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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20190131-EU

In re: Proposed Adoption of Rule 25-6.030, F.A.C., Storm Protection Plan and Rule 25-6.031, F.A.C., Storm Protection Plan Cost Recovery Clause, and proposed amendment or repeal of Rule 25-6.0143, Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4, Rule 25-6.034, Standard of Construction, Rule 25-6.0341, Location of the Utility's Electric Distribution Facilities, Rule 25-6.0342, Electric Infrastructure Storm Hardening, Rule 25-6.0343, Municipal Electric Utility and Rural Electric Cooperative Reporting Requirements, Rule 25-6.0345, Safety Standards for Construction of New Transmission and Distribution Facilities, Rule 25-6.044 Continuity of Service, Rule 25-6.0455, Annual Distribution Service Reliability Report, Rule 25-6.061, Relocation of Poles, Rule 25-6.064, Contribution-in-Aid-of-Construction for Installation of New or Upgraded Facilities, Rule 25-6.077, Installation of Underground Distribution Systems within New Subdivisions, Rule 25-6.078, Schedule of Charges, Installation of Underground Distribution Systems within New Subdivisions, Rule 25-6.081, Construction Practices, Rule 25-6.115 Facility Charges for Conversion of Existing Overhead Investor-owned Distribution Facilities.

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PROCEEDINGS: STAFF WORKSHOP

DATE: Tuesday, June 25, 2019

TIME: Commenced: 9:30 a.m.
Concluded: 12:33 p.m.

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

REPORTED BY: DANA W. REEVES
Court Reporter

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IN ATTENDANCE :

- SAMANTHA CIBULA
- BART FLETCHER
- ANDREW KING
- ROBERT GRAVES
- SHELBY EICHLER
- KEN RUBIN, FLORIDA POWER & LIGHT
- JIM BEASLEY, TAMPA ELECTRIC COMPANY
- YASODHA RATNASEKERA, TAMPA ELECTRIC COMPANY
- JEFF FOSTER, DUKE ENERGY FLORIDA
- RUSSELL BADDERS, GULF POWER
- SCHEFFEL WRIGHT, RETAIL FEDERATION
- CHARLES REHWINKEL, OFFICE OF PUBLIC COUNSEL

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

2 MR. KING: Welcome, everyone. My name is
3 Andrew King. I'm with the General Counsel's
4 office. It's 9:30 on June the 25th. We are here
5 pursuant to notice issued by the Commission on June
6 the 11th and published in the Florida
7 Administrative Register on June the 7th for a
8 work -- workshop on the storm protection plans.

9 Now, you may be remembering from your
10 schoolhouse rock that we didn't yet have an actual
11 statute for this. The bill was passed by both
12 houses of the legislature and has yet to be sent to
13 the Governor to be signed. However, the hopefully
14 soon-to-be statute has some time limits for us and
15 so we have to propose a rule by October the 31st,
16 and so we needed to get started with the rule
17 development process so that we can meet those
18 timelines. So if you had questions about why we're
19 here doing this without a statute yet, that is why.

20 So just a few housekeeping things and then
21 I'll let my colleagues introduce themselves. We're
22 kind of going to be sharing the burden of going
23 through this workshop today.

24 So, first of all, there are copies of the
25 Senate bill, hard copies, and the Commission

1 notice, which has with it the draft language and
2 all the stuff that we issued with that notice.
3 It's right over on your right, part of the room on
4 one of the tables. You can grab that if you need a
5 copy. There is also a sign-in sheet over there. I
6 would encourage you to sign in if you want to be
7 kept in the loop because we're going to use that
8 sign-in sheet to determine who the interested
9 parties are and add those to the lists. So you'll
10 get emails and further notice and stuff like that
11 as the rule develops.

12 Third, there is a court reporter here today so
13 when you begin to speak, if you would just announce
14 who you are so that the court reporter can take
15 that down. There is going to be -- we're going to
16 have a transcript of this made up later.

17 Fourth, I don't know how long this is going to
18 last. That's kind of up to everyone here, what
19 kind of comments we get, what kind of discussions
20 we get into, but I do want to have some regular
21 breaks. So if this goes really long, we're going
22 to have regular breaks every hour-and-a-half, two
23 hours, something like that, just whenever we kind
24 of feel like it's time to take a break.

25 So, with that being said, I think that's all

1 my housekeeping things. Have I missed anything?

2 If -- we'll start on my left, your right, and
3 if staff up here on the dais, or whatever this is,
4 wants to introduce yourselves and then we'll kind
5 of get right into it.

6 MS. EICHLER: My name is Shelby Eichler. I'm
7 with the Department of Industry Development and
8 Market Analysis.

9 MR. GRAVES: Robert Graves. I'm in the
10 Division of Engineering.

11 MR. FLETCHER: Bart Fletcher with the Division
12 of Accounting and Finance.

13 MS. CIBULA: Samantha Cibula with the
14 Commission's legal staff.

15 MR. KING: Thank you. Okay. Robert, I think
16 you're going to start with the introduction to the
17 Senate bill.

18 MR. GRAVES: Yes, sir. Thank you, Andrew.
19 And let see if that's -- okay. We got the
20 introduction out of the way. The outline on the
21 screen is similar to the agenda in the Commission
22 notice. We'll start with the summary of the Senate
23 Bill 796, which would establish Section 366.96 of
24 the Florida Statutes. And the purpose of the
25 summary is really to highlight certain requirements

1 in the bill, as well as to identify some of the
2 areas that were significant in shaping staff's
3 draft rules.

4 Following the summary, we'll move into what I
5 consider the heart of the workshop, which is a
6 discussion of the draft rules and then we'll
7 discuss potential impacts on existing rules as well
8 as some additional topics, and those additional
9 topics are also contained in the Commission notice.

10 Bear with me if I don't --

11 MR. RUBIN: Before we go too far -- this is
12 Ken Rubin for FPL.

13 MR. GRAVES: Yes, sir.

14 MR. RUBIN: We have some additional or
15 preliminary comments that we would like to make and
16 I just want to raise that to find out when would be
17 a good time to do that.

18 MR. GRAVES: I think perhaps as we're going
19 through the rule, as they fit in, we can address
20 them then as we go through the separate rules.

21 As many of you know, Senate Bill 796 was
22 passed by the legislature earlier this year and it
23 applies to the five investor-owned electric
24 utilities in Florida. The bill contains the
25 legislative finding that it is in the State's

1 interest to strengthen the electric utility
2 infrastructure to withstand extreme weather
3 conditions by promoting overhead hardening,
4 undergrounding and vegetation management.

5 And that leads to the first action item, if
6 you will, in the bill which is the requirement for
7 each utility to file a storm protection plan for
8 Commission review. Each of these plans should
9 explain the utility's approach to reducing outage
10 times, reducing restoration costs and enhancing
11 reliability. The plans also must contain certain
12 information required by rules adopted by the
13 Commission, and that is part of the subject of
14 today.

15 The bill further identifies a list of items
16 that the Commission must consider in its review of
17 a utility's plan. I'll note that these items,
18 which are shown on the slide, served as a starting
19 point for the filing requirements that are
20 contained in staff's draft rules. And also I
21 believe with the exception of the estimated rate
22 impact, these are items that the Commission sees in
23 the utilities' storm hardening plans.

24 The utilities must file these storm protection
25 plans at least once every three years and the

1 Commission must approve, modify or deny the plan
2 within 180 days of the filing. And the authority
3 to modify a utility's plan, that was an important
4 point in staff's creation of the rules, or drafting
5 of the rules, and that will be discussed later
6 today, as well. In addition to requiring utilities
7 to file a storm protection plan, the bill also
8 creates a recovery clause for storm protection
9 costs, and this departs from the current process by
10 which costs of this nature would be recovered
11 through base rates. And costs which are
12 recoverable through the clause include
13 depreciation, as well as a return on investment.
14 And that return is to be based on utility's last
15 approved return on equity.

16 The bill further provides that the allocation
17 of costs recovered is to be based on the utility's
18 last rate design. And these two provisions are
19 usually consistent with the other clauses
20 administered by the Commission. And, as Andrew
21 mentioned earlier, this has not been signed into
22 law yet. However, given the time frame contained
23 in the bill, we felt that it would be best to move
24 forward with rule development at this time.

25 And I do want to kind of -- I think we can

1 move into discussion of the separate rules. I do
2 want to say the goal here is to get commentary from
3 the parties and to sort of identify potential areas
4 of disagreement and to identify the basis for those
5 disagreements, so we can go back to -- so we can
6 take that into consideration as we move forward.

7 And, with that, Joe can you bring up the --
8 and we'll be working from the draft notice, or
9 rather from the Commission's notice, as we go
10 through. So any reference to pages, we'll be
11 referring to pages in the notice.

12 And on Page 6 we have Rule 25-6.030, and
13 that's titled storm protection plan. And I'll kind
14 of go through it fairly quickly and then we can
15 circle back to the individual sections for
16 discussion.

17 The rule consists of three sections. The
18 first one is the purpose and procedures and this
19 largely restates certain portions of the bill. The
20 second session contains two definitions and that
21 was intended to give some amount of scope to what
22 we're expecting in the plans. And then the third
23 section is the contents of the plan and that really
24 kind of lays out the minimum filing requirements
25 for the plans.

1 So at this time we can circle back to one.
2 Again -- or the first section. And, again, that's
3 for the most part a restatement of the bill. I
4 think we can move from left -- my left to right for
5 comments, if that's okay.

6 MR. RUBIN: Thank you. Ken Rubin for FPL. It
7 looks like we're looking at the statute up there.
8 If the reference is to the Rule 25-6.030?

9 MR. KING: Yes, we're talking about 030 right
10 now.

11 MR. RUBIN: So one of the points that we would
12 like to raise for discussion is the level of detail
13 that staff and the Commission believe is going to
14 be required for -- we're talking about a ten-year
15 lookout here and it seems like there's a
16 distinction between what happens for the first
17 three years after the plan is approved and then the
18 ten-year lookout. And so we're interested in the
19 level of detail that staff and the Commission will
20 be looking for, both for the three years and for
21 the ten years. We know from our experience in the
22 current rule, the storm hardening rule that we all
23 follow, that we are very specific in the first year
24 in terms of the projects that we undertake and the
25 programs that we undertake, more general in the

1 second and third year. And so we have just a
2 question about what is really going to be expected
3 under this section of the rule.

4 MR. GRAVES: Mr. Rubin, would that be more
5 appropriate as we go through Section 3 of this --
6 of the rule? I think we're trying to maintain just
7 discussing Section 1 at this time and then we'll
8 move on to 2 and then to 3.

9 MR. RUBIN: Yeah, I guess it would be, but the
10 reason I raise it is because we're talking about
11 the ten-year planning period in Section 1. That's
12 why I thought it was appropriate to raise it at
13 this point.

14 MR. GRAVES: Yes, sir. And it's my
15 understanding that was taken from the bill, that
16 ten-year horizon is from the bill.

17 MR. RUBIN: Okay. So I can hold until we get
18 to --

19 MR. GRAVES: Yes, sir. Thank you.

20 MR. BEASLEY: Robert, we don't really have any
21 comments. I think Section 1 pretty much summarizes
22 the purpose and procedures.

23 MR. FOSTER: Hey, this is Jeff Foster with
24 Duke Energy Florida. Don't really have any
25 comments on the purpose section. Would like to

1 take a second just to say thanks to staff, because
2 I know a lot of work went into drafting these. And
3 you can tell -- I mean, it's complicated and you
4 can tell a lot of thought was put into it. So,
5 thank you.

6 MR. BADDERS: Good morning. Russell Badders
7 on behalf of Gulf Power. Again, thank you for, you
8 know, holding the workshop and again taking time.
9 It's from all of us. I do not have specific
10 comments on Section 1 at this point.

11 MR. WRIGHT: Good morning. I'm Schef Wright.
12 I represent the Florida Retail Federation. I also
13 represent a number of communities in Florida,
14 cities and some counties who have interests in
15 undergrounding in particular. I have a question
16 about how the ten-year three-year timing works. Is
17 it the -- there's not a specific date set forth,
18 nor is there any time frame that says, like, each
19 year or anything like that. Is it the idea that
20 there will be one plan filed this year and that
21 that will be it until the three-year update, or is
22 it the contemplation that the utilities will file
23 storm protection plans every year going forward? I
24 don't see any specification of either of those in
25 the statute or in the rule.

1 And my next question is, what -- would you
2 apply the same criteria at the three-year -- will
3 there be a review and approval of the three-year
4 update of the plan, or is that, in your view, is
5 that going to be informational?

6 MR. GRAVES: It's staff's view that
7 essentially, yes, there would be a review every
8 three years. And it is, at least every three
9 years, that the filing would have to come in. I
10 think that's sort of similar to the way this storm
11 hardening plan works right now. We get a new
12 review every three years. And it will contain a
13 ten-year horizon or a ten-year lookout, if you
14 will.

15 MR. WRIGHT: So, in your view, there would be
16 a new plan every three years?

17 MR. GRAVES: Yes, sir.

18 MR. WRIGHT: How, if at all -- I mean, how
19 would that relate to the update -- or it seems like
20 it would just kind of supplant the update, if
21 they're filing every 3 years.

22 MR. GRAVES: Correct. In theory, they would
23 build on one another from year to year because
24 they -- you know, the three-year period would
25 contain the previous -- would be contained in the

1 previous plans horizon. So there would likely be
2 some voting on that, but that would be something we
3 could look at as they come in.

4 MR. WRIGHT: If the utility wanted to add
5 measures, say, in year two of the -- following the
6 first plan, would they have to come in -- if that
7 were not included in the original plan, would they
8 have to come in and petition for a modification?

9 MR. GRAVES: The utility can come in. The
10 statute is at least every three years. So if they
11 have significant modifications, they could come in
12 in year two, if you will. If it rose to the level
13 of needing to review the plan.

14 MR. WRIGHT: My real question is, if they want
15 to add items for cost recovery in year two, that
16 are not in the original plan, would they have to
17 come ask for that? I think the answer has to be
18 yes, but I'm interested in your opinion.

19 MS. EICHLER: Yeah. That's going to be, yeah.
20 If it's not approved in a plan, it's not going to
21 be -- oh, this is Shelby Eichler. Hey. If it's
22 not approved in a plan via this rule, 030, then it
23 cannot come through the clause rule 031.

24 MR. WRIGHT: Okay. Thank you.

25 MR. HINTON: This is Cayce Hinton with staff.

1 Getting to the evaluation of the updated plans, the
2 statute itself talks about every three years
3 they'll file an updated plan and the Commission
4 will use the same criteria to evaluate the update
5 as they did the initial plan, so --

6 MR. REHWINKEL: This is Charles Rehwinkel,
7 Deputy Public Counsel here with J.R. Kelly, Public
8 Counsel. Our initial comments are more in the way
9 of a question about the process. And I appreciate
10 Mr. King's initial framing of this process here as
11 being prior to the underlying bill becoming an
12 actual statute. We understand that. We've had
13 this notice, I guess, around two weeks. We
14 certainly didn't come here today with the idea that
15 we were going to give kind of concrete positions
16 and observations about the rule. We see this as an
17 extremely preliminary process. I mean, it is
18 before the bill has even has been signed into law.

