1

 1 BEFORE THE

 FLORIDA PUBLIC SERVICE COMMISSION

 2

 DOCKET NO. 070695-WS

 3 IN THE MATTER OF:

 4 APPLICATION FOR INCREASE IN WATER AND

 WASTEWATER RATES IN MARTIN COUNTY BY

 5 MILES GRANT WATER AND SEWER COMPANY.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

 6

 7

 8

 9

 10

 11

 12

 13 PROCEEDINGS: AGENDA CONFERENCE

 ITEM NO. 19

 14

 BEFORE: CHAIRMAN MATTHEW M. CARTER, II

 15 COMMISSIONER LISA POLAK EDGAR

 COMMISSIONER KATRINA J. McMURRIAN

 16 COMMISSIONER NANCY ARGENZIANO

 COMMISSIONER NATHAN A. SKOP

 17

 DATE: Thursday, November 13, 2008

 18

 19 TIME: Commenced at 9:30 a.m.

 20 PLACE: Betty Easley Conference Center

 Room 148

 21 4075 Esplanade Way

 Tallahassee, Florida

 22

 23 REPORTED BY: JANE FAUROT, RPR

 Official FPSC Reporter

 24 (850) 413-6732

 25

 FLORIDA PUBLIC SERVICE COMMISSION

 2

 1 PARTICIPATING:

 2 PATRICIA CHRISTENSEN, ESQUIRE, and TRICIA MERCHANT,

 3 representing the Office of Public Counsel.

 4 MARTIN S. FRIEDMAN, ESQUIRE, and JOHN WILLIAMS,

 5 representing Miles Grant Water and Sewer Company.

 6 JEAN HARTMAN, ESQUIRE, JARED DEASON, BART FLETCHER,

 7 SONICA BRUCE, and MARSHALL WILLIS, representing the Commission

 8 Staff.

 9

 10

 11

 12

 13

 14

 15

 16

 17

 18

 19

 20

 21

 22

 23

 24

 25

 FLORIDA PUBLIC SERVICE COMMISSION

 3

 1 P R O C E E D I N G S

 2 CHAIRMAN CARTER: And with that, Commissioners,

 3 we are on Item 19. And we have a call in.

 4 Chris, are we live?

 5 Good morning, Ms. Moody.

 6 MS. MOODY: Good morning.

 7 CHAIRMAN CARTER: How are you today?

 8 MS. MOODY: We are good. How are you?

 9 CHAIRMAN CARTER: All right.

 10 Let me kind of give you the lay of the

 11 landscape. We are going to have staff to introduce the

 12 issue, and then we'll come back to you for your comments,

 13 and then we will go ahead on and proceed and you can

 14 listen in as we go through our deliberations.

 15 MS. MOODY: Thank you.

 16 CHAIRMAN CARTER: Staff, you're recognized.

 17 MR. DEASON: Commissioners, I'm Jared Deason

 18 with Commission staff. Item 19 concerns an application

 19 for an increase in water and wastewater rates by Miles

 20 Grant Water and Sewer Company. Miles Grant is a Class B

 21 water and wastewater utility located in Martin County.

 22 The utility's rates were last established in 1988.

 23 Staff has an oral modification on Page 9 of the

 24 recommendation, specifically in the second sentence of the

 25 recommendation paragraph, it reads, "Corresponding

 FLORIDA PUBLIC SERVICE COMMISSION

 4

 1 adjustments should be made to decrease accumulated

 2 depreciation." It should be corrected to read,

 3 "Corresponding adjustments should be made to increase

 4 accumulated depreciation."

 5 On Page 27 of the recommendation, specifically,

 6 staff needs to add the following language at the end of

 7 its recommendation paragraph, "The appropriate residential

 8 water/wastewater gallonage cap should be set at 6,000

 9 gallons per month."

 10 On Page 31 of the recommendation in Table 15-2,

 11 staff would like to correct the typical residential bills

 12 calculation at 10,000 gallons level for its recommended

 13 and the two alternative rate structures. Specifically,

 14 the recommended Alternative 1 and Alternative 2, 10,000

 15 gallon typical residential bill should be $74.72, $67.53,

 16 $59.92 respectively. These changes have no effect on

 17 staff's recommended revenue requirement, and staff is

 18 prepared to answer any questions the Commissioners may

 19 have.

 20 CHAIRMAN CARTER: Thank you.

 21 Let's take appearances of the parties first.

 22 You're recognized.

 23 MR. FRIEDMAN: Yes, this is Martin Friedman of

 24 the law firm of Rose, Sundstrom & Bentley, and we

 25 represent Miles Grant Water and Sewer Company. And also

 FLORIDA PUBLIC SERVICE COMMISSION

 5

 1 with me is Mr. John Williams, who is the Director of

 2 Government Affairs for Utilities Inc. and its subsidiary.

 3 CHAIRMAN CARTER: Thank you.

 4 MS. CHRISTENSEN: Good morning.

 5 My name is Patty Christensen. I am with the

 6 Office of Public Counsel, and with me is Ms. Tricia

 7 Merchant.

 8 CHAIRMAN CARTER: Thank you.

 9 With that, staff has introduced the issue, we

 10 have got an identification of the parties for the record.

 11 Ms. Moody?

 12 MS. MOODY: Hello.

 13 CHAIRMAN CARTER: We will give you an

 14 opportunity to make a statement and you are now

 15 recognized.

 16 MS. MOODY: Okay, thank you. I guess my big

 17 question is, is how did Miles Grant Water and Sewer

 18 operate successfully from 1988 until today with their

 19 yearly increase. They obviously made nice improvements

 20 required, and had cash flow to continue their operations.

 21 We even toured their plant this summer, and the staff told

 22 us everything was up-to-date. And then we were notified

 23 by the Public Service Commission staff that this huge rate

 24 increase is their proposal, 37 percent for the water and

 25 72.7 percent for the sewer.

 FLORIDA PUBLIC SERVICE COMMISSION

 6

 1 This is huge. We will now have the highest

 2 water and sewer rate in Martin County and we will be

 3 paying actually 40 percent more than anyone else in the

 4 county. Miles Grant is a mostly a retired community with

 5 many people living here, many over 30 years, and this huge

 6 increase will have a big impact on their financial future,

 7 especially when everything else we need to have has gone

 8 up and houses are not selling.

 9 How would you feel if you went to a store and

 10 something went up 72 percent? Would you buy it? But we

 11 have no choice. Here in our water and sewer there are no

 12 choices and we wonder why we are being punished. AIG, who

 13 owns Utilities Inc., is in the newspapers weekly,

 14 mismanaged, investigated for fraud, receiving government

 15 money.

 16 With only 1,200 customers and no room for

 17 expansion, Miles Grant Water and Sewer Company cannot

 18 compete fairly with other water companies. Rather than

 19 give us such an exorbitant increase, we are requesting

 20 that the Public Service Commission force the sale of Miles

 21 Grant Water and Sewer Company to a larger utility that

 22 charges reasonable rates. Alternately, we request that

 23 the Public Service Council (sic) urge the public to only

 24 allow Miles Grant Water and Sewer to charge competitive

 25 rates without regard for the water's profitability.

 FLORIDA PUBLIC SERVICE COMMISSION

 7

 1 Thank you.

 2 CHAIRMAN CARTER: Thank you so kindly, Ms.

 3 Moody.

 4 Commissioners, do you want to hear from staff

 5 and the parties, or do you want some questions or

 6 concerns? We will go however you guys want to do it.

 7 Do you want to hear from the company?

 8 Staff, you're recognized.

 9 MR. FLETCHER: Yes, Commissioners.

 10 With regard to her first concern about the level

 11 of the increase, as Mr. Deason mentioned in his intro, it

 12 has been over 20 years since the utility's last rate case.

 13 And also the utility has requested pro forma plant and

 14 expenses in its current case. There has been a new

 15 financial system put in place and a customer care billing

 16 system put into place at the intermediate parent level.

