptions as to what amount of time witness Wiorek, or any other WSC employee, spent on a particular activity.

During the first 20 months of the instant docket, \$4,603 of WSC in-house expense was incurred, an average of approximately \$230 per month. Staff believes that while this amount was based on limited documentation, it does appear reasonable given the time period that it covers. However, during the next 2 months, over \$12,000 was incurred. (EXH 8, 21, 22) The record simply does not provide the detail necessary to support such a sizable increase. As such, staff believes that WSC in-house actual rate case expense should be reduced for lack of detailed

³¹ WSC time related to later responses were included in UI's estimate to complete discussed later in this issue.

supporting documentation. However, in an attempt to recognize WSC in-house expense incurred during that two-month period, staff recommends using the previous 20-month average to calculate a more reasonable amount. As such, a total of \$460 ($\230×2 months) should be allowed. Accordingly, staff believes that the reasonable amount of WSC in-house rate case expense should be \$5,063 ($\$4,603 + \460), a reduction of \$11,862 ($\$5,063 - \$16,925$).

In regard to the WSC in-house estimate to complete, staff believes that there is no dispute related to the removal of Mr. Lubertoizzi's rate case expense based on the parties' post-hearing briefs. (OPC BR 16-17; UI BR 10) The description accompanying his estimated expense stated "prepare for hearing and attend hearing." (EXH 12) Since Mr. Lubertoizzi did not attend the hearing, staff believes his estimated rate case expense of \$2,320 should be removed completely.

OPC also argued for removal of all of witness Wiorek's estimated expense because she was excused from the hearing. (OPC BR 16, 17) UI also stated that a reduction to her expense is necessary for the same reason. (UI BR 10) However, staff notes that some of witness Wiorek's estimated expense was related to preparing responses to discovery requests. (EXH 12) Based on the record, it appears that estimated costs covered the period between April 1, 2014 and the hearing which was held on May 14, 2014. UI filed responses to discovery on the following dates: April 1, 2, 14, 15, and 17. Absent additional detailed information regarding the allocation of time between activities, staff believes that UI has captured the portion of witness Wiorek's estimated hearing related expenses in its post-hearing brief adjustment. (UI BR 10)

OPC did not specifically identify any concerns regarding UI witness Hoy's estimate to complete, other than his travel expense which is discussed below. Witness Hoy's estimate to complete includes time for the discovery response review, travel to Tallahassee, hearing preparation, and attendance at the hearing. (EXH 12) As mentioned previously, there were numerous UI discovery responses filed during the time period covered by the estimate. Moreover, staff believes that witness Hoy's estimate to complete appears reasonable given the required travel time to and from Tallahassee, the 3.25 hour long hearing, and any time needed for the witness to prepare. As such, staff does not believe any reduction needs to be made to witness Hoy's estimate to complete. Accordingly, staff believes that UI's \$2,624 reduction to the estimate to complete, adequately reflects reductions to WSC's in-house estimate to complete for hearing preparation and hearing-related travel time for witness Wiorek and Mr. Lubertoizzi. (UI BR 10)

WSC Travel

UI originally estimated \$12,000 for travel expenses. (EXH 8) However, in its post-hearing brief the Utility estimated that travel expenses for two days were only \$300, resulting in a reduction of \$11,700. (UI BR 10) According to the Utility, the reduction was a result of several witnesses being excused from the hearing and witness Hoy being able to travel from Orlando with the Utility's attorney. (UI BR 10) OPC argued that since UI witness Hoy attended the hearing, it was reasonable to allow travel expenses of \$250. Staff notes that both UI's and OPC's figures are only estimates, and no documentation supporting these amounts was included in the record. Absent additional information, staff believes that an average of the two amounts,

or \$275, is a reasonable allowance for travel expenses here. Accordingly, WSC travel should be reduced by \$25.