19 And we have a general question about what's
20 the time frame, and I know you kind of have the
21 last item there is what's next, but we certainly
22 just want to make sure that there's an
23 understanding that this isn't kind of where things
24 are going to get baked in, and you understand from
25 all the parties is where they stand on this issue,

1 because we're trying to understand it. We're
2 trying to understand the formulation of the rule
3 compared to the bill that has not become law yet.
4 The only observation that we kind of have any
5 concreteness around, or position I should say, is
6 that we strongly believe and agree with Chairman
7 Graham that this -- the process that comes out of
8 this that -- for cost recovery for something that
9 is brand new, something that has a potential to
10 impose over a period of years billions of dollars
11 of costs on customers -- or billions of dollars of
12 costs that will be recovered from customers, should
13 not be folded into an existing clause cycle. This
14 one ought to be in the first half of the year until
15 there is some understanding and familiarity with
16 how the process works, so it doesn't get lost in
17 the weeds of the long line of clause dockets that
18 are in the sort of routine of the clause cycle.

19 So our strong position is that this ought to
20 be done in the early part of the year. That's the
21 only concrete observation we have. We may have
22 questions about specific provisions as we go
23 through, but we certainly hope that today is only
24 the first day of several way stations before this
25 rule gets proposed and that there's nothing about

1 this that is rushed, given the magnitude and the
2 importance of the issue. Thank you.

3 MS. CIBULA: I guess I would just point out
4 that I understand your position, but we have to
5 balance the issue of if when the law -- if the law
6 is signed, we're going to be up against the time
7 deadline of proposing a rule by October 31st, which
8 means we'd have to go to agenda by October 3rd, and
9 then you back that out of, you know, writing the
10 recommendation and doing the rule development and,
11 unfortunately, we -- I think we are under a time
12 crunch and we're being rushed because, you know, I
13 think this statute is going to require that we get
14 rushed.

15 MR. REHWINKEL: We fully understand that, but
16 I can say this is that we hope there is more than
17 just today based on two weeks of kind of having
18 this process underway before -- I mean, I hope
19 there's going to be another process as we go
20 forward. And certainly to the extent whatever it
21 turns out into what you've proposed on that
22 October 3rd agenda, if it is based on less than
23 adequate opportunity for the public to be heard,
24 all you're doing is proposing a rule. It doesn't
25 mean that you're going to be able to adopt one or

1 avoid a hearing on the rule. So the more that
2 there is input take and it's serious, the less
3 likelihood you're going to have for a hearing to be
4 requested on a rule.

5 So I understand that there's kind of a yin and
6 yang about this whole thing, is how much you're
7 going to do on the front end versus how much you're
8 going to do in a rule hearing. So it's not a
9 threat that we're going go to ask for a hearing,
10 it's just we would like for there to be more
11 robustness on this side of the process than on the
12 other one.

13 MS. CIBULA: We understand. And also, we're
14 going to allow post-workshop comments. We might
15 not give as much time as people want to have the
16 comments, but we're going to allow that and then
17 we're going to have to evaluate those comments and
18 determine what our next step is going to be, but we
19 understand your position.

20 MR. REHWINKEL: Thanks.

21 MR. GRAVES: Okay. I think that completes the
22 first section of Rule 25-6.030. The second
23 section, again, contains definition -- the first
24 definitions, rather. The first definition was
25 intended to give some level of scope to what types

1 of projects we would expect in the plan. And the
2 second definition, transmission and distribution
3 facilities, that was taken from the uniform system
4 of accounts, to sort of compile that list. And,
5 again, moving from left to right on the comments.

6 MR. RUBIN: Ken Rubin for FPL. There's really
7 two issues within 2A that I would like to raise.
8 One is the use of the term project, and we would
9 like to get feedback to determine whether we are
10 talking about specific projects versus particular
11 programs. For FPL, there could be literally --
12 well, hundreds if not thousands of individual
13 projects each year that would be subject to the
14 rule if, in fact, we're talking about an individual
15 lateral, an individual feeder, if that is what is
16 intended by staff by the use of the term project.

17 And I started to get into this before, but as
18 an example in our current storm hardening plan,
19 when is the three-year looking forward, we
20 identified 467 different projects -- laterals,
21 feeders, that are being either hardened or
22 undergrounded. And so we are interested staff's
23 view of whether we are talking about individual
24 projects like that as opposed to programs.

25 The other part of the -- of that definition

1 2A, that we're looking for guidance on, is the use
2 of the term, existing. It talks about certain
3 activities related to specified portions of
4 existing electric transmission or distribution
5 facilities for the purpose of reducing restoration
6 costs, reducing outage times and improving overall
7 service reliability.

8 And what I'm getting at here is, for example,
9 a hardening project could be installation of a new
10 pole in an existing span. That constitutes a
11 hardening project. Putting in flood control
12 monitors in a substation can be clearly related to
13 restoration activities, reduction of outage times.
14 Technology that we could place on existing lines is
15 a new piece of equipment, but on an existing line.
16 So we're trying to get a sense for that, as well as
17 the construction of new facilities into a, you
18 know -- or extension of facilities that are
19 hardened, perhaps underground, whether those would
20 be under this rule subject to recovery under the
21 clause, because they clearly would be hardened
22 facilities, but they would not be existing
23 facilities that are being improved upon. So that's
24 the kind of levels of questions that we've got on
25 that section.

1 MR. BEASLEY: Thank you. Jim Beasley for
2 Tampa Electric Company. With me at the table is
3 Yasodha Ratnasekera for Tampa Electric Company. I
4 just wanted to say that we share the same concerns
5 that Mr. Rubin mentioned for Florida Power and
6 Light Company regarding the scope of these
7 definitions and what is intended to be included in
8 a project. Obviously there are small micro
9 projects, individual projects within a particular
10 location, as opposed to larger programs, which are
11 planned and executed over a period of time, and we
12 think there needs to be some clear definition and
13 would hope that we're not expected to project out
14 individual small line segment projects over a
15 period of years, as opposed to including those
16 within particular programs that encompass many
17 smaller projects.

18 Also, in the definition of transmission and
19 distribution facilities, we would think that some
20 items that are not mentioned in here, such as
21 substations and related facilities very well would
22 serve the purposes this statute is designed to
23 accommodate, and we would hope that those would be
24 included within the definition of transmission and
25 distribution facilities.

1 MR. BERNIER: Matt Bernier with Duke Energy.
2 I think we join in the concern over the definition
3 of project and having to identify, you know,
4 discreet projects out a lengthy time frame, be it
5 three years or ten years as included in the statute
6 and the rule. And I'd agree with Mr. Beasley
7 regarding the inclusion of additional transmission
8 distribution facilities that could be hardened to
9 meet the purpose of the statute and rule. And we
10 were thinking that possibly even the inclusion of,
11 you know, a disclaimer of, you know, including but
12 not limited to, could be helpful and then, you
13 know, it would be on the Commission to look at, you
14 know, individual plans as they are being proposed.

15 And I think we do see a distinction when it
16 comes to the existing electric transmission and
17 distribution facilities between, you know, a net
18 new build, which may not qualify and new
19 infrastructure being added to an existing line,
20 which should -- or, you know, existing facilities
21 that should qualify for cost recovery, but those
22 are the general, you know, points that we had on
23 there.

24 MS. CIBULA: And I just want to point out,
25 just to have the frame work, because we're in

1 rulemaking, the including but not limited to is not
2 a phrase that we're allowed to use in rulemaking.
3 So there might be ways we can get around that, but
4 just bear that in mind that that might not be a
5 term that we can use.

6 MR. BADDERS: Russell Badders on behalf of
7 Gulf. I have the same comments as the folks before
8 me, we just -- we're looking for some guidance
9 around what's meant by the term existing
10 facilities. And, of course, just to understand
11 here, would we be looking at individual projects?
12 Again, for Gulf it won't be the same number as some
13 of the larger utilities, but it would still be
14 difficult to project some of those out for a
15 ten-year period to that specific detail. So just
16 some guidance on that would be very much
17 appreciated.

18 MR. WRIGHT: This is really interesting.
19 We'll have comments later. I will say -- this is
20 Schef Wright speaking with literally 30 years of
21 experience working on undergrounding stuff. I
22 think underground conversions count as storm
23 hardening, unequivocally, and should be eligible
24 for whatever cost recovery you wind up approving.
25 And that would be the utility portion of the new

1 cost, as separate from the CIAC paid, by, like, my
2 clients. We'll have -- I'll have more comments
3 on -- on all this stuff. I do think that the
4 rule -- following this discussion, the rule does
5 say a description of each -- the proposed rule says
6 a description of each proposed storm restoration,
7 storm protection project, that includes the start
8 date, it includes the cost and benefits of the
9 project. If you're going to have specific
10 identified costs, you're going to have to have
11 specific identified costs. It can't be, well,
12 we're going to sort of do this.

13 I think a description of, let's say, for
14 example, my client, the town of Palm Beach, is
15 in -- closing in on completing the second phase of
16 a complete town undergrounding project. I have two
17 other clients who have completed theirs, so they're
18 off the books, but the Palm Beach project is a
19 known project. It's got designated phases that
20 will continue out over the next six-and-a-half or
21 seven years from today. I think those costs
22 should -- are likely to be included if FPL wants to
23 include them in their storm protection plan, but
24 that's a known project and there will be some
25 changes in the plan. You know, there will be --

1 this will change or that will change, but the costs
2 of -- the estimated costs are known today and they
3 will be known pursuant to revisions in FPL's
4 undergrounding policies as we go forward, so.

5 MR. REHWINKEL: Charles Rehwinkel. We have a
6 potential concern into a -- it's the same area that
7 the utilities have expressed concern, but ours is a
8 little bit different. It focuses on another P
9 word, the purpose word here, and we would be
10 interested in understanding staff's view of the
11 scope of the word purpose. Does it have to be a
12 purpose or the sole purpose? There could be an
13 issue there. If you have a project that has a
14 purpose, which is storm hardening, but that's not
15 the primary purpose that was -- the project was
16 undertaken. Does it matter that there's just a
17 small purpose among many that puts this project or
18 this facility or this addition, or this expenditure
19 in the scope of the rule and the statute? So we
20 want to explore that. We'll probably make some
21 comments about that as we go forward, but that's a
22 concern that we have, is this rule not be -- not be
23 interpreted or designed more broadly than was
24 intended by the law, such that you could capture
25 projects that would otherwise just be regular rate

1 base additions. Thank you.

2 MR. GRAVES: If I could just circle back for
3 some clarification on the comments of the parties.
4 The first was the concern with the use of the word
5 projects versus programs. Is it primary that that
6 level of detail for the projects would not be
7 available for a ten-year horizon, but would
8 significantly more information be available, for
9 instance, for year one?

10 MR. RUBIN: Ken Rubin for FPL. I think that's
11 accurate. I think for year one we feel that it
12 would sort of mirror what this current storm
13 hardening plan requires, but after that it's, you
14 know, looking out further, it becomes much more
15 difficult. And it's subject to change also,
16 depending on the circumstances.

17 MR. GRAVES: So the issue is more of a
18 granularity-type concern?

19 MR. RUBIN: It is.

20 MR. GRAVES: And with respect to existing, I
21 guess I understood the comments to address,
22 existing is not -- I guess we sort of viewed that
23 as precluding at least subdivisions. Is that in
24 agreement with the parties that construction for
25 new subdivisions would not be included?

1 MR. RUBIN: I think that would be dependent
2 upon whether a developer has actually charged the
3 people coming in to purchase those homes for that
4 service, so I think it would vary from --
5 potentially vary from situation to situation.

6 MR. GRAVES: Okay. And the parties' primary
7 concern with the existing was if you were going and
8 adding new poles that didn't exist before, however,
9 to existing services providing service to
10 customers.

11 MR. RUBIN: That was just an example, but I --
12 there -- it seems that there are many different
13 situations where existing facilities can be
14 hardened with new technology, new equipment, as
15 well as the extension of existing facilities. So I
16 think it's -- you know, it's broader than just that
17 pole example, but that was an example I thought
18 would be helpful.

19 MR. GRAVES: Okay. And then to OPC's comment,
20 the --

21 MR. BALLINGER: Robert -- I'm sorry. While
22 we're on the -- Tom Ballinger. While we're on that
23 topic, I've got a couple questions if you don't
24 mind. If you could explain the difference again
25 between a program and a project, and then I'm

1 having a little difficulty on that.

2 MR. RUBIN: The way we see it, a project could
3 be the hardening of a particular lateral, a
4 particular feeder, the way we've read the
5 definition as opposed to a lateral undergrounding
6 program where we have many different laterals. Of
7 course, it gets into the next level of detail of
8 the things we have to show under Subsection 3, if
9 we had to do that for every individual lateral,
10 every individual feeder that was undergrounded, it
11 would require a tremendous amount of detail. So I
12 guess the distinction is, an undergrounding program
13 would include many lines whereas a project would be
14 an individual line.

15 MR. BALLINGER: And I think the little
16 clarification on why we went to projects, it goes
17 go to the bill's language about the Commission
18 being able to modify a plan. And to us that means
19 we have to have pieces to move around. So the more
20 pieces we have, the way we can modify a plan, and
21 that's I think why we're going to projects. On
22 existing, we focused on that because current
23 standards for construction, for new construction,
24 are hardened facilities. So we don't see that as
25 the intent of the legislature to -- we're not

1 saying stop that, that keeps going, but the intent
2 to us was to improve the existing infrastructure
3 and that's why we think we focused on existing. So
4 I think your categorization of a new pole within a
5 span, that would probably qualify. You're
6 affecting an existing facility. I think that's
7 kind of within the realm, but we're focusing on
8 that of improving the existing infrastructure as
9 hardening, giving it special treatment of the
10 clause. And, again, these are linked that way.
11 It's linked to the clause. It's also linked to us
12 being able to modify a plan. So I think that helps
13 a little bit. I'm sorry to interrupt, Robert, but
14 we're on that topic.

15 MR. HINTON: Can I jump in real quick while
16 we're going -- jumping back to the bill -- I called
17 it the statute earlier, but I guess we need to call
18 it the bill still. And it talks about including
19 whether the plan prioritizes areas of low
20 reliability performance, again, contemplating an
21 existing facility. Just below that, estimating
22 costs and benefits to utility and its customers on
23 making improvements proposed in the plan. So we
24 think that the bill contemplates -- the focus is on
25 hardening existing facilities, not endless cost

1 recovery, annual cost recovery for all new
2 transmission distribution facilities. There's, you
3 know, there's got to be a line there.

4 MR. GRAVES: And to OPC's concern regarding
5 purpose, just make sure I understand, is the
6 concern that if a utility were to move forward with
7 the project for some reason other than storm
8 hardening, but storm hardening happened to be a
9 byproduct of that project, would that -- is that
10 sort of where you were going with that?

