

# I. Meeting Packet



# State of Florida

## Public Service Commission

### INTERNAL AFFAIRS AGENDA

Tuesday – March 5, 2019

Immediately Following Agenda Conference

Room 105 - Gerald L. Gunter Building

- 
1. Legislative Update
  2. General Counsel's Report
  3. Executive Director's Report
  4. Other Matters

BB/aml

OUTSIDE PERSONS WISHING TO ADDRESS THE COMMISSION ON  
ANY OF THE AGENDAED ITEMS SHOULD CONTACT THE  
OFFICE OF THE EXECUTIVE DIRECTOR AT (850) 413-6463.

## II. Outside Persons Who Wish to Address the Commission at Internal Affairs

Note: The records reflect that no outside persons addressed the Commission at this Internal Affairs meeting.

# III. Supplemental Materials for Internal Affairs

Note: The records reflect that there were no supplemental materials provided to the Commission during this Internal Affairs meeting.

# IV. Transcript

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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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PROCEEDINGS: INTERNAL AFFAIRS

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER GARY F. CLARK  
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, MARCH 5, 2019

TIME: Commenced: 10:40 a.m.  
Concluded: 10:58 a.m.

PLACE: Gerald L. Gunter Building  
Room 105  
2540 Shumard Oak Boulevard  
Tallahassee, Florida

REPORTED BY: DANA W. REEVES  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

PREMIER REPORTING  
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## 1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Okay. Let the record show  
3 it is still Tuesday, March the 5th and this is our  
4 internal affairs meeting. We will call this  
5 meeting to order.

6 First thing on our agenda is legislative  
7 updates. With today being the first day of  
8 session, this is very well timed.

9 MS. PENNINGTON: Good morning, Commissioners.  
10 Adam and I are here. We've -- nothing's happening.  
11 It's not been busy at all. Just kidding.

12 The -- today is the first day of session.  
13 Several bills have been filed in the last week that  
14 we are taking an interest in and those are evident  
15 by the bill tracking reports that we sent to you at  
16 least weekly. We also are sending the schedule to  
17 you at least weekly.

18 There is a Senate Committee meeting 10:30  
19 tomorrow morning, the Innovation Industry and  
20 Technology Committee. It's a new committee. And  
21 there is a bill there that, you know, we are  
22 monitoring because it will have a workload and a  
23 regulatory impact on the agency regarding the storm  
24 protections, requiring utilities to file storm  
25 protection plans and requiring us to review and

1           being prudent or -- that's kind of it in a  
2           nutshell.

3           There are a couple of public record bills that  
4           Keith and I are monitoring. A couple of them come  
5           up tomorrow very early in one of the house  
6           committees. They're not -- they're not  
7           earthshattering or anything, but just to let you  
8           know, we are keeping an eye on public records bill,  
9           administrative hearing bills, 120 bills. So other  
10          than the bill tracking reports, we're here for  
11          questions that you may have of us.

12          CHAIRMAN GRAHAM: You said there was some  
13          recently filed in the last week. Which ones are  
14          they?

15          MS. PENNINGTON: Yes, sir. The storm  
16          protection bills have been filed in the House and  
17          the Senate within the last two weeks. A community  
18          solar program bill has been filed in the Senate. I  
19          think Casey's folks are still working through that  
20          one. If you have any questions about that one, I  
21          would defer that one to Casey.

22          A bill has been filed in the House and the  
23          Senate regarding valuation of water and wastewater  
24          systems. I would defer that one to Mark or Casey.  
25          It has to do with the value purchased versus the

1 actual valuation of the systems.

2 A -- an RPS bill, renewable portfolio standard  
3 bill, has been filed and then -- by Senator  
4 Rodriguez in the Senate. And then in the Senate,  
5 Senator Rodriguez has also filed the bill to  
6 require -- or the Energy Office within DACS to come  
7 up with a plan to get the state 100 percent  
8 renewable energy by 2050.

9 So that's all happened within the last ten  
10 days. So our staff has been very, very busy and  
11 they've been working diligently to analyze and cut  
12 through these bills.

