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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20180143-EI

PETITION TO INITIATE  
RULEMAKING TO REVISE AND  
AMEND PORTIONS OF RULE  
25-6.0426, F.A.C., RECOVERY  
OF ECONOMIC DEVELOPMENT  
EXPENSES, BY FLORIDA POWER  
& LIGHT COMPANY, GULF POWER  
COMPANY, AND TAMPA ELECTRIC  
COMPANY.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 3

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

DATE: Tuesday, May 14, 2019

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

PREMIER REPORTING  
114 W. 5TH AVENUE  
TALLAHASSEE, FLORIDA  
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1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Okay. Item No. 3.

3 Okay, staff, No. 3.

4 MS. DAVIS: I am Lauren Davis of the  
5 Commission's legal staff.

6 Item No. 3 is staff's recommendation to amend  
7 the Commission's rule addressing the recovery of  
8 economic development expenses by public electric  
9 utilities to further encourage these utilities to  
10 promote continued economic development.

11 Staff is recommending that subsection (3) of  
12 the rule be amended to increase the cap on  
13 recoverable economic development expenses to either  
14 the greater of .15 percent of jurisdictional gross  
15 annual revenues or five million as set forth in  
16 Attachment A of staff's recommendation.

17 After considering all stakeholder input, staff  
18 believes the recommended rule amendments as set  
19 forth in Attachment A will provide public electric  
20 utilities with the opportunity for increased  
21 economic development spending to the benefit of the  
22 state of Florida.

23 Staff is also recommending that the Commission  
24 certify the rule as a minor violation rule.

25 There are some stakeholders who would like to

1 address the Commission on this item. Staff is also  
2 available to answer any questions the Commission  
3 might have.

4 CHAIRMAN GRAHAM: Thank you, staff.  
5 Commissioners.

6 COMMISSIONER CLARK: Mr. Chairman.

7 CHAIRMAN GRAHAM: Yes.

8 COMMISSIONER CLARK: I will -- I will, I  
9 guess, opine here for one second on this.

10 I thank you, to the staff, for the work that  
11 you did in helping to get this rule to a place  
12 where I think that the utilities can do and benefit  
13 the communities they serve in the best way.

14 I had the opportunity to work in the economic  
15 development field for a number of years on the  
16 utility side of this, and understand. And I  
17 think -- I don't think anyone would question that  
18 some of the best economic development work that has  
19 been done in the state of Florida has been led by  
20 the utility companies for the last 25 years. And I  
21 think that giving them the flexibility to do more  
22 in those areas has an absolute ultimate benefit  
23 back to those customers that are being served.

24 The additional load growth that is developed  
25 usually at very, very much higher capacity -- very

1 much higher power factor ratings help to offset the  
2 incremental cost for kilowatt hour for all  
3 consumers, and I think it is a win-win. So thank  
4 up for the recommendation from staff.

5 Thank you, Mr. Chairman.

6 CHAIRMAN GRAHAM: Commissioner Fay.

7 COMMISSIONER FAY: Mr. Chairman, I just had a  
8 question for the utilities, if that's --

9 CHAIRMAN GRAHAM: Sure.

10 COMMISSIONER FAY: -- okay at this time.

11 CHAIRMAN GRAHAM: Sure.

12 COMMISSIONER FAY: Based on the item in front  
13 of us, I know that the Commission receives  
14 information about these economic development  
15 projects, and I have sort of -- it's sort of an  
16 open-ended question that I think anyone can answer,  
17 but can you talk a little bit about -- I know our  
18 Governor was just up in the northeast trying to  
19 recruit companies down to Florida, and that's been  
20 a pattern for the past, you know, almost past  
21 decade.

22 Does some of this economic funding relate to  
23 any of that, or is that also something that you are  
24 working on from an incentive basis?

25 UNIDENTIFIED SPEAKER: Good morning,

1 Commissioner, Crystal Stiles, Director of Economic  
2 Development for Florida Power & Light Company. I  
3 will take a stab at answering that question.

4 Certainly, business attraction is an important  
5 component of the economic development work that we  
6 do. Florida has a complex and, I think, very  
7 competitive economic development system that is  
8 certainly led by our Governor. There are many  
9 participants. And so traveling to areas that might  
10 be higher cost to talk with companies that we  
11 believe can find competitive advantage here in  
12 Florida is a strong part of, I think, all of our  
13 plans and strategy around economic development.