11 MR. REHWINKEL: Yes. It's -- where do you
12 draw the line? You might have a reliability
13 project that has -- you know, we've all seen sort
14 of the preliminary documents where a utility will
15 go and they'll design a project and they'll
16 describe it and they'll take it up for funding
17 through management and they'll list all the
18 purposes and they'll, you know, say we need to
19 reinforce this portion of their network and they'll
20 list a bunch of reasons. If hardening or storm
21 hardening was one of six reasons, is that enough,
22 and is there some sort of qualitative weighting
23 that would be given? It's just something we raise
24 because we don't really know where you draw the
25 line.

1 MR. GRAVES: Okay. I don't think that's
2 uncommon, not to jump from the plan, but from the
3 clauses a lot of times, for instance, the
4 environmental clause we'll look at, what is sort of
5 the impetus for the project? Is it for compliance
6 or is it for some other reason that triggers those
7 type of issues?

8 MR. REHWINKEL: Yeah, and it just may be
9 something that we need a little bit more meat on
10 the bone on as we go forward, just so there's no
11 misunderstanding down the road.

12 MR. GRAVES: Okay. And for Definition B, the
13 one question was, should there be additional items
14 included in there, including substations? Okay.

15 And I think we can move to Section 3, unless
16 anybody had something additional in definitions?
17 And this one -- this is really what we see as the
18 minimum filing requirements for the utilities for
19 providing, again, going off of what Tom said, with
20 that authority to modify a plan. There is sort of
21 that need to have a greater understanding of if
22 there are modifications, how does that impact
23 things, what does that do to the money and, you
24 know, what sort of causes could happen if there's a
25 modification to the plan.

1 So the first portion of Section 3 is, in large
2 part, again, from the bill. And I do apologize if
3 I call it the statute. I think this one we may
4 could break down into smaller pieces. Is there any
5 issue with the first paragraph in Section 3? A
6 concern?

7 MR. RUBIN: Ken Rubin for FPL. It's kind of
8 hard to separate the first paragraph from all of
9 the subsections of the paragraph. So if it's
10 acceptable, I can go ahead and address at a high
11 level some of the concerns or comments we have
12 about that.

13 MR. GRAVES: We can do that. I think -- I do
14 want to highlight that B6 currently states a
15 comparison of costs identified in E and benefits
16 identified in C. That should read 5 and 3. The E
17 should be replaced with 5 and the C should be
18 replaced with a 3.

19 MR. RUBIN: I can start with that, as long as
20 you mention it. We are looking for clarification
21 around what is really going to be required for
22 this, what I'll call, cost benefit analysis.
23 Whether staff contemplates that this would be
24 similar to the analyses that are currently required
25 in the storm hardening rule, as opposed to a cost

1 effectiveness type of analysis. So that was my
2 primary comment about that portion of it.

3 The other subsections, again, this kind of
4 gets back to what we were talking about in terms of
5 projects and plans. Again, just using the
6 hypothetical of 500 individual projects, the level
7 of detail for each project that's required by the
8 current draft here would be significant, if even
9 possible.

10 For example, in Subsection 3 there, the
11 utility would be asked to provide an estimate of
12 the resulting reduction in outage times and
13 restoration costs due to extreme weather events of
14 individual projects, individual laterals,
15 individual feeders. The No. 4, the same kind of
16 level of detail that we've thought about here, that
17 for each particular project, the utility would have
18 to provide historic service reliability performance
19 during extreme weather events. Again, lateral
20 feeder, whatever the facility is and how that data
21 has been used to prioritize protection projects.

22 So I think it goes back to the same theme that
23 we've talked about earlier, which is the level of
24 detail that would be required by each utility for
25 each project if, in fact, we're talking about that

1 granular level of project being -- a lateral
2 project being a feeder.

3 MR. BALLINGER: If I could, Ken, I think --
4 Tom Ballinger over here. I'm sorry, Robert. I
5 think, again, it goes back to the ability to
6 modify. So that's kind of what we're torn with.
7 We're trying to figure out if we're going to
8 modify, what could we do. I understand what you're
9 saying -- the level of granularity. It may not be
10 there for an individual, you know, a three-mile
11 lateral or a feeder, but we're struggling with,
12 then, what information would we have to modify it.
13 And the big one is on the rate impact, and the bill
14 is clear on that on the estimated bill impact over
15 the next three years. So the Commission's got to
16 have some information to be able to do some
17 juggling, to see some what-if's, if things change,
18 and that's what we're struggling with. So we
19 thought the project would be there and that's the
20 best we can come up with right now.

21 MR. BEASLEY: Jim Beasley for Tampa Electric.
22 I'll just say we share the same concerns about how
23 carefully we have to define what a particular
24 project is, as opposed to a program that may
25 encompass different project segments over time. We

1 think that there could be a very good program that
2 would benefit the system and would ensure
3 reliability and restoration being achieved faster
4 that could be described in general terms with
5 general amounts and with an indication that it
6 would be implemented over a period of time
7 throughout the system with flexibility to do
8 perhaps this area of the network at one time, or
9 shift over to this one if there is some cause for
10 not doing that one now. Those kinds of exigencies
11 need to be taken into account and accommodated, and
12 so we have that same concern.

13 MR. HINTON: Jim, could I ask a question?
14 Shifting over to the clause. If you're -- their
15 approach in the plan is more programmatic with
16 broader estimates of costs, how granular are you
17 going to be in the clause every year when you're
18 actually coming in and requesting recovery of costs
19 incurred?

20 MR. BEASLEY: I think --

21 MR. HINTON: Presumably for projects.

22 MR. BEASLEY: -- be more granular, we can talk
23 about how much, but it would be certainly more
24 granular because you're talking about costs being
25 incurred within the next projection period. And

1 we're accustomed to doing that with the other types
2 of costs that we recover through clauses, and I
3 would suspect we would do the same in this
4 category, but certainly not on a broader scale
5 looking out over a period of three or ten years or
6 somewhere in that range.

7 MR. HINTON: Now, another question about in
8 the plan, you know, it talks about the ten-year
9 planning horizon, but then cost impact over the
10 next three years. Can you be more granular and
11 talk about projects over three years even if you're
12 just talking programmatic over ten years?

13 MR. BEASLEY: You're asking the wrong guy.
14 I'm sure that three years would be certainly more
15 granular than ten years, but I'm not sure how
16 granular compared to over the next projection
17 period of one year.

18 MR. HINTON: Because, you know --

19 MR. BEASLEY: That's something that certainly
20 needs to be addressed.

21 MR. HINTON: Yeah, I can see it's really hard
22 to be granular if, you know, a decade out we're
23 going to do this line right here. But, you know,
24 you'd have -- you'd speak more in terms of, you
25 know, overhead hardening projects, this type of

1 thing, but when we're required to look at certain
2 things and, you know, the rate impacts over a
3 three-year span, then it's hard to be -- not be
4 granular and be able to take that and, you know, do
5 that consideration that's required of us by the
6 bill.

7 MR. BEASLEY: I get it.

8 MR. RUBIN: Could I just add one more point?
9 To that point, the definition here in Section 3
10 talks about the consents of the plan and the plan
11 is the ten-year looking out into the future ten
12 years, so the detail that would be required by
13 sections -- by the subsections, the definition, it
14 seems, at least the way it's currently drafted,
15 would require that kind of detail going out that
16 far.

17 MR. RATNASEKERA: Real quick. Yasodha
18 Ratnasekera from Tampa Electric. Just to answer
19 the question about three years versus one year.
20 One of the things we use to figure out places to
21 put underground or vegetation management, let's say
22 within cycles and such, or strengthen overhead
23 systems, is the previous three to five years worth
24 of data, let's say the areas that have more
25 vegetation management costs or higher -- lower

1 reliability, to figure out what we'll do for the
2 next year. So it's kind of -- there's a feedback
3 mechanism that happens every year for us to figure
4 out the next year. So when you go too far away
5 from one year, it's -- because the feedback's
6 change. Reliability is not -- you know, one area
7 could be the worst one year, but then it becomes
8 closer to the best the next year based on all sorts
9 of things, weather patterns and such, vegetation
10 growth, lots of variables that are very hard to
11 predict, more than just the next year because we
12 look at historical data to figure out the next
13 year.

14 MR. HINTON: And I'm -- my goal is to not
15 speak as -- you know, I want to avoid speaking
16 here, but I'm going to keep going back to the bill
17 and just this conversation versus program and
18 project in this three-year period, you know, the
19 bill -- the Commission's required to take into
20 consideration the estimated annual rate impact
21 results from implementation of the plan during the
22 first three years addressed in the plan, so that's
23 where I'm getting at where there's a certain amount
24 of granularity that we need in order to be able to
25 evaluate that estimated three-year rate impact.

1 Each -- you know, when we're evaluating your
2 ten-year plan, we have got to look at the rate
3 impact for three years.

4 MR. FOSTER: Jeff Foster with Duke Energy
5 Florida again. I think we share a lot of the same
6 concerns, right, how do we define a project or
7 program? What kind of granularity? I'm also --
8 internally we had some thought about it's kind of
9 similar to what's done in conservation. Right.
10 You have programs. For instance, a program might
11 be a targeted undergrounding-type program. Right.
12 And, yes, for the three-year required, or whatever,
13 you know, the shorter the time frame looking out,
14 the more granularity you're going to have, of
15 course. But even with the approval of, for
16 instance, a three-year plan, we want to make
17 sure -- and I think -- we believe it's the
18 legislature's intent -- but I'm not the
19 legislature -- that it's approving a program to
20 improve, you know, your reliability, your storm
21 reliability, your storm strength, resiliency.

22 So, for instance, depending on what's going on
23 on your system, right, what you have out there for
24 year one, you may need to re-prioritize and the
25 right thing to do may be, okay, we're going to

1 shift some work into year one that we -- maybe
2 we're thinking in year three. We want to make sure
3 that flexibility is there.

4 You may need to defer stuff out. So while I
5 think the answer to Mr. Hinton's question is -- we
6 would expect there to be significantly more
7 granularity for the first several years -- probably
8 the first three years, obviously, than year ten,
9 which will probably be pretty high-level, right,
10 but we don't think that the statute calls out,
11 okay, you're approving in year one, this segment,
12 that segment, this segment, that segment, and if
13 any of those shift, you now have to go in and file
14 a new plan. We think you're approving, you know,
15 kind of a program that's expected to give benefits
16 to the system.

17 And with regard to the estimated rate impacts,
18 you know, they are estimated and they will be
19 different. Right. Sales forecast alone can change
20 them, but we would fully expect if, you know, there
21 was an estimated bill impact of a dollar and
22 somebody came in with \$5, there would be maybe some
23 parties here who would be challenging the utilities
24 pretty hard and we'd have to have really good
25 explanations for why that was.

1 So that's kind of how we're thinking about it.
2 We just want to make sure that the flexibility of
3 kind of when you really think about operations and
4 how things unfold, that flexibility is built in so
5 that we can do it as efficiently as possible.

6 MR. HINTON: Does anybody -- I'm sorry. Go
7 ahead. I was just going to say, does anybody have
8 a suggested way of wording the distinction we're
9 trying to draw between program and project in the
10 rule?

11 MR. FOSTER: We'll definitely be working on
12 that for comments.

13 MR. BADDERS: Yeah, I mean, clearly the
14 project versus program is important from a level of
15 detail. Clearly, year one will have far more
16 detail than we will even year two and three. So I
17 would hope that we could find a way to redraft so
18 that we address year one, more specificity, year
19 two and three, a little bit less, and then for the
20 four through ten, a comfort level that we have
21 information that we know will change. But, again,
22 it cannot be at the level of detail as year one,
23 two and three. So that's something we'll try to
24 work on, some language, and we'll provide that.

25 I think kind of like the other clauses, in

1 conservation, we file a plan. If you get to year
2 two or three, things have changed. We address that
3 in testimony in the clause. We don't go back and
4 refile a plan document. So, I mean, I think there
5 needs to be some latitude where we can make, I
6 won't say modifications where we're coming up with
7 new programs necessarily through the clause, but
8 that we can make modifications to existing ones
9 that go along with the data we collect as we go.
10 So that's -- we'll try to file some comments along
11 those lines.

12 MR. FOSTER: And can I add, maybe it's the
13 difference between a change in how a plan that's
14 been approved is implemented versus a new program,
15 if you will.

16 MR. GRAVES: And, Schef, before we go to you,
17 can I circle back with the utilities real quick on
18 just a new things?

19 So it does sound like, and I think you kind of
20 hit on one thing I was thinking of, is essentially
21 we're looking at three tiers of time; the first
22 year, which obviously would have the greatest level
23 of granularity, in that first year project-type
24 information would be available. As you move two
25 and three, that's obviously still important because

1 we're looking at the rate impact, but you may have
2 to go a little more high level. And then obviously
3 year ten, years, I guess, seven through ten, would
4 be very high-level.

5 And going to Mr. Rubin, for the concern with
6 what's listed there, if that was to identify for
7 programs, would that same concern still be there or
8 do you think each of these requests could be
9 checked off if that was changed to storm protection
10 programs?

11 MR. RUBIN: I think to your point, even with
12 programs, I think first year there would be
13 granularity. Second and third year is a little bit
14 less. And, as Mr. Badder said, fourth through
15 tenth is really more of sort of the high-level
16 looking out into the future.

17 MR. GRAVES: Okay. And would there be any
18 benefit that you would see if the rule contained
19 different requirements for different years?

20 MR. RUBIN: I think that would make sense, if
21 we could better define what is expected in year one
22 and then in the second group, years two and three.
23 And then in the third group, which would be years
24 four through ten.

25 MR. GRAVES: As far as the cost and the

1 benefits, at a program level, do you think that
2 would be -- do you think you could project that
3 out? I guess the concern is obviously with a very
4 small project, the costs and benefits, one, would
5 be likewise small compared to the total system, but
6 then would you be able to project out if it was at
7 a program level for -- and obviously costs and
8 benefits are going to be based on certain
9 assumptions that are going to change.

10 MR. RUBIN: Right. I probably would need to
11 talk to our folks, the technical folks about that.
12 Though I'd still have the question about whether
13 the costs and benefits we're talking about are like
14 those in the current storm hardening plan, as
15 opposed to a cost-effectiveness type of test.

16 MR. GRAVES: Right. And we've seen sort of
17 the more broadly discussed costs and benefits in
18 the plan, and then I believe very early on FPL
19 provided sort of a CPVRR over 20 years, assuming
20 hurricanes periodically and things of that nature.
21 And sort of that's the distinction you want to go
22 to, just what would be best for this.

23 MR. RUBIN: Correct.

24 MR. RATNASEKERA: Real quick. I think the
25 cost would be a lot easier for the first year,

1 because we're looking at, hey, we've got to go over
2 to underground. Of course, there's going to be
3 difficulties with existing systems because there's
4 lots of stuff underground so there will be -- that
5 will happen in the true-up. The benefit part, like
6 you said, is going to be based on multiple
7 assumptions, you know, vegetation costs to do that
8 and that goes away, let's say, and that's easy, but
9 let's say for reliability benefits, SAIDI or
10 momentary it's MAIFI, that is based on historical
11 data, and that doesn't mean it's going to give you
12 that exact benefit going forward. So that part is
13 based on the assumptions. I guess what I'm trying
14 to say is cost is a lot easier than the -- proving
15 out the benefit that it did happen after you put
16 it, let's say, underground or if you did more
17 vegetation management, so.

