

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 120161-WS

ANALYSIS OF UTILITIES, INC.'S
FINANCIAL ACCOUNTING AND
CUSTOMER SERVICE COMPUTER
SYSTEM.

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PROCEEDINGS: ORAL ARGUMENT

COMMISSIONERS
PARTICIPATING: COMMISSIONER JULIE I. BROWN
PREHEARING OFFICER

DATE: Thursday March 13, 2014

TIME: Commenced at 1:00 p.m.
Concluded at 1:43 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
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1 APPEARANCES:

2 J.R. KELLY, PUBLIC COUNSEL, and ERIK L.
3 SAYLER, ESQUIRE, Office of Public Counsel, c/o The
4 Florida Legislature, 111 W. Madison Street, Room 812,
5 Tallahassee, Florida 32399-1400, appearing on behalf
6 of the Citizens of The State of Florida.

7 MARTIN S. FRIEDMAN, ESQUIRE, Sundstrom Law
8 Firm, 766 North Sun Drive, Suite 4030, Lake Mary,
9 Florida 32746, appearing on behalf of Utilities, Inc.

10 MARTHA BARRERA and JULIA GILCHER, ESQUIRES,
11 FPSC General Counsel's Office, 2540 Shumard Oak
12 Boulevard, Tallahassee, Florida 32399-0850, appearing
13 on behalf of the Florida Public Service Commission
14 Staff.

15 MARY ANNE HELTON, DEPUTY GENERAL COUNSEL,
16 JENNIFER CRAWFORD, ESQUIRE, Florida Public Service
17 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
18 Florida 32399-0850, Advisor to the Florida Public
19 Service Commission.

P R O C E E D I N G S

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2 **COMMISSIONER BROWN:** I'd like to call this
3 oral argument on OPC's motion to compel to order in
4 Docket Number 120161-WS.

5 Staff, can you please read the notice.

6 **MS. BARRERA:** Yes, ma'am.

7 **COMMISSIONER BROWN:** Thank you.

8 **MS. BARRERA:** This is a notice of oral
9 argument for the parties of record and all other
10 interested persons in Docket 120161-WS, analysis of
11 Utilities Inc.'s final accounting and customer service
12 computer system. The notice was issued March 7, 2014.
13 It's a notice of oral argument scheduled for 1:00 p.m.,
14 Thursday, March 13, 2014, at Betty Easley Conference
15 Center.

16 **COMMISSIONER BROWN:** Thank you.

17 I'd like to take appearances starting with
18 OPC.

19 **MR. SAYLER:** Erik Sayler on behalf of the
20 Office of Public Counsel. With me today is J.R. Kelly,
21 Public Counsel, and our third-year law student legal
22 intern Leslie Ames.

23 **COMMISSIONER BROWN:** Welcome.

24 **MR. SAYLER:** And Denise Vandiver, as well.

25 **COMMISSIONER BROWN:** Third-year law student

1 from FSU, I'm assuming. What a shame.

2 (Laughter.)

3 **COMMISSIONER BROWN:** Marty.

4 **MR. FRIEDMAN:** Yes. Marty Friedman on behalf
5 of Utilities Inc. on behalf of its subsidiaries.

6 **COMMISSIONER BROWN:** Thank you.

7 And I wanted to let the parties know that I'm
8 allowing oral argument here in this particular -- for
9 this motion for the sole reason that it wasn't really
10 clear to me what the Office of Public Counsel was
11 seeking and the reasons why, so that's why I will allow
12 it.

13 I was going to be a little generous with time,
14 again, just so you can clarify your reason in your
15 motion. I'll give you ten minutes each side, starting
16 with OPC. And I will let you know when your time, about
17 one minute time before it expires.

18 **MR. SAYLER:** All right. Thank you.

19 Thank you, Commissioner Brown, for oral
20 arguments today. OPC has three quick points it would
21 like to argue and reserve the rest of its time for
22 rebuttal, if any.

23 **COMMISSIONER BROWN:** Okay.

24 **MR. SAYLER:** Point one, contrary to the
25 utility's assertion, OPC is not limited solely to the

1 Project Phoenix issues that OPC raised in its cross
2 protest petition of the Eagle Ridge PAA Order.

3 The second point, OPC raised its additional
4 Project Phoenix issues during the Eagle Ridge issue
5 identification process, and those issues are
6 memorialized, and I have an exhibit there to pass out
7 later.

8 And, third, Utilities Inc. essentially makes a
9 res judicata or doctrine of administrative finality
10 argument in its motion. But if that is the case for
11 OPC, then that same also applies to Utilities Inc.'s
12 protested Project Phoenix issues, as well.

13 Starting with point one, OPC is not limited to
14 the Project Phoenix issues that we raised in our cross
15 petition. Paragraph one of the Eagle Ridge settlement
16 is controlling. It permitted OPC to raise its
17 additional Project Phoenix issues in two places. The
18 first place, as the utility pointed out in its response,
19 was in OPC's cross petition. The next phrase after that
20 says that OPC was also permitted to raise the Project
21 Phoenix issues identified during the issue
22 identification process in the Eagle Ridge docket.

23 And when you read those two together, it shows
24 you the two locations where we can raise our issues, our
25 petition and in the issue identification process.

1 Therefore, pursuant to the settlement, that allows us to
2 raise those issues.

3 Speaking of an exhibit, I can pass that out
4 now.

5 **COMMISSIONER BROWN:** Sure. Staff, can you
6 help?

7 **MR. SAYLER:** Marty.

8 **COMMISSIONER BROWN:** But your time is ticking.

9 **MR. SAYLER:** I know. I'll make a few points
10 while they're passing out.

11 **COMMISSIONER BROWN:** Okay.

12 **MR. SAYLER:** The additional Project Phoenix
13 issues OPC raised we raised during the issue
14 identification process in the Eagle Ridge docket. And
15 our issues that we raised concerned the reasonableness
16 of Project Phoenix rate base and also ongoing Project
17 Phoenix expenses.

18 OPC's additional Project Phoenix were
19 memorialized in e-mail correspondence between OPC,
20 staff, and the utility, and this is the exhibit that I
21 proffer here today that contains OPC's memorialized
22 issues. The exhibit consists of two e-mails, two lists
23 of issues that OPC submitted to staff and the utility
24 prior to the April 11th, 2012, issue identification
25 meeting, and then also after that issue identification

1 meeting. It shows that our issues concern rate base
2 costs and expenses.

3 These documents show that UI was on notice
4 concerning the scope of OPC's additional Project Phoenix
5 issues when it settled the Eagle Ridge docket with OPC.
6 And OPC's discovery in this docket pertained to our
7 issues that we're trying to raise before the Commission,
8 and we believe those responses should be compelled.

9 Regarding res judicata and doctrine of
10 administrative finality arguments, on Page 2 and 3 of
11 the utility's response the utility is making essentially
12 that argument. The utility said that the Commission has
13 already decided the cost of Project Phoenix to be about
14 \$21.6 million, and that OPC cannot litigate the
15 reasonableness of those costs in this generic docket,
16 but that is wrong on two accounts.

