

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Analysis of Utilities, Inc.'s financial accounting and customer service computer system.

DOCKET NO. 120161-WS
ORDER NO. PSC-14-0521-FOF-WS
ISSUED: September 30, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
RONALD A. BRISÉ
JULIE I. BROWN

APPEARANCES:

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On behalf of Utilities, Inc. (UI).

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On behalf of Office of Public Counsel (OPC).

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On behalf of the Florida Public Service Commission (Staff).

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FINAL ORDER APPROVING ALLOCATION OF
FINANCIAL ACCOUNTING COMPUTER COSTS

BY THE COMMISSION:

Background

On May 24, 2012, Utilities, Inc. (UI or Utility), on behalf of its Florida subsidiaries,¹ requested that we 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 (Phoenix

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.

Project). 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 We acknowledged OPC's intervention by Order No. PSC-12-0319-PCO-WS, issued June 22, 2012.

At the request of UI and OPC a 120-day investigatory period was set. The 120 day period was extended several times. On October 15, 2013, the Parties 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. We 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 Order 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. We have jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

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.

Legal 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. OPC argued that before determining whether any adjustments should be made to UI's Phoenix Project, we should first address whether the issue is barred by the principle of administrative finality. If barred, OPC maintained that we should affirm our prior decisions regarding adjustments to the Phoenix Project.

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, we 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

For the same reasons we find UI's argument to be without merit.

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

Administrative Finality

OPC argues that UI's petition should be dismissed under the doctrine of administrative finality because we already decided the questions in prior UI cases. OPC bases its argument on Commission orders issued in prior rate cases involving UI utilities where we 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 we ordered 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 our ultimate decision regarding the allocation of Phoenix Project costs applied only to future rate cases. The parties agreed that, in the event we 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, we 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 these 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.

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.

While our power to modify our 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 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, this Commission must be granted a “certain degree of latitude” in order to effectively carry out our functions. Where we determined we erred to the detriment of customers of the utility, we have the inherent authority to amend our order and require the utility to refund overearnings to the customers. The Florida Supreme Court reasoned that we have 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, we issued a final order correcting *prospectively* a water utility’s rate base computation affected by a prior order requiring the utility to refund overearnings. Upon appeal, the First District Court upheld the Order 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 does not apply to the facts of this case. Further, regulatory assets were established in existing cases, and in approving the Joint Stipulation and Settlement Agreement between OPC and Utilities, Inc. of Eagle Ridge in Docket No. 110153-SU, we ordered the issue of divestitures be addressed in the instant proceeding.

Appropriate Phoenix Project Adjustments

Parties’ Arguments

UI witness Danielson argued that the design of the Phoenix Project was not dependent on customer count. According to witness Danielson, if customers are added or lost, there is no change in scope, size, complexity, or components. Witness Danielson also explained that there

is no linear relationship between the number of customers and the number of system users. 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. 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 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.

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. 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. 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.

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. Several additional acquisitions are currently under contract. 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. As a result, witness Hoy noted that UI will have only 8 percent fewer ERCs than when the Phoenix Project was placed in service. Additionally, the Utility emphasized in its post-hearing brief that our divestiture adjustment does not treat the customers and UI equally. According to UI, it is penalized for divesting systems, but receives no benefit for growth.

In its post-hearing brief, OPC asserted that our practice of reducing the cost of the Phoenix Project rate base components for divestitures should be continued. According to OPC, our Phoenix Project adjustment properly accounts for the effect of the divestitures, balances the interests of the customers and the utility, and is in the public interest. 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."

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

⁷ We recognized December 2008 as the operational date in numerous other UI dockets and Orders. 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. For the sake of consistency, we are continuing to use the December 31, 2008 equivalent residential connections (ERC) count as a starting point when addressing acquisitions and divestitures here.

OPC also alleged that UI failed to satisfy its burden of proof in this docket. 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 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. As such, OPC maintained our adjustments to the Phoenix Project costs are just and reasonable, and fairly and equitably balance the interests of the customers and the utility. Additionally, UI witness Hoy advocated an 8-year amortization period instead of a 10-year period. In its post-hearing brief, OPC supports the 10-year amortization period for the Phoenix Project. OPC also recommends that we continue making adjustments to the Phoenix Project consistent with its previous decisions. Staff witness Fletcher also supported a 10-year amortization period.