18 MR. GRAVES: And I guess those benefits would
19 be sort of the cost-type benefits and then,
20 likewise, the reliability benefits that maybe don't
21 necessarily have a cost associated with them, but
22 more of a quality-of-service type of benefits.

23 MR. RATNASEKERA: Right. You know, vegetation
24 benefits for putting something underground is
25 fairly obvious because you won't have to go there

1 and manage vegetation anymore, but the equipment
2 failures or animals and that kind of stuff is
3 still -- can impact underground systems. So that's
4 the tougher part to figure out, but it's based on
5 assumptions and we can list our assumptions and
6 say, here's what we estimate the benefits to SAIDI
7 or MAIFI would be, by doing --

8 MR. BALLINGER: If can jump in, Robert.
9 Again, we're going with what the bill is asking us
10 to do and the one part is the rate impact over the
11 first three years. So I think the granularity
12 needs to be there for those three years as much as
13 possible. I understand as you go in time it gets a
14 little less and less, but I don't think year one is
15 the only one we have. Years two and three is going
16 to have some specificity in it.

17 The other part of -- the benefits, that's what
18 the bill's asking us to do. I think we look at
19 both. I think we're going to look at the
20 assumptions of animals, reliability, things of that
21 nature, but perhaps the storm hardening of the --
22 assuming hurricanes so many years, is it cost
23 effective. I think that may be on the table, as
24 well. I think the statute's not real clear on
25 that. It does say, you know, the Commission has to

1 decide, is it in the public interest to do these
2 hardening things. That's a broader spectrum. So
3 we may have some things there, but I don't want to
4 us to lose sight that I think we need this level of
5 detail, at least for the first three years, if
6 we're going to be able to do anything to evaluate
7 the rate impact effectively and to be able to
8 modify, as we've been presumably given the
9 authority, if this goes through. Again, that's
10 what we're reacting to.

11 MR. FOSTER: Can I just ask --

12 MR. BALLINGER: Sure.

13 MR. FOSTER: When you say the granularity for
14 three years, I think I understand that to be, we
15 would have kind of plans that underlie our numbers
16 that have assumed projects and whatnot, which I
17 think -- I think that's very reasonable, but you're
18 not -- I don't -- I hope you're not saying that --
19 and once we approve that plan, those projects are
20 locked in in that time frame and anything that
21 moves is a change in the -- I just want to make
22 sure of that.

23 MR. BALLINGER: I don't view it that way. I
24 view it as shifting projects around can be
25 explained in the clause, as long as they are

1 identified in the plan, I think, would qualify in
2 my mind as going through cost recovery. If it's
3 shifted a year, moved in, moved out, I think that
4 could be addressed in the clause that way.

5 MR. HINTON: Yeah, and, you know, there's
6 flexibility to move things within the plan. In the
7 clause, we do talk about if there's a project that
8 you come in with, that's not part of your approved
9 plan. Like, your approved plan is Projects 1
10 through 11, or Programs 1 through 11, but then in
11 year two you decide, well, we need this new program
12 that we didn't contemplate in our plan. That would
13 need to be -- come in for approval before it can go
14 through the clause, but as far as shifting programs
15 1 through 10 that have been approved --

16 MR. FOSTER: So -- and just a listening check.
17 If you had, like, a targeted underground program,
18 right, that was going through here, and you had
19 filed it based on the 12-12 projects, right.
20 Things happen, right. You realize, oh, there's
21 something in that right-of-way, we can't do that
22 line, but there's another one that meets the same
23 type of requirements. I would see -- or we were
24 thinking of it as under-the-tug program, that is
25 something in that three-year window you could have

1 in there. It's not a, go back through the whole
2 process. It's an adjustment to the projects you're
3 doing within the program. Is that accurate, or is
4 that --

5 MR. BREMAN: Staff would work the plan that's
6 approved for clause purposes. So you describe your
7 plan and if the Commission approves it, then staff
8 will observe the scope of the plan when it does its
9 analysis of what you're asking cost recovery of.
10 So we're going to work the plan.

11 MR. HINTON: And that doesn't necessarily
12 answer your question, but I don't know how to
13 answer your question because that's, you know, kind
14 of thinking about it for the first time.

15 MR. FOSTER: But you understand what I'm
16 getting at from a -- from the reality of being out
17 there implementing -- I'm sorry, Jim. I'm talking
18 in your ear here, but the reality being out there
19 implementing it, I think, you know, from Duke's
20 perspective, we want to have the ability to do what
21 makes the most sense and is the most cost-effective
22 for our customers without, you know, having to
23 resubmit a plan every three months because maybe
24 things on the ground have changed for a given. So
25 just food for thought.

1 MR. BALLINGER: And I think, you know, if
2 you've got a program called targeted undergrounding
3 and you've got flexibility to do -- to, you know,
4 act in a prudent fashion to be cost-effective in
5 effect, in what you're doing, you have the
6 flexibility to move things around within the
7 targeted undergrounding. What we're getting at is
8 if all of a sudden you have in year two you've
9 discovered this new piece of technology that you
10 want to now install on all your poles, that needs
11 to go through an approval process if you want it to
12 be recoverable through the clause, but the targeted
13 undergrounding program that you're working on,
14 that's part of an approved plan, you've got
15 flexibility come in through the clause and say,
16 well, this year we did these activities, we're
17 projecting next year we're going to do those
18 activities.

19 MR. FOSTER: I think that's very consistent
20 with, like, conservation or environmental where
21 you're not necessarily proving that we're going to
22 go to Joe's house and do, you know, conservation
23 measures. You're approving a, yes, you should have
24 conservation measures offered to your residential
25 customers and, you know, yeah, some targets are

1 set, but I think it's very similar. So thank you
2 for your answer.

3 MR. BEASLEY: That's a valuable clarification.
4 Thank you.

5 MR. HINTON: And I'm assuming that my
6 colleagues agree with my clarification, because I
7 was shooting from the hip there.

8 MR. WRIGHT: Just a couple of things. With
9 respect to relative near-term granularity, as a
10 general proposition, this should be highly possible
11 and feasible for the utilities to accommodate.
12 These are largely construction projects. They
13 don't get done in a week. They don't get designed
14 and approved in a week. It takes months and months
15 to get a binding cost estimate for an
16 undergrounding project. It takes a good long while
17 to do the engineering for even the hardening
18 project of X spans or Y miles, whatever it is, and
19 then it takes time to construct it. Utilities
20 should be able to provide highly-granular data.
21 It's not like, you know, I don't intend to hold
22 onto, you didn't do this pole or you did the other
23 pole or whatever. That's not what I'm talking
24 about. They should know, really well, from a
25 bottom-up approach what the undergrounding projects

1 are going to be over the next couple of years,
2 based on signed underground facilities' conversion
3 agreement. They should know based on their
4 engineering plans what they're going to be
5 converting.

6 These projects -- they're construction
7 projects and they're known. It takes a while to
8 get there, and this is not fuel clause. You know,
9 this is not where the price of gas changes 20 cents
10 in a week. This is a planned project based on good
11 engineering, really good engineering costs analyses
12 as you go forward.

13 The other thing I just want to mention in
14 passing here is in last year's storm workshop -- I
15 think it was last year. It might have been the
16 year before. I think it was last year. The
17 utilities had some really good forensic data
18 regarding the overall system benefits, particularly
19 FPL and Duke both had good information; the system
20 benefits of undergrounding underground facilities
21 versus overhead for primary feeders and for
22 laterals performance during Irma. I say it was in
23 '18 because it was the '17 storm data. That, I
24 think, is the kind of information we'd like to see
25 in benefits and I will look forward to the debate

1 about how benefits are going to be valued in
2 this -- in this process, because we are charged to
3 consider benefits to customers. We are charged to
4 consider cost and benefits and there are, as I've
5 been saying for a really long time, there are real
6 economic benefits to the utility in terms of cost
7 savings. There are real, real, real important
8 economic benefits to customers in terms of avoiding
9 outages. Thanks.

10 MR. REHWINKEL: We didn't have a lot to say
11 until the dialogue started, but I do have a few
12 comments. We generally like what we've been
13 hearing from the staff about the granularity that
14 they're looking for, because we think what the
15 staff is doing is a proper guardian role of -- or
16 gatekeeper role in this statute that we're all
17 looking at for the first time. Maybe I don't
18 understand exactly what the significance of the
19 plan is, but it seems that based on Subsection 7 of
20 the rule -- of the statute or the bill, that an
21 approved plan carries a lot of weight and a
22 presumption of correctness and prudence in the
23 activities.

24 So granularity in the clause phase may be sort
25 of deck chairs on the boat, on the deck of the boat

1 here. The focus should be on the plan and rigor
2 given to the plan. And the comments Mr. Wright
3 made about the way the plans and the construction
4 activities are designed should give a lot of basis
5 for there to be the granularity the staff is
6 looking for, especially in those first three years.
7 We would caution that analogy to the ECRC clause
8 may not be exactly the way to go because the ECRC
9 clause does not have some of the same language in
10 its statute -- statutory foundation as this one
11 does. Some of this language is more analogous to
12 the NCRC statute, especially that Subsection 7
13 language.

14 So we urge the staff to stick to your guns on
15 requiring granularity and protecting the
16 Commission's authority to make modifications that
17 you believe are appropriate. So getting the detail
18 that you need on a project basis may be very much
19 necessary in order to retain that authority and
20 that discretion.

21 So I guess -- and I understand there was a --
22 we're at a preliminary stage with some dialogue
23 between the utility representatives and some of the
24 staff, and I know the term clarification was given,
25 but I know you're trying to understand sort of the

1 dynamics of this in order to formulate a rule
2 proposal. So we would hope that you listen to all
3 the comments before you make any modifications or
4 receive from what the staff has expressed as a
5 desire to get granularity.

6 So those are kind of our initial thoughts
7 about it. Oh, and, Robert, could you just give the
8 changes? I guess there were some corrections that
9 you read out on Page 7, Line 14.

10 MR. GRAVES: Yes, sir. Correct. It's on Line
11 14. The -- I guess the parenthetical E should be
12 changed to a 5, the E should be a 5, and the C
13 should be a 3, and it just references to the prior
14 items in the list.

15 MR. REHWINKEL: Thanks.

16 MR. GRAVES: And was there any more on that?
17 I think we made it through at least Part Sub B,
18 Part 7. Are we on Sub C now or did that capture
19 everybody's concerns?

20 MR. RUBIN: FPL didn't have any comments on
21 Subsection 7.

22 MR. BEASLEY: Thank you. We don't have
23 comments on 7.

24 MR. FOSTER: This is Jeff Foster with Duke
25 again. We don't really have any comments on

1 Section 7 either.

2 MR. BADDERS: Gulf has no comments on Section
3 7.

4 MR. GRAVES: Okay. Let's do this. I think
5 we're at a good spot where we can take a little
6 break. So let's take about eight minutes and be
7 back here at -- I guess that's ten until 11:00.

8 (Brief recess.)

9 MR. GRAVES: Okay. If we're all set, I do
10 want to clarify real quickly where we are at.
11 We're at Section 3, I guess, Paragraph C, which is
12 on Line 16, of the 25-6.030 and that's Page 7 of
13 the Commission notice.

14 And this, I think, goes directly to the bill.
15 A lot of this language is from the bill,
16 particularly Sections 4A and 4B of the bill. And,
17 again, we'll stick with the process of going left
18 to right with the utility and the other parties.

19 MR. RUBIN: We don't have any comments on C.

20 MR. BEASLEY: Nor do we.

21 MR. FOSTER: Duke doesn't either.

22 MR. BADDERS: No comments on C.

23 MR. WRIGHT: I gave a hand signal, no comments
24 on C.

25 MR. REHWINKEL: We have a general question, I

1 guess, to staff about C, and it sort of relates to
2 subsection -- or sub-subsection 4 on Line 10 above.
3 It seems to us the statutory purpose, and the
4 purpose or the intent of the staff's rule draft
5 here is that the prioritization be based on purely
6 economic or engineering purposes and not based on
7 any commercial purposes, such as franchise renewals
8 or any other negotiations that might relate to
9 business decisions associated with local
10 governments. And I don't know if the staff had
11 given any thought to that, or at least
12 understanding, you know, what the schedule of
13 franchise renewals was and understanding whether
14 there was any interaction between that and the
15 prioritization of undergrounding.

16 I'm not suggesting that this is the purpose or
17 intent of any utility, but from the standpoint of
18 something that is as serious as this that's based
19 on public safety, there ought not to be any
20 considerations other than what's in the best
21 interest of the grid and hardening efforts, and I
22 think that will be the intention of both the
23 utilities and the Commission, but we just commend
24 it to -- for your consideration as far as whether
25 that could play a role in how prioritization should

1 occur.

2 MR. GRAVES: Okay. And I guess that's sort of
3 akin to your comment on the definitions for
4 purpose, to ensure that the purpose is primary to
5 storm protection and not any other --

6 MR. REHWINKEL: That would be related to it,
7 yes.

8 MR. GRAVES: Okay. And I think we can move to
9 Line 22, Paragraph D.

10 MR. RUBIN: From -- I'm sorry. Go ahead,
11 Robert.

12 MR. GRAVES: What I was going to say was the
13 subsections that follow Paragraph D, as well.

14 MR. RUBIN: Not to beat the dead horse, but
15 it's the same kind of issue about the ten-year
16 lookout. And actually for vegetation management,
17 probably even more variability than the planning of
18 certain construction projects for hardening, so I
19 won't belabor that point.

20 MR. BEASLEY: Jim Beasley for Tampa Electric.
21 We have the same continuing concern. Thank you.

22 MR. FOSTER: Duke Energy Florida, Jeff Foster.
23 The same comments.

24 MR. BADDERS: And the same would be true for
25 Gulf.

1 MR. WRIGHT: I don't have anything to add.

2 Thanks.

3 MR. REHWINKEL: Nothing other than our general
4 comments. We urge staff to stick to your guns on
5 the granularity that you think you need to make
6 your decisions.

7 MR. GRAVES: And moving to Line 4, on Page 8,
8 Paragraph E. And that refers back to Section 4D of
9 the proposed bill -- or of the bill.

10 MR. RUBIN: No comments for FPL.

11 MR. BEASLEY: Robert, you're talking about
12 Subsection E -- Subsection E?

13 MR. GRAVES: Yes, sir.

14 MR. BEASLEY: If it goes out ten years, we
15 would hope that could involve some averaging for
16 the years regarding the estimated jurisdictional
17 revenue requirements for the same reasons we
18 discussed earlier regarding granularity.

19 MR. BERNIER: Matt Bernier for Duke Energy. I
20 just noticed that in the bill, Subsection 4D talks
21 about rate impact resulting from implementing the
22 plan for the first three years and the rule was
23 drafted, it says, for each year of the plan, which
24 is ten. So I was looking for a little -- we
25 probably want to add some language there to make it

1 more closely track the bill.