14 COMMISSIONER FAY: Yeah. And can you just  
15 describe some of the other expenses, like what  
16 these things would look like?

17 FEMALE SPEAKER: Sure. At FPL, we focus on  
18 business retention. So making sure that our  
19 current customers are able to succeed and grow,  
20 employing our -- employing folks in the service  
21 territory, as well as looking at competitiveness  
22 and what we call capacity building, which is  
23 working with our local and state economic  
24 development organizations make ensure that they are  
25 ready to compete for these jobs when they are

1           considering their communities.

2           COMMISSIONER FAY: One just follow-up.

3           I know there were some different  
4           recommendations in front of us based on positions  
5           that we are taking, and that's part of the  
6           rule-making process. I know there is a theory of  
7           kind of a step-up analysis that potentially would  
8           adjust that. I recognize that this hasn't been  
9           adjusted in a long time, and that's part of the  
10          discussion here.

11          But do you believe, I guess, with the proposed  
12          staff recommendations in front of us that would  
13          still, at least for a good time period, address the  
14          ability of these utilities to spend at the levels  
15          that they think they would?

16          MS. KING: I can take that one. I am Jim  
17          King, counsel for FPL.

18          First of all, we want to stay thank you to the  
19          staff for their work and consideration, because  
20          there were multiple proposals that they looked at.

21          And to answer your question, this is -- there  
22          is no doubt that staff's recommendation represents  
23          a positive step forward in economic development,  
24          but we still believe that the time is right to  
25          promote further growth, and specifically we believe

1           that the staff recommendation can be enhanced to  
2           approve what I think you are alluding to, the  
3           ramp-up of the percentage of annual gross revenues  
4           in the rule to .25 percent by 2023.

5           And the reason -- there is a couple of reasons  
6           for that. We think that that would keep the rule  
7           viable for a longer period of time and encourage  
8           increased vibrant investment in economic  
9           development, and allow us to expand our efforts  
10          with the -- our efforts throughout the areas that  
11          Crystal alluded to. And this would also allow us  
12          to do this without having to come back here in a  
13          few years to respond to changing needs of the  
14          economy that we just can't foresee right now.

15          And, you know, I would be remiss if I didn't  
16          add to what Commissioner Clark said, that it's  
17          important to recognize that the economic  
18          development has led to new load, new revenues that  
19          benefit all of FPL's customers. It spreads fixed  
20          costs over a greater customer base, puts downward  
21          pressure on rates. And, you know, these new  
22          businesses, together with their load, just in the  
23          past have generated three times what we have been  
24          able to spend on economic development that has been  
25          recoverable. So we think that adding the increase

1 to the percentage would only enhance those  
2 opportunities.

3 That's a long answer to a short question.

4 COMMISSIONER FAY: No. I appreciate it, and I  
5 won't take it personally that you don't want to  
6 come back and see us in the next few years.

7 Mr. Chairman, would it appropriate if I asked  
8 OPC to respond to that?

9 CHAIRMAN GRAHAM: I was getting ready to do  
10 that myself, but go ahead.

11 COMMISSIONER FAY: Thank you.

12 MS. CHRISTENSEN: Thank you. I appreciate  
13 that.

14 Good morning, Commissioners. Patty  
15 Christensen with the Office of Public Counsel.

16 While we can accept staff's recommendation as  
17 written, we would like to offer some comments today  
18 that, when we filed our comments with staff, we had  
19 recommended putting a cap limit on Section B.

20 This limit has been set at essentially 3  
21 million since 1995. And while we recognize that  
22 that limit is -- needs to change, and we can concur  
23 with that, we would recommend the cap be set at  
24 10 million for Section B.

25 We would note that the rule does allow

1 utilities, especially any utility that can  
2 demonstrate that it's using its economic  
3 development money above, let's say a \$10 million  
4 cap, to come in in the next rate case and get that  
5 economic development level set at whatever level  
6 that they can make a demonstration in that rate  
7 case, along with the sharing level.

8 So what our concern is is the automatic  
9 growth, particularly when we asked discovery  
10 questions, and it was demonstrated that not one of  
11 the utilities was spending more than what the  
12 previous cap was.

13 If they had demonstrated through their  
14 discovery -- or their data request responses that  
15 they were, you know, either missing opportunities,  
16 or spending more than what the cap was, then we  
17 would have had a realistic number to look at and to  
18 see what opportunities they were missing, but we  
19 didn't have that information.