Allocation of Rate Case Expense

In its post-hearing brief, OPC asserted that a benefit of litigating a generic issue common to all UI systems is that any rate case expense approved by the Commission would not unduly burden any one UI system. (OPC BR 17) OPC argued that any rate case expense approved by the Commission should be allocated to all Florida UI systems based on ERCs as of the date of the final order and amortized over four years, beginning the month following the date of the final order in this docket. (OPC BR 17) The Utility mentioned the proper allocation within its post-hearing brief position, asserting that rate case expense should be allocated based on the ERCs of its regulated utilities in Florida. (UI BR 8)

OPC also argued that in any future general rate case which includes any amortization related to this docket, the rates should be reduced at the end of the four-year timeframe after the date of the final order in this docket, not four years after any prospective rates are approved. (OPC BR 17) Additionally, OPC stated that UI should not be allowed to seek a limited proceeding for the sole purpose of recovering rate case expense approved by the final order in this docket. (OPC BR 17) OPC asserted that any new systems acquired by UI should not be allocated any rate case expense approved by the Commission, and if any systems were divested, the Utility should not reallocate rate case expense to any remaining systems and ERCs. (OPC BR 17-18) Staff notes that OPC's assertions here are unsupported.

Staff believes rate case expense should be allocated to each UI Florida subsidiary based on the ratio of each subsidiaries' ERCs to UI's total Florida ERCs as of December 31, 2013. This is a commonly used methodology within UI for its subsidiaries as well as the Commission. Each subsidiary should be allowed to recover its allocated portion of rate case expense resulting from this docket over four years, pursuant to Section 367.0816, F.S. Recovery of this expense should be included as a separate line item within rate case expense as part of each subsidiaries' next file and suspend rate case, limited proceeding, or staff-assisted rate case. Staff agrees with OPC that the purpose for any such filing should not be based solely on the recovery of the rate case expense determined in this docket. UI's Florida subsidiaries should be authorized to create a regulatory asset and accrue interest at the 30-day commercial paper rate until each system's next rate proceeding. The portion of rate case expense allocable to each subsidiary is provided in Attachment C.

Conclusion

In summary, staff recommends that UI's requested rate case expense of \$199,701 be decreased by \$70,497. The appropriate total rate case expense is \$129,204. A breakdown of rate case expense is as follows:

Table 2-2

Firm/Vendor	Utility Total Act./Est. from Brief	Utility Adj. from Brief	Revised Utility Total Act./Est.	Staff Adj.	Recom. Total
Deloitte Consulting, LLP	\$143,536	(\$19,932)	\$123,604	(\$55,460)	\$68,144
Friedman, Friedman & Long, P.A.	55,376	0	55,376	(3,150)	52,226
Water Service Corp. (WSC)	23,045	(2,624)	20,421	(11,862)	8,559
WSC - Travel	<u>12,000</u>	<u>(11,700)</u>	<u>300</u>	<u>(25)</u>	<u>275</u>
Total	<u>\$233,957</u>	<u>(\$34,256)</u>	<u>\$199,701</u>	<u>(\$70,497)</u>	<u>\$129,204</u>

The recommended total rate case expense should be allocated to each UI Florida subsidiary based on ERCs and amortized over four years. Recovery of this expense should be included as a separate line item within rate case expense as part of each subsidiaries' next file and suspend rate case, limited proceeding, or staff-assisted rate case. UI's Florida subsidiaries should be authorized to create a regulatory asset and accrue interest at the 30-day commercial paper rate until each system's next rate proceeding. The portion of rate case expense allocated to each UI Florida subsidiary is provided in Attachment C.

Alternate Staff Analysis:

Section 367.081(7), F.S., states, "The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable." Further, in Meadowbrook Utility Systems, Inc. v Florida Public Service Com., 518 So. 2d 326, 327 (Fla. 1st DCA 1987) the Court found "(T)he Commission enjoys a broad discretion with respect to allowance of rate case expense . . . an automatic award of rate case expense . . . without reference to the prudence of the costs incurred in the rate case proceedings, clearly would constitute an abuse of discretion . . ."

Deloitte Consulting, LLP (Deloitte)

In the instant docket, UI presented the testimony of Larry Danielson of Deloitte Consulting regarding the design of Phoenix Project. (UI BR 1) The conclusion reached by witness Danielson on page 8, line 23 of his testimony was ". . . that the impact on the cost of Project Phoenix is very minimal if Utilities Inc. (sic) if the customer base decreased by 10 percent." However, neither the cost nor prudence of Phoenix Project is at issue in this docket. In adjusting UI's requested Phoenix Project costs in the protested Eagle Ridge rate case, the Commission stated, "Because no added benefit was realized by the remaining subsidiaries, we found that (it) was not fair, just, or reasonable for ratepayers to bear any additional allocated Phoenix Project costs. Thus, we ruled that the divested subsidiaries' allocation amounts shall be deducted from the total cost of the Phoenix Project before any such costs are allocated to the remaining UI subsidiaries."³² The issue in this docket is the propriety and means of allocating