2 MR. GRAVES: Okay. And that's in line with
3 what Mr. Beasley was kind of saying.

4 MR. BADDERS: Gulf doesn't have anything to
5 add on this one.

6 MR. WRIGHT: Nor do I.

7 MR. GRAVES: Okay. And moving to Line 7,
8 Paragraph F, the last section.

9 MR. RUBIN: For FPL, my question on that is
10 whether that is different than Subsection 3A2,
11 which required -- which would require description
12 of any alternative storm protection projects that
13 were considered, including the reasons for not
14 selecting the alternative. It seems like there may
15 be some overlap there.

16 MR. GRAVES: I believe F, again, going to the
17 granularity, is more of a global look. It's sort
18 of looking at a total rate impact as opposed to
19 alternatives to a specific project. So be looking
20 at the plan total.

21 MR. RUBIN: I see. Okay.

22 MR. BEASLEY: Don't really have any specific
23 comments on that.

24 MR. FOSTER: Well, I am interested in F and
25 what the intent of that is. So I don't know if you

1 had any more or anyone else on staff had --

2 MR. GRAVES: I think going back, again, to the
3 authority to modify, understanding that the basis
4 of rate impact may be a purpose for modifying, we'd
5 want to know what alternatives the utility had
6 looked at to mitigate potential rate impacts.

7 MR. FOSTER: Okay. And then I don't have any
8 comments. I'm -- we're still a little unclear as
9 to the need for that, but I would say we probably
10 should add something about the need to approve it
11 within 180 days of the filing, just to mirror the
12 statute. That could be G or whatever. Did I miss
13 it somewhere? I see Mr. Hinton looking.

14 MR. HINTON: I'm not sure the 180 days made it
15 into the final version of this. I could be wrong.
16 There are several versions.

17 MR. FOSTER: Oh, yeah. It's no later than 180
18 days. Other than that, we have no comments.

19 MR. BADDERS: Gulf has no comments on this
20 section.

21 MR. REHWINKEL: No, we think this is a good
22 section.

23 MR. GRAVES: And I guess going back to Mr.
24 Foster's comment, as one perhaps example would be
25 if there is a roll-out plan for looking at a

1 seven-year period for a specific program, if you
2 will. What would be the impact of changing that to
3 an eight-year sort of roll-out process or a nine
4 year, just of kind of as an example, of what may be
5 looked at to mitigate rate impact.

6 MR. FOSTER: Okay. Thank you for that. I
7 just -- I'm wondering if the value -- I think
8 that's a great question if somebody has it in
9 discovery, but I think we should be presenting a
10 plan. I mean, that's my initial take, but I know
11 we've got a couple months here to figure this out,
12 so --

13 MR. GRAVES: Okay. And that brings us to the
14 end of Rule 25-6.030, the storm protection plan.

15 MR. HINTON: Oh, Robert, hold on one second.
16 Sorry. Over here. The 180 days, I remember in our
17 discussions during drafting that we discussed that,
18 and since the statute specifically requires the
19 Commission do something within 180 days, we didn't
20 feel like the rule needed to specify that the
21 Commission would do something with 180 days.

22 MR. GRAVES: Okay. And, with that, I
23 appreciate it. I do want to note that all my
24 comments were, you know, just for clarity's sake
25 and nothing was meant to be sort of any agreement

1 or disagreement at the time, so I appreciate it.

2 MR. KING: Okay. Thank you, everyone. We've
3 made it through the first rule, so we're going to
4 go on to the second one now. But, before we go on,
5 I just want to ask if there are any comments anyone
6 wants to make that you haven't made already,
7 anything you need to address on this rule before we
8 move forward.

9 (No comments made.)

10 MR. KING: Okay. I'm not seeing any so we're
11 going to move on. Shelby is going to take it for
12 this rule. She's going to walk us through the --
13 we've been calling it the clause rule, but 031.

14 MS. EICHLER: This is on Page 9 of the notice,
15 is where it starts 25-6.031. Storm Protection Plan
16 Cost Recovery Clause. I'm going to do similar to
17 Robert where I'll give you a full overview of our
18 rule that we've drafted and then go back through
19 and get your comments. Just know that I may call
20 this proposed bill -- or bill a statute, just so
21 we're on the same page of what I'm referencing when
22 I say that.

23 Starting with Section 1. Subsection 1 lays
24 out the purpose of this proposed rule. It's fairly
25 self-explanatory and it shows the Commission is

1 complying with and implementing the statute.

2 Subsection 2 of the proposed rule mirrors
3 language in Section 7 of the statute and ensures
4 the right of the utility to petition for cost
5 recovery after storm protection plan has been
6 approved by the earlier rule we discussed today.

7 Subsection 3 ensures an annual proceeding will
8 be held for the cost recovery process to be
9 facilitated. Through that annual proceeding,
10 reasonableness and prudence will be determined and
11 a cost recovery factor will be established.

12 Subsection 4 just verifies that the typical
13 clause methodology regarding deferred accounting
14 treatment for true-up purposes will also be used in
15 this clause.

16 Subsection 5 is included for tracking and
17 auditing purposes and was modified from existing
18 language found in Commission Rule 25-17.015,
19 Subsection 2, or the Energy Conservation Cost
20 Recovery.

21 Subsection 6A ensures that Section 8 of the
22 statute is addressed and makes sure that costs
23 associated with the storm protection plans are
24 recovered only through this clause and not
25 additionally in base rates. 6B ties to Section 9

1 of the statute and provides guidance regarding the
2 recoverable depreciation and return on investment.

3 When drafting Subsection 7A through E, we
4 pulled a lot of the language from the Nuclear Cost
5 Recovery Clause. The filings we're requesting from
6 the utility and this portion of the proposed rule
7 are very similar to what we request in all the
8 clauses we currently run. Additionally, for
9 Subsection 7E, we pulled some language from the
10 ECCR Section 1D.

11 We drafted Subsection 8 to help clarify what
12 process to follow in relation to this clause in the
13 event of a storm protection plan modification,
14 somewhere within the three-year cycle. So if a
15 utility wants to modify a storm protection Plan, it
16 cannot do that through this clause, it must go back
17 to the storm protection plan rule, get an approval,
18 and then come back through this clause.

19 To wrap up, in Section 9A through C, we have
20 listed information we will need each year in a
21 status report from each utility in order for the
22 Commission to comply with Section 10 of the
23 statute.

24 So that's the overview of the clause rule.
25 We'll go back now section -- or subsection by

1 subsection. And we'll go again, my left to right,
2 starting with FPL and get your comments on
3 Subsection 1.

4 MR. RUBIN: We have no comments on Subsection
5 1.

6 MR. BEASLEY: Nor does Tampa Electric.

7 MR. FOSTER: Nor does Duke.

8 MR. BADDERS: Nor does Gulf Power.

9 MR. WRIGHT: Nor do I.

10 MR. REHWINKEL: None here.

11 MS. EICHLER: All right. You guys are fast.

12 So, with that, we'll move on to Subsection 2, again
13 starting with FPL.

14 MR. RUBIN: From FPL's perspective, the
15 question that I would like to raise is it may be a
16 distinction between what happens year one versus
17 the subsequent years. And I guess really the
18 question is, under the statute, will the Commission
19 require that the rule is adopted and in place
20 before the utilities can start to take the initial
21 steps in this process of putting together the plan?
22 So I guess tied in with that is sort of what is
23 the -- what is the anticipated effective date from
24 which hardening costs might be recoverable under
25 the clause?

1 MR. HINTON: There would need to be an
2 approved storm hardening -- storm protection plan
3 in place and implemented before costs associated
4 with that plan can be requested for recovery
5 through the clause.

6 MR. RUBIN: So, just for purposes of clarity,
7 though, those could be projects that if not in base
8 rates already could already be underway or could be
9 started prior to the approval of the plan, but
10 identified in the plan?

11 MR. HINTON: I don't know. Tom.

12 MR. BALLINGER: If I understand your question,
13 a lot of it depends on when we actually have our
14 rule adopted, I think, and then you will file a
15 plan and have it approved and then I think at that
16 time then you can go to the clause.

17 MR. HINTON: But you're asking can you begin
18 incurring costs that will be part of the plan just
19 before the plan is approved and those costs would
20 be recoverable through the clause.

21 MR. RUBIN: Right. And we can certainly -- I
22 think we'll have the opportunity to make
23 post-workshop comments. I just wanted to raise
24 that question today. I'm certainly not looking for
25 an answer.

1 MR. HINTON: Well, I can tell you, as we've
2 drafted this, it would be cost incurred after your
3 plan was approved.

4 MR. RUBIN: Okay.

5 MS. EICHLER: All right. TECO.

6 MR. BEASLEY: Tampa Electric has no comments
7 on that subsection.

8 MR. FOSTER: I think we have the same question
9 as FPL and I just, you know, kind of think about
10 the level of detail that's going to be required in
11 the plans as to whether -- how they're going to
12 interact. Right. The amount of maybe work that
13 will have to have been done for some that -- staff
14 to file a plan, but I know there's a long way for
15 us to work through this.

16 MR. BADDERS: Gulf has no comments on this
17 section.

18 MR. WRIGHT: No comments. Thanks.

19 MR. REHWINKEL: The Public Counsel kind of has
20 the same question that FPL raised. We are very
21 interested in that. The initial interpretation
22 that we've heard squares with the way we read the
23 statute. We don't look at this as being something
24 that's intended to retroactively bless things that
25 were already in the pipeline and designed

1 independent of this statute and rule for the
2 hardening of the utilities infrastructure for their
3 ongoing business purposes. So we would be
4 interested in seeing how this develops, but that's
5 kind of our initial view.

6 MS. EICHLER: All right. Subsection 3. FPL.

7 MR. RUBIN: We have no comments at this time.

8 MR. BEASLEY: No comments from Tampa Electric.

9 MR. FOSTER: No comments from Duke.

10 MR. BADDERS: No comments from Gulf.

11 MR. WRIGHT: No comments.

12 MR. REHWINKEL: Okay. So the Public Counsel
13 has an observation and a question about this, and
14 this is -- this goes to Line 9. This may be more
15 directed to legal staff than to Shelby, but
16 certainly we just want to raise and ask and
17 understand if the rule -- if the rule can be
18 interpreted to approve recovery of costs on a
19 projected basis when the word projected isn't in
20 the statute.

21 We would note that in the ECRC statute, which
22 we've heard that there's some liberal borrowing
23 from in some of the provisions, the Subsection 3 of
24 that -- of 366.93, I think it is -- okay. I've got
25 it. I'm sorry -- .8255. It says, environmental

1 compliance cost recovery factor must be set
2 periodically, but at least annually based on
3 projections of the utility's environmental
4 compliance cost during the forthcoming recovery
5 period and must be adjusted for variations and line
6 loses.

7 That's -- that type of language isn't in the
8 forthcoming statute and it's just a question we ask
9 as far as is whether it's appropriate to do this.
10 We would observe that the fuel clause, which sort
11 of has -- I guess was sort of the genesis of this
12 projected annual -- estimated actual and then
13 final -- I'm sorry -- final estimated actual and
14 projected, sort of rolling process, was not a
15 creature of statute. It was a creature of
16 Commission's rainmaking authority. ECRC was
17 specifically based in the statute, NCRC
18 specifically based in the statute, and then this
19 Storm Protection Recovery Clause would be based in
20 the statute. So that's just my general question.

21 MS. CIBULA: That's something we'll look at.
22 And also just to think about it, it does -- you
23 know, the whole statute is about planning. So
24 maybe baked in there there's the idea of
25 projections, as well, but that's something we'll

1 look at.

2 MR. REHWINKEL: Okay. And we just raise it so
3 we know whether the rule is firmly based in the
4 statute. The statute itself talks about recovering
5 incurred costs. And I know the term incurred when
6 the answer was given to Mr. Rubin's earlier
7 question about what the staff would contemplate in
8 Subsection 2. And incurred to us has a more
9 historical meaning as what you already wrote a
10 check for or spent versus what you would project.
11 So I understand that you're taking under advisement
12 and we'll be interested to see the analysis. Thank
13 you.

14 MS. EICHLER: Thank you. We'll move on to
15 Subsection 4. Back to FPL.

16 MR. RUBIN: No comments.

17 MR. BEASLEY: No comments from Tampa Electric.

18 MR. FOSTER: No comments from Duke.

19 MR. BADDERS: No comments from Gulf.

20 MR. WRIGHT: No comments.

21 MS. EICHLER: All right. So everyone's okay
22 with that. And then Subsection 5.

23 MR. RUBIN: No comments for FPL.

24 MR. BEASLEY: None from Tampa Electric.

25 MR. FOSTER: None from Duke.

1 MR. BADDERS: No comments from Gulf.

2 MR. WRIGHT: No comments.

3 MR. REHWINKEL: None from OPC.

4 MS. EICHLER: Okay. Thank you and we'll go
5 Subsection 6.

6 MR. RUBIN: So for FPL, understanding
7 certainly that costs would either be recoverable in
8 base rates or through the clause, but certainly not
9 in both. The question I would have is whether
10 staff envisions that the rule allows the utility to
11 move costs from base to clause and/or from clause
12 back to base, if that's something that has been
13 addressed or will be addressed in terms of the
14 rule.

15 MS. EICHLER: Well you guys have to -- the
16 utility has to file -- make a filing within this
17 cost recovery clause. If you choose not to do
18 that, then obviously things are going to be in base
19 rates. I don't imagine we'll allow you to
20 flip-flop back and forth willy-nilly, but -- do you
21 guys have some further?

22 MR. RUBIN: Just to be clear, I'm really
23 talking about the next time base rate would be set.
24 I mean certainly -- I mean, that would be the time,
25 I would think, that costs would be moved either

1 from base to clause or clause to base, which is
2 consistent, I think, with what has occurred in the
3 past in other clause proceedings.

4 MR. BREMAN: I think where the utility
5 recovers dollars is at the discretion of the
6 utility. I believe there is some explicit language
7 in the environmental cost recovery statute that
8 says you can recover it here or there, but not
9 both. That's the same concept.

10 MR. HINTON: And one other thought, we'd
11 already discussed that as drafted the rule
12 contemplates that only cost recovery -- only costs
13 incurred following the approval of a storm
14 protection plan would be recoverable through the
15 clause. So anything -- any capitalized item that's
16 in base rates wouldn't fall into that category. So
17 what we're really talking about are vegetation
18 management, which it appears the language of the
19 statute may move all of that activity towards the
20 clause. So there would need to be an adjustment to
21 base rates to remove that prior to coming to the
22 clause, but --

23 MR. BEASLEY: No comments from Tampa Electric.

24 MR. FOSTER: No comments from Duke.

25 MR. BADDERS: No comments from Gulf.

1 MR. WRIGHT: No comments. Thanks.

2 MR. REHWINKEL: Public Counsel has a couple of
3 comments. One, we were interested in the same
4 question that FPL asked. Our observation would be
5 somewhat along the lines of what Jim noted, that
6 the ECRC statute has a specific provision that
7 would let you, I guess, move costs that you might
8 have recovered in the clause into base rates in
9 your next rate case. NCRC contemplates that once
10 an asset is recovered, A, is completed and in
11 service, it goes into rate base.

