

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: December 5, 2013

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (T. Brown, Fletcher, Maurey)
Office of the General Counsel (Barrera)

Handwritten initials and signatures:
BT, ALM, CRDB, MFJ, JC

RE: Docket No. 120161-WS – Analysis of Utilities, Inc.'s financial accounting and customer service computer system.

AGENDA: 12/17/13 – Regular Agenda – Final Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 24, 2012, Utilities, Inc. (UI), on behalf of its Florida subsidiaries,¹ requested that this Commission establish a generic docket to address the impact of divested systems on the recovery of the cost of UI's financial accounting and customer service computer system. This petition stemmed from an approved Joint Stipulation and Settlement Agreement between the Office of Public Counsel (OPC) and Eagle Ridge in Docket No. 110153-SU.² UI and OPC agreed to a 120-day investigatory period to meet informally with Commission staff in a good faith effort to resolve or narrow the disputed issues. OPC's intervention was acknowledged by Order No. PSC-12-0319-PCO-WS, issued June 22, 2012.

On October 17, 2012, UI and OPC (collectively "Parties") filed a joint motion to extend informal investigatory period through February 28, 2013. By Order No. PSC-12-0604-PCO-WS, issued November 6, 2012, the Commission approved that motion. On February 18, 2013, the Parties filed a second joint motion to extend informal investigatory period through April 30, 2013. By Order No. PSC-13-0097-PCO-WS, issued February 21, 2013, the Commission approved that motion. On April 19, 2013, the Parties filed a third joint motion to extend informal investigatory period through June 30, 2013. By Order No. PSC-13-0202-PCO-WS, issued May 17, 2013, the Commission approved that motion.

On June 27, 2013, the Parties filed a fourth joint motion to extend informal investigatory period through September 30, 2013. At the oral argument held on August 12, 2013, the Parties requested an oral amendment to their motion to allow for additional time through October 31, 2013, at which time the Parties assured the Prehearing Officer that they would be ready to proceed to the formal hearing process and would not request further extensions of time for the investigatory period. Based upon the Parties' amended request and assurances, the fourth joint motion was granted and the informal investigatory period was extended through October 31, 2013. In order to ensure that the Parties would be ready to proceed to hearing on this matter, the Prehearing Officer ordered the Parties' to file a list of issues no later than October 14, 2013. Further, the Parties were advised that an additional extension would be granted only upon a showing of extraordinary circumstances outside the control of the parties.

On October 15, 2013, UI and OPC filed their respective list of issues. However, on November 8, 2013, the Parties filed a Joint Motion Requesting Commission Approval of Stipulation and Settlement Agreement (Settlement Agreement) which resolves 9 of the 10 issues. This motion and the Settlement Agreement are incorporated in this recommendation as Attachment A.

This recommendation addresses the Parties' Settlement Agreement. The Commission has jurisdiction pursuant to Section 367.121, F.S.

¹ 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.

² See Order No. PSC-12-0346-FOF-SU, issued July 5, 2012, in Docket No. 110153-SU, In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.

Discussion of Issues

Issue 1: Should the Joint Motion Requesting Commission Approval of Stipulation and Settlement Agreement be approved?

Recommendation: Yes. The joint motion, as well as the Settlement Agreement, should be approved. (T. Brown)

Staff Analysis: The Settlement Agreement resolves 9 issues between OPC and UI addressing how UI accounts for CIAC, common expenses, ERC allocations, deferred taxes and regulatory assets on its books, in its annual filing of an annual report, in any MFRs filed in a rate case and the timing of Commission-ordered adjustments to its books, records and reports. OPC conducted an extensive investigation regarding these issues involving numerous data requests to which UI responded. Staff is satisfied that the information gathered as a result of the investigation supports the parties' stipulation and settlement agreement. The parties state, and staff agrees, that the Settlement Agreement clarifies the methodology used by the utility and brings consistency to the information UI files with the Commission.

In the Settlement Agreement, the Parties have agreed to stipulate or drop all issues, with the exception of the following: "Should any adjustment be made to the Utility's Project Phoenix Financial Customer Care Billing System (Phoenix Project)?" Staff believes that the Parties' Settlement Agreement is a reasonable resolution because it addresses all but one of the issues. Further, staff believes that it is in the public interest for the Commission to approve the Settlement Agreement because it promotes administrative efficiency and should streamline the hearing process for the remaining issue. In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings whenever possible,³ staff recommends that the Commission approve the Parties' Settlement Agreement.

³ Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.; Order No. PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, In re: Settlement offer for possible overearnings in Marion County by BFF Corp.; and Order No. PSC-00-0374-S-EI, issued February 22, 2000, in Docket No. 990037-EI, In re: Petition of Tampa Electric Company to close Rate Schedules IS-3 and IST-3, and approve new Rate Schedules GSLM-2 and GSLM-3.