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. Also, in December 2008, we ruled in the Miles Grant Water and Sewer Co. case⁸ that recovery of Phoenix Project costs would be allocated on the basis of ERCs.

In June 2008, in the Utilities, Inc. of Pennbrooke case,⁹ and in subsequent dockets, we removed the ERCs of systems divested by UI from total company ERCs when calculating the net investment in the 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. 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. 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 systems receive no added benefit associated with bearing the additional allocated Phoenix Project costs. 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, we 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

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.

could increase and a rate case could be initiated in Florida, simply because UI sold subsidiaries outside of Florida.

Witness Fletcher testified that under his recommended treatment, there is no positive adjustment for growth in customers whether through acquisitions or organic growth. 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.” We find that 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. 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.

We find that 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 illustrates the modified used and useful approach.

Table 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 |

We find that 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. 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, our decisions since then have been based on no added benefit. 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.

Thus, the net investment in Phoenix Project in UI rate cases shall be determined 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.

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 this Commission to open this generic docket to address the protested issue relating to the Utility's Phoenix Project. The Parties agreed, and we 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 would 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. We 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, 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

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

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 30, 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.

not include the regulatory asset or liability provision.¹² As the method of determining allowed Phoenix Project costs, regulatory assets or liabilities shall be determined in the next rate case of the affected UI systems in Florida.

Computer Maintenance Expense

There was no discussion in the record related to our divestiture adjustment to UI's computer maintenance expense. In several recent rate cases involving UI subsidiaries, we 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 our treatment of the Phoenix Project costs per ERC.¹³ Thus, any future adjustments to computer maintenance expense shall be consistent with our decision in this case.

Appropriate Amortization Period

Staff witness Fletcher acknowledged that we 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. We 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 We 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, we found that the amortization period for the Phoenix Project should be 10 years. Witness Fletcher asserted that the Commission established a 10-year service life for a number of reasons. Witness Fletcher stated:

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 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.

As stated by witness Fletcher, based on the factors mentioned above, we found that 10 years was a reasonable amortization period in numerous dockets. We approved the 10-year amortization period in 14 other UI dockets since 2010.¹⁶ Moreover, UI has previously admitted

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.

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.

that its own research revealed that computer software could be amortized up to 10 years.¹⁷ Despite acknowledging the 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. Witness Hoy's argument, nor the record here, is compelling enough to alter what has been well-established by this Commission. Thus, we find that no change in the 10-year amortization period is necessary. Accordingly, the appropriate amortization period for the Phoenix Project shall remain at 10 years.

Rate Case Expense

Parties' Arguments

UI asserted that rate case expense is comprised of legal, consulting, and in-house employee expense. 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. As such, the Utility argued that based on actual and estimated expenses, it should be allowed to recover \$199,701 in rate case expense. 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.

OPC argued that UI's request for \$166,658 in actual rate case expense in this docket, plus an additional \$70,984 estimate to complete the case, should be disallowed or substantially reduced as excessive, unreasonably incurred, or unsupported. OPC contended that UI has the burden to prove that all of its requested rate case expense is reasonable in pursuing its case since it did not carry its burden of proof of reasonableness, rate case expense must be disallowed. Additionally, OPC argued that any rate case expense 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 asserts that the amortization period should begin for all systems the month following the date the order is final in this docket.

As part of UI witness Wiorek's direct testimony, the Utility included an estimate of \$164,978 for rate case expense. Witness Wiorek provided updated rate case expense of \$240,114 in her rebuttal testimony and updated it again as part of her deposition. 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.¹⁸ In its post-hearing brief, the Utility submitted revised rate case expense through completion of the hearing process of \$199,701. We have used this amount as a starting point for any adjustments on this issue.

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.

¹⁸ 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.

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

Deloitte Consulting, LLP (Deloitte)

In its post-hearing brief, UI argued that a total of \$143,536 of rate case expense attributed to Deloitte was supported by the record. 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 argued that since Deloitte had sole responsibility for the design of the Phoenix Project systems, there was no party that could authoritatively testify on the insignificance that a 10 percent reduction in customers would have had on the design. 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. 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.