 17 And, you know, UI is, you know, doing business in 13

 18 states and has about 20 subsidiaries here in Florida, and

 19 that system is to cover all of those systems, that new

 20 financial and customer care package billing system.

 21 That's another reason for the level of the increase.

 22 There has been -- again, it's over 20 years since the last

 23 case to address that first concern.

 24 Regarding AIG, Ms. Moody mentioned about the

 25 fraud and mismanagement, I know that there was -- I'm not

 FLORIDA PUBLIC SERVICE COMMISSION

 8

 1 sure if it was her or another customer at the customer

 2 meeting had actually stated that there was an article at

 3 the time back in July where there was some fraudulent

 4 accounting practices and an article that was presented to

 5 staff.

 6 As I mentioned at the customer meeting, that is

 7 at the ultimate grandparent level, the AIG. What

 8 happens -- when the company, AIG, purchased UI, the

 9 intermediate parent of Miles Grant, we actually had an

 10 audit, an affiliate transaction audit back around 2007 in

 11 relation to other sister company rate cases that we had.

 12 We had an affiliate transaction on it. We actually looked

 13 to make sure that there were no acquisition costs that

 14 were passed down to the ratepayers of the PSC-regulated

 15 companies here in Florida. The auditors paid particular

 16 attention to make sure none of that cost was flowed

 17 through to the ratepayers.

 18 What we also do is in our '07 audit and also in

 19 the audits that we have, the affiliate transaction audit

 20 that we had for this case, we actually looked at it to

 21 make sure that they made all the Commission ordered

 22 adjustments regarding allocation and there were -- I think

 23 there was only one finding, it was not that material,

 24 regarding the affiliate transaction audit. It was

 25 actually an allocation where workers were working on a

 FLORIDA PUBLIC SERVICE COMMISSION

 9

 1 Louisiana plant and, you know, we needed to reduce the

 2 allocation, rate base allocation as a result of that.

 3 That's the only really audit finding that we came back as

 4 far as the intermediate allocations for both rate base and

 5 expenses.

 6 And then also in each and every case before the

 7 Commission, our auditors examined the books and records of

 8 the regulated company pursuant, you know, for Miles Grant,

 9 and we had audit findings back, some on which the utility

 10 agreed. But, basically, what I'm trying to say is that

 11 the ultimate grandparent level, those accounting

 12 practices, we kind of -- that really didn't flow down that

 13 we could see in our auditors' examination of the affiliate

 14 transactions and the company specific, because we are on a

 15 regulatory accounting system, the NARUC, and there were no

 16 findings regarding noncompliance with the NARUC uniform

 17 system of accounts as far as what they are supposed to

 18 adhere to.

 19 As far as a request, a force sale, Jean can

 20 correct me if I'm wrong, the Commission in the past, it's

 21 charged with the responsibility -- you can cancel the

 22 certificate of the utility. Usually grounds for canceling

 23 a certificate has been they haven't been complying with

 24 DEP or the Department of Health rules and violations. I

 25 know there was a case in the past, Shady Oaks, where you

 FLORIDA PUBLIC SERVICE COMMISSION

 10

 1 actually canceled their certificate for that. But as far

 2 as forcing a sale, if they are in compliance with DEP and

 3 the Department of Health rules, the water quality and

 4 wastewater quality standards, then I'm not sure that we

 5 can cancel their certificate or force a sale. That would

 6 be, I think, in the utility's discretion there whether

 7 they wish to sell that subsidiary to the county or any

 8 other surrounding municipality.

 9 As far as charging the competitive rates for the

 10 surrounding counties, again, the Commission is bound by

 11 367.081 to set rates that are fair, just, and reasonable,

 12 compensatory, and not unduly discriminatory. And we have

 13 to look at the specific company that files for rate

 14 relief, look at their specific investment level, look at

 15 their prudent and reasonable expenses which to set rates

 16 on.

 17 And, you know, to compare them to surrounding

 18 municipalities, it would be a mismatch there as far as it

 19 wouldn't comply with the statute, but also I would like to

 20 point out that there would be a mismatch, because

 21 municipalities, they don't pay property taxes or income

 22 taxes. There are certain things that where they set their

 23 rates that they don't incur certain expenses that

 24 PSC-regulated privately-owned companies incur. So I think

 25 that addresses her concern.

 FLORIDA PUBLIC SERVICE COMMISSION

 11

 1 CHAIRMAN CARTER: I think so.

 2 Commissioner Argenziano.

 3 COMMISSIONER ARGENZIANO: Yes. Could you -- and

 4 I'm looking at it, but for the record could you explain to

 5 me what the current rates are for the customers and what

 6 they will be?

 7 MS. BRUCE: Commissioners, my name is Sonica

 8 Bruce, and I'm the rate analyst on this case. And the

 9 current rates for the utility for the water system, the

 10 current BFC would be $13.60. There is a two-tiering kind

 11 of block rate structure where in the first block the

 12 gallonage charge would be $4.30, the second block, 3k

 13 gallon and over would be $6.46. For the wastewater, we

 14 are recommending a BFC of $18.98 with the gallonage charge

 15 capped at 6 k/gal at 9.29.

 16 COMMISSIONER ARGENZIANO: So the average bill

 17 will go up, let's see, per -- what was it, 3,000 gallons?

 18 MS. BRUCE: The average use is 3,000 k/gal.

 19 COMMISSIONER ARGENZIANO: So the average user's

 20 bill will go up by -- what is the percentage again, I'm

 21 sorry? I heard --

 22 MS. BRUCE: It would go up for water by

 23 40 percent.

 24 COMMISSIONER ARGENZIANO: -- 40 percent for

 25 water, and for wastewater?

 FLORIDA PUBLIC SERVICE COMMISSION

 12

 1 MS. BRUCE: Give me just a second, Commissioner.

 2 COMMISSIONER ARGENZIANO: Sure.

 3 MS. BRUCE: Commissioners, I'm sorry, I was

 4 missing some of my information. It would be 67.2 percent

 5 for the wastewater.

 6 COMMISSIONER ARGENZIANO: 67.2 percent.

 7 MS. BRUCE: Yes.

 8 COMMISSIONER ARGENZIANO: And if I can, could

 9 you explain when we talk about fair, just, and reasonable,

 10 if you would, just how do we get to reasonable? For the

 11 company as well as the consumer, how do we get to that

 12 determination of what is reasonable?

 13 MR. FLETCHER: Partly it is just through the

 14 examination of their books and records, and looking at the

 15 support documentation regarding their investment. Our

 16 auditors, whenever they have a rate case, we go back and

 17 we audit the books and records since rate base was last

 18 established, and they did that in this case, that 20-year

 19 period. And then also with regard to any kind of

 20 pro forma item that staff can send out data requests, get

 21 their support on that. That is how we look at what they

 22 have, make sure it is reasonable, and support it.

 23 COMMISSIONER ARGENZIANO: And for the consumer,

 24 reasonable -- how would we determine what's reasonable for

 25 the consumer?

 FLORIDA PUBLIC SERVICE COMMISSION

 13

 1 MR. FLETCHER: It would be to comply with the

 2 statute as far as to make sure that the utility has an

 3 opportunity to earn a fair rate of return on their

 4 investment. And you only allow what they have supported.

 5 It would be as far as from the customers' standpoint, the

 6 examination of their books and records and making sure

 7 that you only recommend to the Commission, and the

 8 Commission only allow what they have justified and

 9 supported as far as both their investment and their

 10 expense level. And you do that through the audit and then

 11 also our engineering evaluation of their system, as well.

 12 COMMISSIONER ARGENZIANO: I'm trying to figure

 13 out, and, excuse me, because I'm really amazed that the

 14 company in 20 years hasn't asked for -- I have seen a lot

 15 more than that since I have been here in a short time. It

 16 is incredible in a sense that it has been 20 years since

 17 they have asked for anything. And I really -- I'm not

 18 making judgment on that one way or the other, but I'm just

 19 finding that -- seeing so many other increases coming in

 20 so much more often in this company, I'm really trying to

 21 figure out how when a consumer calls in and/or asks how do

 22 we determine reasonable, and for them, I guess, they have

 23 a different point of view of how we determine reasonable.