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Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open to complete the hearing process.
(Barrera, T. Brown)

Staff Analysis: As discussed in Issue 1, there remains one disputed issue. Thus, the docket should remain open to complete the hearing process.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Analysis of Utilities, Inc.'s Financial / DOCKET NO. 120161-WS
Accounting and Customer Service Computer /
System. /
_____ /

STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement is made and entered into this 8th day of November, 2013, by and between Utilities, Inc. ("UI" or "Utility"), and the Office of Public Counsel ("OPC") on behalf of the Utilities, Inc. customers in Florida.

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") approved a Stipulation and Settlement Agreement between the Utilities, Inc. of Eagle Ridge and OPC by Order No. PSC-12-0345-FOF-SU, issued July 5, 2012 ("Eagle Ridge Settlement Agreement") resolving certain issues raised by UI's December 22, 2011 protest and OPC's January 9, 2012 cross-protest of PSC-11-0587-PAA-SU, issued December 21, 2011, in Docket No. 110153-SU ("PAA Order"); and

WHEREAS, pursuant to the terms of the Eagle Ridge Settlement Agreement, UI petitioned to open a generic docket to address certain remaining issues relating to the UI's Financial Accounting and Customer Service Computer System ("Phoenix Project") and other accounting and ratemaking adjustment issues raised; and

WHEREAS, as provided in the Eagle Ridge Settlement Agreement, the parties met informally and with staff during an initial 120-day investigatory period in which a good faith effort was made to resolve or narrow the disputed generic issues; and

WHEREAS, additional time beyond the initial 120-day investigatory period was allowed by the Commission to enable UI and OPC to continue to meet to resolve or narrow the disputed generic issues; and

WHEREAS, the additional time allowed by the Commission was fruitful, resulting in this Stipulation and Settlement Agreement; and

WHEREAS, UI and OPC have entered into this Stipulation and Settlement Agreement which resolves the majority of the generic issues that were investigated in Docket No. 120161-WS and, upon approval of this Stipulation and Settlement Agreement, request that the remaining disputed issues be decided by the Commission; and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission's long-standing policy and practice of encouraging parties to settle issues in contested proceedings whenever possible, UI and OPC hereby enter into this Stipulation and Settlement Agreement to settle the majority of the generic issues this case in accordance with the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, UI and OPC agree as follows:

1. UI and OPC have entered into this Stipulation and Settlement Agreement which resolves the majority of the generic issues that were being investigated in Docket No. 120161-WS. The resolved issues and stipulations are shown in Exhibit "A" attached hereto and made a part hereof. The resolved generic issues involve accounting and ratemaking adjustments made by the utility. These issues address how the utility accounts for CIAC, common expenses, ERC allocations, deferred taxes and regulatory assets on its books, in its annual filing of an annual report with the Commission, and in any MFRs filed in a rate case. In addition, the generic issues address the timing of when the utility makes adjustments to its books and the documentation to be provided for adjustments made to record Commission-ordered adjustments. These issues are in the public interest in that they clarify the methodology used by the utility and bring consistency to the information filed before the Commission.

2. Following the Commission's decision to approve this Stipulation and Settlement Agreement without modification, UI and OPC request that any remaining disputed issues as shown in Exhibit "B," attached hereto and made a part hereof, be decided by the Commission. UI and OPC understand that Exhibit "B" is illustrative of what the Parties believe are the issues remaining in dispute and that the Commission may modify any remaining disputed issues. UI

and OPC reserve the right to fully litigate any remaining issues in dispute. UI and OPC reserve all rights, unless such rights are expressly waived or released, under the terms of this Stipulation and Settlement Agreement. No waiver or release is given orally or by implication, and the only waivers and releases agreed to by any Party to this Stipulation and Settlement Agreement are those that are expressly stated herein

3. Following the Commission's final decision to resolve any remaining disputed issues in this generic docket, if there is an upward or downward adjustment to the previously approved revenue requirement for Eagle Ridge or any of the other UI systems that have completed rate cases since the Eagle Ridge Settlement Agreement was approved, the Utility shall create a regulatory asset or liability. The interest on the regulatory asset or liability, once created, shall accrue at the commercial paper rate until recovered in rates established in the next rate proceeding for Eagle Ridge or any of the other UI systems that have completed rate cases since the Eagle Ridge Settlement Agreement was approved. In the next rate proceeding, UI and OPC agree that the unrecovered regulatory asset or liability shall be amortized over four years.

4. Regarding all other issues decided by the Eagle Ridge Settlement Agreement, the Utility and OPC agree that those issues, except those subject to the terms of this Stipulation and Settlement Agreement, shall not be affected by the Commission's acceptance and approval of this Stipulation and Settlement Agreement without modification.

5. If this Stipulation and Settlement Agreement is not accepted and approved without modification by the Commission, then this Stipulation and Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

6. UI and OPC expressly agree that all activity relating to this docket should be suspended and abated until the Commission disposes of the Joint Motion Requesting Commission Approval of this Stipulation and Settlement Agreement.