20 So we think the 233 percent increase from the  
21 cap from 3 million to 10 million would be a  
22 significant increase at this point. And, you know,  
23 we recognize that all of the utilities will be  
24 coming in within the next two to three years for  
25 rate cases. And over the next two to three years,

1 if they can demonstrate that the 10 million, that  
2 they are using the 10 million, and that there is  
3 economic opportunities that they could be using,  
4 they can present that in testimony in the rate  
5 case, and under the rule the Commission can set  
6 whatever the appropriate level is at that time.

7 But I would caution against just doing this  
8 automatic trigger and ratcheting up. I think the  
9 idea is that we do need to demonstrate that they  
10 are actually using those funds going forward, and  
11 then we can have that discussion at the next rate  
12 case.

13 So that -- that concludes my comments, and I  
14 appreciate being given the opportunity to speak.

15 Again, as we said, we can accept what the  
16 staff has written, but we do have that concern  
17 about the unlimited increasing level over time.

18 Thank you.

19 COMMISSIONER FAY: If I could just add some  
20 response to that.

21 CHAIRMAN GRAHAM: Mr. Fay.

22 COMMISSIONER FAY: I was going to ask for a  
23 follow-up with OPC.

24 CHAIRMAN GRAHAM: Sure.

25 COMMISSIONER FAY: Yeah.

1           Can you -- I think from your comments that you  
2           don't have a specific issue with the proportional  
3           adjustment. So in other words, having this  
4           calculation based on the utility's -- what the  
5           utility is spending related to this. It's not a  
6           tier-up essentially, but the larger the company,  
7           essentially, the more that they will be able to  
8           spend on those services.

9           That makes sense to me. I think what you were  
10          saying was the issue that you are raising is the  
11          cap, and that at some point, if you set a ceiling,  
12          you will have a future discussion about if that  
13          ceiling should be moved. Is that accurate?

14          MS. CHRISTENSEN: I think essentially that is  
15          correct. I mean, essentially, that would limit, at  
16          this stage in the game -- which I think the only  
17          company that would be impacted is FPL, and it would  
18          allow them to move right now from a \$3 million cap  
19          to a \$10 million cap. And then when they come in  
20          in the next rate case, if they can demonstrate that  
21          they are, you know, they are spending the  
22          10 million and, you know, their shareholders are  
23          having to pick up additional costs for economic  
24          development, or that there are opportunities that  
25          they could take advantage of if that was increased,

1 and that their level needs to be set at a different  
2 level in the next rate case, subsection (a) allows  
3 them to present that testimony, and then we can vet  
4 it for that individual company.

5 All of the other companies under a \$10 million  
6 cap would be within that 1.5 percent of their --  
7 their actual gross adjusted revenue, so --  
8 jurisdictional revenue.

9 So it would only really impact FPL. And it  
10 would be -- it would allow for some interim  
11 demonstration that they are going to not only spend  
12 the 10 million, but maybe get a little bit more  
13 skin in the game. Because like I said, what we saw  
14 was they will spend to the cap, but they aren't  
15 putting any more additional skin in the game.

16 And really, what we are looking for is if this  
17 really is a voiding economic development  
18 opportunities, we want to just see some evidence of  
19 that, because then we could understand what type of  
20 value can be placed on -- and what limit is  
21 realistic.

22 COMMISSIONER FAY: Thank you.

23 And, Mr. Chairman, just one more follow-up. I  
24 apologize. I just want to check with staff.

25 What I -- what I view Ms. Christensen saying

1           here for the adjustments, I believe Gulf Power --  
2           Gulf Power would arguably be impacted too, and I  
3           guess the distinction being that some of these say  
4           lesser or greater. And so when we are discussing  
5           the 10 million cap, I think for Gulf Power spending  
6           at their limit now, and we are, you know, we are  
7           hearing testimony today related to those areas, and  
8           what they are trying do to get back up and running.

9                        So a greater than application, which is what  
10           staff recommended, would allow them to make an  
11           adjustment going forward, correct? They would be  
12           able to spend more than what they are currently  
13           limited.