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 Phoenix Project adjustment could easily have been provided by the Utility's management, such as witness Hoy, the former Chief Operating Officer of UI. 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 contended that Deloitte's charges also lack reasonable support or justification and should be disallowed in their entirety. Additionally, OPC argued that Deloitte's hourly rates for its principals and senior consultants are excessive and should be reduced. OPC asked that we 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 for utility consultants in other dockets.

Based on the adjustments made in the Utility's post-hearing brief, Deloitte's actual fees and expenses are \$115,732. Only a small portion of this amount, approximately \$13, was for miscellaneous office expenses (photocopies, phone calls). Thus, Deloitte's miscellaneous office expense shall be approved since there was no dispute regarding them and they were immaterial.

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 shows the breakdown of actual hours by reporting period and by activity description based on Deloitte's supporting documentation.

Table 2

| 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> ¹⁹ | <u>117</u> ²⁰ | <u>228.6</u> | Total |

We find discrepancies between the actual hours reflected in Deloitte's actual hours summaries and its supporting documentation. 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. 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. Thus, the remaining 4.6-hour discrepancy is addressed within our adjustments below.

We agree 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. 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. We find the supporting document is insufficient to justify the sizable number of hours and fees being claimed. Adjustments to Deloitte's actual hours shall be made due to the lack of detailed supporting documentation.

We find that due to 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

¹⁹ 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.

²⁰ The 117 hours listed in actual and estimated through April 5, 2014, does not match the 114 hours provided in Deloitte's support documentation.

probably the only ones that could speak to the work that has been done. We also considered the fact that witness Danielson's prefilled direct testimony was just slightly over 8 pages and included an additional 6 pages of exhibits. Most of the exhibits were copies of documents that already existed and were not original to this docket. 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. 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, we fail 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, 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. 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. We acknowledge 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 are unclear. Thus, the hours related to finalizing materials and conference calls shall be reduced.

Deloitte included 11.6 actual hours to "Review Staff Recommendation and conference with Client." We 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. We note that neither recommendation was more than 11 pages. As such, we find that 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. Thus, 5 hours shall be removed since no staff recommendations were filed in this docket during that period.

Based on the information available, we find that adjustments are necessary to the actual time and expense due to the lack of detailed support. We find Deloitte's actual hours excessive, unreasonable, and unsupported. As stated previously, it is the Utility's burden to justify its requested costs.²¹ In those cases where rate case expense has not been supported by detailed support documentation, it has been our 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 allows us to make pinpoint adjustments. While the lack of detail makes it more difficult to review the expense for reasonableness and to make necessary adjustments, we find some portion of the actual requested expense is justified, especially since testimony was filed and other services were rendered by Deloitte. Based on the documentation provided, 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, the

²¹ See Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982).

hours directly attributable to witness Danielson, shall be included in rate case expense. Thus, a total of 19 hours, or \$12,996 (19 hrs. x \$684/hr.), shall be included for Deloitte's actual expense. No additional adjustments to witness Danielson's actual hours are required.

A portion of the 28 hours included in the support documentation for a second principal shall be included in the total to account for peer review and discussion. We find the 4 hours included in the Deloitte's actual and estimated rate case expense ending January 31, 2014 for the second principal reasonable when compared to witness Danielson's 14 hours. Based on the record, the second principal's hours represent approximately 29 percent of witness Danielson's hours. This ratio shall 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. Thus, 1.50 hours (5 hrs. x 0.29) for the second principal is reasonable. This represents a 22.5 hour (24 hrs. - 1.5 hrs.) reduction. Rate case expense shall be reduced by \$15,390 (22.5 hrs. x \$684/hr.) for lack of support.

Additional adjustments to both the manager and senior consultant hours are also necessary to account for the lack of support documentation. The record reflects 88 hours for the manager and 85 hours for the senior consultant included in rate case expense. We find the hours requested for these positions are excessive and unsupported. We find that 24.5 of the 47 hours, or approximately 52 percent, of the principals' requested time shall be approved. The reductions shall use the ratio calculated above since the manager and senior consultant functioned in a support capacity to the principals. Thus, 48 percent of the hours for the manager and senior consultant shall be removed. Rate case expense shall be reduced by \$22,134 (42.24 hrs.²² x \$524/hr.) and \$17,136 (40.8 hrs.²³ x \$420/hr.) for the manager and senior consultant, respectively. Deloitte's actual expenses shall 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. 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.²⁴ The Utility removed 33 hours, including 8 hours for the preparation 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. 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. We find the Utility's revised estimated hours to complete 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. Witness Danielson does not bill for travel time. Deloitte's estimated hours shall be reduced by 33 hours, or \$19,932, as outlined in UI's post-hearing brief.