 24 Would it be fair to say that the company because

 25 of its 20 years of not asking for rate increases, their

 FLORIDA PUBLIC SERVICE COMMISSION

 14

 1 rates are pretty low compared to other systems?

 2 MR. FLETCHER: That would be one effect that

 3 drives the level of the increase, yes. I'm not sure as

 4 far as the other surrounding utilities. I'm not sure what

 5 mechanisms they have taken advantage of over the past

 6 20 years. I can tell you the major driving force has been

 7 partly the pro forma plant and the pro forma expenses. I

 8 can tell you that Miles Grant has taken -- in the past

 9 20 years they have taken advantage of about 17 index and

 10 pass-through. Some of them were pass-through provisions

 11 in certain years, but at least 17 filings since that last

 12 rate proceeding. So they have tried to -- that's one

 13 thing that has mitigated it coming in perhaps. That may

 14 be one reason there, but I know the pro forma plant and

 15 expenses are the primary driving force for the increase.

 16 COMMISSIONER ARGENZIANO: Thank you.

 17 CHAIRMAN CARTER: Thank you. Anything further?

 18 COMMISSIONER EDGAR: Could we hear from the

 19 company?

 20 CHAIRMAN CARTER: Absolutely. We will go with

 21 the company and then we will hear from OPC.

 22 Mr. Friedman.

 23 MR. FRIEDMAN: Thank you, Mr. Chairman,

 24 Commissioners.

 25 Miles Grant is generally satisfied with the

 FLORIDA PUBLIC SERVICE COMMISSION

 15

 1 staff's recommendation, and we don't have any nit-picking

 2 to do at this time. I think that the staff has adequately

 3 responded to the customer's comments, and so I don't

 4 see -- unless the Commission requests me to do so, I don't

 5 see any benefit to addressing those comments again.

 6 I have noticed Ms. Merchant over here writing

 7 feverishly, so I'm sure that she has got some comments,

 8 and I would like an opportunity for Mr. Williams and I to

 9 address whatever comments that Ms. Merchant may have.

 10 Thank you.

 11 CHAIRMAN CARTER: Mr. Merchant or Ms.

 12 Christensen, who's on first?

 13 MS. CHRISTENSEN: Good morning, Patty

 14 Christensen, again, with the Office of Public Counsel. We

 15 do have some comments to make this morning regarding the

 16 staff recommendation. Generally, we agree with most of

 17 the adjustments that staff has recommended, and we do

 18 think that there are some instances where they could go

 19 farther and we are going to recommend to the Commission

 20 this morning that, in fact, you do make some additional

 21 adjustments to those that your staff has made.

 22 As you heard from Ms. Moody this morning, the

 23 customers aren't happy about the rate increase as we all

 24 can understand given the current economic conditions. I

 25 mean, this is a community of generally retired persons.

 FLORIDA PUBLIC SERVICE COMMISSION

 16

 1 Like all of us, they are trying to stretch their dollar in

 2 this hard economic time.

 3 I did have one comment regarding the quality of

 4 service section. I attended two customer meetings. There

 5 was a customer's meeting down in Miles Grant's territory.

 6 We ended up having two of them. There were a lot of

 7 persons that came and spoke, and generally they spoke

 8 about their dissatisfaction with the rates, but they also

 9 spoke a little bit about the quality of service issues.

 10 And as noted in the quality of service section, there were

 11 some problems with the quality of service from 2005

 12 through 2007 regarding meeting DEP standards.

 13 And we believe that the Commission should

 14 consider this when you are looking at whether or not to

 15 grant these rate increases, and that this is part of the

 16 Commission's consideration per the statute. I think that

 17 more consideration should be given to this than what was

 18 put into the staff recommendation.

 19 Now, they may be into compliance at this point,

 20 but I don't think you can disregard the fact that they

 21 were not in compliance for a couple of years, and were not

 22 giving the best quality of service, specifically regarding

 23 certain billing issues. So I think that while they are

 24 currently in compliance, I don't think you should

 25 disregard the years of service where they weren't in

 FLORIDA PUBLIC SERVICE COMMISSION

 17

 1 compliance when you are considering the rate increase

 2 overall. And I would ask that that be taken into

 3 consideration.

 4 In addition to that issue, we also have two

 5 other areas of adjustments that we would like the

 6 Commission to consider. The first area of adjustment is

 7 the rate case expense that is being requested. And also

 8 we are asking that the Commission consider the new billing

 9 and customer service system depreciation and useful life

 10 that was recommended by staff. We think that it needs to

 11 be longer.

 12 Now, Ms. Merchant is going to speak in some more

 13 detail regarding useful life and depreciation as well as

 14 to some of our rate case adjustments -- further rate case

 15 adjustments that we are recommending. I just wanted to

 16 speak very briefly regarding two issues that stood out to

 17 me that I want to put forth for the Commission's

 18 consideration.

 19 Particularly regarding lawyer fees, the last

 20 time Utilities Inc. was in with their systems cases that

 21 were decided in 2007, the fee was $275 per hour. I

 22 noticed in this recommendation the fee had increased to

 23 290. And, again, given the economic conditions that we

 24 are all living with, I would urge the Commission to

 25 maintain the $275 an hour rate. You know, I understand

 FLORIDA PUBLIC SERVICE COMMISSION

 18

 1 that, you know, we all need to make a living, but given

 2 the economic conditions, you know, that may be one more

 3 pass-through to customers that they don't need.

 4 The other thing that I would ask the Commission

 5 to consider is that for travel expenses for the lawyers

 6 fee, they have been charging the full rate of $290 for

 7 traveling for in the car and such expenses. I think that

 8 it is in the Commission's purview and would request that

 9 you consider giving half the hourly rate for travel. As

 10 opposed to when you, you know, you are showing up before

 11 the Commission and actually participating in an agenda or

 12 participating in a customer meeting, I think that's fair

 13 to the customers. I think if the customers were hiring an

 14 attorney that would be something that we would look into,

 15 not having to pay the full hourly rate for the travel

 16 portion. And we would ask that you consider that.

 17 I am going to also ask that Ms. Merchant take

 18 over now and address some of the other specific

 19 adjustments we have about rate case to completion and the

 20 useful life of the billing system.

 21 CHAIRMAN CARTER: Ms. Merchant.

 22 MS. MERCHANT: Good morning, Commissioners.

 23 First, I want to talk about the new accounting

 24 system and customer service system that the company --

 25 this is Utilities Inc., the parent company, has put in

 FLORIDA PUBLIC SERVICE COMMISSION

 19

 1 place. It went into effect in December of 2007, and it's

 2 a monumental expense for this company. It is a

 3 $21 million cost that has been allocated down to Miles

 4 Grant of about $150,000 in this case. They have proposed

 5 that it be depreciated over six years. And there is a

 6 depreciation rule that the Commission has, and it spells

 7 out all the rates for all the different primary accounts,

 8 and it says computer equipment is six years.

 9 Well, there is really not a definition of what

 10 is computer equipment in the Uniform System of Accounts,

 11 and it is not spelled out in the rule what that means.

 12 This $21 million is not, per se, computer equipment. It

 13 is an Oracle system. It is two different Oracle systems.

 14 It has a lot of capitalized consulting fees. It is a

 15 major, major accounting software system similar to like

 16 the Commission's CMS system, or even People's First.

 17 Those are major systems that you don't just put into

 18 effect and let them use them for six years. And the goal

 19 of depreciation rates is to spread the cost of that asset

 20 over the useful life of the asset.