13 MR. POTTS: And then another A bill was filed  
14 this morning, the companion to the ETC bill, 742  
15 was filed in the House this morning by  
16 Representative Tomkow.

17 MS. PENNINGTON: So that's a positive.

18 CHAIRMAN GRAHAM: You mentioned community  
19 solar. I have a question that may not be  
20 legislative, but I guess more towards staff. Is  
21 community solar, is that considered demand side or  
22 supply side?

23 MR. FUTRELL: The way this is structured, it  
24 appears to be --

25 CHAIRMAN GRAHAM: No, no. Not necessarily the

1 bill. I'm just saying in general. Community  
2 solar, is that considered demand side or supply  
3 side?

4 MR. FUTRELL: Generally the programs and the  
5 description is something that commission -- that  
6 customers can purchase subscriptions to or interest  
7 in and it's a supply side, generally, resource,  
8 such that a portion of the loads generated comes  
9 from a renewable source of that customer -- the  
10 amount of their subscription can be credited to  
11 their bill.

12 CHAIRMAN GRAHAM: So why is that not  
13 considered a utility?

14 MR. FUTRELL: Generally the utilities are  
15 providing that service, that option to customers.  
16 So it's an option for -- it's an optional  
17 generation resource that they can purchase.

18 CHAIRMAN GRAHAM: So you don't have, like, a  
19 subdivision will come and decide that they're going  
20 to put their own panels in and, you know, the  
21 people all living in the same cul-de-sac are going  
22 to pull off the same set of panels? That's usually  
23 just set up by the utilities. That's not done  
24 freely?

25 MR. FUTRELL: That is more of -- we have seen

1           these solar cooperatives have been written about  
2           and studied and that's more of where folks band  
3           together to develop to become -- bring purchasing  
4           power to buy panels that are actually demand side  
5           or behind customer's meter.

6           CHAIRMAN GRAHAM:   So a solar co-op would be  
7           demand side?

8           MR. FUTRELL:   Generally I think that's the  
9           model.  It's designed to help bring a purchasing --  
10          a greater purchasing power to a group who wishes to  
11          have solar rooftop on their rooftops, for example.

12          MR. BAEZ:   That behaves like a rooftop.

13          MR. FUTRELL:   Right.  And, therefore, it first  
14          serves the customer's load and then any excess  
15          is -- that meter goes back out to the grid, but  
16          it's really -- the purpose is to offset the  
17          customer's load.

18          CHAIRMAN GRAHAM:   So was that usually net  
19          metered through one specific meter, or through each  
20          individual meters?

21          MR. FUTRELL:   My understanding would be  
22          metered through the customer's individual meter.  
23          The idea, the co-op, as I understand it, is more to  
24          bring purchasing power, to drive down the cost, to  
25          be able to have a group that buys a larger amount

1 of solar panels, if you will, to drive costs down.

2 CHAIRMAN GRAHAM: Come on in.

3 MR. HINTON: I just wanted one clarification  
4 that may be needed. The solar cooperatives, I  
5 don't think what we're seeing is they're banding  
6 together to build this large array that they all  
7 draw from. They're banding together to buy in mass  
8 and then they're each individually installing on  
9 their homes. So it's, you know, we've got a  
10 neighborhood solar power plant. It's just we're --  
11 through purchasing a thousand panels, rather than  
12 the ten that I need, we can get a lower price, but  
13 then we all individually get our own panels. I  
14 think that's what cooperative is doing.

15 COMMISSIONER CLARK: And in that case it would  
16 be demand side because it's on the customer side of  
17 the supply side of utilities.

18 CHAIRMAN GRAHAM: But is that -- each panels  
19 are on individual's properties, it's not on  
20 community property?

21 MR. HINTON: Correct.

22 CHAIRMAN GRAHAM: And so if it's on the  
23 community property, then it would be supply side?

24 MR. FUTRELL: Depending upon the ownership.

25 MR. HINTON: Yeah.

1           MR. FUTRELL:  If it's owned by the utility,  
2           then, yes.  If it's owned by another party then  
3           they -- depending upon the structure, they could  
4           be -- fall under the Commission's jurisdiction as a  
5           utility, but it depends on the ownership structure.