12 This statute, I believe, is silent on anything
13 other than you can't recover it in both places. So
14 that's an open question. The Public Counsel would
15 be a little bit concerned about moving assets from
16 clause to base rates and back and forth, just
17 basically to optimize a rate of return. Some
18 utilities, they have a range and one utility has a
19 mechanism that allows them to earn at the top of
20 the range. So there might be reasons for moving
21 assets back and forth that sort of would increase
22 the cost to customers. We would -- we would want
23 to explore that.

24 Another concern that we wanted to at least
25 raise is the definition or the intent behind the

1 word costs on Line 20 on Page 9. I know in some of
2 the ECRC cases over the long and storied history of
3 that clause, there have been situations where,
4 let's just say, that there might be an amount of
5 money in base rates for studies that were not done
6 and then a study is done in an environmental arena
7 that is of the same amount of the studies that were
8 baked into base rates and the question arose is
9 whether those costs were fungible or were they
10 discreet.

11 And so the question we would have is if
12 somebody does a ten-million-dollar project and then
13 cancels that project in one location and does a
14 ten-million project in another location, in the
15 first instance, that was in base rates, but now you
16 have a new project that's not in base rates. Is
17 there any -- is the ten-million-dollar project that
18 you set rates on, but didn't do, does that count
19 against the new ten-million-dollar project that was
20 substituted for that?

21 I don't know if I'm making sense about what
22 I'm asking about, but I'm kind of wanting to
23 understand and we would make comments about this is
24 how you count whether something's in base rates or
25 not. There are some orders in the early stages of

1 ECRC. I think Gulf Power was the most significant
2 example where you went through and determined what
3 was in base rates for purposes of incremental costs
4 that would be included on the clauses.

5 So we kind of want to understand what the
6 standard would be. Are you anticipating using that
7 Gulf Power order and that methodology for how you
8 separate them? So those are some initial comments
9 on that 6A.

10 MS. CIBULA: Thank you. That will be
11 something we'll think about.

12 MR. REHWINKEL: Okay.

13 MS. EICHLER: Subsection 7.

14 MR. BALLINGER: Shelby, I'm sorry. Over here.
15 Moving on to 7. I thought you were going to do 6B.

16 MS. EICHLER: Oh, I had just said 6 total.
17 Subsection 6, but we can go A by B, if people have
18 something on B.

19 MR. RUBIN: Nothing for FPL on B.

20 MR. BALLINGER: I just want to ask a question.

21 MS. EICHLER: Oh, you.

22 MR. BALLINGER: Of the industry. It goes to
23 the -- it's an engineer asking an accounting
24 question, but -- so bear with me. Under today's
25 scenario, if you replace wooden poles with concrete

1 poles, okay, in a feeder or a lateral, you have an
2 addition to rate base for the new concrete poles,
3 but you also have to change the retirement of the
4 old poles. You have an adjustment both ways in
5 your rate base. Rates may not change, but you do
6 the accounting of treatment. If we go to a new
7 clause now, what would go through the clause?
8 Would it only be the incremental costs of the
9 concrete poles? What happens to the retirement of
10 the old stuff? Any thoughts you have of how that
11 would be handled?

12 MR. RUBIN: I'm going to one-up you now.
13 There's an engineer asking an attorney an
14 accounting question. And we can certainly address
15 that in some comments. I just don't really have an
16 answer at this point.

17 MR. BEASLEY: And we would answer that in our
18 comments, as well. Thank you.

19 MR. FOSTER: I think Duke's going to take the
20 same position.

21 MR. BADDERS: We'll answer this in our
22 comments. Just staff have -- I mean, Tom, did you
23 have a direction or a thought --

24 MR. BALLINGER: I'm the engineer. I'm not the
25 accountant.

1 MR. FLETCHER: If I could interject, that's
2 something I was going to address in question 6G,
3 definitely will clarify it a little bit more there
4 because I want to go even further in detail in the
5 accounting. What do you do with the grouped
6 assets, ungrouped assets of, you know, the
7 unrecovered portion of the investment amount
8 that's -- that's being replaced? How do you handle
9 that in accounting-wise, you know, while you --
10 particularly in light of settlement agreements?
11 You have stay-outs, you know, basically you have
12 your depreciation studies and the timing of that,
13 but that definitely will be -- maybe we'll clarify
14 that more succinctly with specificity in answering
15 that question about the accounting.

16 MS. EICHLER: All right. We'll look forward
17 to hearing more from you later, Bart. Is everyone
18 good to move on to Subsection 7?

19 MR. REHWINKEL: I wanted to ask on 6B, and
20 this is almost really directed to the utilities,
21 but I wonder if the staff has given thought to it?
22 And I don't know if it needs to be dealt with here.
23 There has recently had been a private letter ruling
24 about projected mets and the projected recovery and
25 the projected capital structure. And I don't know

1 if you perceive that there's a need to address that
2 in this section or not, in terms of normalization.

3 MR. FOSTER: This is Jeff for Duke. I don't
4 know that I think it needs to be in the rule. I
5 know from my company's standpoint, we envision, and
6 if there's anybody who has seen it differently I'd
7 love to know, using the same weight average cost
8 capital views in our other clauses, which will
9 have -- we believe specific guidance on what to
10 use.

11 MR. REHWINKEL: Okay. I just -- it says that
12 recalculated the utilities' weighted average cost
13 of capital using the return on equity, most
14 recently approved by the Commission in a rate case
15 or settlement order. Does that -- it seems like
16 the weighted average cost of capital is -- well, is
17 the intent here -- is it that stipulation in that
18 order, is that what you would use to apply?

19 MR. FOSTER: That's how I was envisioning,
20 yes.

21 MR. REHWINKEL: Yeah. We may take a look at
22 it and have a conversation about it with folks, but
23 it's -- I think it's something that needs be --
24 make sure it doesn't create a difficulty. I mean,
25 we're not trying to recede from that. I think that

1 whatever the final determination of how that whack
2 is determined ought to apply to this clause, as
3 well as the other clauses. I think that's
4 everyone's intent.

5 MR. FOSTER: I agree.

6 MR. REHWINKEL: Is that -- on its face, that
7 order, and I suspect it's going to be modified at
8 some point in the near future, it applies to the
9 existing clauses, but I think the intent is that it
10 would apply to this one, too, assuming those
11 clauses gets adopted, so.

12 MS. EICHLER: All right. We will definitely
13 look into that. Try this one more time.
14 Subsection 7.

15 MR. RUBIN: So I thought I heard you say that
16 you borrowed from the nuclear cost recovery for
17 this, and from FPL's perspective, that was a
18 process that seemed to work well for us and so we
19 really don't have any comments. I think -- we can
20 talk about timing later in terms of when it's
21 filed, but in terms of what's in there, we really
22 don't have any comments on that.

23 MS. EICHLER: All right.

24 MR. BEASLEY: Are we on Section 7 in its
25 entirety?

1 MS. EICHLER: Yeah, let's go entirety.

2 MR. BEASLEY: Just on Subsection C, a minor
3 suggestion. Take the S off of years in the title
4 and the projected costs for subsequent years. I
5 would make that singular.

6 MS. EICHLER: All right. Thank you.

7 MR. BEASLEY: That's all.

8 MS. EICHLER: Anything else in Section 7,
9 TECO?

10 MR. BEASLEY: That's all.

11 MS. EICHLER: Okay.

12 MR. FOSTER: Duke doesn't have anything
13 material to speak about in Section 7.

14 MR. BADDERS: No comments from Gulf on Section
15 7.

16 MR. WRIGHT: No comments. Thanks.

17 MR. REHWINKEL: None from us.

18 MS. EICHLER: Okay. Thank you. Subsection 8.
19 Going back to FPL. When you're ready.

20 MR. RUBIN: No comments on 8.

21 MR. BEASLEY: None from Tampa Electric.

22 MR. FOSTER: I would just kind of echo how
23 this ties in with our last rule and kind of the
24 understanding we discussed about, you know, a shift
25 of something, you know, a line segment maybe that

1 you're putting underground from one year to the
2 next. So, other than that, no comment.

3 MS. EICHLER: Yeah, and that -- everything
4 still holds true that you all discussed
5 regarding -- in the prior rule discussion as how we
6 envision it, working cohesively with this rule.

7 MR. FOSTER: Thank you.

8 MR. BADDERS: Gulf has no comments on this
9 section.

10 MR. WRIGHT: Just the observation that the
11 definition of what constitutes a modification would
12 probably be appropriate, somewhere along the line.
13 There is an analogous somewhat -- this is
14 tangential, but there are other rules that say when
15 petitions for approval of modifications are
16 required, but the one that I'm familiar with is
17 when there's a modification to a PPA between a
18 qualifying facility and an investor-owned utility.
19 There is a good-sized paragraph in 0834, I think,
20 25-17.0834, I think, that says if these things are
21 changed, you have to file a petition to -- for
22 approval of the modification if other things, you
23 know, ancillary administrative acts are changed, you
24 don't have to. I might look at that, but I think a
25 definition of what a modification is is a good

1 idea.

2 MR. HINTON: In your proposed workshop
3 comments, if you could suggest some way of
4 fine-tuning that, that would be appreciated.

5 MR. WRIGHT: I'll give it a shot, Cayce.
6 Thanks.

7 MS. EICHLER: Nothing. Okay. All right. And
8 then Subsection 9, the last one.

9 MR. RUBIN: So, from FPL's perspective, in
10 looking at Subsection 9, it appears that the draft
11 of the proposed rule indicates that at the time
12 that the true-up for previous years is filed or
13 submitted, that the utility also has to submit a
14 status report on the projects that are identified
15 in the plan.

16 And so getting -- kind of getting back to our
17 discussion on the prior rule 6.030, it's the level
18 of granularity, again, that we would raise here
19 because this draft at least suggests that we would,
20 again, have to identify all projects completed or
21 planned for completion. It doesn't indicate over
22 what period of time, whether it's the one-year,
23 three-year, or ten-year, looking out into the
24 future, as well as the costs and rate impacts. So
25 it's really the same discussion that we had on the

1 prior rule and what the utility would be expected
2 to file in response to Subsection 9 here.

3 MS. EICHLER: Okay. So this plan is going to
4 be submitted by the statute to the Governor, the
5 President of the Senate, and the Speaker of the
6 House of Representatives on your storm protection
7 activities, and it lists a few things that should
8 be included, but just keep in mind who it's going
9 to, and then also we will take into consideration
10 your thoughts on maybe if we want to give more
11 granularity on that report that you must give us by
12 the proposed rule following the workshop.

13 MR. HINTON: And to add to Shelby, you know,
14 this is an annual report that we're going to have
15 to submit, so we can discuss whether the statute
16 gives us flexibility to just make it strictly that,
17 an annual report looking back at the previous year
18 or, you know, some kind of span of a year as
19 opposed to everything planned going out 2010. You
20 know, so take a look at the statute and let's see
21 if we can just make that an annual report, kind of
22 looking back, giving the Governor and everybody
23 downtown, you know, a update status of the progress
24 that we're making.

25 MR. RUBIN: So from your comments it seems

1 that, and from what you said Shelby, that it's
2 anticipated that what the utility files in response
3 to Subsection 9 here will be essentially the inputs
4 for the Commission to provide its report to the
5 governmental officials?

6 MR. HINTON: That's what the purpose of that
7 whole section was so we can create our annual
8 report.

9 MR. RUBIN: Thank you.

10 MR. BREMAN: That's correct. Just to be
11 clear, the entire process of filing a report has to
12 go to IA and we're trying to avoid mixing things
13 that are going on with the clause, which is an open
14 docket, and we don't know if it's going to be
15 closed by the time this report is presented to the
16 Commission. So we're trying to get a data request
17 embedded in the rule.

18 MR. BEASLEY: For Tampa Electric, I think we
19 now submit our storm hardening reports on March 1st
20 and we would hope that this report could be
21 consolidated with or coordinated with the storm
22 hardening reports so as to eliminate any duplicate
23 efforts and perhaps make it more concise.

24 MR. HINTON: I can tell you, judging by the
25 timing of these different filings in the nuclear

1 clause, that Paragraph 7A was in that time period.
2 Of course, some people have raised the idea of
3 having this whole thing earlier in the year, but
4 that would be -- the March would be consistent
5 with, you know, how things were done in the nuclear
6 clause as far as timing of the filings, but we'll
7 have to, you know, hash out the idea of whether the
8 clause will be a -- on the same schedule or earlier
9 in the year type thing.

10 MR. BEASLEY: Thank you.

11 MR. FOSTER: Yeah, this is Jeff for Duke
12 again. So I understand the intent and I just kind
13 of echo when you think about whether it's kind of
14 an annual report looking backwards or whether it's
15 a refresh of everything going forwards, there's a
16 big difference there in how easy it is to get
17 something by March, I would say, or whatever date
18 is chosen.

19 Some of the wording around rate impacts
20 associated with each project, I think maybe instead
21 of that -- we might need to think about that some.
22 I guess we'll probably have some comments on that
23 because I certainly don't want to quantify, you
24 know, 20,000 rate impacts that then you're mixing
25 sales forecasts and -- so some of the interactions

1 may be too between a filing in that time frame and
2 then one that you would do for projection and how
3 they might conflict with each other. I'm just kind
4 of thinking out loud. We don't want to endlessly
5 be reconciling to something that was filed two
6 months earlier due to a different sale, whatever.

7 MR. HINTON: Yeah. I think part of the idea
8 of paring this with the true-up filings is that you
9 could have a look back on actual projects completed
10 or begun, actual costs incurred and, you know, a
11 fairly reasonable estimate of what those rate
12 impacts are, but, you know, the statute -- the
13 bill, the report shall include, but is not limited
14 to, identification of all storm protection
15 activities completed or planned for completion, the
16 actual costs and rate impacts associated with
17 completed activities, as compared to the estimated
18 costs and rate impacts.

19 MR. FOSTER: Is your vision, though -- do you
20 guys read that to say that for each activity you're
21 getting a rate impact, or the activities together
22 or at a program level? So those are just some
23 things to think about that we're thinking about.

24 MR. HINTON: Yeah, I'm not sure. Yeah.

25 MR. BADDERS: Gulf has no additional comments.

1 MR. WRIGHT: No additional comments. Thank
2 you.

3 MR. REHWINKEL: The only comment that we have
4 is -- I know people have pitched certain dates. We
5 made our initial comments about the timing of the
6 clause. We don't think -- the statute, if you look
7 at the statute, it doesn't define a calendar year
8 or any particular period. An annual report is an
9 annual report. This one is due on December 1st, so
10 it has no connection to a calendar year, obviously,
11 and it's going to -- there's going to be a lead
12 time to get something done to get it approved at
13 internal affairs in November to be ready to file in
14 December 1st. So it would have to be -- the
15 information would have to be gathered prior to
16 November, compiled by the staff. So we would ask
17 that the tail not wag the dog on this thing and
18 that the timing for the substance of the
19 significant costs that we anticipate will come to
20 visit the customers on their bills. It should not
21 be dictated by the timing of a report just to match
22 it up with something that's already done.