 21 Now, Utilities Inc. had an older system, some

 22 would argue it wasn't very effective, but that system was

 23 in effect for 17 years, and they previously depreciated

 24 that system over eight years. So at least in their prior

 25 accounting system, they recognized eight years. But I

 FLORIDA PUBLIC SERVICE COMMISSION

 20

 1 would recommend that something that costs this much money,

 2 $21 million for Utilities Inc. is not going to be a

 3 short-term asset, or a mid-term asset, I would say. It is

 4 really going to last at least 12 to 15 years, and we would

 5 propose that the Commission recognize that and spread the

 6 cost of the asset over 15 years.

 7 They will get their rate of return on the

 8 investment, that's not depreciated, so they won't lose any

 9 of their costs. So, you know, they will get a rate of

 10 return on the unamortized or the undepreciated balance.

 11 But also if the system only lasts 12 years and we

 12 depreciate it for 15 years, the Commission also has a rule

 13 that says if you have to retire something early, you get

 14 to make up that loss, and the customers have to pay that.

 15 So if we use 15 years and it lasts 17 years, then the

 16 customers have gotten full use each year of that long-term

 17 asset. So that is one of the things that we would

 18 recommend that you do.

 19 The second issue that I'd like to talk about is

 20 rate case expense, and it's legal fees and the estimate to

 21 complete. Mr. Friedman has been the Utilities Inc.

 22 attorney for quite some years, and I want to say at least

 23 ten years; I'm not sure exactly, but he does all of their

 24 rate cases for all of their systems. There are 16 in

 25 Florida. They usually have two to four systems every year

 FLORIDA PUBLIC SERVICE COMMISSION

 21

 1 that they file a rate case. I think they have three or

 2 four right now.

 3 Also, the way the company files their MFRs is

 4 they ask for an estimate in their MFRs, then they come in

 5 right before the case goes to agenda and they file an

 6 estimate to complete, a revised estimate to complete for a

 7 total rate case expense. Particularly -- well, they do

 8 that for all the types of fees, but in legal fees that

 9 estimate to complete has historically been very high.

 10 And I have gone back and looked at about five or

 11 six systems over the last several years, and staff and the

 12 Commission have cut that estimate to complete

 13 substantially, so that a lot of times the legal fees end

 14 up being a lot less than what they even put in the MFRs.

 15 And that is for a standard PAA case, and I'm not even

 16 talking about a case that goes to hearing, because that

 17 would be completely separate.

 18 But it just appears to me that the legal fees

 19 come in on the estimate to complete and they just get

 20 inflated a little bit. And I've gone through, and I've

 21 looked at all of these things, and I think that we have

 22 several areas that we can adjust the estimate to complete

 23 hours, and one is the travel expense for Mr. Friedman to

 24 come up here from Orlando to Tallahassee. He actually had

 25 two clients today on agenda, but he charged full travel

 FLORIDA PUBLIC SERVICE COMMISSION

 22

 1 expenses to Miles Grant. So, I think -- I mean, he may

 2 not have known that when he did the estimate to complete,

 3 but certainly if he has two agenda items for different

 4 companies, that that should be split between the two

 5 companies. And O&S, I believe, was the name of the

 6 company.

 7 But, anyway, so I would recommend that his

 8 travel time and his hours to prepare, he had hours for

 9 both of those cases, so I would recommend a reduction of

 10 seven hours for that. But, in total, I would recommend

 11 that 10.5 hours be reduced from his estimate to complete

 12 of 53.5 hours. And another note that I have is that all

 13 of these cases that he does, you know, the issues in each

 14 case are going to be different, but the things that you do

 15 after agenda, if you are not going to protest the case are

 16 pretty standard items. They have got a form letter. You

 17 change the company's name, you change the rates, they

 18 don't a -- a lot of it is technical -- or secretarial type

 19 stuff, not necessarily complex legal issue analysis.

 20 So I think that the time that they spent on that

 21 is really not as high as what they have estimated. And I

 22 would love to go back and look at some of these cases in

 23 the past and see exactly what their revised estimate to

 24 complete was compared to what the actual post-agenda fees

 25 were just to compare, just to see if the estimates are

 FLORIDA PUBLIC SERVICE COMMISSION

 23

 1 actually reasonable.

 2 So, in conclusion, I would recommend that of his

 3 53.5 hours that 10-1/2 hours be reduced, and that would

 4 be -- excuse me, that is a decrease of 3,965 hours --

 5 excuse me, dollars -- $3,965, and amortized over

 6 four years that is $991 for the four years. And then the

 7 expense, changing the depreciation to a 15-year life, it

 8 reduces their water depreciation expense by 7,625 and

 9 wastewater 7,181 compared to their $25,000 request. It

 10 gives them about $9,000 in annual depreciation expense

 11 instead of 25,000. So with that, I would appreciate your

 12 consideration.

 13 CHAIRMAN CARTER: Thank you.

 14 Mr. Friedman, do you want to comment on that?

 15 MR. FRIEDMAN: Thank you, Mr. Chairman,

 16 Commissioners. I'm going to address, as you might expect,

 17 the rate case expense issue, and let Mr. Williams address

 18 the amortization time frame for the computer system he's

 19 very familiar with and has testified in other states about

 20 that system and its benefits and how other states treated

 21 it.

 22 The rate case expense, I mean, a point overall,

 23 they are talking about an issue of $1,000, and while

 24 $1,000 is certainly not a small amount of money, I would

 25 suggest that if I got up here and raised a $1,000 issue in

 FLORIDA PUBLIC SERVICE COMMISSION

 24

 1 a case that has got a couple of million dollars in

 2 revenue, that I would probably be chastised for wasting

 3 everybody's time on an issue that is less than one-half of

 4 one percent of the revenue.

 5 But that notwithstanding, there's two issues.

 6 One is that -- and I understand the customers' issues of

 7 the economy as it exists today, and certainly I know that

 8 as a business owner, I have the same problem. We have

 9 health care costs that raise 15 percent a year. Our

 10 hourly rate, I don't know what other law firms charge, I

 11 have looked at some of the cases before the PSC and what

 12 some of my brethren charge doing water and sewer work, and

 13 mine is certainly comparable if not a little bit lower

 14 than some of those other lawyers. I don't know what the

 15 lawyers in the telephone and electric industry charge, but

 16 I would be surprised if you could get a lawyer for $300

 17 hour. You can't get a lawyer in Orlando for less than

 18 about three or $400 an hour. The going rate for

 19 litigation lawyers down there in administrative litigation

 20 is $400 hour.

 21 You know, we charge 290. I can't tell you

 22 that's not going to go up next year. I mean, expenses for

 23 running a business go up, as well; and I think that our

 24 hourly rate, which has been approved in other cases in the

 25 past, I think, are reasonable. I have never had in my

 FLORIDA PUBLIC SERVICE COMMISSION

 25

 1 30 years of practice and 25 before the PSC, I have never

 2 had somebody question my hourly rate. And so I would

 3 suggest to you that it's certainly reasonable.

 4 This argument about we ought to split between my

 5 two clients. Now, I've got this other client that's

 6 called O&S Water Company. It's a small water company down

 7 in Osceola County that we filed a tariff change on. That

 8 company would not have paid me to come up here to do this

 9 case. So it's unreasonable for me to have to cut back the

 10 expense that Miles Grant is going to be charged because I

 11 happen to have another client who is on the agenda who I

 12 would not have appeared because of.

 13 And I can tell you, if you recall O&S Water

 14 Company filed a tariff change, we filed it for them for

 15 miscellaneous service charges a year or so ago. And you

 16 probably don't realize my absence from that agenda, but I

 17 was not at that agenda either, because I had no other

 18 client to support me coming up for the agenda conference.

 19 And there are certain items on the agenda, and

 20 particularly small water and sewer companies that just,

 21 you know, they are losing money and can't afford to have

 22 me do that. And so to cut back Miles Grants rate case

 23 expense because I should charge another client for

 24 something that I don't charge them for is just totally

 25 unreasonable.