14                      MS. DRAPER: This is Elisabeth Draper with  
15           staff again.

16                      You are absolutely correct commissioner. If  
17           we -- as we have shown in Attachment B of the  
18           recommendation, Column 5 lays out OPC's proposal.  
19           And staff's concern with lesser was that it does  
20           not give the smaller utilities, TECO, Gulf and  
21           FPUC, an increase at all from their current cap.  
22           And we have heard from the workshop and comments  
23           that especially Gulf is very active in economic  
24           development, so we would like for Gulf to see an  
25           increase too in their potential spending.

1 COMMISSIONER FAY: Great.

2 And then, Mr. Chairman, would you indulge me  
3 one more question?

4 CHAIRMAN GRAHAM: Sure.

5 COMMISSIONER FAY: Thank you.

6 My final question would just be probably for  
7 Samantha Cibula.

8 So this item itself, if approved by the  
9 Commission, is essentially kicking off the  
10 rule-making process, and so if no adjustments would  
11 be made, it can be approved for final adoption  
12 under the rules; is that correct?

13 MS. CIBULA: Yeah, we will propose the rule,  
14 so it would appear in the FAR, and then  
15 substantially affected persons would have an  
16 opportunity to request a rule hearing, and JAPC  
17 would review the rule at the same time. And if we  
18 don't get any comments from JAPC, and if no one  
19 requests a hearing, then we can file the rule for  
20 adoption with the Secretary of State without coming  
21 back to the Commission.

22 COMMISSIONER FAY: Okay. Great.

23 Mr. Chairman, I don't know if anybody else has  
24 any other comments, but I would like to get this  
25 moving. And it sounds like, from what I have heard

1 from both sides, you don't love it. You don't hate  
2 it. There is a little bit of give in both ways to  
3 get there, and this just seems to be an adjustment  
4 that's necessary, especially for a company like  
5 Gulf, moving forward based on the numbers that are  
6 in front of us.

7 So with that, I would motion, but I don't know  
8 if anybody has anything --

9 CHAIRMAN GRAHAM: There is a few more. First,  
10 let's hear from Gulf and TECO.

11 MR. GRIFFIN: Thank you, Mr. Chairman. Thank  
12 you, Commissioners.

13 Steve Griffin, counsel for Gulf Power Company.

14 And I appreciate your comments, Commissioner  
15 Fay, because that's exactly right. Under OPC's  
16 proposal, our cap would remain where it is today.  
17 And so that's problematic for us.

18 Much like Mr. King articulated, we are  
19 supportive of the staff recommendation. We would  
20 encourage you to, perhaps, consider the original  
21 element of the utility proposal, which included  
22 gradually increasing that percentage up through  
23 2023. We think that that would be a valuable  
24 enhancement.

25 And you heard from the gentleman speakers here

1           today in a different context, but they talked about  
2           a lot of the economic development that's going on  
3           in northwest Florida, in our service area.

4           Those are the businesses that we are  
5           attracting and supporting through these efforts.  
6           Those are the people that you heard from. And we  
7           want to expand upon that, and this proposal will  
8           enable us to do that.

9           And so we are in a very similar posture to  
10          Florida Power & Light on this, and we appreciate  
11          your consideration and here to answer additional  
12          questions.

13          MR. BEASLEY: Thank you, Commissioners. Jim  
14          Beasley for Tampa Electric Company.

15          I would also like to thank the staff for their  
16          careful consideration of our proposal. We think it  
17          would be beneficial for all Floridians to loosen up  
18          and enable us to engage in greater economic  
19          development.

20          We endorse the comments that Florida Power &  
21          Light and Gulf have presented. We are ready to  
22          move forward if you are prepared to move forward to  
23          rule-making, and we thank you for the opportunity  
24          to participate.

25          CHAIRMAN GRAHAM: Thank you.

1 Commissioner Brown.

2 COMMISSIONER BROWN: Well, first I want to  
3 underscore what Commissioner Clark said, and I  
4 think it's absolutely -- this industry is the  
5 driver, the leader in economic development, and  
6 there is a public benefit that all ratepayers get  
7 from having economic development in their  
8 territory.

9 I think the cap is somewhat limiting. I am  
10 more inclined -- I know there is a motion on the  
11 floor to support the staff recommendation, but I do  
12 think the cap, as proposed, is limiting.

13 This is a dated rule that needs to be updated  
14 given the economy and the circumstances that we are  
15 in. And I was inclined to support the original  
16 proposal by the industry, but I will wait and hear  
17 from the other commissions here.