17 First, the Commission has never made a
18 prudence determination in any of the PAA rate cases
19 concerning the Project Phoenix costs. And, second, we
20 may not even really know what the true Project Phoenix
21 costs are. If you look at the various PAA orders in
22 this rate case, it shows Project Phoenix costs being
23 21.5 million, then it goes down to 21.3, up to 21.6,
24 which is mentioned in his order, in his response, and
25 then down even potentially to 19 million.

1 And in the testimony that the utility has
2 proffered in this case, there is an exhibit attached to
3 their witness' testimony, LED-2, which is dated as of
4 October 20th, 2007, and it shows that the cost of
5 Project Phoenix was about \$14 million. That's quite a
6 difference between 12, or 14 and 21. And we don't know
7 why those costs increased dramatically. And we think
8 that is a proper issue for this Commission to determine,
9 because it will affect all utilities in the State of
10 Florida that are Utilities Inc., and also this docket
11 was created in part to allow that rate case expense
12 related to the Project Phoenix issues could be spread to
13 all the systems so that not one system would be unduly
14 burdened with all those expenses.

15 The res judicata and doctrine of
16 administrative arguments also don't apply for two
17 reasons. First, the Commission has inherent authority
18 and a duty to look back and correct past ratemaking
19 errors when they come to light, even those in rate base.
20 The Commission in Order Number 20066 issued on
21 September 26th, 1988, in Docket Number 870981-WS in the
22 Miles Grant water and sewer rate case. In the Miles
23 Grant rate case the Commission found a depreciation
24 error dating back to 1972 that affected rate base, and
25 the Commission corrected that rate base error even over

1 the objection of the utility. That error stemmed back
2 many years and had been overlooked in several subsequent
3 Commission orders so that there were issues with that.
4 And the Commission in correcting its error determined
5 that res judicata did not apply to errors related to
6 rate base.

7 The Miles Grant order cited a whole laundry
8 list of case law that supports the Commission's
9 authority to revisit prior decisions to prospectively
10 correct any error in rate base that it finds. And in
11 this case we believe that there are errors in the
12 Project Phoenix rate base, and that if the Commission
13 agrees with us that those errors should be corrected
14 prospectively.

15 The second reason why res judicata or
16 administrative finality do not apply is the very nature
17 of the PAA rate case process. It does not allow the
18 Commission to hear evidence or really to make any final
19 determination of prudence. The Commission merely
20 reviews the utility's filing to see if the amount
21 requested in the MFRs appear to be reasonable, and then
22 the Commission establishes proposed rates based upon
23 those filings.

24 There is no evidence; there is no hearing.
25 And if a utility or intervenor disagrees with the

1 Commission's determination in a PAA order, the proper
2 posture is to protest that order and request an
3 administrative hearing and request that the Commission
4 determine reasonableness and prudence. In all the prior
5 PAA rate cases related to Utilities Inc. Project Phoenix
6 costs, the Commission has never determined with finality
7 that those costs were reasonable and prudent.

8 Further, the Commission has never had a
9 hearing on any of the Project Phoenix issues until now.
10 No evidence supporting the cost of Project Phoenix has
11 ever been presented before the Commission in any kind of
12 adjudicatory proceeding. And as we all know, the PAA
13 process is not an evidentiary hearing and no evidence is
14 presented to the Commission for a determination.

15 And, you know, a lack of evidence is just the
16 reality of the Commission's PAA process. It can only be
17 taken and weighed after a PAA rate case is protested,
18 or, in this case, where a disputed issue has been set
19 straight for hearing like has been done in the generic
20 issues docket.

21 Now, if you decide that res judicata or
22 doctrines of administrative finality attach to OPC's
23 argument, then what's good for the goose is good for the
24 gander. Utilities Inc. had at least six opportunities
25 to protest the Commission's divestiture allocation

1 methodology which it has protested in the Eagle Ridge
2 case. They had six opportunities to do it, but they
3 didn't; they let six opportunities, six PAA rate cases
4 and six final orders affirming the Commission's
5 methodology. So if it is inappropriate for us to raise
6 our Project Phoenix issues now, it's also inappropriate
7 for the utility to challenge them now in this docket.

8 And if those doctrines do apply, then it
9 applies to both UI and OPC, and it would be helpful to
10 save the ratepayers a lot of rate case expense and to
11 just dismiss our petition and their petition and just
12 make this go away. But I don't think that was the
13 purpose or the intent when we settled the Eagle Ridge
14 docket, because we do want the Commission to make a
15 thorough review of all Project Phoenix issues, their
16 issues and our issues.

17 We believe that the utility was on notice of
18 what our issues were when we settled, and in our motion
19 to compel we spell out the various reasons why we
20 believe that our discovery is necessary.

21 **COMMISSIONER BROWN:** One minute.

22 **MR. SAYLER:** One minute. So we believe that
23 they expressly compel -- or, excuse me, we believe that
24 we clearly explain why we need it. And if you need
25 further explanation, I'm happy to answer questions.

1 Thank you very much.

2 **COMMISSIONER BROWN:** You have 55 seconds
3 remaining.

4 **MR. SAYLER:** Thanks.

5 **COMMISSIONER BROWN:** One second, Mr. Friedman.
6 All right. Go.

7 **MR. FRIEDMAN:** Thank you, again. Marty
8 Friedman on behalf of the utility. I filed a pretty
9 detailed response, so I just want to maybe respond to
10 some of the things that Mr. Sayler said.

11 First of all, we haven't raised res judicata
12 as a defense. The argument is what issues that we agree
13 that could be raised in this proceeding. And as I set
14 forth in my response, certain issues are appropriate for
15 a generic docket and certain issues are not. And the
16 issues that the Public Counsel wants to raise, I mean,
17 some of them they have asked for, like, they want the
18 2013 operating expenses for Project Phoenix for the
19 whole computer system.

20 Now, that's relevant in a rate case. It's not
21 relevant in a generic docket, which is what we have
22 here. Raising the issues that Public Counsel has
23 asserted, they called them subissues, I think in an
24 effort to shoehorn it into the real issue, also raises
25 some procedural issues; that is, if these are -- if

1 these are issues they are raising, then in my view that
2 puts the burden of proof on them to prove those issues.
3 Otherwise, we've already filed our prefiled testimony on
4 the issue that we presented and the only issue which we
5 believe is appropriate. And so if Public Counsel
6 believes there are other issues and if you allow them to
7 file other issues, then they carry the burden of proof
8 on those issues and they have to file prefiled testimony
9 on those issues. Obviously that would necessitate us
10 filing rebuttal, which will -- I think if we raised all
11 these issues, we're looking at moving from a one-day
12 hearing to a two-day hearing as a practical matter.