 FLORIDA PUBLIC SERVICE COMMISSION

 26

 1 And, without looking at what the other 3.5 hours

 2 that Ms. Merchant said that should be cut, it's hard for

 3 me to question it. We give our best estimate when we give

 4 these rate case expenses. The process has it where we

 5 have got to estimate what our rate case expenses are,

 6 number one, at the very beginning of the case, and

 7 obviously that estimate is going to be what we think is

 8 going to be a high number, and I think in almost every

 9 case, we don't reach that number. But the problem is is

 10 that if we put a low number and it comes out higher, the

 11 company is not going to get that additional amount.

 12 So I acknowledge that when we filed the rate

 13 case, we put in a number that we think is a worst-case

 14 scenario. And then we go through the process, and we make

 15 an estimate after -- when we get to the point where the

 16 staff has got to do its recommendation, they send us a

 17 data request or call us and we update our rate case

 18 expense and provide them a very detailed analysis of what

 19 is not included in what we have already billed. And you

 20 can see that, and, you know, I guess you can nickel and

 21 dime anything, but I would suggest to you that we give our

 22 best estimate of what those expenses are going to be, and

 23 I would stand behind them 100 percent. And I don't think

 24 it is appropriate to reduce that rate case expense at all.

 25 And John Williams will address the amortization

 FLORIDA PUBLIC SERVICE COMMISSION

 27

 1 period for the software programs.

 2 MR. WILLIAMS: Good morning, Commissioners.

 3 The company amortized or spread the costs over

 4 the number of years that was specifically prescribed by

 5 Florida PSC rule in the NARUC Uniform System of Accounts.

 6 And as you know, as technology changes, the amount of time

 7 that technological things last get shorter and shorter. I

 8 mean, how often do you have to change out your computer or

 9 change your cell phone?

 10 We had a very antiquated system that the Florida

 11 Commission was very critical of in previous cases over the

 12 way we kept our books and records and that type of thing.

 13 So this should significantly improve our regulatory

 14 compliance from an accounting standpoint, and specifically

 15 there is a lot of customer benefits in terms of

 16 informative billing to the customers that will give them

 17 history of consumption, a lot of the things the water

 18 management districts have wanted us to do to be able to

 19 show customers how much you used this same month in a

 20 previous year, and averages, and that type of information

 21 is all going to be available to customers with our new

 22 computer billing system.

 23 But, again, we amortized it over the period of

 24 time prescribed by the Florida PSC rules and the Uniform

 25 NARUC Accounts. And it has already been anticipated in

 FLORIDA PUBLIC SERVICE COMMISSION

 28

 1 North Carolina. I was going to say we have had two cases

 2 in North Carolina where it has been accepted, as well as

 3 Maryland.

 4 MR. FRIEDMAN: And let me point out just the

 5 legal aspect of this issue is that you do have a rule that

 6 says it is six years unless, and then it gives a whole

 7 bunch of factual issues that the Commission can consider

 8 to determine whether it should be greater or less than

 9 that six years in the rule.

 10 And the problem is that an agenda conference is

 11 really the type of forum that lends itself to addressing

 12 disputed issues of fact. And other than just the overall

 13 comments that Ms. Merchant made, I think that if you take

 14 those and you look at what the rule says, I don't think

 15 that any of her comments address the specific criteria in

 16 the rule for doing something other than the six-year

 17 amortization period.

 18 Thank you.

 19 CHAIRMAN CARTER: Thank you.

 20 Commissioners? Commissioner McMurrian, you're

 21 recognized.

 22 COMMISSIONER McMURRIAN: Thank you.

 23 Ms. Merchant, I wanted to get clarification

 24 about the 10-1/2 hours to reduce from the 53.5. Can you

 25 show me by looking at Page 20 where in that list you are

 FLORIDA PUBLIC SERVICE COMMISSION

 29

 1 reducing, and which ones you are recommending reducing and

 2 how much out of that 53.5. Can you tell me according to

 3 the breakdown there?

 4 MS. MERCHANT: Which page is that on?

 5 COMMISSIONER McMURRIAN: Page 20. I see the

 6 line there that says prepare for and travel to Tallahassee

 7 to attend agenda, and I knew that was one of your issues

 8 there.

 9 MS. MERCHANT: Right. One of the ones that I

 10 did was the fourth one down, travel to Martin County and

 11 attend the customer meeting. I reduced that by an hour

 12 and a half. I didn't adjust the ones above because the

 13 way they have done historically was that they would have

 14 unbilled hours, they were actually hours spent, but they

 15 hadn't just prepared the bill yet, so I didn't adjust any

 16 before that.

 17 But I took seven hours out of the 14 for prepare

 18 for and travel to Tallahassee. I took a half hour out of

 19 the telephone conferences and communications with clients

 20 and consultants. Telephone conferences and communications

 21 with client, consultants, and Commission staff, I reduced

 22 that to one hour. Draft revised tariff sheets, notice the

 23 new rules, new rates and other implementing, I gave them

 24 half an hour for that. That is really a cut and paste

 25 based on the PAA order. The letters that they use for

 FLORIDA PUBLIC SERVICE COMMISSION

 30

 1 that is just the same ones over and over and over again.

 2 Letters, telephone conferences, communication with

 3 Commission staff, I gave them half an hour, and then

 4 miscellaneous posts, noticing, and filing matters, I gave

 5 them an hour instead of three.

 6 And, you know, what are the types of things that

 7 they do post agenda; they file a rate case expense actual

 8 report, and basically that comes from the company and

 9 Mr. Friedman writes a letter. Other things like rate

 10 repression studies, they don't have one in this case so

 11 they don't have a rate repression study, so are the kinds

 12 of reasons I reduced that.

 13 COMMISSIONER McMURRIAN: Mr. Chairman.

 14 CHAIRMAN CARTER: You're recognized.

 15 COMMISSIONER McMURRIAN: I guess to staff, I see

 16 that we get this breakdown here, I think, from Mr.

 17 Friedman. Is there more information as a breakdown of

 18 these hours as what exactly those are spent on? I mean,

 19 for instance, the one that Ms. Merchant was just talking

 20 about, the miscellaneous post-PAA noticing, and she is

 21 saying that since they don't have repression and all here,

 22 that it might not be as much time.

 23 MR. FLETCHER: All we had was that basic

 24 description here, and we kind of looked at it from the

 25 standpoint of speaking with the other consultants to the

 FLORIDA PUBLIC SERVICE COMMISSION

 31

 1 case and his time to receive their invoices and to prepare

 2 the packet, and we thought that three hours was

 3 reasonable.

 4 COMMISSIONER McMURRIAN: Okay. I think that's

 5 all for now, Chairman. Thank you.

 6 CHAIRMAN CARTER: Commissioner Argenziano.

 7 COMMISSIONER ARGENZIANO: Yes. A couple of

 8 different questions. One, I would like to know about the

 9 issues of quality of service in the past. I hear they

 10 have been corrected, but what were they attributed to?

 11 MR. RIEGER: Yes, Commissioner. This is Stan

 12 Rieger with Commission staff.

 13 Primarily between the years of 2005 and 2007,

 14 the utility was responding to a newly initiated DEP rule

 15 concerning disinfection by-products. As a result of their

 16 conversion process, their disinfection conversion process,

 17 the chloramine treatment, the customers were

 18 inconvenienced during that time while they were getting

 19 the process together, and boil water notices were issued

 20 several times during that time frame. It is unfortunate,

 21 but that is exactly what happened. It took awhile for

 22 compliance to be made.

 23 I spoke with DEP concerning that. They

 24 acknowledge that the utility did work accordingly though

 25 the process. It did take some time to correct it. I

 FLORIDA PUBLIC SERVICE COMMISSION

 32

 1 might add that this is not a unique situation with the

 2 utility. We have seen this all throughout the state with

 3 this new rule, this disinfection by-product rule.

 4 The conversion process is tricky, and as a

 5 result if they are not meeting the level of treatment,

 6 they have to issue boil water notices, and it takes

 7 multiple issues for some of them to get the treatment

 8 level correct.

 9 COMMISSIONER ARGENZIANO: I understand that. I

 10 have seen it throughout the state, and I understand that.

