

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

DOCKET NO. 160101-WS

FILED: January 6, 2017

**MOTION TO ADJUST CONTROLLING DATES AND  
EXTEND TESTIMONY FILING DEADLINES**

The Citizens of the State of Florida (Citizens), by and through the Office of Public Counsel (OPC), pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C.), hereby file this Motion to Adjust Controlling Dates and Extend Testimony Filing Deadlines established by Order No. PSC-16-0558-PCO-WS (OEP), issued December 14, 2016, and Order No. PSC-16-0578-PCO-WS (Revised OEP), issued December 20, 2016, in this docket. The Citizens ask that this Motion be granted for good cause, and as grounds state the following:

1. Utilities, Inc. of Florida (UIF) serves approximately 33,000 water and 26,000 wastewater customers in 10 counties across the state. In early 2016, UIF consolidated 12 separate operating companies and numerous standalone systems into one combined company named UIF. On April 28, 2016, UIF filed its test year letter request.
2. On August 31, 2016, Utilities, Inc. of Florida (UIF or Company) filed its application for increase in rates and accompanying minimum filing requirement (MFR) documents in support of its rate increase and state-wide uniform rates. On September 29, 2016, the Commission's first deficiency letter notified UIF its MFRs were deficient, requiring UIF to cure those deficiencies by October 31, 2016.

3. On October 31, 2016, UIF responded with its first attempt to cure its deficiencies. On November 17, 2016, the Commission's second deficiency letter notified UIF its MFRs remained deficient, requiring the deficiencies to be cured by December 13, 2016.

4. On November 22, 2016, UIF responded with its second attempt to cure its deficiencies. On November 29, 2016, the Commission advised that UIF's MFRs were complete, and established the Official Date of Filing of UIF's application for rate increase as November 22, 2016. *See* Section 367.083, Florida Statutes (F.S.).

5. Pursuant to Section 367.081(6), F.S., the Commission has eight months from the Official Date of Filing to make a decision on rate relief or the utility can implement its full requested rates subject to refund, and it has 12 months to make a final decision or the utility can implement its requested rates on a permanent basis. Eight months runs on July 22, 2017 and twelve months runs on November 22, 2017.

6. The first OEP establishing discovery procedures and controlling dates was issued December 14, 2016 and subsequently revised on December 20, 2016. The controlling dates currently are as follows:

(1)	Utility's testimony and exhibits	August 31, 2016
(2)	Service Hearings	January 10 and 11, 2017
(3)	Service Hearings	February 1 and 2, 2017
(4)	Intervenors' testimony and exhibits	February 23, 2017
(5)	Staff's testimony and exhibits, if any	March 9, 2017
(6)	Rebuttal Testimony and Exhibits	March 23, 2017
(7)	Prehearing Statements	April 6, 2017
(8)	Discovery deadline	April 14, 2017*
(9)	Prehearing Conference	April 20, 2017*

(10)	Hearing	May 8-12, 2017
(11)	Briefs	May 26, 2017

\* Revised by subsequent OEP.

7. On May 10, 2016, the Commission acknowledged OPC's intervention in this docket. *See* Order No. PSC-16-0189-PCO-WS. OPC has retained two expert witness consultants to assist the Citizens in reviewing UIF's voluminous filing, MFRs, prepare and analyze discovery responses, and draft pre-filed testimony.

8. With the assistance of its consultants, OPC served its first set of discovery (consisting of interrogatories and requests for production) to UIF on September 16, 2016, second set on September 30, 2016, third set on October 13, 2016, and fourth set on November 8, 2016. Staff has also served several sets of discovery.

9. Discovery responses are typically due 30 days from the date a utility is served discovery unless the response time is modified by an OEP. However, due to volume of deficiencies identified by the Commission's deficiency letters, UIF was unable to timely respond to OPC's discovery. After Commission staff served its first set of discovery, Commission staff proposed to the parties that UIF should be allowed to focus on curing its discovery responses and responding to staff audit requests before responding to OPC's or staff's discovery since no Official Date of Filing had been established. OPC accepted staff's proposal.

10. Following the establishment of the Official Date of Filing, UIF's responses to OPC and staff discovery would have been due on December 23, 2016; however, at the request of the parties, OPC agreed to allow UIF additional time until after the holidays to respond to OPC's discovery. By agreement of the parties, UIF's responses to staff and OPC discovery were due January 9, 2017 or sooner. As of the date of this Motion, UIF has served some responses to OPC and staff's discovery.