6           CHAIRMAN GRAHAM:  Okay.  Sorry.  Didn't mean  
7           to get off.

8           MS. PENNINGTON:  Not a problem.

9           CHAIRMAN GRAHAM:  I saw that and had a  
10          question about community solar.

11          MS. PENNINGTON:  Now, this particular bill  
12          does -- does provide that investor-owned community  
13          solar projects would continue to be regulated by  
14          the Commission.  So I don't think it would change  
15          anything with the IOU regulations.  Just the true  
16          community part of this bill that we're still taking  
17          a look at, correct?

18          MR. HINTON:  Yeah, it's -- we're working on  
19          bill analysis right now.  The bill's a little  
20          confusing to digest.

21          COMMISSIONER CLARK:  Mr. Chairman, if I may,  
22          I'd like to go back to the point you made.  If you  
23          had a community solar program, basically they are  
24          like an independent power producer, because they  
25          have to have an arrangement with the utility

1           company for the distribution side of that. So  
2           everything is handled through that -- that local  
3           utility company. They don't have the ability to  
4           become a utility because they're not retailing  
5           power, they're wholesaling back to the utility.  
6           That's what that metering aspect comes into it. Is  
7           that a fair statement?

8           MR. HINTON: Were you referring to the solar  
9           cooperatives?

10          COMMISSIONER CLARK: No, community solar.

11          MR. HINTON: Community solar. To my  
12          knowledge, we've only seen that on the utility --  
13          the utility side of things.

14          COMMISSIONER CLARK: Not a locally-owned --

15          MR. HINTON: Right.

16          COMMISSIONER CLARK: If it were locally owned,  
17          such as, for example, land-filled gas, which would  
18          be owned by waste management, then a wholesale  
19          transaction then occurs to the utility and the  
20          utility remains the retailer provider back to the  
21          end customer --

22          MR. HINTON: Correct.

23          COMMISSIONER CLARK: -- clarify that.

24          MR. BAEZ: Right. It's the whole use of  
25          community is not really a descriptor qualitative.

1           COMMISSIONER CLARK: They don't get to become  
2 a utility.

3           MR. HINTON: Right. They're subscribing to  
4 this power plant, not necessarily owning and  
5 deciding how the power's distributed.

6           CHAIRMAN GRAHAM: Okay. Any other questions  
7 on legislative services? Commissioner Brown.

8           COMMISSIONER BROWN: Yes. Thank you. Just if  
9 you could elaborate on Senate Bill 222 regarding  
10 private property rights, Senator Rodriguez's --

11          MS. PENNINGTON: Senator Rodriguez's bill.  
12 He's filed that bill several years.

13          COMMISSIONER BROWN: That one is -- is that  
14 different than a prior bill Senator Brandes had,  
15 one that passed last year? I thought it was ad  
16 valorem exception.

17          MS. PENNINGTON: It is different. This is the  
18 bill that Senator Rodriguez has filed and I'm going  
19 to --

20          COMMISSIONER BROWN: It's referred to  
21 Committee, though.

22          MS. PENNINGTON: Rather than get into it and  
23 then -- and then give it to Casey, I'm just going  
24 to let Casey start that one. I can get so far with  
25 that one.

1           MR. HINTON: Yes. This is basically -- if I'm  
2 a property owner and I have a solar array on my  
3 property, this bill would allow me to sell -- sell  
4 that power to tenants on my property. It would  
5 exempt -- basically what that does is it's an  
6 exemption from the definition of public utility,  
7 not a private-property-right thing.

8           COMMISSIONER BROWN: Right. Okay.

9           CHAIRMAN GRAHAM: So if you own a strip  
10 center, you can sell it to everybody that leases  
11 from you.

12          MR. HINTON: Correct. If the power -- the  
13 power plant has to be on the same property as the  
14 tenants, but, yes, you can put solar on your  
15 rooftop of your strip center and sell that power to  
16 your tenants.