18 CHAIRMAN GRAHAM: Commissioner Clark.

19 COMMISSIONER CLARK: Thank you, Mr. Chairman.  
20 Two observations.

21 Under OPC, under your proposal, you stuck with  
22 lesser or \$10 million. So that would -- the only  
23 person that would have a positive effect -- the  
24 only utility with a positive effect would be FPL  
25 this in this case, is that correct?

1 MS. CHRISTENSEN: When we originally were  
2 writing comments back to the staff, we did include  
3 the lesser of language, but my intent today was to  
4 just amend the rule as proposed by staff today,  
5 just to include the cap and increase that cap to  
6 10 million over what was in the proposed rule, but  
7 to make it a hard cap.

8 So it would still be the greater of 1.5  
9 percent with a cap of 10 million, was my intent for  
10 my comments today, recognizing that some of the  
11 smaller companies would be curtailed if the lesser  
12 language didn't make it clear that they could go up  
13 to that \$10 million cap. My intent was only to  
14 curtail the huge leap in economic development costs  
15 borne by the customers specifically related to, you  
16 know, that increase from 3 million, which is  
17 where -- what the companies are spending today to  
18 10 million is a 230-percent increase, to kind of  
19 limit that shock on the increase in economic  
20 development over a short period of time.

21 COMMISSIONER CLARK: I just want to make sure  
22 we are on the same page with that difference.

23 The second point -- when this was originally  
24 discussed, I am totally in favor of taking the  
25 number up, the cap, I can live with or without. I

1 had actually suggested changing the 95 percent to a  
2 90 percent amount that was shared as an offset to a  
3 cap. Allow there not to be a cap and come back to  
4 a 90 percent cost share. I don't know how the  
5 utility companies would feel about that, but that's  
6 a proposal that I had thrown out there very early  
7 own, Mr. Chairman.

8 CHAIRMAN GRAHAM: Right now we have the staff  
9 recommendation. It's been moved and seconded, so  
10 let's deal with that.

11 Is there I any further discussion on that  
12 motion?

13 Mr. Fay.

14 COMMISSIONER FAY: Mr. Chairman, just to  
15 clarify. I was prepared to make a motion, but it  
16 wasn't specifically exactly the same as staff's  
17 recommendation.

18 CHAIRMAN GRAHAM: Well, then we will -- I will  
19 pull back my second and you can make your official  
20 motion.

21 COMMISSIONER FAY: Okay. Thank you.

22 I appreciate all the comments, and I think to  
23 be somewhat -- to recognize the comments from other  
24 Commissioners up here, I think what the Office of  
25 Public Counsel stated, and the utilities have

1           stated, is there need to be some protections in the  
2           way these expenses operate, and I think that the  
3           submission of that information, the evaluation that  
4           potentially occur related to a rate case are part  
5           of those protections.

6           I think from everything I understand related  
7           to OPC's comments today, the staff recommendation  
8           specifically says greater of .15 percent or five  
9           million as a cap. I know that some don't like a  
10          cap, but I personally don't hate the idea of  
11          everyone coming back to see us at some point to  
12          discuss this further, and so to be consistent with  
13          OPC's comments, what the utilities have said here  
14          today, and I think in large part, of making sure  
15          that these resources are expanded for the areas  
16          that really need to expand them. But to provide  
17          protections down the road for further discussion, I  
18          think a cap of 10 million would be appropriate to  
19          resolve that.

20          And I also just want to recognize that we are  
21          in a legal posture where this notice of this rule  
22          is being proposed, and the potential reality of a  
23          rule hearing being requested that would impact the  
24          speed of this process going forward, and I think  
25          would potentially initiate a lot of debate and

1 discussion that lawyers -- lawyers love to debate,  
2 right? So it might send us down that path.

3 From everything I understand about this, and  
4 specifically the posture of Gulf Power, I think  
5 this rule needs to get moving, and I think it needs  
6 to -- the changes need to be made. And I think all  
7 parties recognize that after, you know, more than  
8 20 years and not having this adjusted.

9 So my motion would be to accept staff's  
10 recommendation on Issue 1 with a modification of a  
11 cap from five million to 10 million, Mr. Chair.

12 CHAIRMAN GRAHAM: That's a motion. Is there a  
13 second?

14 Okay. It dies from lack of a second.

15 Commissioner Brown.

16 COMMISSIONER BROWN: I would like to explore  
17 Commissioner Clark's idea of the sharing, lowering  
18 the 95 percent to 90 percent.

