

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-14-0207-PHO-WS  
ISSUED: May 6, 2014

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on April 29, 2014, in Tallahassee, Florida, before Commissioner Julie I. Brown, as Prehearing Officer.

APPEARANCES:

MARTIN S. FRIEDMAN, ESQUIRE, 766 North Sun Drive, Suite 4030, Lake Mary, FL, 32746  
On behalf of Utilities, Inc. (UI).

ERIK L. SAYLER, ESQUIRE, 111 West Madison Street, Room 812, Tallahassee, FL, 32399-1400  
On behalf of Office of Public Counsel (OPC).

MARTHA BARRERA, and JULIA GILCHER, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Commission Staff).

MARY ANNE HELTON, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Advisor to the Florida Public Service Commission.

**PREHEARING ORDER**

I. **CASE BACKGROUND**

On May 24, 2012, Utilities, Inc. (UI or Utility), on behalf of its Florida subsidiaries,<sup>1</sup> requested that the Florida Public Service Commission (Commission) establish a generic docket to address the impact of its divested systems on the recovery of the cost of UI's financial accounting and customer service computer system. The Petition was based on an approved Joint

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<sup>1</sup> 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, and Utilities, Inc. of Pennbrooke.

Stipulation and Settlement Agreement between the Office of Public Counsel (OPC) and Utilities Inc. of Eagle Ridge in Docket No. 110153-SU. The Petition requested a generic docket be established to “address the impact of divested systems on the Project Phoenix costs.”

Pursuant to the Petition, UI and OPC agreed to a 120-day investigatory period for OPC to obtain information in a good faith effort to resolve or narrow all disputed issues. By Order PSC-13-0408-PCO-WS, the parties were ordered to file a list of all issues no later than October 14, 2013. On October 15, 2013, OPC identified 10 issues and UI identified one issue. On November 8, 2013, the Parties filed a Joint Motion Requesting Commission Approval of Stipulation and Settlement Agreement (Settlement Agreement) resolving 9 issues, dropping one issue, and identifying one remaining issue, which was approved by Order No. PSC-14-0044-FOF-WS, issued January 22, 2014. On January 16, 2014, the Order Establishing Procedure, No. PSC-14-0041-PCO-WS, was issued, and the administrative hearing to address the issues listed herein will be heard by the Commission on May 14, 2014.

## II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this proceeding.

## III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 367, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-22, 25-30, and 28-106, F.A.C., as well as other applicable provisions of law.

## IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 367.156, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 367.156, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, F.S., to

protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, F.S., at the hearing shall adhere to the following:

(1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

(2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Commission Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five (5) minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Commission Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests. Cross-examination and the introduction of exhibits other than for impeachment shall be relevant to the pre-filed testimony of the witness.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Larry Danielson	UI	1
+Sharon Wiorek	UI	2
Stephen Bart Fletcher	Staff	1
<u>Rebuttal</u>		
John Hoy	UI	1

VII. BASIC POSITIONS

**UI:** UI is entitled to recover of its full cost of its financial accounting and customer service computer system, referred to as Project Phoenix, without regard for utility systems divested subsequent to implementation of the computer systems.

**OPC:** The 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)?” The Commission should continue adjusting the Project Phoenix costs allocated to individual systems consistent with the Orders cited in OPC’s position on Issue 1. Much of the requested rate case expense is unreasonable or insufficiently supported and significant adjustments should be made to reduce it.

**STAFF:** Commission Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Commission Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

## VIII. ISSUES AND POSITIONS

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

### **POSITIONS**

**UI:** No, the reduction in the number of customers served by UI subsidiaries by 10% will not have any impact in reducing the cost of Project Phoenix. The cost of Project Phoenix should not be reduced as a result of divestitures subsequent to implementation. Reducing the cost of Project Phoenix for divested utility systems is contrary to Section 367.0813, Florida Statutes.

**OPC:** 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 Nos. PSC-10-0400-PAA-WS, PSC-10-0407-PAA-SU, PSC-10-0423-PAA-WS, PSC-10-0585-PAA-WS, PSC-10-0682-PAA-WS, PSC-11-0015-PAA-WS, and 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.