13 Pointing out that there is a \$14 million
14 number that was in our prefiled testimony, keep in mind
15 that Project Phoenix is made up of two components. One
16 is the customer care portion and one is what they call
17 the JDE, which is the accounting portion. And the
18 14 million only related to one of those two portions.
19 And so that's not -- it's not to say, wow, we went from
20 14 to 21 million. The 14 million was the accounting
21 function, not the customer-care function of that.

22 I did go through each of their issues and
23 tried to explain the -- as he admitted, the language in
24 the stipulation says that we won't object to additional
25 Project Phoenix issues which broadly relate to the

1 issues raised in OPC's petition. And as I pointed out,
2 the issues raised in their petition are clear. It only
3 relates to -- for some reason, Public Counsel doesn't
4 think, as they mentioned, that this Commission has ever
5 ruled upon the fact that -- whether the Project Phoenix
6 was reasonable or not. And I would suggest to you that
7 in the maybe 20 rate cases that have gone on, I don't
8 know how you could have made a ruling on rate base for
9 that project without implicitly, at least, making a
10 determination that it was just and reasonable.

11 Maybe you didn't come right out and say it,
12 because it was never raised as an issue. I think your
13 staff clearly understood the shortcomings of the old
14 system that was in place for -- what they call the
15 legacy system -- for 21 years, and the need for a new
16 system, and, you know, the integration and what that
17 system does that the old system doesn't. You know, it's
18 not a system that does everything for everybody, but it
19 does handle the shortcomings of the other system.

20 It looks like that they also want to raise an
21 issue of the amortization period for Project Phoenix,
22 and I didn't see that as an issue that had been raised
23 in the issues identification in the OPC case. And so,
24 you know, I don't even think if you were to stretch the
25 argument that counsel made, it wouldn't include

1 amortization. And as I pointed out, a lot of the
2 interrogatories and requests for production that were
3 filed relate to operating and maintenances expenses
4 from -- I think they wanted from 2007 to 2013.

5 Now, I don't know how you deal with that in
6 the context of a generic docket, when what we are really
7 talking about is the rate base allocations for Project
8 Phoenix. We're not talking about, you know, post
9 implementation of operating and maintenance expenses. I
10 don't know what this Commission could do if it looked at
11 the 2013 O&M expenses, and said, gee, we think they're
12 too high.

13 What is that going to result in? This docket
14 is not set up to deal with making a global change to
15 every company's operating and maintenance expenses, and
16 that's a lot of their questions. And so I don't think
17 that questions relating to operating and maintenance
18 expenses, you know, are fit for this type of docket. It
19 might be a rate case docket, and that's what I pointed
20 out. A lot of that stuff they ought to raise it as rate
21 cases are filed, but it's not appropriate to raise in a
22 generic docket where we don't know what the -- we can't
23 generically, or we certainly didn't agree to generically
24 make a global change to everybody's O&M expenses if
25 Public Counsel thinks that the O&M expenses for

1 project -- for computer systems, I call it Project
2 Phoenix, but really for all of their IT and hardware and
3 software is unreasonable, what's the consequences of
4 that?

5 And I don't think this docket was set up to
6 deal with those type of matters. It was set up to deal
7 with Project Phoenix along with the
8 recordkeeping/bookkeeping type issues raised by Public
9 Counsel that have already been resolved.

10 Thank you.

11 **COMMISSIONER BROWN:** Thank you. You had four
12 minutes left, but --

13 Mr. Sayler, would you like to use your
14 remaining minute to rebut?

15 **MR. SAYLER:** Yes, ma'am. Thank you.

16 First off, if OPC issues can't be litigated in
17 the generic docket, then where?

18 Second, the subissues are necessary
19 essentially to help -- even if you deny us on our
20 issues, for the Commission to be able to have an
21 accurate starting cost for Project Phoenix to even start
22 allocating down to the utilities. With regard to
23 depreciation, we agree ten years is fine. We stuck it
24 in there as an issue because that's an input. All of
25 our subissues or most of our subissues are actually

1 inputs to the Commission's methodology to be even, to
2 allocate down the global Project Phoenix costs.

3 And, last, I do have a copy of LED-2, which
4 clearly shows that the cost of \$14 million relate to
5 both portions of Project Phoenix, the financial aspect
6 and also the customer care portion. So there is a gap
7 of \$7 million between what Deloitte charged Utilities
8 Inc. and what they are asking for the customers to pay
9 for.

10 And I believe I have expired all of my time.
11 Oh, one last thing. The current operating expenses for
12 2013 are necessary, or even current rate base, because
13 those expenses are what are allocated down to, you know,
14 all the utilities throughout the State of Florida.

15 Thank you.

16 **COMMISSIONER BROWN:** Thank you. See why we
17 had oral argument, lots to discuss here. Before I get
18 into asking the parties questions, I'm going to have to
19 ask staff a couple of questions to respond to some of
20 the arguments made here. Along with -- if you could
21 turn to Page 5 of Office of Public Counsel's motion to
22 compel that lists various subissues.

23 **MS. BARRERA:** Yes, ma'am.

24 **COMMISSIONER BROWN:** You know, my
25 understanding is -- anyone that cares to respond -- but

1 my understanding was that the intent of the settlement
2 agreement in this generic docket was to deal with the
3 Phoenix Project. And obviously there would be some
4 fallout issues, but these subissues that are listed on
5 Page 5, I wanted maybe Andrew or Marshall to kind of
6 walk us through, because I think they tie into some of
7 the discovery being propounded on Utilities Inc. and the
8 relevancy.

9 So if you could walk us through each issue
10 that OPC has -- subissue raised underneath the generic
11 issue, and also walk us through what's the relevancy,
12 too, and whether it's appropriate. Because my
13 understanding was some were settled, were disposed of in
14 the settlement agreement, and other issues. I would
15 like your opinion.

16 **MR. MAUREY:** Thank you. Looking at the list
17 of issues, we see some that are -- well, we believe are
18 subsumed in the global issue that was in the OEP. Now,
19 Issue 1A and 1B, staff did not contemplate that as an
20 issue. We were not -- it was not our understanding we
21 were revisiting the total cost of the project.

22 **COMMISSIONER BROWN:** And I will ask
23 Ms. Crawford or Ms. Helton to respond to some of the
24 reasonableness and prudence.

25 **MR. MAUREY:** Okay. On 1C, again, that's what

1 period the Phoenix Project costs should be depreciated.
2 Again, that's a decision, ten years has been made
3 repeatedly, and we didn't understand that to be under
4 review either. Issues 1D and 1F we do believe are
5 subsumed within the global issue.

6 Now, OPC's comment about perhaps having
7 subissues to further differentiate the arguments,
8 perhaps, but we definitely see 1D and 1F subsumed in the
9 issue that was included in the OEP.

10 Now, 1E, you said you would defer the prudence
11 question to the attorneys, yes. And then on 1G, that
12 decision has been made in numerous cases. All the
13 utilities that have come before the Commission since --
14 it's settled. There's regulatory assets and liabilities
15 in place for all affected utilities.

16 **COMMISSIONER BROWN:** Thank you.