²² Reflects result of 88 hours for manager multiplied by 48 percent (100 percent – 52 percent).

²³ Reflects result of 85 hours for senior consultant multiplied by 48 percent (100 percent – 52 percent).

²⁴ The revised amount includes a 1-hour reduction to the senior consultant's estimated hours for time counted twice.

The “Revised Utility Total” shown on Table 3 reflects this reduction. Deloitte’s estimated hours to complete its role in these proceedings shall be 14 hours (47 hrs. – 33 hrs.)

Deloitte also estimated \$1,200 in travel costs. 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. Only one principal, witness Danielson, actually attended the hearing. We find that since 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, Deloitte’s estimated travel costs shall be reduced by \$800 (\$1,200 x 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. 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. However, we have an obligation to review and rule on the accuracy and prudence of such expenses.

OPC argues that, if all Deloitte rate case expense is disallowed, then legal rate case expense should be reduced by \$2,080 for the legal services related to Deloitte testimony. OPC suggests that if the rate case expense incurred prior to the issuance of the Order Establishing Procedure (OEP) is disallowed, then rate case expense for legal services should also be disallowed for this period.

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. OPC recommended reducing FFL’s actual fees and costs by \$2,080 for the legal services related to Deloitte testimony. However, the only mention of this particular adjustment comes in OPC’s post-hearing brief. There is no evidentiary support for OPC’s recommended adjustment. We have identified a total of approximately 14 billable hours related to the testimony of UI witnesses Danielson (Deloitte), Hoy, and Wiorek. 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, we find 2.8 hours, or \$980 (2.8 hrs. x \$350/hr.), exclusively related to witness Danielson’s pre-filed direct testimony. No other adjustments related to actual legal fees and costs shall be made.

The Utility included \$23,450 in legal fees and \$1,610 in costs to complete the rate case. The Utility provided support documentation detailing this expense through April 10, 2014. FFL estimated a total of 67 hours would be necessary to complete the case. We find that 48 of the 67 hours are related to the prehearing, hearing, and Commission Conference.²⁵ We do not take exception to the 20 total hours associated with the Prehearing Conference and Commission

²⁵ The prehearing was held on April 29, 2014 and a formal hearing was held May 14, 2014.

Conference, as it 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. However, 18 hours in addition to the 10 hours associated with the attendance at the hearing 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, we find those activities do not require 18 hours. As such, we find 9 hours is an ample amount of time to review testimony, prepare UI's witnesses, and develop cross examination questions. Accordingly, the estimated hours to complete shall 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. In its post-hearing brief, UI reduced this amount by \$2,624 since several WSC employees did not have to attend the hearing.

OPC argued that UI did not support why its in-house labor more than doubled from the initial estimate of \$10,326. 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. As such, OPC claimed that UI has not met its burden, and its in-house expense should be denied as unreasonable, unsupported, and unjustified. In addition, OPC asserted that the estimated rate case expense should be disallowed in its entirety, or at least substantially reduced.

We agree with OPC that the level of detail supporting UI's in-house employees is lacking. However, some level of rate case expense should be allowed and can be determined from the information that provided. UI originally estimated that it would take 216.5 WSC in-house hours, totaling \$10,236 to complete the case. 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. 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. 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.

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. In addition, the updated in-house rate case expense added expenses

from February 1 through March 31, 2014, which included UI's responses to OPC's discovery on February 28, March 11, and March 21, 2014.²⁶

There is no evidence on the record showing support for a sizeable increase in WSC in-house expense from \$4,603 in January to almost \$17,000 at the end of March. 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. Moreover, despite the length of the exhibits, witness Wiorek admitted that the exhibits were emailed to her and that she did not prepare them. Only a handful of the discovery responses filed in this proceeding occurred during the period reflected in actual expenses. Some of that increase could be related to work responding to additional discovery filed later, however, detailed information showing the time associated with each activity was not provided.