**STAFF:** No position pending evidence adduced at the hearing.

**ISSUE 2:** What is the appropriate rate case expense?

**UI:** The appropriate rate case expense is \$240,114.

**OPC:** The requested \$240,114 rate case expense is excessive and should be reduced by at least \$175,000. It is the Utility's burden to show that its rate case expense is

reasonable, prudent, and sufficiently supported and it has failed to meet this burden for the majority of its requested costs.

First, the consulting fees of \$148,480 from Deloitte should be disallowed. UI witness Danielson's testimony fails to provide competent evidence why the Commission's divestiture adjustment is improper or why it should not be upheld. His testimony instead addresses the purported prudence of the design and sizing of Project Phoenix. Further, the hourly rates charged from Deloitte are excessive and may be the highest hourly rates presented to the Commission for approval as rate case expense. The divestiture issue is uniquely one of corporate allocations, not how the system was designed, and any testimony supporting this position could have easily been provided by UI management. Additionally, UI's witness Wiorek failed to provide or document why the excessively high hourly rates charged by Deloitte are reasonable or prudent, or why UI choose to retain these expensive consultants for this proceeding. UI also provided very little detailed support or explanations for the Deloitte time incurred in preparing direct testimony, and no detailed support or explanations for the fees incurred after the testimony was filed or the estimate to complete. Any legal fees associated with the Deloitte consulting fees should also be removed.

Second, WSC in-house fees should also be reduced as excessive and unsupported. UI's response to Staff discovery provides minimal support for the breakdown of its in-house costs. Further, UI has not supported why in-house labor more than doubled from \$10,326 to \$23,045.

Third, UI has not adequately documented how many persons will travel to Tallahassee for a one-day hearing, and how \$12,000 in estimated travel costs is reasonable and prudent.

Fourth, the approved rate case expense should be allocated to all Florida UI systems based on ERCs as of the date of the final order and should be amortized over four years. The amortization period should begin for all systems the month following the date the order is final in this docket. For any future rate case which includes any amortization related to this docket, the rates should be reduced at the end of the 4-year timeframe after the date of the final order in this docket, not four years after any prospective rates are approved.

For these reasons, UI's rate case expense request is excessive and its support of its requested costs is woefully inadequate.

**STAFF:** No position pending evidence adduced at the hearing.

**ISSUE 3:** Should this docket be closed?

**UI:** Yes.

**OPC:** Yes, but only after the Commission has determined the amount of any regulatory asset or liability (if any) created by Commission adjustments approved in the final order, and the Commission has determined that UI is in substantial compliance with the Stipulation and Settlement approved by Order No. PSC-14-0044-FOF-WS, issued January 22, 2014, in this docket.

**STAFF:** Yes.

#### IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Larry Danielson	UI	LAD-1	Extract form Engagement Letter
Larry Danielson	UI	LAD-2	Project Phoenix Cost Breakdown
Larry Danielson	UI	LAD-3	Extract from Order No. PSC-11-0587-PAA-SU
Larry Danielson	UI	LAD-4	ERC Comparison when Project Phoenix was implemented and Dec. 2013
Larry Danielson	UI	LAD-5	Vendor Selection Results Extract
Sharon Wiorek	UI	SW-1	Deloitte Consulting Contract
Sharon Wiorek	UI	SW-2	Rate Case Expense
Sharon Wiorek	UI	SW-3	Updated Rate Case Expense
Stephen Bart Fletcher	Staff	SBF-1	Timeline for Dockets addressing the Phoenix Project costs
Stephen Bart Fletcher	Staff	SBF-2	Illustration of Remaining Life Depreciation Rate Method

Parties and Commission Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 20 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed 5 minutes per party.

Upon consideration of OPC's Motion for Summary Final Order and Request for Oral Argument filed April 17, 2014, and the Utility's Response in Opposition filed April 24, 2014, the Motion and Request are hereby denied.

Upon consideration of OPC's Motion to Strike filed April 22, 2014, the Motion is hereby denied.

Based on the foregoing, it is hereby

ORDERED by Commissioner JULIE I. BROWN, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.



By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 6th day  
of May, 2014.



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

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.