17 Ms. Barrera, can you respond briefly?

18 **MS. BARRERA:** Yes, ma'am. To begin with, we
19 considered -- I wanted to state that we carefully
20 considered the arguments of both parties and reviewed
21 very carefully with staff all the questions regarding
22 the discovery that was propounded.

23 With all due respect to the parties, the Eagle
24 Ridge settlement is irrelevant. If prudence was an
25 issue in the Eagle Ridge case, which I was involved in

1 and don't see, the parties were free to include it in
2 this generic docket. And that goes to the meat of this
3 case in this motion.

4 The motion fails to take into consideration
5 the events, the pleadings, the orders issued in this
6 docket and the representations of the parties. In
7 particular, the petition did not identify prudence as an
8 issue in the case. The investigatory period requested
9 by the parties to exchange information and narrow the
10 issues did not investigate the issue of prudence. The
11 investigatory period, I will note, lasted from May 14th,
12 2012, to October 31st, 2013.

13 Inexplicably, it is clear from the attempted
14 discovery and statements in the motion to compel that
15 there was no information regarding the issue of prudence
16 requested or exchanged. Moreover, as to the order
17 granting the fourth motion for extension of time, it
18 instructed the parties to file their lists of issues by
19 October 2013. The list of issues filed by the parties
20 on October 14th and 15th did not --

21 **COMMISSIONER BROWN:** Which was a day late, by
22 the way.

23 **MS. BARRERA:** Pardon?

24 **COMMISSIONER BROWN:** Which was a day late.

25 **MS. BARRERA:** Yes. -- did not identify it as

1 an issue. The settlement filed by the parties in this
2 case attested that all but the sole remaining issue were
3 settled and it did not identify the issues raised in the
4 motion to compel regarding prudence.

5 The final order approving the settlement was
6 based on the parties' representation that there was only
7 one remaining issue. The OEP listed the one remaining
8 issue identified by the parties. The OEP's only
9 statement as to additional issues referred to issues
10 such as follow-up issues could be raised prior to the
11 prehearing.

12 Part of the discovery and justification in the
13 motion to compel and the issues listed in the motion
14 were settled and approved by the final order that
15 settled the issues, which is what Andrew referred to.
16 In particular, POD Number 3 requests information on an
17 issue that was dropped by the parties and identified as
18 dropped in the settlement agreement in this case.

19 Given the foregoing, the motion to compel, in
20 my opinion, is untimely. It raises new issues for
21 consideration that have not, up to the filing of the
22 motion, been identified in the 17 months of the
23 investigatory period. Further, the requested discovery,
24 if those issues were to be considered, is untimely in
25 light of the 17-month investigatory period agreed upon

1 by the parties and allowed by --

2 **COMMISSIONER BROWN:** Me.

3 **MS. BARRERA:** -- the Commissioner. Yes.

4 The issue of prudence is not subsumed and
5 cannot be subsumed under the sole remaining issue. The
6 issues raised for the first time in the motion to compel
7 and the discovery requested are an inappropriate
8 backdoor attempt to retroactively and untimely challenge
9 the numerous final orders issued in numerous utility
10 rate cases since 2007.

11 It's also our opinion that the principles of
12 administrative finality, res judicata, and retroactive
13 ratemaking do, in fact, foreclose OPC from raising
14 issues concerning the Phoenix Project expenses taken
15 into consideration by the Commission in finding the
16 rates authorized in those cases as fair, just, and
17 reasonable.

18 The contention that the Commission has not
19 considered the issue of the prudence of the Phoenix
20 Project is incorrect both as a matter of fact and as a
21 matter of law. Florida Statutes, Section 367.081,
22 Subsection 3, specifically states, "In setting rates the
23 Commission must determine the prudent costs of providing
24 service." So by implication it's our understanding that
25 the prudence issue is -- that ship has sailed, frankly.

1 So --

2 **COMMISSIONER BROWN:** Thank you.

3 **MS. BARRERA:** -- we are -- that's it.

4 **COMMISSIONER BROWN:** Thank you.

5 **MR. SAYLER:** (Inaudible.)

6 **COMMISSIONER BROWN:** Just one second.

7 **MR. SAYLER:** Okay. Sure.

8 **COMMISSIONER BROWN:** Ms. Barrera, I almost
9 completely agree with your analysis. That was my
10 understanding, too, regarding the Office of Public
11 Counsel's argument toward the reasonableness and
12 prudence.

13 I think the Office of Public Counsel had an
14 opportunity to protest those orders. I do believe that
15 there is some administrative finality, so I appreciate
16 you providing some guidance on that.

17 Did staff get a copy of this that was handed
18 out?

19 **MS. BARRERA:** Yes, ma'am. This is the --

20 **COMMISSIONER BROWN:** What is this, if you can?

21 **MS. BARRERA:** Do you want me to address it?

22 **COMMISSIONER BROWN:** Please.

23 **MS. BARRERA:** Okay. Interestingly, I was
24 involved in Utilities of Eagle Ridge. And, as a matter
25 of fact, I pulled up the copy of the same document,

1 staff's list of issues with OPC edits. There was no
2 issue in here -- maybe OPC can identify it -- but there
3 was no issue in here that actually referred to the
4 prudence of the Phoenix Project. The issues addressed
5 were, you know, adjustment to the O&M expenses, the
6 manner in which the company implemented the Phoenix
7 Project, you know, which we understood to be the
8 allocation adjustments made to property taxes, you know,
9 weighted cost of capital, rate case expense, accumulated
10 depreciation, wastewater rates, refund, you know, the
11 effective date, four-year reduction of rate case
12 expense, and all the -- there are several issues that
13 have been settled regarding documentation and general
14 ledger and such. And that's the sum total of the
15 issues.

16 **COMMISSIONER BROWN:** Excellent. Thank you.
17 And I will get to you in a second. I'm going to ask
18 Mr. Friedman a question.

19 On Page 6 of the Office of Public Counsel's
20 motion to compel, Paragraph 17, there's a statement that
21 says, "These issues subsumed in the ultimate Project
22 Phoenix issue are OPC's issues with Project Phoenix
23 which Utilities Inc. agreed could be raised in the
24 generic docket." Do you care to respond to that?

25 **MR. FRIEDMAN:** Well, I mean, I think I did. I

1 think that's his understanding of the interpretation of
2 the stipulation. I don't think there's any other
3 documentation that says we agree to these particular
4 subissues. I think if you look back at what that's a
5 conclusion of, it's a conclusion of his interpretation
6 of the stipulation. And we believe the stipulation
7 says, as I argued before, it's limited to the Project
8 Phoenix issues that they raised in the rate case. And
9 if you look at what they provided, this last page, it
10 shows that they tried to raise these particular issues,
11 and we objected to them as being appropriate issues even
12 in the Eagle Ridge case. And certainly, you know, O&M
13 expenses are not an issue that are intended to be
14 subsumed into this case.

15 **COMMISSIONER BROWN:** Okay. Thank you.