23 So an annual status report can be just based
24 on an annual period that you pick and whatever
25 you've done. It's going to be something that will

1 by going on for years. This statute asks, what
2 have you done and what is planned to be completed.
3 You can report on that, and it doesn't necessarily
4 have to be synchronized with anything else.

5 Those are our comments in support of our
6 overall position that this ought to be offset from
7 the traditional clause recovery items. Thank you.

8 MS. EICHLER: Thank you for all of your
9 comments. We'll look forward to reading also your
10 post-workshop comments. If you have specific
11 language, that will be helpful to include in those
12 post-workshop comments. And I'll pass it back to
13 Andrew.

14 MR. KING: Great. Thanks, Shelby.

15 Before we move on to the next section of our
16 workshop, I just want to make sure there is nothing
17 left that we haven't discussed about this
18 particular rule that someone would like to comment
19 on? No? Okay.

20 MR. HINTON: Excuse me. Andrew, could I ask
21 one question?

22 MR. KING: Yeah.

23 MR. HINTON: Just thinking about what Charles
24 had just said. Just out of curiosity, when we're
25 talking about being offset, you know, the nuclear

1 clause was offset from the regular other clauses,
2 because we had a number the we had to input into
3 those other clauses. Is that a timing that you
4 think is reasonable, or are you even thinking
5 earlier in the year?

6 MR. REHWINKEL: I mean, our position is this
7 ought to be for rates effective say, July 1, that
8 kind of offset, not to -- the fall of the year is
9 very clogged. If you happen to be in a rate -- the
10 way rate cases are done, those filings occur in the
11 March time frame. Those cases all go to hearing in
12 the fall and when you've got the clauses and rate
13 cases. It becomes almost impossible. So, you
14 know, the fuel clause used to be done monthly.
15 Then it went to semi-annual and then it was sort
16 off weaned off of semi-annual to annual. So doing
17 the clauses on this type of period has historical
18 precedent with the Commission, so that's -- that's
19 our position that that's when it ought -- that's
20 when the offset ought to be, not three weeks
21 different.

22 MR. HINTON: So more of a fiscal year versus
23 calendar year approach?

24 MR. REHWINKEL: Yes.

25 MR. BREMAN: To add on to what Shelby said and

1 what was just discussed, if the utilities could
2 please respond to OPC's concerns in their comments,
3 staff would appreciate it regarding the timing of
4 the clause. This topic is going to come up again
5 in 6E later on, so --

6 MR. RUBIN: Yeah, I can hold my comments to
7 6E.

8 MR. BREMAN: But just in case we don't get to
9 it, or for some reason I forget to mention it.
10 Thank you.

11 MR. REHWINKEL: Can I ask a housekeeping
12 question? It probably would be helpful for all of
13 us to get an idea of when we would expect a
14 transcript to be done. I know we're not done with
15 the process today, but it would facilitate seeing
16 the transcript for everybody to be on the same page
17 and to do what Jim just asked is to respond to, you
18 know, back and forth, which I think would be
19 helpful in this whole process, especially if we're
20 going to have to go fast.

21 MS. CIBULA: Well, I think usually it takes
22 about two weeks to get a transcript, so I don't
23 know whether we're going to have the transcript
24 available before we have the comments, but, you
25 know, we're in the preliminary stages right now.

1 So I don't know whether we need a transcript in
2 order to have comments. Just bear in mind that
3 whatever we said here today is on the transcript.
4 So you don't have to reiterate in your comments if
5 there's some points that you feel like you've
6 sufficiently covered at the workshop and then just
7 concentrate on any additional information that you
8 want to provide to us, and maybe specific rule
9 language.

10 MR. REHWINKEL: Well, my simple request would
11 be, and you know -- I would hope that we could get
12 a transcript sooner rather than later because a
13 transcript would certainly facilitate this process.
14 You know, I haven't been taking copious notes.
15 I've been trying to listen. My memory is still
16 pretty good at my advanced age, but I'm not sure
17 that I'm going to remember everything. It would be
18 helpful, I think, if we were to provide comments
19 that we at least have an opportunity to have the
20 transcript before that. That's just my request.

21 MS. CIBULA: We'll think about that. And
22 also, remember that it's all being recorded. So
23 there will be a copy of the workshop recording of
24 it that you can go back and view, as well.

25 MR. REHWINKEL: Yeah, I didn't know that.

1 MR. KING: Okay. Moving to the next question.
2 We're going to talk about what rules may be
3 affected by the implementation of these rules, the
4 adoption of these rules. I know that this may be
5 somewhat difficult to do now because we don't have
6 final language for the rule -- or the two rules
7 yet. So this may change some, but what staff is
8 trying to do with this next section is just to see
9 if there are certain rules basically that are going
10 to have to change, either along with the adoption
11 of these rules or shortly thereafter, and if there
12 are rules that may be need to be changed, but might
13 can wait some for another rule-making process. So
14 that's kind of where we're at. We're just trying
15 to get an idea.

16 And we also know that we are certainly not
17 infallible, so we could have missed some rules and
18 so that's what we're looking for, as well, is maybe
19 we've missed some that are going to get -- need to
20 be repealed or amended, so that's kind of where
21 we're coming from as staff as I move through these.

22 And I don't -- I've been trying think of maybe
23 a quicker way to do this, but I don't know of one,
24 so I'm just going to run through this list and see
25 if people have comments on this list of rules and

1 then at the end I'll ask you if you have other
2 rules that we haven't listed that may need to be
3 amended or repealed.

4 So, with that, we'll just start with the first
5 one. I'm looking at Page 3 of the Commission
6 notice, which is actually, I think, the FAR notice.
7 And I'm just going to go through this list that's
8 up here at the top. So the first one is -- these
9 are all 25-6 rules, .0143. Does anyone have any
10 comments on .0143? Okay. Seeing none --

11 MR. FLETCHER: I'm going to interject there.
12 One of the -- I'm responsible for putting this on
13 the list and I thought once the provision of the
14 statute will be statute is to basically take the
15 vegetation management and -- out of the base rates
16 and eventually put it into the clause recovery.
17 And just to put on you all's radar, this specific
18 section of 0143 was Provision 8 -- let me get that
19 correct -- it is E -- or, excuse me -- F8 of that
20 rule, the tree-trimming expenses. Once it goes
21 from base rates to the clause, eventually I thought
22 this rule may need to be revised for that section.
23 Just wanted that on your radar.

24 MR. KING: No, that's good. Thanks, Bart, for
25 that. If there's others on this list that I call

1 out that staff put on here for a reason, they think
2 it's -- you can chime in, in kind of the same way,
3 just say what you thought might change.

4 The next two, of course, are the ones that
5 we're talking about today. So we'll skip those.
6 .034. I'm sorry.

7 MR. MOURING: Could we go back to the first
8 one real quick? I just wanted to add a quick
9 comment.

10 MR. KING: Yeah.

11 MR. MOURING: And I think we have already
12 heard a little bit -- I'm sorry. This is Curt
13 Mouring with Commission staff. On the use of
14 accumulated provision accounts, we've seen
15 instances in the recent storm dockets where certain
16 distribution assets are not replaced in kind, and
17 that there may be some potential bleed-over
18 between -- the example I'm thinking of is replacing
19 wooden cross bars with composite ones, or something
20 like that, that may be considered a hardening
21 activity, as well as storm restoration activity.
22 And just something maybe to think about when you're
23 providing comments on this would be helpful for
24 staff.

25 MR. KING: Thank you. So back to .034. Okay.

1 0341. 0342. 0343. 0345. 044. 0455. 061. 064.
2 077. 078.

3 MR. FOSTER: This is Duke. Can I just ask, if
4 there are any of those rules where there's a
5 specific staff member who has, you know, kind of
6 further things that they'd like us to think about,
7 maybe that would be a good thing to share. I mean,
8 if not, that's okay, too, but just want to throw
9 that out there so maybe we have a little more --

10 MR. KING: Thanks for reiterating that.

11 MR. GRAVES: I do appreciate that. I was
12 going to circle back with the storm hardening, I
13 guess included in the comments, wouldn't just be
14 any changes, but if you see opportunities to -- or
15 if you think it would be advantageous to somehow
16 collapse overlapping type of information into a
17 single rule, as opposed to having two or more
18 filings, I think staff would appreciate some sort
19 of comments on that.

20 MR. FOSTER: And I think generally we don't
21 have language to -- but it does seem to make a lot
22 of sense to us to not have two completely distinct
23 three-year processes that have a lot of
24 similarities. So that's Duke's first take anyway.

25 MR. BEASLEY: We would agree with that, as

1 well, for Tampa Electric.

2 MR. RUBIN: We feel the same way. Thank you.

3 MR. BADDERS: As does Gulf.

4 MR. BALLINGER: This is Tom Ballinger with
5 staff. I think Andrew said this, we're really --
6 staff went through our rules and said, could these
7 be impacted by this new statute? And we don't know
8 what the new rule is going to look like either. So
9 we're kind of getting a little ahead of ourselves,
10 but we would like comments based on the discussion
11 today. If you think rules should be amended,
12 repealed, or left alone, that's fine, too. They
13 may be totally innocuous and that's okay, too.
14 We're just trying to make sure we touched
15 everywhere where we looked at transmission
16 distribution facilities where it could be -- there
17 may be overlap, maybe it needs to be added to, or a
18 rule or taken out.

19 So this is kind of a wide-open -- this is a
20 day-two process. It's going to be after we get
21 these rules approved and adopted, whatever, like
22 that, and then we'll actually know their impact and
23 what we need to do.

24 MR. KING: Okay. The last two, .081 and .115.

25 MR. WRIGHT: It occurs to me -- I know 115

1 really, really well. It occurs to me there may be
2 some conforming changes or some cross-referencing
3 revisions that we might want to suggest, and you
4 all might want to consider, with respect to the
5 CIAC rules, and how the costs, and in particular
6 how the costs are calculated with reference to the
7 new -- to the enhanced focus on storm hardening and
8 undergrounding as means of improving reliability.
9 These may affect 6.064, 6.078, which is the CIAC
10 rule, and 6.115. I'm going to think about that and
11 try to give you some comments on that. Thank you.

12 MR. KING: Great. That section went a lot
13 faster than I thought. We're going to move on
14 to -- you can see in the agenda it is Page 4 of the
15 Commission notice. We're going to start now going
16 through what we've titled additional topics for
17 discussion. 6A through H. I'll tell you ahead of
18 time that D we just talked about. So we're not
19 going to discuss D. We'll skip over that one.

20 So I will start with A. And I think we've
21 already got some comments on this, but again we're
22 going to open it up to everyone to make any further
23 comments they want to make, is what process should
24 be -- should the Commission utilize in considering
25 these petitions? And what should the timing be for

1 the filings and the related Commission actions?

2 MR. GRAVES: May I just real quick? A couple
3 specific points. How soon after a rule is adopted,
4 how soon do the utilities think they could provide
5 a plan? I guess that would change with the details
6 of the rule, and also whether or not it should be
7 PAA or hearing process for the Commission's
8 consideration.

9 MR. RUBIN: So from FPL's perspective, and
10 this kind of goes back to the discussion that we
11 had with Shelby earlier, FPL has a preference for
12 filings and a hearing consistent with the way the
13 nuclear cost recovery dockets were conducted, so it
14 would be a March 1 filing, a May 1 filing, and then
15 a hearing late August, early September.

16 I heard Public Counsel, Mr. Rehwinkel's
17 comments when, you know, when there's a rate case,
18 there could be, you know, a couple of different
19 matters, large matters proceeding at the same time.
20 Of course, that doesn't happen every year. From
21 FPL's perspective, the clause proceedings that we
22 currently have involve a lot of the same people,
23 the same business units that will be involved in
24 this particular filing. And so from our
25 perspective, we think that that March 1, May 1, or

1 thereabouts, and August or September hearing date
2 is really the schedule that we would request that
3 we think would be appropriate for this particular
4 proceeding.

5 MR. GRAVES: Anything specific to the plans
6 that would be filed? I guess that seemed to
7 address more of the clause-type process that's
8 specific to the plan.

9 MR. RUBIN: Well it's -- based upon the
10 answers that we heard earlier that until the rule
11 is adopted, we wouldn't be able to propose the plan
12 and then the plan would only be a forward-looking,
13 I guess, projection. As far as filing the initial
14 plan, I think that might be -- we would like to do
15 that early, but that might not be the same process
16 that we would follow. After that, I think we would
17 like to get the plan, the initial plan filed, you
18 know, as soon as reasonably possible after the
19 adoption of the rule. I'm not sure if there's
20 going to be a difference as we move forward based
21 upon the scheduling of the filings and the actual
22 hearing.

23 MR. BEASLEY: For Tampa Electric, as far as
24 the process for plan approval, it would probably
25 take us approximately four to five months or

1 thereabouts to get the plan put together after the
2 rule is approved. So we wouldn't suggest having
3 the plan approval hearing process commence before
4 that period of time expires.

5 MR. FOSTER: Duke generally agrees with TECO
6 and FPL. We certainly are going to need some time
7 when the rule's finalized to pull the plan
8 together. I don't know that I -- I don't know that
9 we're ready today to say you should file your plan
10 on date X. And if they -- if the Commission or
11 staff wanted to have a file-by date, we would
12 propose something more like maybe by June 1 for
13 plan years, something along those lines.

14 MR. BADDERS: Yeah. For Gulf Power, I mean a
15 little bit of how long will it take after the rule
16 is final for us to file a plan depends on how much
17 detail we have to include for the various years of
18 the plan. So, I mean, it's going to take some
19 period of time, a few months potentially, and
20 whether or not this is handled through a PAA or a
21 hearing, I think that's just something we'll have
22 to look at. We'll make some comments on that.

23 MR. WRIGHT: I'm just going to say I agree
24 conceptually with my comments from the Public
25 Counsel that this ought to be offset, away from the

1 existing clause dockets. Personally, I wouldn't
2 have any real problem with the rough calendar
3 suggested by my friend Mr. Rubin down at the other
4 end. This year it would be especially challenging
5 proposition given that the goal's docket, set of
6 conservation goal's dockets going to hearing on
7 August 12th. But, otherwise, the March, May,
8 August could work for me and my clients, I believe.

9 MR. REHWINKEL: Before I kind of give an
10 opinion, as much as I can today, I guess I have a
11 general question for the group, the staff, the
12 companies. Is it staff's thinking that when the
13 plans are filed, A, initially, and then at least
14 every three years, is that there will be a kind of
15 an established date you shall file your plans no --
16 on, you know, April 1st, or is there -- is it each
17 utility can file what they want? That might impact
18 how we look at it, because if all four utilities
19 kind of staggered them and you got four different
20 180 day clocks going, it could be quite a lot of
21 confusion in the process.