19 Can we hear some comment from the utilities  
20 and Public Counsel on that issue, starting with  
21 Florida Power & Light?

22 MS. KING: Yes.

23 I would note that, initially, when this rule  
24 was put into place 20 years ago, the sharing was at  
25 90 percent, and this commission moved it to

1           95 percent because it was found that the 90 percent  
2           was hindering the promotion of economic  
3           development. So we are -- we really don't support  
4           moving it to that.

5           And I would point out that, as we said in our  
6           comments, even with the 95 percent cap, or five  
7           percent, however you want to look at it, our  
8           shareholders have contributed an additional  
9           approximate over \$19 million between 2014 and 2018  
10          in support of activities that promote economic  
11          development. And these are below the line efforts  
12          of workforce initiatives, advertising, marketing to  
13          promote the economic development programs that we  
14          have.

15          We are limited right now to the \$3 million  
16          cap, which is why you see that. It's not that we  
17          don't promote beyond that \$3 million.

18          COMMISSIONER BROWN: Oh, no, absolutely.

19          MS. KING: So I don't think moving to the  
20          90 percent is necessary. We are certainly  
21          promoting economic development through the  
22          shareholders and well beyond what that 90 percent  
23          would be.

24          COMMISSIONER BROWN: So can we talk a little  
25          bit about the safeguards that are in place under

1 the utility proposal without a cap and with the  
2 escalated percentages? Can you talk about what  
3 type of safeguards or transparency that is  
4 available to the Commission to track that?

5 MS. KING: Subject to check, I believe we file  
6 our economic development expenses to the Commission  
7 on an annual basis. So they are all justifiable  
8 costs.

9 And I would say, even moving the percentage of  
10 revenues up, you know, we are capped at whatever  
11 that percentage of revenues would be. So anything  
12 above that that we spend is certainly funded by the  
13 shareholders.

14 COMMISSIONER BROWN: Mr. Chairman,  
15 Commissioner Clark has a follow-up. I will defer.

16 CHAIRMAN GRAHAM: Sure.

17 COMMISSIONER CLARK: On that particular issue,  
18 so changing from a 95 percent to a 90 percent, you  
19 have got an additional cost there. Why would you  
20 not just include the expenses that you are already  
21 paying for through the shareholders in your  
22 economic development budget? Is there a reason  
23 that those wouldn't be -- just move those costs  
24 over into the other fund and that makes up your  
25 five percent differential?

1           MR. KING: I mean, we certainly can look at  
2           doing that. I mean, right now we don't obviously  
3           because we have a \$3 million cap. So it's just a  
4           function of what we've had to do.

5           COMMISSIONER CLARK: But if you didn't have a  
6           cap, and you had a -- you had 16 point --

7           CHAIRMAN GRAHAM: Nine.

8           COMMISSIONER CLARK: -- 9 million dollars in  
9           budget, then you basically would be having to put  
10          up -- 1.6 million of that would be coming from the  
11          shareholder side, 15 million -- if you are  
12          spending, you know, even five percent of the \$1.6  
13          million, \$800,000 a year in shareholder expenses,  
14          could you just move those over? Am I way off base  
15          in the way I am thinking about this?

16          MS. KING: I think we could move a lot of  
17          those over. I think part of what we would like to  
18          do, and why we are promoting the percentage  
19          increase in particular, is we would like to do  
20          additional initiatives beyond what we do, and  
21          retain flexibility to respond to situations like,  
22          unfortunately, what faced Gulf. And so just to  
23          touch on, if you just leave it in a rate case, you  
24          lose that flexibility. If you just have a hard  
25          cap, you lose that flexibility to respond to

1 changes in the economy, to natural disasters, to  
2 totally be able to shift what we do with those  
3 dollars from one year to the next.

4 COMMISSIONER CLARK: That doesn't make sense,  
5 but --

6 CHAIRMAN GRAHAM: Staff, walk us through the  
7 process. What happens after this?

8 MS. CIBULA: After this we issue a notice in  
9 the Florida Administrative Register, which gives  
10 substantially affected persons 21 days to request a  
11 rule hearing. If a rule hearing is requested, then  
12 we will schedule a rule hearing, and it will be in  
13 front of the Commission, and they could, you know,  
14 come in and argue for any changes that we should  
15 make to the rule that we propose.