17          CHAIRMAN GRAHAM: Do you have to be the strip  
18 center owner to do that? Let's -- I'll just pick  
19 on Walmart. Can Walmart put solar panels on top of  
20 their building and provide power to everybody else  
21 in that same strip center, even though they don't  
22 own the strip center?

23          MR. HINTON: No. The bill does say that the  
24 property owner can also own a renewable source  
25 device and sell to tenants on their property.

1           COMMISSIONER BROWN: And be exempt from the  
2 public utility definition.

3           MR. HINTON: Correct.

4           CHAIRMAN GRAHAM: Is this the same bill that  
5 was filed in prior years?

6           MR. HINTON: It's very similar to the one that  
7 was filed last year. There's been a couple  
8 different versions through the years, but I think  
9 this is very similar to what was filed last year  
10 and I know -- I think previous to that there was a  
11 more confusing bill that was filed, but --

12          COMMISSIONER BROWN: Is there a limit on how  
13 much power can be sold?

14          MR. HINTON: Two megawatts, I believe, is the  
15 size of the system, 2.5 megawatts. 2.5.

16          COMMISSIONER BROWN: Okay. Thank you.

17          COMMISSIONER POLMANN: So this is based on  
18 real property? The dirt?

19          MR. HINTON: As far as I can tell, yes.

20          COMMISSIONER POLMANN: So it's not the  
21 building. It's real estate as the footprint of the  
22 land? Everything inside that piece of real estate  
23 is the property, right?

24          MR. HINTON: I don't know if it specifies the  
25 lot or the -- it just says property owner. So,

1           yeah, I'm not sure. I don't have the bill right in  
2           front of me.

3           MR. BAEZ: I think what you're getting at is  
4           that it may not be specific enough to capture all  
5           the different kinds of ownership or combinations of  
6           ownership, real estate as --

7           COMMISSIONER POLMANN: It would be nice to  
8           have that clarification if the bill doesn't provide  
9           that, because that --

10          MS. PENNINGTON: The bill simply refers to a  
11          property owner.

12          MR. HINTON: I mean, I don't know how many  
13          different --

14          MR. BAEZ: I see the distinction that you're  
15          making.

16          COMMISSIONER POLMANN: Yeah. Most property  
17          rights could get back to the land. You know,  
18          resource disputes and -- you know, in western law  
19          it's much more clear. You know, you have mining  
20          rights or, you know, water goes with the land, for  
21          example, not in the east, but in the west.

22          COMMISSIONER BROWN: Well, then compare  
23          rights --

24          COMMISSIONER POLMANN: Yeah, so --

25          MR. BAEZ: I don't know how far we are with

1           that, or if that's already out the door.

2           COMMISSIONER POLMANN: I mean, if we had a  
3           comment that we wanted to make on this, it would be  
4           nice if they defined property --

5           MR. BAEZ: Yes, it would.

6           COMMISSIONER POLMANN: -- as going with the  
7           land.

8           MR. HINTON: And -- well, it may be defined  
9           elsewhere in that statute. All this bill is doing  
10          is adding a paragraph to an existing statute that  
11          says -- explains how they're exempt from the  
12          public, the definition of public utility.

13          I don't -- the bill itself is not really  
14          getting into private property rights.

15          COMMISSIONER POLMANN: Understood.

16          COMMISSIONER BROWN: Just a question,  
17          procedural question for you guys. Are you going to  
18          only track the bills that are referred to maybe, or  
19          all relevant A or B bills?

20          MS. PENNINGTON: I track anything that could  
21          impact everything from our regulatory authority to  
22          our employees, to anything Bobby Maddox has to --  
23          has to change. So I kind of track everything  
24          that -- the degree to which we track it is the more  
25          regulatory impact it would have on the agency.

1           It's going to be an A.  If we're going to have to  
2           redo rules, we're going to have to redo the way we  
3           do hearings or, you know, something like that, is  
4           going to affect our 120 processes.  We're going to  
5           track that as -- you'll see that I actually have a  
6           public meeting's bill on the A list.