16 Mr. Sayler, I do have questions for you, but
17 it looked like you were ready to speak. You may respond
18 to what staff said.

19 **MR. SAYLER:** All right, certainly. Thank you.
20 First off --

21 **COMMISSIONER BROWN:** Briefly, though.

22 **MR. SAYLER:** Certainly. If staff is correct
23 that OPC's issues are res judicata, then they are
24 res judicata for Utilities Inc. Because there were at
25 least six orders where the Commission had already

1 determined its allocation methodology that the utility
2 never protested, and now staff is implying that we
3 should have protested each one.

4 One reason that we always weigh when we
5 protest a case is how much is it going to cost those
6 customers in rate case expense for us to succeed. So
7 when Utilities Inc. protested this Eagle Ridge docket,
8 we cross protested. They opened the door, and we stuck
9 our foot in it to litigate our issues. We were able to
10 reach a settlement, and we reached a settlement to allow
11 us to have a generic docket to raise their issues and
12 our issues. That is the fact.

13 And I would take issue with Ms. Barrera's
14 interpretation of the investigatory period. During the
15 investigatory period, the first thing we did is we
16 started with the Eagle Ridge issues. You have to look
17 back to the final version of the Eagle Ridge -- or,
18 excuse me, in the generic docket we started with the
19 Eagle Ridge issues. You can see clearly on Page 2 where
20 it says to plant accumulated depreciation, depreciation
21 expense, all of those relate to rate base and they are
22 all prudence issues. They are reasonableness and
23 prudence issues. So, I'm sorry, but when it comes to --
24 that's just -- we're raising the reasonableness and
25 prudence of the rate base portion of Project Phoenix.

1 It doesn't say we are expressly, but that's the
2 implication when you are doing ratemaking.

3 The same thing with the expenses. We are
4 raising the reasonableness and prudence. We broke it
5 out in these. And then, after a few rounds of
6 discussion there was a question about it, so we agreed
7 we will make our arguments about reasonable and prudence
8 under the global issue, which is should any adjustments
9 be made to Utilities Inc.'s Project Phoenix customer
10 care and billing system.

11 So the utility properly objected to our
12 issues, and we would have brought it to the Prehearing
13 Officer, but then we settled the case with the
14 stipulation that the issues that OPC raised in our
15 petition and in these issue identification meetings
16 could be properly brought before you here today.

17 **COMMISSIONER BROWN:** My understanding, Mr.
18 Sayler, was that we approved a settlement, the
19 Commission approved a settlement agreement for a generic
20 docket with a limited issue. There is a caveat there
21 that obviously there would be some -- potentially be
22 some fallout issues. But that's my understanding of
23 what we voted on and what the parties came to a
24 resolution in order to narrow the scope of this docket.

25 **MR. SAYLER:** Yes, ma'am. But my question for

1 you or for the Commission would be what's your starting
2 point? What's your input for the project costs of
3 Project Phoenix? Is it 21.6, 21.9? Is it \$14 million
4 that's in their petition? We don't know. We asked
5 discovery to try to discover that and to figure out it.

6 Some of the documents that we have say that
7 the utility has potentially improperly capitalized
8 training expenses to the Project Phoenix that should not
9 have been part of rate base, and that's millions of
10 dollars that customers are --

11 **COMMISSIONER BROWN:** May I ask you -- I must
12 interrupt you. When OPC raised issues in the generic
13 docket, did the utility object to those issues?

14 **MR. SAYLER:** In the generic docket? What had
15 happened is when we started -- in my understanding of
16 the generic docket, we in our first round of questions
17 that we circulated in formal discovery to the utility,
18 some of those questions concerned Project Phoenix, some
19 of the costs, how it worked, whether it was prudent,
20 things of that nature. And also early on in the Project
21 Phoenix dispute there was already kind of an implied
22 agree to disagree as it relates to Project Phoenix,
23 whether it's reasonable, prudent, whether the allocation
24 methodology, that was all presumed and subsumed. And I
25 agree, all my subissues are subsumed in the global

1 issue, and we were prepared to make those arguments
2 under the global issue.

3 I put them in our motion to compel just to
4 kind of help you understand our thinking. Essentially
5 give you our theory of the case so you could understand
6 why we were seeking this discovery. Because you needed
7 input for the allocation methodology that the Commission
8 is going to use, and that input is going to be used
9 going forward.

10 **COMMISSIONER BROWN:** I guess the crux of the
11 question I'm trying to get to, and I appreciate you
12 putting those subissues that you consider to be subsumed
13 with the generic issues, if there were additional issues
14 that the Office of Public Counsel wanted to add to this
15 particular docket concerning, for example, the
16 reasonableness and prudence of the Project Phoenix, why
17 were they not included in the list on October 15th that
18 was submitted to the Commission?

19 **MR. SAYLER:** Because, as we have discussed
20 earlier, those issues were already subsumed within the
21 global issue. We had agreed to --

22 **COMMISSIONER BROWN:** Well, you believed that.

23 **MR. SAYLER:** If you look at Page 10 of our
24 exhibit, Issue 7A, 7B, 7C, that relates to the
25 reasonableness of O&M expenses. Eagle Ridge objected to

1 the issue. As I recall, they said it was outside the
2 scope of our cross petition, which I would say was a
3 maybe, maybe not. It would have been a call for the
4 Prehearing Officer. And then the question is should
5 this issue be subsumed under Issue 1, question mark,
6 staff to respond. OPC decided as long as it is subsumed
7 and under Issue 1, OPC agrees to drop this issue and
8 address our arguments under Issue 1. We did that for
9 the same -- for all the O&M expenses, and we also did
10 that for our prudence, as well. That had been dropped
11 off earlier all under Issue 1, which is should any
12 adjustments be made to Project Phoenix financial
13 customer care billing system.

14 That system is a rate base component. There
15 are lots of O&M expenses related to it. So it's broadly
16 drafted to encompass the whole universe.

17 **COMMISSIONER BROWN:** I understand your
18 argument. Okay. Thank you for clarifying that.

19 Ms. Crawford.

20 **MS. CRAWFORD:** I'm happy to speak, but I think
21 the bulk of what I would like to say has been said. I'm
22 happy to continue if you want more.

23 **COMMISSIONER BROWN:** Thank you.

24 Okay. Mr. Sayler and Mr. Friedman, I think
25 that I was very generous in the investigatory period. I

1 think there was a lot of time to conduct discovery
2 during that time. There was an intent and you kept
3 filing motions to extend and I granted them four times.

4 This additional discovery, why is that being
5 requested? Why is it being requested at this time when
6 testimony is due Monday?

7 **MR. SAYLER:** Excuse me. We served our
8 discovery on January 28th. The month would have given
9 us February 28th. That would have given us two weeks.
10 We would have had a stretch to analyze and to put
11 testimony together, and we were prepared to do that.

12 **COMMISSIONER BROWN:** This is voluminous.
13 These are voluminous requests.