 11 But that has been corrected, they have pretty much got it

 12 down now?

 13 MR. RIEGER: Yes, it has. The EPA is satisfied.

 14 COMMISSIONER ARGENZIANO: And were there any

 15 problems in the quality, service quality issues regarding

 16 billing?

 17 MR. RIEGER: I believe there was some problems

 18 that may have taken sometime to get worked out. In fact,

 19 I believe there was a customer that spoke that it took a

 20 matter of multiple billing periods for her problem where

 21 she got -- I believe she was billed her neighbor's usage,

 22 and that got corrected.

 23 COMMISSIONER ARGENZIANO: And what I'm trying to

 24 get at is I guess part of the money being spent on the new

 25 systems to correct some of those problems would correct --

 FLORIDA PUBLIC SERVICE COMMISSION

 33

 1 it was indicated that the old system was 17 years old, is

 2 that correct?

 3 MR. RIEGER: Yes.

 4 COMMISSIONER ARGENZIANO: So hopefully that that

 5 gives better service.

 6 MR. RIEGER: Better service, yes. There is no

 7 doubt that the new system will be better than the old.

 8 COMMISSIONER ARGENZIANO: And, let's see, did

 9 staff already cut attorneys fees for the company?

 10 MR. FLETCHER: Yes, Commissioner. We had

 11 actually reduced the legal fees by $23,258 from what they

 12 had requested.

 13 COMMISSIONER ARGENZIANO: What was the total

 14 amount they requested?

 15 MR. FLETCHER: $38,773.

 16 COMMISSIONER ARGENZIANO: Wait a minute. The

 17 total amount was --

 18 MR. FLETCHER: 38,000 -- you're talking about

 19 just for legal fees?

 20 COMMISSIONER ARGENZIANO: No, I'm trying to

 21 figure out if you have reduced it by 23,000, what were

 22 they originally asking?

 23 MR. FLETCHER: The total rate case that they

 24 were originally asking for with the actual and revised was

 25 $227,622. Of that amount for the legal, it was requesting

 FLORIDA PUBLIC SERVICE COMMISSION

 34

 1 $51,373. Of that 51,000, we were recommending a decrease

 2 of 23,258.

 3 COMMISSIONER ARGENZIANO: Okay. And, let's see.

 4 Is there a comparison done? Do we do any type of

 5 comparison on attorney fees to see if they are comparable

 6 and reasonable?

 7 MR. FLETCHER: Yes, we have done that in prior

 8 rate cases. In this one, to look at the difference, the

 9 $15 difference between the 275 that he had typically been

 10 charging for the past four or five years, that represented

 11 an increase of 4.54 percent. And just -- we felt that it

 12 was in line, since it has not been changed since the last,

 13 I think, five years is what he has been charging the

 14 275 at -- in the prior cases.

 15 COMMISSIONER ARGENZIANO: And one other

 16 question. Regarding the depreciation rules indicating

 17 depreciation of six years for computers. As OPC had

 18 indicated that this may be a little bit more than just

 19 computers, have we looked into spreading out the

 20 depreciation to maybe a ten year, or anything more than

 21 the six years, or why did we go with six, and are there

 22 other items that may not be included in that rule as

 23 computer items?

 24 MR. FLETCHER: The depreciation rule, 25-30.140,

 25 does list the average service life for computers, and in

 FLORIDA PUBLIC SERVICE COMMISSION

 35

 1 the past, you know, the Commission has treated software

 2 packages under that account, and we have used the six

 3 years. There is a provision that allows that -- if I may

 4 point out, it's in Note 6A, if there is going to be a

 5 deviation from the average service life from the rule it

 6 says at the time a utility applies for a change in its

 7 revenue rates and charges, it may also petition for

 8 average service life depreciation different from those in

 9 the above schedule, which was the six years, if it can

 10 justify the service lives that the utility is proposing in

 11 lieu of the guideline lives. That justification should be

 12 in the form of historical data, technical information, or

 13 utility planning for the affected accounts or subaccounts.

 14 And the utility had requested it be depreciated

 15 pursuant to the rule, that is how they have treated that

 16 in other states and other rate cases. They have

 17 consistently applied a six year. How we looked at it,

 18 there was no technical data that we saw -- I mean, in that

 19 provision it's the utilities, if they want to request

 20 something different they have to provide all that

 21 technical data. Regarding different software packages

 22 like People's First, or our case management, my

 23 understanding --

 24 COMMISSIONER ARGENZIANO: You don't want to

 25 mention People's First with me.

 FLORIDA PUBLIC SERVICE COMMISSION

 36

 1 MR. FLETCHER: Or our case management, the

 2 different software packages, you would have to have that

 3 detailed analysis, that technical information to support

 4 how long that's going to last, and we simply don't have

 5 that. And so we just stuck with the rule of six years.

 6 COMMISSIONER ARGENZIANO: I understand that.

 7 But I think I'm trying to get at -- and maybe this is a

 8 question for OPC -- what is outside of the computer

 9 language? You had mentioned that maybe the rule goes to

 10 computers, but there may be more than computers lumped in

 11 here.

 12 MS. MERCHANT: Exactly. I think the rule is

 13 designed to estimate what the service lives are for all of

 14 these assets, and it really is a great tool because you

 15 don't want to have to -- in every rate case you want to

 16 simplify the factor. We have gone through, I think, three

 17 major revisions of that depreciation rule to make sure

 18 that the lives and a lot of engineering studies have gone

 19 into supporting meters and the pipes and the pumps and the

 20 things like that, but computer equipment has never been

 21 revised.

 22 You know, when the depreciation rules

 23 originated, there weren't hardly any computers. It was

 24 like in the '80s, or late '80s, about that time, but it

 25 has really never been paid attention to. And you would

 FLORIDA PUBLIC SERVICE COMMISSION

 37

 1 understand that a desktop computer, or a laptop computer,

 2 or even a cell phone would certainly have a shorter life.

 3 And that's what I think that that rule is really designed

 4 to accommodate. You have got, say, like a Microsoft

 5 Office box off the shelf. You might even be able to

 6 expense that type of software, something that's not a

 7 monumental expense to the company.

 8 But this is a -- for this company it is probably

 9 twice in a lifetime software package, two software

 10 packages. I sure hope that for $21 million they are not

 11 going to replace it in six years, and that's really what

 12 you want to do is spread the cost over the life of the

 13 asset so that the customers pay that one whatever number

 14 of years you choose is the actual service life. You

 15 spread that over the life, and it's a fair -- it's

 16 basically an accounting principle, but in those other

 17 states that the company mentioned, Mr. Williams told me

 18 that they didn't even address what the service life was,

 19 that they just asked for six years and they got six years.

 20 So it has really never been litigated. And I don't think

 21 the company has answered how long they think this major

 22 software package will last.

 23 COMMISSIONER ARGENZIANO: Okay.

 24 To the company, how long do you think it will

 25 last?

 FLORIDA PUBLIC SERVICE COMMISSION

 38

 1 MR. FRIEDMAN: Commissioner Argenziano, that's

 2 the comment that I made at the very beginning that this

 3 type of forum is not one that lends itself to making those

 4 type of factual proofs. And so as we sit here today, we

 5 can't tell you what the real life of that is going be,

 6 because nobody has done the type of analysis that your

 7 rule suggests needs to be done before you deviate from the

 8 six years that's provided for in the rule. And so we

 9 can't sit here today and tell you whether it's going to be

 10 six and a half or maybe four. I mean, the way technology

 11 and the software changes --

 12 COMMISSIONER ARGENZIANO: Or maybe ten.

 13 MR. FRIEDMAN: Or ten, or twelve, or two. You

 14 know, that's the problem is that we have got a rule and we

 15 go by the rule unless we have evidence to the contrary,

 16 and this forum where Public Counsel can say one thing and

 17 I can say something else isn't the type of forum to make

 18 those type of factual decisions.

