

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

Docket No: 120161-WS  
Filed: April 18, 2014

**PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL**

The Citizens of the State of Florida, through the Office of Public Counsel (Citizens or OPC), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-14-0041-PCO-WS, issued January 16, 2014, hereby submit this Prehearing Statement.

**APPEARANCES:**

Erik L. Sayler  
Associate Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400  
On behalf of the Citizens of the State of Florida

**1. WITNESSES:**

The Citizens do not intend to call any witnesses.

**2. EXHIBITS:**

The Citizens do not have any prefiled exhibits.

**3. STATEMENT OF BASIC POSITION:**

The Order Establishing Procedure (OEP) states that this is a one issue hearing: "Should any adjustment be made to the Utility's Project Phoenix Financial Customer Care Billing System (Phoenix Project)?" This sole remaining issue, however, is barred by the principal of administrative finality as discussed below for OPC's position on Issue 1. If the Commission does not grant OPC's Motion for Summary Final Order, then the Commission should continue adjusting Project Phoenix costs allocated to individual systems consistent with the Orders cited in OPC's position on Issue 1.

*Rate case expense*

Utilities, Inc. (UI or Utility) has submitted testimony and exhibits concerning rate case expense on the unfounded assumption that the scope of the upcoming hearing allows UI to recover rate case expense. UI's requested rate case expense should be denied since rate case expense was not *separately* identified as a disputed issue in UI's October 14, 2013 list of issues or in OPC's October 15, 2013 list of issues, and it was not *specifically* identified in the Generic Docket Settlement approved in this docket. For the same reason that Order No. PSC-14-0143-PCO-WS, issued March 28, 2014, in this docket held that OPC's Project Phoenix issues were denied because OPC failed to specifically identify its issues in the Eagle Ridge docket or in the list of issues filed in the Generic Docket, any request for a rate case expense issue by UI should likewise be denied. *Id.* at 4.

According to Order No. PSC-14-0044-FOF-WS, issued January 22, 2014, in this docket approving the Generic Docket Settlement, the sole disputed issue listed on Exhibit B in Attachment A is as follows: "Disputed Issue 1: Should any adjustment be made to the Utility's Project Phoenix Financial Customer Care Billing System (Phoenix Project)?" Rate case expense is not listed or identified as a disputed issue.

The OEP states: "The scope of this proceeding will be based upon this issue [Issue 1 below] as well as any fallout issues, as appropriate, raised by the parties up to and during the Prehearing Conference, unless modified by the Prehearing Officer." OEP at page 2. The OEP allows fall-out issues; however, rate case expense cannot be a fall-out issue because the reasonableness of rate case expense must be *separately* determined by the Commission. *See* Section 367.081(7), Florida Statutes. The scope of this hearing is narrow and very limited; it should not be expanded beyond what the parties agreed to settle in this docket nor beyond what was contemplated by the OEP.

For these reasons, rate case expense requested by the UI is not an issue for this proceeding and UI's requested rate case expense should be denied.

However, if the Commission allows rate case expense to be an issue, OPC asserts that the Company has not met the burden to show that the amount of rate case expense it has

requested is reasonable or prudent. The hourly rate being charged by its consultants are far in excess of some of the highest levels that this Commission has seen. No Company witness has provided any testimony or documentation why the excessively large hourly rates are reasonable or prudent or why the company had to hire witnesses and lower level staff with hourly fees of these excessively high levels.

**4. STATEMENT OF FACTUAL ISSUES AND POSITIONS:**

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

**Position:** No. This issue is currently the subject of OPC's Motion for Summary Final Order. The Commission previously reviewed Utilities, Inc.'s Project Phoenix Financial Customer Care Billing System (Project Phoenix) in seven proposed agency action (PAA) proceedings before UI protested the Eagle Ridge PAA Order. See Order No. PSC-10-0400-PAA-WS, Order No. PSC-10-0407-PAA-SU, Order No. PSC-10-0423-PAA-WS, Order No. PSC-10-0585-PAA-WS, Order No. PSC-10-0682-PAA-WS, Order No. PSC-11-0015-PAA-WS, and Order No. PSC-11-0514-PAA-WS. These seven PAA Orders determined the allocation of Project Phoenix costs, the appropriate methodology to address the divestiture of UI subsidiaries (i.e., the Commission's divestiture allocation adjustment for Project Phoenix costs), and the proper amortization period for Project Phoenix. These PAA Orders went unprotested and became final. Therefore, pursuant to the principle of administrative finality as asserted in Order No. PSC-14-0143-PCO-WS, issued March 28, 2014, in this docket, UI cannot revisit or collaterally attack the Commission's Project Phoenix divestiture allocation adjustment methodology.

If the Commission denies OPC's Motion for Summary Final Order, OPC's position is as follows:

No. The Commission's practice of reducing the cost of the Project Phoenix rate base components should be upheld consistent with the Commission's prior

decisions regarding adjustments to Project Phoenix in Order No. PSC-10-0400-PAA-WS, Order No. PSC-10-0407-PAA-SU, Order No. PSC-10-0423-PAA-WS, Order No. PSC-10-0585-PAA-WS, Order No. PSC-10-0682-PAA-WS, Order No. PSC-11-0015-PAA-WS, and Order No. PSC-11-0514-PAA-WS. These seven PAA Orders determined the allocation of Project Phoenix costs, the appropriate methodology to address the divestiture of UI subsidiaries (i.e., the Commission's divestiture allocation adjustment for Project Phoenix costs), and the proper amortization period for Project Phoenix. There have been no changes of circumstances which require the Commission to revisit or adjust its prior Project Phoenix divestiture allocation adjustment methodology. OPC further asserts that UI's testimony and exhibits filed in this docket failed to satisfy its burden of proof to demonstrate why the Commission's Project Phoenix adjustment should be modified or discontinued. Therefore, the Commission should continue adjusting Project Phoenix consistent with the Orders cited above.

5. **STIPULATED ISSUES:**

The "Should this docket be closed?" issue was stipulated in the Generic Docket Settlement approved by Order No. PSC-14-0044-FOF-WS, issued January 22, 2014, in this docket. The stipulation reads: "The docket should be closed upon resolution of any remaining disputed issue."

6. **PENDING MOTIONS:**

OPC has a pending Motion for Summary Final Order and Request for Oral Argument on OPC's Motion for Summary Final Order.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

OPC has no pending request or claims for confidentiality.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

OPC has no objection to the qualifications of witnesses but reserves the right to object to testimony outside a witness' area of expertise.

9. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:**

There are no requirements of the Order Establishing Procedure with which OPC cannot comply.

Dated this 18<sup>th</sup> day of April, 2014

J.R. Kelly  
Public Counsel

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by electronic mail on this 18<sup>th</sup> day of April, 2014, to the following:

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