14 **MR. SAYLER:** Yes, but they are also pertinent
15 to our subissues within the global issue. And now we
16 are to the point where the utility objected, and then we
17 needed to file our motion to compel.

18 And we do appreciate the liberal time that you
19 gave us during the informal investigatory period, but
20 during the informal investigatory period really wasn't
21 the time to serve formal discovery related to these
22 issues. Because the other times we had asked pointed
23 questions in our informal discovery the utility objected
24 a little bit, but they provided it in the spirit of
25 cooperation and we were very appreciative to that.

1 But now when it comes to the actual costs of
2 Project Phoenix that the customers will have to pay for,
3 that's where the rubber meets the road. And I believe
4 it's incumbent, at least for us on behalf of the
5 customers to argue, you know, make sure that they are
6 not paying any more for Project Phoenix than they ought
7 to pay. And the way to do that is through this
8 proceeding.

9 **COMMISSIONER BROWN:** Of course. Well, I know
10 time is of the essence, and time is ticking. And I'm
11 assuming that the Office of Public Counsel is prepared
12 to file -- is ready to file testimony on Monday,
13 March 17th?

14 **MR. SAYLER:** We are prepared to file
15 testimony. We are also internally thinking, just to be
16 candid, we don't believe that the utility has met its
17 burden in its case. So we may not file testimony on
18 Monday because they really didn't contest the
19 methodology that this Commission put together. And
20 also, as I understand it, the Commission staff is not
21 planning to provide any testimony or exhibits to support
22 its position to support the Commission's depreciation
23 allocation, or divestiture allocation methodology. So
24 that's a tack of considerations that we are going to
25 consider in-house. And depending upon how you rule

1 between now and Monday, we'll make those decisions.

2 **MS. BARRERA:** Commissioner?

3 **COMMISSIONER BROWN:** One second, please.

4 So are you prepared -- just a clear answer --
5 are you prepared to file testimony on Monday, regardless
6 of my ruling on this motion to compel?

7 **MR. SAYLER:** Yes.

8 **COMMISSIONER BROWN:** Thank you.

9 Ms. Barrera.

10 **MS. BARRERA:** Commissioner, staff is filing
11 testimony in this case. We've had numerous meetings as
12 to the issue, and so we will be providing testimony.
13 It's due March 31st.

14 **MR. SAYLER:** That provides comfort to the
15 Office of Public Counsel. Thank you.

16 **COMMISSIONER BROWN:** Thank you.

17 Staff, do you have any questions for either of
18 the parties?

19 **MS. BARRERA:** No, ma'am.

20 **COMMISSIONER BROWN:** Thank you.

21 I was prepared coming into this to try to make
22 a decision right away since time is of the essence. I'd
23 actually like to give this a little more thought. I
24 will be issuing a written order by tomorrow close of
25 business because I do believe time is of the essence.

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So, with that, we stand adjourned.

MR. SAYLER: Thank you.

(The oral argument concluded at 1:43 p.m.)

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STATE OF FLORIDA)
 :
 : CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 18th day of March, 2014.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

Office of Public Counsel

Oral Argument Exhibit

Docket No. 120161-WS

Date March 13, 2014

Documents: OPC's additional Project Phoenix issues raised in two Eagle Ridge Draft Issue Identification Lists, submitted before and after the April 11, 2012 Issue identification meeting between Staff, UI, and OPC.

The Draft Issue lists were attached to two emails, dated April 11, 2012 and April 17, 2012

Parties/Staff Handout
event date 03 / 13 / 14
Docket No. 120161-WS

Sayler, Erik

From: Merchant, Tricia
Sent: Wednesday, April 11, 2012 9:39 AM
To: 'Martha Barrera'; Sayler, Erik; Kelly, JR; Martin S. Friedman; Patrick Flynn
Cc: Ana Ortega; Andrew Maurey; Bart Fletcher; Clarence Prestwood; James McRoy; Jennifer Crawford; Kaley Thompson; Kathy Welch; Patti Daniel; Paul Stallcup; Todd Brown
Subject: RE: Docket 110153-SU issue ID meeting
Attachments: 110153 OPC AND STAFF DRAFT ISSUES OPC Edits.doc

Attached is OPC's revised issue list.

From: Martha Barrera [<mailto:MBarrera@PSC.STATE.FL.US>]
Sent: Wednesday, April 11, 2012 9:12 AM
To: Sayler, Erik; Kelly, JR; Martin S. Friedman; Patrick Flynn; Merchant, Tricia
Cc: Ana Ortega; Andrew Maurey; Bart Fletcher; Clarence Prestwood; James McRoy; Jennifer Crawford; Kaley Thompson; Kathy Welch; Martha Barrera; Patti Daniel; Paul Stallcup; Todd Brown
Subject: Docket 110153-SU issue ID meeting

Hello Eric,

You hinted yesterday that you might have new issues to share by the close of business, more or less, and I do not see them. Were you meaning to send a copy or are we going to get them this morning at the meeting?

Thanks

Martha F. Barrera
Senior Attorney
Florida Public Service Commission
mbarrera@psc.state.fl.us
850 413-6212

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

STAFF'S LIST OF ISSUES With OPC Edits- 4/11/12

Rate Base:

ISSUE 1: Should any adjustment be made to the Utility's Project Phoenix Financial/Customer Care Billing System (Phoenix Project)? *[OPC added (e.g. to plant, accumulated depreciation, depreciation expense, etc.?)]*

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ISSUE 2: What are the used and useful percentages for the Eagle Ridge and Cross Creek wastewater treatment plants?

ISSUE 3: Should any adjustment be made to deferred rate case expense?

ISSUE 4: What is the appropriate working capital allowance?

ISSUE 5: What is the appropriate rate base for the test year period ended December 31, 2010?

Cost of Capital:

ISSUE 6: What is the appropriate Commission-approved leverage formula to use in this case?

PROPOSED STIPULATION: Eagle Ridge and OPC agree that the appropriate leverage formula to use is the leverage formula in effect when the Commission makes its final decision.

ISSUE 7: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure?

PROPOSED STIPULATION: Eagle Ridge and OPC agree that the appropriate weighted average cost of capital will be a fall-out using the cost of capital determined by the PAA Order updated for the cost of equity determined in Issue 6.

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Net Operating Income:

ISSUE 8: What is the appropriate amount of rate case expense? ~~{OPC added Approved by the PAA order}~~

~~OPC added ISSUE: What is the appropriate amount of rate case expense for legal and accounting services approved by the PAA order? (OPC supports the other Commission approved rate case expense adjustments).}~~

~~OPC added ISSUE: What is the appropriate amount of post PAA order rate case expense?~~

OPC added ISSUE: Should any adjustments be made to O&M expenses related to the Utility's Phoenix Project?

OPC added Issue: Does the manner in which the company has implemented the Phoenix Project increased the annual costs incurred to prepare the company's annual reports?

OPC added ISSUE: Should any adjustments be made to property taxes related to the Utility's Phoenix Project?

ISSUE 9: What is the test year wastewater operating income or loss before any revenue increase?