16 And then if the Commission decides to make  
17 changes, then we will issue another notice. And  
18 then after that time period runs, we can file the  
19 rule for adoption.

20 If there is no changes after the rule hearing,  
21 then we will be able to file the rule for adoption  
22 after a certain amount of time as well.

23 So at this juncture, we are just -- you know,  
24 we are going to propose a rule as to what the  
25 Commission wants in the rule, and then

1 substantially affected persons will have an  
2 opportunity to ask for a hearing if they do not  
3 like what we propose.

4 CHAIRMAN GRAHAM: Okay. Commissioner Clark.

5 COMMISSIONER CLARK: Yeah. We heard FPL on  
6 that. I would like to hear from Gulf and TECO on  
7 that if they would.

8 MR. GRIFFIN: Thank you, Commissioner.

9 I think that -- first of all modification, the  
10 sharing provision is not preferable for Gulf Power  
11 Company. We mentioned that in our opposed workshop  
12 comments in this proceeding.

13 I mean, irrespective of what the ultimate  
14 number is, whether it's 3 million or whether it's  
15 10 million, if you change the sharing percentage,  
16 that means -- if you change it from 90 to -- 95/5  
17 to 90/10, that means that shareholders are going to  
18 be at 10 percent of whatever that total expenditure  
19 is, so it's going to be more. And I think it's  
20 naturally going to act as a disincentive for the  
21 company to aggressively promote economic  
22 development.

23 That's what this Commission found in 1995,  
24 when they moved the sharing percentage from 90 to  
25 95. That was the basis upon which the Commission

1           unilaterally made that decision, as I recall. It  
2           was not utility advocated. It was a Commission  
3           finding.

4                    And I think that remains true today. And I  
5           think it's based upon the premise that the  
6           customer, by far, is the primary beneficiary of  
7           these economic development efforts. It's not the  
8           utility shareholders. It's the customers, for the  
9           reasons we've articulated today.

10                   MR. BEASLEY: Commissioner Clark, we would  
11           concur with those comments. It was moved from  
12           90 percent to 95 percent. There was some  
13           discussion at that time, that was in 1998, to make  
14           it 100 percent for the reasons mentioned by  
15           Mr. Griffin. And we believe 95 percent is an  
16           appropriate, well thought out percentage of  
17           sharing, and we would adhere to that.

18                    Thank you.

19                    CHAIRMAN GRAHAM: Well --

20                    MS. CHRISTENSEN: We would obviously  
21           support -- if the companies are going to get a  
22           significant increase in the amount of economic  
23           development money, we would, of course, support  
24           more sharing with the shareholders.

25                    You know, while we recognize that customers do

1 receive a benefit from economic development,  
2 economic development is not supposed to be a  
3 substitute for marketing and advertisement for the  
4 company's business in their own territory. So  
5 there has to be some level of balance in what the  
6 activities are, and that was why we advocated a  
7 cap, because, you know, economic development is not  
8 supposed to substitute for their -- their -- their  
9 utility marketing and growth of their own business.

10 And we do recognize that there is benefit to  
11 customers to have growth in the territory, but when  
12 customers are essentially bearing the full cost, or  
13 the majority of the cost at 95 percent, you know,  
14 those costs should be capped, or held to a ceiling,  
15 where it can be demonstrated that those costs are  
16 really being used for purely economic development  
17 type related activities. And that's why we are in  
18 here suggesting a more measured approach into  
19 allowing these costs to increase.

20 So we would support a 90 percent sharing if  
21 there is going to be a significant increase above  
22 the \$10 million cap. Otherwise, we still  
23 recognize -- we would recommend that the customers  
24 who are going to be paying the majority of the  
25 portion of this, that that be limited until and

1           unless they can demonstrate that they need  
2           additional costs for that.

3           Thank you.

4           CHAIRMAN GRAHAM: Well, I agree with  
5           Commissioner Brown and Commissioner Clark. I think  
6           that putting more skin in the game makes you more  
7           diligent when it comes to spending those funds.  
8           And to make it seem like the only person that gets  
9           a benefit out of this is the ratepayers, I think,  
10          is not correct. I think the utility, if you get a  
11          lot of customers that come in there, the  
12          ratepayers -- I mean, the stockholders are going to  
13          see a positive benefit to that.