Good Cause Shown

*Testimony filing dates*

11. OPC has diligently analyzed UIF's rate case filings, MFRs, and revised MFRs. OPC has started reviewing the audit workpapers recently completed, and OPC will continue to review UIF's responses to OPC and staff discovery as discovery is received in order to prepare pre-filed testimony on February 23, 2017. Nevertheless, under the conditions precipitated by UIF's deficient MFR filing as well as large volume of information, some of which is still outstanding, the current schedule has become too compressed to adequately review and prepare testimony and exhibits in this complex water and wastewater rate case involving consolidation and rate-setting for 12 previously separate operating companies and numerous standalone systems.

12. OPC's testimony is currently due on February 23, 2017, or 90 days from the time UIF's Official Date of Filing. With the requested delays in responding to OPC's and staff's discovery, OPC will have 45 days to review discovery responses and serve follow up responses, if any, before its testimony is due.

13. Given the scope of responsive discovery documents OPC will have to review in order to prepare and finalize its pre-filed testimony and develop hearing exhibits, in addition to reviewing all the discovery requested by staff which OPC may incorporate in its testimony, OPC requests an extension of the time to file its testimony and exhibits. An additional two week extension of time will allow OPC to sufficient time to review discovery, send any additional follow up discovery, and otherwise more fully vet the issues in this case to be presented in pre-filed testimony for the Commission's consideration. In order that staff and UIF are not prejudiced in preparing their testimony, OPC requests a similar extension of time for filing their testimony and exhibits.

14. Therefore, OPC respectfully requests that the testimony filing deadlines for OPC, Commission staff, and UIF rebuttal testimony be extended by two weeks to March 9<sup>th</sup>, March 23<sup>rd</sup>, and April 6<sup>th</sup> respectively. This extension will not adversely affect the preparation of anyone's testimony.

15. In addition to this request, given the complex nature of the initial full consolidation of the UIF system, OPC respectfully requests a two-week extension on the discovery cut-off date to April 28<sup>th</sup> and post-hearing brief filing date to June 9<sup>th</sup> for the following reasons:

*Discovery cutoff*

16. If UIF's rebuttal testimony deadline is extended to April 6<sup>th</sup>, then staff and OPC would need additional time to conduct discovery on the rebuttal testimony and exhibits. There is precedent for this. In the 2016 FPL rate case, the Commission bifurcated the discovery cut-off period, providing different discovery cutoff dates for direct/intervenor and rebuttal testimony. *See* Order No. PSC-16-0182-PCO-EI.<sup>1</sup> In this case, OPC requests an extension in the discovery cutoff date to April 28<sup>th</sup> or, in the alternative, a bifurcated discovery cutoff date using April 28<sup>th</sup> for rebuttal testimony, which is 10 days prior to the start of the UIF hearing on May 8, 2017. Additionally, for consideration in extending the discovery cutoff date, OPC is willing to expeditiously work with Commission staff to review drafts of its proposed hearing exhibits as staff develops them.

*Post-hearing brief*

17. According to the current schedule, post-hearing briefs are due on May 26, two weeks after the scheduled conclusion of the UIF hearing. The current two-week deadline, without daily

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<sup>1</sup> The cutoff date for direct/intervenor testimony was 10 days prior to the hearing, and the cutoff date for rebuttal testimony was 6 days prior to the hearing. *Id.*

transcripts, would prejudice the parties' ability to file post-hearing briefs. Given the size and magnitude of the UIF case, OPC respectfully requests the post-hearing brief deadline be extended to June 9<sup>th</sup> without the need for daily hearing transcripts or June 2<sup>nd</sup> with expedited transcripts. That will allow OPC and UIF enough time to review the record and file post-hearing briefs, providing the Commission with the fullest post-hearing record possible when making its decision.

18. Pursuant to Rule 28-106.204(3), F.A.C., counsel for OPC has contacted counsel for Commission staff and UIF regarding this motion. OPC represents that counsel for UIF and Commission staff do not oppose OPC's request for a two week extension to pre-file testimony for OPC, staff, and UIF rebuttal. Further, UIF does not oppose OPC's request for a two week extension on discovery cutoff dates; however, staff counsel expressed some concerns with extending the discovery cutoff deadline.

Regarding post-hearing briefs, UIF objects to extending the brief filing deadline unless the Commission assures UIF it will schedule the post-hearing agenda conference to decide final rates on or before July 22, 2017, the expiration of the eight-month statutory time clock. In order to ensure the parties are given sufficient time to exercise their due process rights to the fullest while ensuring a decision is rendered within the eight months required by the statutory deadline, the OPC respectfully asks the Commission to strongly consider exercising its discretion to add special agendas (revenue requirement and rates). Counsel for OPC was unable to obtain counsel for Commission staff's position on the requested extension for filing post-hearing briefs.

WHEREFORE, the Citizens hereby request that the Prehearing Officer grant this Motion to Adjust Controlling Dates and Extend Testimony Filing Deadlines as describe herein.

Respectfully submitted 6th day of January, 2017.

J. R. Kelly  
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          /s/ Erik L. Sayler            
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