Revenue Requirement:

ISSUE 10: What is the appropriate revenue requirement?

Rates:

ISSUE 11: What are the appropriate wastewater rates for the Utility?

Other:

ISSUE 12: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

ISSUE 13: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

ISSUE 14: Should the Utility be required to provide proof that it has adjusted its books for all Commission approved adjustments?

PROPOSED STIPULATION: To ensure that the Utility adjusts its books in accordance with the Commission's decision, Eagle Ridge shall provide proof, within 90 days of the final order in this docket, that the Commission approved balances including all adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made to the company's general ledger. Proof consists of workpapers reconciling the general ledger adjusting entries to the adjustments from the order, a copy of the adjusting journal entries, and a copy of the monthly detailed general ledger when adjustments are recorded reflecting the appropriate balances and adjustments.

OPC added ISSUE: What constitutes proof that Eagle Ridge has adjusted its books in accordance with all prior Commission balances and adjustments?

OPC PROPOSED STIPULATION: Proof consists of workpapers reconciling the general ledger adjusting entries to the adjustments from the order, a copy of the adjusting journal entries, and a copy of the monthly detailed general ledger when adjustments are recorded reflecting the appropriate balances and adjustments.

OPC Added Issue: Does the Company's Phoenix Project comply with the USOA requirements for maintaining its general ledger and subsidiary journals so that the integrity of the NARUC prescribed accounts is not impaired (USOA Class A Water Utility Accounting Instruction 2D)? If not, what actions should be required?

OPC Added Issue: Was the Phoenix Project designed to comply with the NARUC USOA primary account balances?

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Utilities, Inc. of Eagle Ridge
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ISSUE 15: Did Eagle Ridge comply with the provisions of Order No. PSC-09-0264-PAA-SU in Docket No. 080247-SU, issued April 27, 2009, by making adjustments to its general ledger for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts?

ISSUE 16: If Eagle Ridge did not make adjustments to its general ledger for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts, what action should the Commission take?

~~OPC added ISSUE: What constitutes proof that Eagle Ridge has adjusted its books in accordance with all prior Commission adjustments?~~

~~OPC added ISSUE: Does Eagle Ridge's 2010 annual report reflect the balances per the general ledger and include the prior Commission ordered adjustments? If not, what action should the Commission take?~~

~~OPC added ISSUE: If the Commission determines that Eagle Ridge has not adjusted its books in accordance with prior Commission orders, what adjustments, if any, should be made to test year operation and maintenance expenses.~~

ISSUE 17: Should this docket be closed?

Sayler, Erik

From: Sayler, Erik
Sent: Tuesday, April 17, 2012 4:37 PM
To: 'Martin Friedman'; Martha Barrera; Kelly, JR; Patrick Flynn; Merchant, Tricia
Cc: Ana Ortega; Andrew Maurey; Bart Fletcher; Clarence Prestwood; James McRoy; Jennifer Crawford; Kaley Thompson; Kathy Welch; Patti Daniel; Paul Stallcup; Todd Brown
Subject: RE: Docket 110153-SU Revised List of Issues
Attachments: LIST OF ISSUES POST APRIL 11 ISSUE ID (MF Comments) OPC Comments 4-17-12.doc

Martha,

Here are OPC's thoughts. OPC used track changes to indicate its comments/edits. On the U&U issue, we have alternative issue wordings to encompass the stipulation on Cross Creek. We've also suggested a revision to Issue 13, which if acceptable to staff and the Utility, will allow OPC to drop 13a, 13b, and 13c.

Further, OPC believes perhaps the parties could have one more Issue ID meeting to discuss our edits, clarify the final list of issues, and perhaps reduce the issues further prior to the utility and OPC drafting and filing testimony.

Thanks,

Erik

Erik L. Sayler

Associate Public Counsel
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
850-487-8240
850-487-6419 Fax

From: Martin Friedman [<mailto:MFriedman@sfflaw.com>]
Sent: Monday, April 16, 2012 9:18 AM
To: Martha Barrera; Sayler, Erik; Kelly, JR; Patrick Flynn; Merchant, Tricia
Cc: Ana Ortega; Andrew Maurey; Bart Fletcher; Clarence Prestwood; James McRoy; Jennifer Crawford; Kaley Thompson; Kathy Welch; Patti Daniel; Paul Stallcup; Todd Brown
Subject: RE: Docket 110153-SU Revised List of Issues

Martha,
Please see my highlighted comments.

MARTIN S. FRIEDMAN

**SUNDSTROM,
FRIEDMAN & FUMERO, LLP**
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From: Martha Barrera [<mailto:MBarrera@PSC.STATE.FL.US>]
Sent: Thursday, April 12, 2012 5:24 PM
To: Erik Saylor; J.R. Kelly; Martin Friedman; Patrick Flynn; Tricia Merchant
Cc: Ana Ortega; Andrew Maurey; Bart Fletcher; Clarence Prestwood; James McRoy; Jennifer Crawford; Kaley Thompson; Kathy Welch; Martha Barrera; Patti Daniel; Paul Stallcup; Todd Brown
Subject: Docket 110153-SU Revised List of Issues

Hello all,

Attached is the List of Issues after yesterday's meeting with comments regarding each. I understand that not everyone agrees with certain issues and the list will be the source of discussion before it is finalized, but I think it was a good effort and discussion among the parties. As discussed, staff is considering the newly proposed issues and will advise as soon as practicable. Please advise if there are any comments, corrections, additions, etc.

Thank you for your participation in this matter.

Martha F. Barrera
Senior Attorney
Florida Public Service Commission
mbarrera@psc.state.fl.us
850 413-6212

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

LIST OF ISSUES – 4/11/12 POST ISSUE ID

Rate Base:

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

Agreed issue.

ISSUE 2: What is the used and useful percentage for the Cross Creek wastewater treatment plant?

PROPOSED STIPULATION: The Cross Creek wastewater treatment plant is 100% used and useful. [Type 1 Stipulation.]

-Agreed issue and stipulation.

ISSUE 2a: What is the used and useful percentage for the Eagle Ridge wastewater treatment plant and the resulting composite used and useful percentage?

-Agreed issue.

Alternatively, have one combined Issue 2 read as follows:

ISSUE 2: What is the used and useful percentage for the Eagle Ridge ~~and Cross Creek~~ wastewater treatment plant and the resulting composite used and useful percentage because Cross Creek was previously determined to be 100% used and useful?

PROPOSED STIPULATION: ~~The Cross Creek wastewater treatment plant is 100% used and useful. [Type 1 Stipulation.]~~

~~-Agreed issue and stipulation.~~

~~**ISSUE 3:** Should any adjustment be made to deferred rate case expense?~~ [Subsumed in new issue 3].

ISSUE 4 3: What is the appropriate working capital allowance?

-Agreed issue.

ISSUE 5 4: What is the appropriate rate base for the test year period ended December 31, 2010?

-Agreed issue.