 19 MR. WILLIAMS: And, again, we have IT folks, and

 20 we hired Deloitte as a consultant to help us select the

 21 different firms to -- you know, the different entities we

 22 contracted with to do this. And, you know, if we go to

 23 hearing, believe me I can trot them all out for you, but I

 24 can't sit here and tell you this. We hope it will last

 25 longer than six years, but technology is really evolving.

 FLORIDA PUBLIC SERVICE COMMISSION

 39

 1 COMMISSIONER ARGENZIANO: Mr. Chairman, this is

 2 a question for staff. When do we revise our rules and

 3 look into things that are kind of -- haven't been changed

 4 in a number of years? Just out of curiosity, if somebody

 5 can help me.

 6 MR. FLETCHER: As far as when the depreciation

 7 rule was last revised?

 8 COMMISSIONER ARGENZIANO: Uh-huh.

 9 MR. FLETCHER: What I'm seeing here, it was last

 10 amended May 29th, 2008.

 11 COMMISSIONER ARGENZIANO: What did we amend at

 12 that time?

 13 MR. FLETCHER: I'm not sure of the particular

 14 provision here in this rule. I would have to go back and

 15 look at that, what was changed during that amendment.

 16 MR. WILLIS: Commissioner Argenziano, I'm not

 17 sure which part of the rule was amended in 2008, but to

 18 answer your question about when we amend our rules, we

 19 constantly monitor the rules of the Commission, and

 20 depreciation is one of those. We have people who will

 21 actually sit there in our division and look at these. We

 22 amend the rules when we see a need. When new technology

 23 comes in, new plant items come in, when we believe

 24 technology has outdated these lives, the service lives in

 25 these actual things, that is when we would actually do

 FLORIDA PUBLIC SERVICE COMMISSION

 40

 1 that.

 2 COMMISSIONER ARGENZIANO: Well, that's what I

 3 think I'm hearing OPC saying is that maybe that today's

 4 technology is making the rule outdated, and I'm trying to

 5 figure out if that is the case. That is another

 6 discussion for another day, but to think about the points

 7 they bring up, is there a valid concern in what they are

 8 saying that maybe the rule is antiquated or there are

 9 other components of this that really don't apply to the

 10 old statutory language of just computer.

 11 And for $21 million you would hope that it would

 12 last more than six years, but I'm not on expert so I can't

 13 say that. But I am just not sure if we have looked into

 14 the rule as far as the points that OPC are bringing up.

 15 MR. WILLIS: And, Commissioner, Public Counsel

 16 could be completely right, the company could be completely

 17 right, these depreciation rates here are what we call

 18 average lives which take into account that some computers

 19 and software will last less than that, some will last more

 20 than that.

 21 COMMISSIONER ARGENZIANO: Okay. Well, let me

 22 ask this question, and as simple as I can. Does that mean

 23 because it is a rule that we always stick to six years no

 24 matter what?

 25 MR. WILLIS: No. If we actually have evidence

 FLORIDA PUBLIC SERVICE COMMISSION

 41

 1 before us to show that these lives are incorrect for a

 2 particular item, we have changed those in the past.

 3 COMMISSIONER ARGENZIANO: And you feel right now

 4 that that is not the case here.

 5 MR. WILLIS: Well, my staff hasn't seen anything

 6 yet that would basically dictate that these six years are

 7 wrong at this point.

 8 COMMISSIONER ARGENZIANO: Okay. So, OPC, it is

 9 up to you to show staff right now, for me to make a

 10 decision on that one.

 11 MS. MERCHANT: Actually, if I could correct your

 12 interpretation of what we believe. I don't believe that

 13 the six-year depreciation rate for regular computer

 14 equipment is inadequate. I think that's fine for a

 15 desktop computer, or a laptop computer, or maybe a

 16 short-term software project. What I'm saying is that this

 17 is an anomaly. This is a new item that is not considered

 18 by the rule and that's where I'm differentiating.

 19 COMMISSIONER ARGENZIANO: And, staff, that is

 20 what I'm asking you. Have you seen the new item, is it an

 21 anomaly, and if it is, or if it isn't --

 22 MR. FLETCHER: In the past we have recorded it

 23 for the computers, for software packages. UI's last

 24 accounting system, that's the account that it would be

 25 considered under would be computers. They did actually --

 FLORIDA PUBLIC SERVICE COMMISSION

 42

 1 you know, they amortized it over eight years there, but it

 2 be would considered. We have in other cases considered

 3 software packages under the computer and depreciated it

 4 under six years.

 5 COMMISSIONER ARGENZIANO: Okay. So, basically,

 6 OPC, you are saying the software is the anomaly.

 7 MS. CHRISTENSEN: And can I just add to that

 8 that this is not just your basic off-the-shelf package.

 9 They took two years to develop the software. This is

 10 something -- this is like a platform which they are going

 11 to use to build their billing system over the next however

 12 many years, we don't know. I expect that it will be

 13 longer than six years. I would expect for this kind of an

 14 investment in a computer platform that it will be at least

 15 double the life of a computer of six years, 12 years.

 16 You don't build something akin to a CMS system

 17 and expect that it is going to expire in six years. That

 18 is a platform that you build off of. You may update it

 19 periodically over the years, but the basic platform, which

 20 is what we are talking about, the investment in this basic

 21 new billing system platform is a long-term investment, and

 22 that is why we are saying that it doesn't neatly fit

 23 within the rule.

 24 This isn't a laptop or computer equipment where

 25 you change them out periodically. And you don't change

 FLORIDA PUBLIC SERVICE COMMISSION

 43

 1 them out all at ones, either. You know, you may change

 2 out X number of computers over time and it is a revolving

 3 type of changeout. Here this is a long-term once in, you

 4 know, obviously 17-year event where you change the

 5 platform and change all of the computer software programs

 6 that run off of it.

 7 And that is what I wanted to emphasize is it is

 8 not just a regular updated software package. This is the

 9 platform on which they are operating at least from our

 10 understanding of it unless the company, you know, can tell

 11 us something different, but that's my understanding of it.

 12 MR. WILLIS: Commissioner, if I could just add

 13 one thing.

 14 CHAIRMAN CARTER: Marshall.

 15 MR. WILLIS: Actually two things here. I would

 16 point out that every operating system I have ever

 17 purchased has been outdated in about three years, and I

 18 could continuing operating that, but I won't have the best

 19 and greatest at that point that I think I need.

 20 The other thing is this is proposed agency

 21 action, and what that means in a water and wastewater case

 22 is that if Public Counsel really feels compelled that this

 23 is an issue that they want to do something about, they can

 24 protest this one single issue, and that's all this

 25 Commission will go to hearing on. And I just wanted to

 FLORIDA PUBLIC SERVICE COMMISSION

 44

 1 point that out, that is an option.

 2 COMMISSIONER ARGENZIANO: And I appreciate that,

 3 because it helps me in the discussion going back and

 4 forth. I may somewhat agree, but I'm not sure that it

 5 still doesn't fall under computer in my train of thought.

 6 I'm not sure, and knowing that they have that opportunity,

 7 I feel better about that. And just to say that if their

 8 last system lasted 17 years and it wasn't quite as

 9 technologically advanced as today's systems, I would look

 10 at that as being very prudent and hope that the system

 11 would last a long time, because we would like that to

 12 occur, of course.

 13 But I appreciate the dialogue, because it helped

 14 me to understand here something that I wasn't sure how the

 15 internal components really worked. And I got a better

 16 understanding of OPC's problem with it, even though it's

 17 still somewhat fuzzy. So thank you for allowing that

 18 discussion.

 19 CHAIRMAN CARTER: Thank you, Commissioner. I

 20 will come back to the bench. I just wanted to get this

 21 thought out before I lose it.

 22 When Commissioner McMurrian had asked her

 23 question, I thought I had seen this is on Page 24. I went

 24 to Page 24, and I saw where staff had adjusted every

 25 request by the company. I think their request was

 FLORIDA PUBLIC SERVICE COMMISSION

 45

 1 something like -- their revised and actual estimate was

 2 227,662. Staff's adjustments were almost $100,000 less.