14          So it's not just all one-sided. And so there  
15          is justification there. And I guess it allows you,  
16          or it forces the utility to justify to those  
17          stockholders as well spending that money.

18          And so -- I mean, because you are not -- you  
19          are not justifying to the ratepayers day in and day  
20          out, but you will be justifying to them. So I  
21          think you have to be sure about what it is you are  
22          doing, sure about what it is you are chasing after,  
23          and being able to be able to confidently argue that  
24          to your stockholders.

25          Commissioner Polmann.

1           COMMISSIONER POLMANN: Thank you, Mr.  
2           Chairman.

3           We've heard from all the parties here. I am  
4           reasonably clear on what the utilities' positions  
5           are, and I have heard from Ms. Christensen, but I  
6           would like to -- here again, the most important  
7           thing I have heard is that you are not opposed to  
8           the staff recommendation, but I am a little bit  
9           unclear on your position on the cap, so if I may  
10          ask for a clarification.

11          If we look at the staff recommendation, it's a  
12          greater of the .15 percent of revenues and a cap of  
13          \$5 million, and we see in Attachment B, column six,  
14          what that leads to.

15          So if leaving the .15 percent, and then  
16          considering the cap, can you clarify for me the  
17          issue -- forget about the escalation and  
18          percentages, and all that. Just looking at the  
19          staff recommendation, can you maybe restate your  
20          position on that?

21          MS. CHRISTENSEN: Correct. I will read some  
22          language that I would suggest which would tweak it  
23          to the position that we are proposing today, which  
24          is a little bit different than what we filed in  
25          comments, which would be -- Section B would read:

1 95 percent of the total economic development  
2 expenses incurred for the reporting period so long  
3 as the total economic expenses do not exceed .15  
4 percent of jurisdictional gross and/or revenues,  
5 and is capped at \$10 million.

6 COMMISSIONER POLMANN: Okay.

7 MS. CHRISTENSEN: That would be our suggested  
8 language.

9 COMMISSIONER POLMANN: That's what I thought  
10 you meant.

11 So it's .15 percent would with a maximum of  
12 10 million?

13 MS. CHRISTENSEN: Correct.

14 COMMISSIONER POLMANN: So if we look at  
15 Attachment B, just looking at the numbers, you  
16 would limit Florida Power & Light to 10 million.  
17 All the other numbers would, in this case, stay the  
18 same --

19 MS. CHRISTENSEN: That is correct.

20 COMMISSIONER POLMANN: -- in that column?

21 MS. CHRISTENSEN: Correct, as of today --

22 COMMISSIONER POLMANN: Understood.

23 MS. CHRISTENSEN: -- now, that could change at  
24 the next rate case.

25 COMMISSIONER POLMANN: Okay. Thank you for

1           that clarification.

2           CHAIRMAN GRAHAM: Does that conclude your  
3           questions?

4           COMMISSIONER POLMANN: Yes. Thank you, Mr.  
5           Chairman.

6           CHAIRMAN GRAHAM: Staff, is there -- is this  
7           time sensitive? Is this something that needs to be  
8           approved today?

9           MS. CIBULA: No. There is no statutory  
10          deadlines for this?

11          CHAIRMAN GRAHAM: Well, I feel a little  
12          uncomfortable making -- because it seems like we  
13          are going to be making changes to the staff  
14          recommendation. So I would rather defer this until  
15          next hearing to -- for us to sit down to talk to  
16          staff, and we can individually talk to staff on  
17          things that we would like to see, or things that we  
18          are talking about.

19          You have heard the conversation that's been  
20          here today. Maybe if you will present us with some  
21          more options, we can go with that.

22          So -- Commissioner Clark?

23          COMMISSIONER CLARK: Mr. Chairman, may I  
24          suggest we consider just sending it to a rule  
25          hearing?

1           MS. CIBULA: I guess if you propose, then it  
2 would be a rule hearing. But if you just want  
3 another workshop, you could do another workshop  
4 before bringing it back to you to agenda.

5           CHAIRMAN GRAHAM: Commissioner Clark?

6           Well, then I think I am going to defer this,  
7 and we will just defer it until -- we will defer it  
8 until the next hearing, or unless we make some  
9 changes before then.

10           Thank you very much for coming out, and sorry  
11 for the delay.

12           (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, DEBRA KRICK, Court Reporter, do hereby  
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DATED this 22nd day of May, 2019.



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DEBRA R. KRICK  
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