Utilities, Inc. of Eagle Ridge

Docket No. 110153-SU

3/7/2014/17/2012

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Cost of Capital:

ISSUE 6 5: What is the appropriate Commission-approved leverage formula to use in this case?

-Agreed issue.

PROPOSED STIPULATION: Eagle Ridge and OPC agree that the appropriate leverage formula to use is the leverage formula in effect when the Commission makes its final decision. [Proposed type 1 stipulation.]

Parties to advise whether they agree to the proposed stipulation OK with Eagle Ridge. OPC agrees with proposed stipulation; see affect on Issue 6.

ISSUE 7 6: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure?

-Agreed Issue

OPC proposed stipulation-withdrawn: Since OPC agrees with Issue 5, what about this proposed stipulation?

~~PROPOSED STIPULATION: Eagle Ridge and OPC agree that the appropriate weighted average cost of capital will be a fall-out using the cost of capital determined by the PAA Order updated for the cost of equity determined in Issue 6.~~

PROPOSED STIPULATION: Eagle Ridge and OPC agree that the appropriate weighted average cost of capital will be a fall-out using the cost of capital determined by the PAA Order updated for the cost of equity determined in Issue 5.

Net Operating Income:

ISSUE 8 7: What is the appropriate amount of post PAA Order rate case expense? ~~[OPC added Approved by the PAA order]~~

-Agreed issue.

-OPC believes the issue as originally worded suffices.

~~OPC added ISSUE: What is the appropriate amount of rate case expense for legal and accounting services approved by the PAA order? (OPC supports the other Commission approved rate case expense adjustments). DELETED OPC Agrees with this deletion~~

Utilities, Inc. of Eagle Ridge

Docket No. 110153-SU

3/7/2014/17/2012

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~~OPC added ISSUE: What is the appropriate amount of post PAA order rate case expense?~~ DELETED OPC Agrees with this deletion

ISSUE 7a: OPC added ISSUE: Should any adjustments be made to O&M expenses related to the Utility's Phoenix Project?

- Eagle Ridge objects to the issue.
- Should this issue be subsumed in or under Issue 1?
- Staff to respond.

-As long as it is subsumed in/under Issue 1, OPC agrees to drop this issue and address under Issue 1.

ISSUE 7b: OPC added Issue: Does the manner in which the company has implemented the Phoenix Project increased the annual costs incurred to prepare the company's annual reports?

- Eagle Ridge objects to the issue.
- Staff to respond.

-As long as it is subsumed in/under Issue 1, OPC agrees to drop this issue and address under Issue 1.

ISSUE 7c: OPC added ISSUE: Should any adjustments be made to property taxes related to the Utility's Phoenix Project?

- Eagle Ridge objects to the issue.
- Staff to respond.

-As long as it is subsumed in/under Issue 1, OPC agrees to drop this issue and address under Issue 1.

ISSUE 9 8: What is the test year wastewater operating income or loss before any revenue increase? [Fallout]

-Agreed issue.

~~OPC added ISSUE: Should any adjustments be made to the Utility's Project Phoenix Financial/Customer Care Billing System expenses? (e.g. O&M, computers, etc.)~~

DELETED OPC Agrees with this deletion

Revenue Requirement:

ISSUE 10 9: What is the appropriate revenue requirement? [Fallout]

-Agreed issue.

Rates:

ISSUE 11 10: What are the appropriate wastewater rates for the Utility? [Fallout]

-Agreed issue.

Other:

ISSUE 12 11: In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any? [Fallout]

-Agreed issue.

ISSUE 13 12: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes? [Fallout]

-Agreed issue.

ISSUE 14 13: ~~Should the Utility be required to provide proof that it~~ What documentation should be provided to show that the Utility has adjusted its books for all Commission approved adjustments?

-If the parties are agreeable with this revision to Issue 13. OPC proposes to drop Issues 13a, 13b, and 13c.

~~**PROPOSED STIPULATION:** To ensure that the Utility adjusts its books in accordance with the Commission's decision, Eagle Ridge shall provide proof, within 90 days of the final order in this docket, that the Commission approved balances including all adjustments for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts have been made to the company's general ledger. Proof consists of workpapers reconciling the general ledger adjusting entries to the adjustments from the order, a copy of the adjusting journal entries, and a copy of the monthly detailed general ledger when adjustments are recorded reflecting the appropriate balances and adjustments. [Changes to the wording are proposed by OPC]~~

-Eagle Ridge objects to OPC's addition to the wording in the proposed stipulation.

Utilities, Inc. of Eagle Ridge

Docket No. 110153-SU

3/7/2014/17/2012

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-Staff objects to the wording Proof Adjustments and reserves opinion on rest of added wording.

ISSUE 13a: OPC added ISSUE: What constitutes proof that Eagle Ridge has adjusted its books in accordance with all prior Commission balances and adjustments?

OPC PROPOSED STIPULATION: Proof consists of workpapers reconciling the general ledger adjusting entries to the adjustments from the order, a copy of the adjusting journal entries, and a copy of the monthly detailed general ledger when adjustments are recorded reflecting the appropriate balances and adjustments.

-Eagle Ridge objects to the issue and stipulation.
-Staff objects to the issue and stipulation.

ISSUE 13b: OPC Added Issue: Does the Company's Phoenix Project comply with the USOA requirements for maintaining its general ledger and subsidiary journals so that the integrity of the NARUC prescribed accounts is not impaired (USOA Class A Water Utility Accounting Instruction 2D)? If not, what actions should be required?

-Eagle Ridge objects to the issue.
-Staff to respond.

ISSUE 13c: OPC Added Issue: Was the Phoenix Project designed to comply with the NARUC USOA primary account balances?

-Eagle Ridge objects to the issue.
-Staff to respond.

ISSUE 14: Did Eagle Ridge comply with the provisions of Order No. PSC-09-0264-PAA-SU in Docket No. 080247-SU, issued April 27, 2009, by making adjustments to its general ledger for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts? [OPC added language, parties agree].

-Agreed issue

ISSUE 15: If Eagle Ridge did not make adjustments to its general ledger for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts, what action should the Commission take?

-Agreed issue. [OPC added language, Eagle Ridge agrees].

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~~OPC added ISSUE: What constitutes proof that Eagle Ridge has adjusted its books in accordance with all prior Commission adjustments?~~ DELETED

~~ISSUE 15a: OPC added ISSUE: Does Eagle Ridge's 2010 annual report reflect the balances per the general ledger and include the prior Commission ordered adjustments? If not, what action should the Commission take?~~

- Does Eagle Ridge agree that this is an issue? **No**
- Is this issue subsumed in Issue 14?
- As long as it is subsumed in/under Issue 14, OPC agrees to drop this issue and address under Issue 14.

~~OPC added ISSUE: If the Commission determines that Eagle Ridge has not adjusted its books in accordance with prior Commission orders, what adjustments, if any, should be made to test year operation and maintenance expenses.~~ DELETED

~~ISSUE 17 16:~~ Should this docket be closed?