 3 They reduced the legal fees by half, consultant fees, the

 4 in-house fees. They didn't reduce the filing fee because

 5 that's what it is, but every category that could be

 6 reduced they reduced it or eliminated -- this WFC travel,

 7 staff eliminated that altogether.

 8 So I think that when you look at it in the

 9 totality, that everywhere where the company had made a

 10 request, you'll see staff made a significant adjustment

 11 downward. And I think that's significant. When you

 12 consider that of a total of 227,662, staff's total

 13 adjustment was a reduction of 99,649, I think that is very

 14 significant. And, Commissioner McMurrian, I'm glad you

 15 asked that question, because I thought I had seen it in

 16 the docket someplace, so I went to look at that.

 17 Commissioner Argenziano.

 18 COMMISSIONER ARGENZIANO: Mr. Chairman, with all

 19 due respect, and I only mean this -- and I'm not saying

 20 the company did this or anything in this case, but I think

 21 having a dialogue and speaking about things is very

 22 important because of the fact that, I mean, you could come

 23 in with a very high number to begin with and know that the

 24 staff is going to chop it down to where it probably should

 25 be, or somewhere where it should be. So with all due

 FLORIDA PUBLIC SERVICE COMMISSION

 46

 1 respect, sometimes just looking at the reduction doesn't

 2 mean that, you know, oh, boy, the company took a giant

 3 hit. It might have gotten back to where it actually

 4 needed to be.

 5 CHAIRMAN CARTER: Yes. Well, I agree with you,

 6 but I think the company probably fully expected that

 7 amount in their filings. They would have to give that in

 8 their filings. When Commissioner McMurrian asked that

 9 question, it dawned on me I read something in the case

 10 where the staff had made some reductions, and I just

 11 wanted to kind of point that out.

 12 Commissioner Edgar, you're recognized.

 13 COMMISSIONER EDGAR: Thank you. And this is

 14 first to staff. Can you point to me where in the issue

 15 analysis the discussion of this particular purchase is and

 16 the application of the rule?

 17 MR. FLETCHER: Yes, Commissioner. The Phoenix

 18 project, the software package is on Issue 5, Page 10 of

 19 the recommendation. And, basically, there was no write-up

 20 between the -- talking about the six years, the company

 21 filed in their MFRs and depreciated over six years

 22 pursuant to the rule, and staff did not take issue in

 23 accordance with the rule.

 24 But it's in the second paragraph. Basically, it

 25 is $148,000 total is the allocated cost, both of them. It

 FLORIDA PUBLIC SERVICE COMMISSION

 47

 1 is split almost equally, about 51-1/2 percent to the water

 2 and the remaining to the wastewater system. It's the

 3 $76,220 for the water, $71,780. It's in the second

 4 paragraph of staff's analysis. And you will actually see

 5 on the table on Page 11 the staff did not make any

 6 adjustments to the Phoenix project, and we had definitely

 7 just agreed with their accumulated depreciation,

 8 depreciation expense adjustments associated with that

 9 package in accordance with the rule.

 10 COMMISSIONER EDGAR: Thank you. And that is

 11 helpful, because I was looking at that earlier, and, you

 12 know, seeing, of course, fire hydrants and fuel tanks and

 13 things, and Phoenix didn't jump at me immediately as

 14 billing system. And looking at the numbers there in the

 15 order of 21 million. So I appreciate that elaboration.

 16 Thank you.

 17 And I guess my question then to the company is,

 18 I fully recognize that this is not an evidentiary hearing

 19 and that you are not presenting evidence and sworn

 20 testimony, but yet it does seem to me to be a reasonable

 21 question when it has been raised that this is an

 22 acquisition of $21 million, and a significant one, and I

 23 would certainly have expected that you would bring in IT

 24 consultants and outside contractors to help with that

 25 system selection. To me it seems a reasonable question to

 FLORIDA PUBLIC SERVICE COMMISSION

 48

 1 say, well, what is the expectation for the length of that

 2 system. I would have thought that would be an analysis

 3 that would have been done before the actual software

 4 package was chosen.

 5 So I guess my question to you is, realizing it

 6 is not evidentiary, and realizing it's not sworn

 7 testimony, what is the expectation for the life of this

 8 particular billing system?

 9 MR. WILLIAMS: Well, Commissioner Edgar, based

 10 on staff's recommendation, we didn't anticipate there

 11 would be a lot of questions about it, and we didn't bring

 12 in our experts from Northbrook. You know, the Commission

 13 staff had already cut any expense from any of our

 14 headquarters office coming down here. So, you know, there

 15 again, we thought I could give it my best shot.

 16 COMMISSIONER EDGAR: And I appreciate that.

 17 MR. WILLIAMS: And, again, it has been accepted

 18 in other states. But there, again, we also are providing

 19 expert witness testimony in other states where it has been

 20 questioned. And certainly if we end up going to hearing

 21 on this, we can bring in the big guns for sure.

 22 COMMISSIONER EDGAR: So let me, in my own words,

 23 say back to you what I think you just told me, and correct

 24 me if I'm wrong. Perhaps it is a reasonable thought that

 25 during the analysis and prior to the purchase of a system

 FLORIDA PUBLIC SERVICE COMMISSION

 49

 1 an analysis would have gone as to life expectancy, but you

 2 are not at this time able to speak to that point, is that

 3 correct?

 4 MR. FRIEDMAN: That's correct. You know, part

 5 of the problem is just --

 6 COMMISSIONER EDGAR: And that's fair, in my

 7 mind. All right. Thank you.

 8 CHAIRMAN CARTER: Commissioners, anything

 9 further from the bench?

 10 The Chair is now open for a recommendation on

 11 disposition of this matter.

 12 Commissioner McMurrian.

 13 COMMISSIONER McMURRIAN: If there are no other

 14 questions, I can move staff on all the issues.

 15 CHAIRMAN CARTER: With the oral modification?

 16 COMMISSIONER McMURRIAN: With the oral

 17 modification of staff.

 18 COMMISSIONER EDGAR: And I can second.

 19 CHAIRMAN CARTER: It has been moved and properly

 20 seconded.

 21 Commissioners, any further debate, discussion,

 22 comments, questions? Hearing none. All those in favor,

 23 let it be known by the sign of aye.

 24 (Simultaneous aye.)

 25 CHAIRMAN CARTER: All those opposed, like sign.

 FLORIDA PUBLIC SERVICE COMMISSION

 50

 1 Show it done.

 2 Thank you, Ms. Moody.

 3 MS. MOODY: Thank you.

 4 \* \* \* \* \* \* \*

 5

 6

 7

 8

 9

 10

 11

 12

 13

 14

 15

 16

 17

 18

 19

 20

 21

 22

 23

 24

 25

 FLORIDA PUBLIC SERVICE COMMISSION

 51

 1 STATE OF FLORIDA )

 2 : CERTIFICATE OF REPORTER

 3 COUNTY OF LEON )

 4

 I, JANE FAUROT, RPR, Chief, Hearing Reporter Services

 5 Section, FPSC Division of Commission Clerk, do hereby certify

 that the foregoing proceeding was heard at the time and place

 6 herein stated.

 7 IT IS FURTHER CERTIFIED that I stenographically

 reported the said proceedings; that the same has been

 8 transcribed under my direct supervision; and that this

 transcript constitutes a true transcription of my notes of said

 9 proceedings.

 10 I FURTHER CERTIFY that I am not a relative, employee,

 attorney or counsel of any of the parties, nor am I a relative

 11 or employee of any of the parties' attorney or counsel

 connected with the action, nor am I financially interested in

 12 the action.

 13 DATED THIS 1st day of December, 2008.

 14

 15 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 JANE FAUROT, RPR

 16 Official FPSC Hearings Reporter

 (850) 413-6732

 17

 18

 19

 20

 21

 22

 23

 24

 25

 FLORIDA PUBLIC SERVICE COMMISSION