³² See Order No. PSC-11-0587-PAA-SU, issued December 21, 2011, in Docket No. 110153-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

Phoenix Project costs and not the cost or the prudence of Phoenix Project. A higher or lower cost of Project Phoenix has no bearing on the Commission's decision in the Eagle Ridge case or on the issue in this docket. The amount of expense incurred by UI to proffer witness Danielson's testimony, \$125,684 including associated legal fees, is substantial. If witness Danielson's testimony was completely removed from the record, it would not affect the relevant analysis of Issue 1 at all. Furthermore, as asserted by OPC:

...it was unreasonable for UI to retain Deloitte to develop testimony regarding the prudence of Project Phoenix which was not an issue when the testimony was filed on February 14, 2014. Testimony supporting the Utility's position opposing the Commission's Project Phoenix adjustment could easily have been provided by UI management, such as Witness Hoy, the former Chief Operating Officer (COO) of UI, who provided rebuttal testimony. Since Witness Danielson's testimony and all of Deloitte's rate case expense was incurred to bolster the prudence of Project Phoenix, which is a non-issue in this docket and not a disputed issue, the entire amount of actual and estimated rate case expense from Deloitte should be completely disallowed as unreasonably incurred.

(OPC BR 10)

Alternate staff agrees with OPC that the entire amount of rate case expense from Deloitte should be disallowed as unreasonable. Witness Danielson's testimony did not address a disputed issue in this docket, did not involve or affect the disposition of the propriety or means of allocating Phoenix Project costs, and came at a substantial price. If witness Danielson's testimony was completely removed from the record, it would not affect the relevant analysis of Issue 1 at all. Consequently, alternate staff does not believe it is reasonable to include in customer rates any rate case expense from Deloitte.

Conclusion

In summary, alternate staff recommends that UI's requested rate case expense of \$199,701 be decreased by \$140,271. The appropriate total rate case expense is \$58,980. Aside from recommending that the total amount of rate case expense associated with Deloitte be disallowed, including associated legal fees, alternate staff agrees with primary staff regarding the remaining amounts and disposition of rate case expenses. A breakdown of alternate staff's recommended rate case expense is as follows:

Table 2-3

Firm/Vendor	Utility Total Act./Est. from Brief	Utility Adj. from Brief	Revised Utility Total Act./Est.	Alt. Staff Adj.	Alt. Recom. Total
Deloitte Consulting, LLP	\$143,536	(\$19,932)	\$123,604	(\$123,604)	\$0
Friedman, Friedman & Long, P.A.	55,376	0	55,376	(5,230)	50,146
Water Service Corp. (WSC)	23,045	(2,624)	20,421	(11,862)	8,559
WSC - Travel	<u>12,000</u>	<u>(11,700)</u>	<u>300</u>	<u>(25)</u>	<u>275</u>
Total	<u>\$233,957</u>	<u>(\$34,256)</u>	<u>\$199,701</u>	<u>(\$140,271)</u>	<u>\$58,980</u>

Issue 3: Should this docket be closed?

Recommendation: Yes. If the Commission's final order is not appealed, this docket should be closed upon the expiration of the time for filing an appeal. (Barrera, T. Brown)

Position of the Parties

UI: Yes.

OPC: Not until the Commission has determined the amount of any regulatory asset or liability (if any) created by Commission adjustment to Project Phoenix approved in the final order. Further, the Commission should implement certain measures to ensure UI's present and future compliance with the Generic Docket Settlement, approved by Order No. PSC-14-0044-FOF-WS, issued January 22, 2014, in this docket, requiring UI to make certain adjustments to the books and records for all its Florida systems.