7           COMMISSIONER BROWN:  What is the cutoff date  
8           for --

9           MS. PENNINGTON:  Filing bills, I think it's  
10          Friday.  Am I right?

11          MR. POTTS:  March 1st is the deadline for  
12          approving the final drafts of bills.

13          MS. PENNINGTON:  So they're still coming out  
14          of --

15          MR. POTTS:  They're still coming out a bill  
16          draft, but they're not -- they're already done.

17          COMMISSIONER BROWN:  In the report that you  
18          provide us, though, all of these bill, though, have  
19          been referred to Committee?

20          MS. PENNINGTON:  They've all been filed.

21          COMMISSIONER BROWN:  Filed.

22          MR. POTTS:  But the -- refers Committee does  
23          not mean that it's going to be heard in Committee  
24          either so there's not -- but, yes, like -- in some  
25          of them, they're still coming out.  So you just

1 don't know. Sometimes they take a long time to get  
2 referred. Sometimes they're referred immediately.  
3 You've kind of got to watch them all.

4 MS. PENNINGTON: And then every bill is  
5 eventually referred to a committee because it has  
6 to be in a committee or somewhere to die.

7 COMMISSIONER BROWN: Thank you.

8 MS. PENNINGTON: And die on the calendar, it  
9 can die in Committee.

10 CHAIRMAN GRAHAM: Any other questions? Guys,  
11 thank you very much and thank you for keeping us up  
12 to date.

13 Okay. General Counsel report.

14 MR. HETRICK: No report, Mr. Chairman. I  
15 would like to once again thank Samantha and Adria  
16 for their recent oral arguments. They were really  
17 well done and they deserve big kudos for how they  
18 performed for the first meeting of the Supreme  
19 Court in nearly a century with three new members.  
20 And we were the first two cases, so that's  
21 something for this Commission to be proud of.

22 CHAIRMAN GRAHAM: That's good.

23 Okay. Executive Director.

24 MR. BAEZ: No formal report. Just reminding  
25 you that the FIEC is still meeting. They met

1           yesterday. That's the committee that's reviewing  
2           the ballot issues that you all heard of. So we're  
3           tracking that, as well. Mark's been asked to  
4           present a couple of times already and I think their  
5           next meeting is the 11th, next Monday. They're  
6           getting ready to finalize their -- their impact,  
7           their physical impact language for the ballot  
8           issues, but if you haven't been keeping with the  
9           press, I think the Attorney General has petitioned  
10          the Supreme Court for a formal ruling on the  
11          constitutional issues. So that's worth keeping  
12          track of.

13                   CHAIRMAN GRAHAM: Any questions of General  
14                   Counsel or Executive Director? Okay. Thank you.

15                   Other matters? Anything? Commissioner Fey.

16                   COMMISSIONER FEY: I think it's somebody's  
17                   birthday, is that right? Happy birthday.

18                   MS. LYNN: Thank you. Thank you.

19                   COMMISSIONER BROWN: Happy birthday.

20                   CHAIRMAN GRAHAM: Happy birthday.

21                   MR. BAEZ: I bet somebody was almost sworn to  
22                   secrecy --

23                   (Laughter.)

24                   COMMISSIONER FEY: I figured.

25                   CHAIRMAN GRAHAM: Well that just means we have

1 to sing happy birthday to her.

2 (Happy birthday.)

3 MS. LYNN: Thank you all.

4 COMMISSIONER FEY: You want to kill me, don't  
5 you?

6 CHAIRMAN GRAHAM: Braulio's over there, I had  
7 nothing to do with it. I promise.

8 MR. BAEZ: Got a lot of explaining to do.

9 COMMISSIONER FEY: Yeah, that was a good idea,  
10 Braulio.

11 (Laughter.)

12 MR. BAEZ: You're off the hook now.

13 CHAIRMAN GRAHAM: All right. If there's  
14 nothing else, then we are adjourned. Thank you  
15 very much. Travel safe.

16 (Internal Affairs concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, DANA W. REEVES, Professional Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 14th day of March, 2019.



\_\_\_\_\_  
DANA W. REEVES  
NOTARY PUBLIC  
COMMISSION #FF968527  
EXPIRES MARCH 22, 2020