7. This Stipulation and Settlement Agreement will become effective on the date the Commission enters a final order approving this agreement without modification. Upon the Commission issuing a final order approving this Stipulation and Settlement Agreement, the

Parties will meet with Commission staff to discuss how to proceed with resolving any issues remaining in dispute.

8. The Parties have evidenced their acceptance and agreement with the provisions of this Stipulation and Settlement Agreement by their signatures, and personally represent that they have authority to execute this Stipulation and Settlement Agreement on behalf of the respective Parties.

OFFICE OF PUBLIC COUNSEL

By:

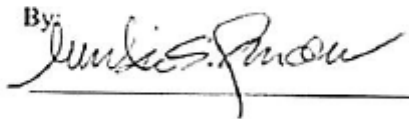


Erik L. Saylor
Associate Public Counsel

On behalf of the Customers of
Utilities, Inc.

UTILITIES, INC.

By:



Martin S. Friedman
Attorney for Utilities, Inc. - Florida Subsidiaries

Utilities, Inc. – Florida Subsidiaries
Docket No. 120161-WS

EXHIBIT A

RESOLVED ISSUES AND STIPULATIONS

ISSUE 1: What documentation should be provided to show that the Utility has adjusted its books for all Commission approved adjustments?

Stipulation: The Utility should continue to provide copies of journal entries used to reflect the Commission order.

ISSUE 2: Does Utilities, Inc. comply with the Commission-ordered provisions, by making adjustments to its general ledger for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts?

Stipulation: Yes. Further, Utilities, Inc. will make correcting adjustments to its general ledger as necessary when errors are found and not defer the correction of errors until the end of a rate case. Utilities Inc. will continue to make correcting adjustments to its general ledger for all adjustments.

ISSUE 3: Does Utilities, Inc. account for cash CIAC by type of charge?

Stipulation: No. Utilities, Inc. agrees that when cash CIAC has been received from main extension fees, plant capacity charges or meter installation charges, those amounts will be recorded in accounts that specifically identify the source of the cash contribution and will not be allocated to plant-designated accounts.

For those systems where cash CIAC has been inadvertently allocated to plant-designated accounts, all cash CIAC shall be moved back to the appropriate cash CIAC accounts. No adjustments shall be made to recalculate the amortization of CIAC; however all amortization balances for cash CIAC shall also be moved from plant-designated accounts to the appropriate cash CIAC amortization accounts. These adjustments shall be made by Utilities, Inc. no later than June 30, 2014.

ISSUE 4: Does Utilities, Inc. reflect common expenses recorded on the general ledger by system and business unit on its annual reports?

Stipulation: No. Beginning with the filing of the 2013 annual reports, Utilities Inc. will prepare the net operating income portion of its annual reports for all of its Florida companies and systems using the general ledger on a company business-unit basis instead of a total-company allocated basis. A company basis means the name of the Florida system (i.e., Cypress Lakes) and a business unit basis means the individual systems under the company (i.e., Cypress Lakes water system, Cypress Lakes wastewater system and Cypress Lakes common costs for both systems).

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ISSUE 5: Should Utilities, Inc. change any methodologies when preparing its minimum filing requirements (“MFRs”)?

Stipulation: Yes. Beginning with rate case applications that are filed after December 31, 2013, when preparing its MFRs, Utilities Inc. will use monthly equivalent residential connections (“ERCs”) to allocate common plant and expenses with the exception of transportation equipment. Transportation common plant and expenses will be allocated for rate case purposes based on the salary of persons assigned to vehicles whose time is charged to a particular system. All common plant and expenses are recorded on the general ledger based on the average monthly ERCs per system.

Utilities, Inc. also agrees that in rate cases filed after December 31, 2013, it will not combine multiple adjustments into one line item adjustment in its MFRs. Separate adjustments will be made to reflect the nature of each adjustment with a full description and explanation for each. Examples of types of adjustments that will be specifically identified are corrections of errors, reallocations, methodology changes or pro forma adjustments.

ISSUE 6: Is the Utilities, Inc. record keeping for deferred taxes appropriate, on what level is it kept, and how does Utilities, Inc. determine the amount of deferred income taxes for each system for annual report and MFR purposes?

Stipulation: Utilities Inc. should record the deferred income taxes on its books and annual reports based on actual plant and allocated common plant for each system. For rate cases, Utilities Inc. should make adjustments to its capital structure as necessary to reflect the proper amount of deferred income taxes on proforma plant additions.

ISSUE 7: Is it appropriate for Utilities, Inc. to create a regulatory asset between rate cases and prior to Commission approval?

Stipulation: Utilities Inc. will seek approval of the PSC prior to creating a regulatory asset that is not prescribed by rule or order.

ISSUE 8: Should this docket be closed?

Stipulation: The docket should be closed upon the resolution of any remaining disputed issue.

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EXHIBIT B

DISPUTED ISSUES

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

DROPPED ISSUES

DROPPED ISSUE 1: If UI Utilities, Inc. does not make adjustments to its general ledger for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts primary accounts, what action should the Commission take?