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. While this amount was based on limited documentation, we find it reasonable given the time period that it covers. However, during the next 2 months, over \$12,000 was incurred. The record simply does not provide the detail necessary to support such a sizable increase. Thus, WSC in-house actual rate case expense shall be reduced for lack of detailed supporting documentation. However, in an attempt to recognize WSC in-house expense incurred during that two-month period, we find that using the previous 20-month average to calculate a more reasonable amount, a total of \$460 (\$230 x 2 months) is reasonable. Thus, WSC in-house rate case expense shall 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, there is no dispute related to the removal of Mr. Lubertozzi's rate case expense based on the parties' post-hearing briefs. (The description accompanying his estimated expense stated "prepare for hearing and attend hearing." Since Mr. Lubertozzi did not attend the hearing, his estimated rate case expense of \$2,320 shall be removed.

OPC also argued for removal of all of witness Wiorek's estimated expense because she was excused from the hearing. UI also stated that a reduction to her expense is necessary for the same reason. We find that some of witness Wiorek's estimated expense was related to preparing responses to discovery requests. 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, we find that UI has captured the portion of witness Wiorek's estimated hearing related expenses in its post-hearing brief adjustment.

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. There were numerous UI discovery responses filed

²⁶ WSC time related to later responses were included in UI's estimate to complete discussed later.

during the time period covered by the estimate. Moreover, witness Hoy's estimate to complete is reasonable given the required travel time to and from Tallahassee, the 3.25 hour long hearing, and time needed for the witness to prepare. As such, no reduction shall be made to witness Hoy's estimate to complete. Accordingly, we find 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. Lubertozzi.

WSC Travel

UI originally estimated \$12,000 for travel expenses. However, in its post-hearing brief the Utility estimated that travel expenses for two days was only \$300, resulting in a reduction of \$11,700. 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. OPC argued that since UI witness Hoy attended the hearing, it was reasonable to allow travel expenses of \$250. Both UI's and OPC's figures are only estimates, and no documentation supporting these amounts was included in the record. We find that an average of the two amounts, or \$275, is a reasonable allowance for travel expenses. Accordingly, WSC travel shall 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 approved rate case expense would not unduly burden any one UI system. OPC argued that any approved rate case expense 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. The Utility argued that the proper allocation should be based on the ERCs of its regulated utilities in Florida.

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. 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 asserted that any new systems acquired by UI should not be allocated any rate case expense and if any systems were divested, the Utility should not reallocate rate case expense to any remaining systems and ERCs.

We find that rate case expense shall 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. Each subsidiary shall 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 shall 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. We agree 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 shall 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.

Thus, UI's requested rate case expense of \$199,701 shall be decreased by \$70,497. We find the appropriate total rate case expense is \$129,204. A breakdown of rate case expense is as follows:

Table 3

| Firm/Vendor | Utility Total Act./Est. from Brief | Utility Adj. from Brief | Revised Utility Total Act./Est. | Commission Adj. | 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 | 12,000 | (11,700) | 300 | (25) | 275 |
| Total | \$233,957 | (\$34,256) | \$199,701 | (\$70,497) | \$129,204 |

Thus, the amount of rate case expense shall be set at \$129,204. The total rate case expense shall be allocated to each UI Florida subsidiary based on ERCs and amortized over four years. Recovery of this expense shall 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 shall 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Utilities Inc.'s petition to establish a generic docket to address the impact of divested systems on the recovery of Phoenix Project costs is approved in part as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that the net investment in Phoenix Project in Utilities Inc. rate cases shall be determined 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. It is further

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ORDERED that the amortization period for the Phoenix Project shall remain at 10 years.
It is further

ORDERED that total rate case expense is hereby set at \$129,204 and shall be allocated to each UI Florida subsidiary based on ERCs and amortized over four years. It is further

ORDERED that this docket shall be closed upon the expiration of the time for filing an appeal.

By ORDER of the Florida Public Service Commission this 30th day of September, 2014.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MFB

COMMISSIONER JULIE I. BROWN dissents with respect to the amount set for rate case expense without opinion.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

| 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> |

| 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 |
| Wedgefield 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> |

| 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> |