Staff Analysis: The Utility asserted that this docket should be closed. (UI BR 11) OPC argued that the docket be closed, but only after the Commission determines the amount of any regulatory asset or liability that may be created by the Phoenix Project adjustments approved in the final order. In addition, OPC stated that the Commission should implement measures to ensure present and future compliance with the Settlement Agreement in this docket. (OPC BR 1, 19)

Staff believes that regulatory assets and liabilities have been sufficiently addressed in Issue 1 and no additional discussion is necessary here. OPC's argument that the Commission also implement certain measures to ensure UI's present and future compliance with the Settlement Agreement was not discussed during the course of the hearing. In fact, no witnesses or testimony were proffered by OPC in support of its position that additional enforcement measures were necessary in regard to the Settlement. Additionally, Attachment A (Exhibit A) to the Settlement states "the docket should be closed upon the resolution of any remaining disputed issue." As a result of the Commission-approved Settlement, staff notes that the sole remaining issue being contemplated in this docket addressed whether any adjustments should be made to Phoenix Project. Prior to OPC's post-hearing brief in this docket, no additional enforcement measures were mentioned or contemplated by the parties. Furthermore, staff believes that sufficient measures to ensure present and future compliance with the Settlement already exist and no additional measures are needed. As such, if the Commission's final order is not appealed, this docket should be closed upon the expiration of the time for filing an appeal.

Closed or Pending Acquisitions and Associated ERCs			
System	State	Purchase Date	ERCs
Sewer District No. 6	LA	2009	950
Mason Landing	NC	2010	9
Pointer's Chase	GA	2012	22
Sweetbriar Lakes	GA	2013	59
Philema Park/Pine Maples	GA	2013	149
Linville Ridge	NC	2013	378
Old Stage	GA	2014	386
Oakwood	IL	2014	<u>1,460</u>
Total Closed			<u>3,412</u>
Alexgrace	LA	Pending, 2014	25
LL&W	LA	Pending, 2014	1,100
Density	LA	Pending, 2014	2,500
Heritage Hills	NY	Pending, 2014	<u>5,212</u>
Total Pending			<u>8,837</u>
Total Closed and Pending			<u>12,249</u>

(EXH 20, BSP 193)

Closed Divestitures and Associated ERCs			
System	State	Sale Date	ERCs
Eastlake Water Service	FL	2009	1,701
County Line Water Company	IL	2009	116
South Gate Utilities, Inc.	FL	2009	8,270
Pebble Creek Utilities, Inc.	FL	2009	2,887
North Topsail Utilities, Inc.	NC	2009	2,993
Miles Grant	FL	2009	2,118
Hutchinson Island Irrigation	FL	2009	197
Utilities, Inc. of Hutchinson Island	FL	2009	364
Wedgfield Utilities, Inc.	FL	2009	3,018
Emerald Point	NC	2010	326
River Forest	SC	2010	246
Alafaya Utilities, Inc.	FL	2010	8,945
CWS-NC (Outerbanks)	NC	2011	1,425
Cabarrus Woods/Steeplechase S	NC	2012	6,300
Bayside Utility Services	FL	2012	437
Sandy Creek Utility Services, Inc.	FL	2012	373
Woodbury	NC	2012	<u>290</u>
Total Divested			<u>40,006</u>

(EXH 11)

Rate Case Expense Allocated and Amortized to UI's Florida Systems					
Utility	County	Total ERCs	Allocation	Alloc. RCE	Amort. RCE
Cypress Lakes Utilities, Inc.	Polk	2,431	0.0389	\$5,032	\$1,258
Mid-County Services, Inc.	Pinellas	3,355	0.0537	6,945	1,736
Labrador Utilities, Inc.	Pasco	1,515	0.0243	3,136	784
Lake Placid Utilities, Inc.	Highlands	263	0.0042	544	136
Lake Utility Services, Inc.	Lake	13,920	0.2230	28,814	7,203
Sanlando Utilities Corp.	Seminole	21,159	0.3390	43,798	10,950
Tierra Verde Utilities, Inc.	Pinellas	2,094	0.0335	4,334	1,084
Utilities, Inc. of Eagle Ridge	Lee	2,516	0.0403	5,208	1,302
Utilities, Inc. of Florida	Various	9,524	0.1526	19,714	4,929
Utilities, Inc. of Longwood	Seminole	1,738	0.0278	3,598	899
Utilities, Inc. of Pennbrooke	Lake	2,704	0.0433	5,597	1,399
Utilities, Inc. of Sandalhaven	Charlotte	<u>1,200</u>	<u>0.0192</u>	<u>2,484</u>	<u>621</u>
Total		<u>62,419</u>	<u>1.0000</u>	<u>\$129,204</u>	<u>\$32,301</u>