22 I don't know what -- I don't know if you're
23 contemplating a uniform schedule for that or kind
24 of a wild west scenario. And, aside from that, it
25 seems to us that at least in the initial plans,

1 this is something nobody is ever going to have seen
2 before, we would prefer that it'd be straight to
3 hearing and that it be full -- that it be full
4 hearing contemplated with discovery. I think PAA
5 process wouldn't affect the public counsel, but
6 might affect the participation of any other entity
7 because there is a different standard about who can
8 perform discovery in a PAA process. Only Public
9 Counsel has the right to do it. Others may or may
10 not be able to, based on whether anybody objects.
11 So those would be our kind of observations and we
12 would certainly be interested in knowing the
13 staff's thinking about the timing or the
14 synchronization, I guess I should say.

15 MR. WRIGHT: I just want to voice strong
16 agreement with Public Counsel's observation that
17 going straight to hearing will be a lot better. If
18 you do it through the PAA, my clients are generally
19 deprived of standing to conduct discovery until
20 after filing a protest to the PAA and after that
21 the hearing process gets scrunched. It -- in my
22 view, it, you know, may or may not rise to the
23 level of a denial due process, but it's really,
24 really inconvenient and it really disadvantages our
25 clients. Setting these straight for hearing is

1 much better.

2 MR. GRAVES: And with respect to the filings
3 of the plans, I mean sort of set on a specific
4 date, I think one thing that, at least to consider
5 in the comments, is how that would mesh with the
6 clause, because assuming the clauses would all run
7 at the same -- run on the same track would be to
8 see how the plans would likewise, given their
9 relationship.

10 MR. REHWINKEL: It seems like you wouldn't
11 have plans but every three years. I mean, I guess
12 they could file one every year or in modifications,
13 you know. I don't know what the contemplation is
14 as far you're going to have a regular filing of
15 plans, kind of a schedule for that, followed by the
16 cost recovery piece. We're still a little bit
17 unclear about the timing of how that's going to go.
18 We would be interested in hearing what the
19 utilities thoughts are about how they contemplate
20 this going on.

21 I mean, it could be congested if everybody
22 has -- you know, if maybe you have a two-week
23 period where you have, you know, every -- all four
24 utilities or all five utilities' hearings on their
25 plans. That could be difficult, but it could also

1 be difficult if they're staggered, you know, one
2 month apart. So it's a logistical concern.

3 Mr. Wright expressed some due process concerns
4 that could occur, but, you know, the legislature
5 has said this is what you're to do so we've got to
6 work within that. I think we're looking for what's
7 the most reasonable way to do it.

8 MR. BALLINGER: Charles, I think staff's
9 original intent was to treat this like we have the
10 current storm protection plans that get approved.
11 They're all filed at the same time. We take them
12 down PAA and we move along. I don't know that
13 these are to going to be that much more difficult
14 than approving the hardening plans that we have
15 now.

16 The clause is a different story. That will
17 have a hearing, obviously, each time it goes
18 through. So that's kind of staff's initial thought
19 is I think to have all plans filed at the one time,
20 at one proceeding, whether it be a hearing or PAA,
21 but deal with them all at one time to get them on a
22 sequence then. The first year will be a little
23 complicated, I agree, depending on when the rule
24 gets adopted and timing and all that. We'll have
25 to figure that out, but our original thought is to

1 have them grouped together like that.

2 MR. REHWINKEL: I understand that, Tom. I
3 guess the -- right now there's not a 180-day clock
4 on the hardening -- on the plans, is there?

5 MR. BALLINGER: No.

6 MR. REHWINKEL: Yeah, so that's really why I'm
7 saying that it probably wouldn't make sense, at
8 least for the very first time we see this. I just
9 think everybody ought to understand that we're
10 going to ask that they go to hearing. I don't
11 think it makes sense to sort of everybody plan on
12 doing a PAA when 180-day process is sort of
13 nonsensical to kind of have a PAA and a protest and
14 then go to hearing. Let's just go to hearing and
15 we can decide, you know, as we go forward whether
16 PAA makes more sense, but, from our perspective,
17 the first time we're seeing this out of the box, it
18 should go to hearing because this is a brand-new
19 thing.

20 MR. BALLINGER: Duly noted.

21 MR. KING: Okay. Let's go on to B really
22 quick. So how, if at all, are these ten
23 initiatives in this order effected will be impacted
24 by the bill?

25 MR. RUBIN: So for FPL, I've noted that of the

1 ten initiatives, initiative one, which is
2 vegetation management, trim cycles. Number three,
3 which is transmission structure inspection cycle,
4 number four, hardening of existing transmission
5 structures. And if I can kind of jump ahead just a
6 little bit because pole inspections is another
7 report. Right now we file a lot of reports March 1
8 addressing the ten initiatives, addressing the pole
9 inspections, reliability and storm hardening and we
10 just think that this might provide an opportunity
11 to kind of reduce the number of reports that have
12 to be submitted and perhaps have those reports
13 submitted in conjunction with or as part of this
14 new rule. So I just raise that for purposes of
15 discussion.

16 MR. BEASLEY: Tampa Electric Company agrees
17 with Mr. Rubin's comments on that point.

18 MR. BERNIER: Duke Energy agrees, as well, and
19 I don't have anything specific to point you to
20 today, but I know that we will try to make
21 recommendations for how this can be streamlined as
22 much as possible. I don't think it's anybody's
23 interest to have redundant reports.

24 MR. BADDERS: And Gulf is of the same
25 position. We need to streamline the storm

1 hardening and the existing initiatives.

2 MR. WRIGHT: No comments. Thanks.

3 MR. BREMAN: If I may interrupt, I'd like some
4 clarification. Which rule are we talking about?
5 Are we talking about the plan rule or the clause
6 rule when you're saying consolidate or -- I'm
7 assuming the plan. So if you could please clarify
8 that. If you don't know the answer, we will read
9 it in the --

10 MR. RUBIN: Yeah, I don't -- I don't have the
11 answer to that today, so we will include that in
12 our comments. Thank you.

13 MR. HINTON: I have a question, as well. And
14 when you're reflecting on the ten initiatives, it
15 would probably be good if you have thoughts on
16 whether any of those initiatives are now obsolete.
17 You know, that order was issued ten years ago and,
18 you know, do -- the current structure of the ten
19 initiative, is it still applicable in the world
20 that we find ourselves in?

21 MR. KING: Okay. We're going to break for a
22 second. I want to get everyone's consensus. I was
23 going to push you all through and get done, but
24 I'll let you all decide. I've been getting some
25 signals that we might need to eat lunch, so just

1 give me a consensus from everyone if you all want
2 to, we can take a short break and come back and try
3 to finish. We can break for lunch and come back.
4 Whatever. It's up to you all.

5 MR. FOSTER: Duke is prepared to continue.

6 MR. BEASLEY: So is Tampa Electric.

7 MR. RUBIN: So is FPL.

8 MR. WRIGHT: I'd prefer to continue. Thanks.

9 MR. KING: Okay. Everyone wants to continue.
10 So we're going to try to go on through. We're, I
11 guess, going on to C now.

12 So C says how, if at all, are the pole
13 inspection reporting requirements established by
14 this order that was issued in 2006 impacted by the
15 bill.

16 MR. RUBIN: And FPL has no additional comments
17 to what I've already said.

18 MR. BEASLEY: And nor does Tampa Electric. I
19 think the same comments we made with respect to
20 Subpart B would apply.

21 MR. BERNIER: Duke agrees with that.

22 MR. BADDERS: So does Gulf.

23 MR. WRIGHT: No comments.

24 MR. KING: Okay. We're skipping over D.

25 We're on to E.

1 MS. EICHLER: Andrew, if you don't mind. I
2 think --

3 MR. KING: We've already -- we've already
4 covered this, right?

5 MS. EICHLER: D or E?

6 MR. KING: E. Have we covered the timing?

7 MS. EICHLER: I think we're going to go into
8 more detail in relation to the clause process.

9 MR. BREMAN: Yeah, there's --

10 MS. EICHLER: Via Jim.

11 MR. BREMAN: Yeah. There is a little quirky
12 thing about doing in the NCRC, Nuclear Cost
13 Recovery Clause. There is one little quirky thing
14 that we found out when we have a proceeding early
15 in the year and we set the cost recovery amount.
16 It doesn't seem to be a difficulty in having a
17 proceeding earlier in the year and setting a cost
18 recovery amount. The quirky thing we found was
19 having to figure out which kilowatt hour sales
20 forecast we're going to use for purposes of
21 estimating the rate impact in the Nuclear Cost
22 Recovery Clause.

23 So staff has been thinking about potentially
24 having a hearing earlier in the year. And when we
25 do that, how would we address the requirement to

1 set a cost recovery factor, because the Storm
2 Protection Clause differs from the Nuclear Cost
3 Recovery Clause, because it did not have its own
4 individual factor. All we did in the Nuclear Cost
5 Recovery Clause is set a specific recovery amount
6 that was then adopted by the Capacity Cost Recovery
7 Clause.

8 So one idea is that you could resolve all the
9 issues other than setting the factor and then hold
10 that issue live until the sales forecast is
11 available that can be used for setting the factor.
12 The other alternative is for the utilities to
13 establish a process that would come up with a sales
14 forecast to address setting the factors by July 1.
15 So these are all concerns about trying to get the
16 dollars right, trying to get the recovery right,
17 and the process right. So if you could think about
18 that and include those in the comments, we would
19 appreciate it.

20 MR. REHWINKEL: If I can ask, Jim, are you
21 suggesting -- and I know you're just looking at
22 alternatives and brainstorming here, but we set
23 rates July 1, but for argument's sake,
24 hypothetically, if the Commission were to have a
25 hearing like we think ought to be in the first half

1 of the year on the Cost Recovery Clause for the
2 protection plans, you would say determine under
3 this alternative -- determine a number, put it on
4 the shelf until the forecast was ready, and then
5 use that number and the forecast to change rates
6 January 1. Is that right, what you're --

7 MR. BREMAN: Correct. That seems to be the
8 least-work path.

9 MR. REHWINKEL: Okay. All right. I just
10 wanted to understand the mechanisms that you're --
11 you were asking people to consider.

12 MR. BREMAN: And, you know, just keep the
13 docket open and keep that one issue live. What are
14 the factors?

15 MR. REHWINKEL: Okay. Thanks.

16 MR. KING: Okay. Moving on to F. How, if at
17 all, does SB 796 impact the method of recovery for
18 vegetative management expenses?

19 MR. REHWINKEL: Before we go on to F, just
20 Andrew, back on E, I guess nobody had any
21 additional comments. We made our comments here.
22 What you're expecting is just people will address E
23 and what all has been discussed in our written
24 comments?

25 MR. KING: Yes. Yeah.

1 MR. REHWINKEL: All right.

2 MR. RUBIN: So for the vegetation management
3 for Subpart F, it seems that the vegetation
4 management costs and expenses would be moved from
5 Base Rate Recovery to Clause Recovery at the time
6 that base rates are next reset for that particular
7 utility. I heard earlier that, of course, that
8 would be in the discretion of the utility, whether
9 to collect them through base rates or through the
10 clause. And it seems that until base rates are
11 next reset, there will be certain vegetation
12 management costs that are being -- already being
13 recovered or that would theoretically be in base
14 rates, and then there would be an incremental piece
15 that could conceivably become part of the clause
16 filing. Just some initial observations from that
17 perspective.

18 MR. BEASLEY: Tampa Electric is addressing
19 this and we'll discuss it in our written comments.
20 Thank you.

21 MR. FOSTER: Yeah, I agree. Duke will be the
22 same. I think I heard a question about -- I'm
23 confused about that question. Was that a question
24 you'd asked about how staff was thinking it was
25 going to be thought of, or a comment on that was

1 the way to do it?

2 MR. RUBIN: It was just a comment on some
3 alternative ways of looking at --

4 MR. FOSTER: Thanks.

5 MR. BADDERS: Gulf will also address this in
6 our comments, but generally I agree with Mr. Rubin,
7 kind of how he laid that out.

8 MR. REHWINKEL: This may have been alluded to
9 earlier, and we've certainly gone through this in
10 the recent storm cost recovery proceedings. The
11 issue that I think we're going to struggle with is
12 how to determine what's the amount of vegetation
13 management costs that are in base rates today. We
14 went back and forth about whether it's the budget
15 or the MFR's or some kind of average, and we -- in
16 the settlements that were undertaken with respect
17 to payroll, for two companies, we did an average
18 and third company were silent on it. There is a
19 variety that I think people pointed to in their
20 testimony about a three-year average in determining
21 the amount of vegetation costs for incremental
22 purposes in the existing storm cost recovery rule,
23 or I guess it's that first rule we talked about
24 there.

25 So just sort of -- I think we all ought to

1 kind of voice comments about how that process is
2 going to occur because I think that's going to be
3 important to determine what's the embedded amount
4 versus what's the incremental amount, the embedded
5 amount for that period until rates are next reset.
6 So, you know, I think it's a concern and hopefully
7 we can come to some kind of consensus on it, or
8 maybe even put some specifics in the rule as far as
9 how you calculate that.

10 MR. FLETCHER: Okay. That's definitely a very
11 helpful lead-in to the next question, 6G. The
12 process for utilizing by the -- that the Commission
13 needs to utilize in order to ensure that the cost
14 recovery of the protection plans do not include
15 costs recovery in base rates. Now, one thing that
16 I want to remember to mention is the vegetation
17 management, as we just -- I think, FPL mentioned
18 that, Mr. Rubin.

19 I'm assuming until the next rate case, I would
20 think it would be incremental to what's included in
21 base rates. And what Mr. Rehwinkel said is what is
22 that -- what's embedded in base rates. That gives
23 light to the settlement agreements, that a lot of
24 the IOU's are under. That's one of the challenges
25 that we've faced in the storm recovery cost dockets

1 is what is embedded in base rates. We looked at
2 the budgeted amount. Even the rule I mentioned
3 earlier that may be impacted, not immediately,
4 which is that provision of the use of -- let's
5 see -- the use of accumulated provision of accounts
6 228.1, 2, and 4. And that provision -- what was
7 it -- it's the one that dealt with the tree
8 trimming and there was a use of a three-year
9 average there.

10 Mr. Rehwinkel mentioned that in settlement
11 agreements in two of them there's a three-year
12 average. We definitely would like comments from
13 the IOU's and the parties regarding that, what is
14 embedded? What do you envision embedding that in
15 order for us when we are looking at this cost
16 recovery or clause petition for recovery, you know,
17 what's embedded in base rates for vegetation
18 management. I would think it would be incremental
19 until your next base rates, until you pull all of
20 that out, which I think is the intent of the bill
21 that will be statute.

22 But definitely in light of the settlement
23 agreements, there's other costs that may, if you
24 all can -- other than vegetation management. You
25 know, capital costs. One thing that points to mind

1 is the storm hardening that was mentioned earlier.
2 You know, some of the things you all can think
3 about in your post-hearing workshop comments is
4 what is the delineation there of what's in base
5 rates versus what's going to be -- you're going to
6 be asking to recover in this clause, which is, is
7 it going to be the in-service date of the storm
8 hardening projects you already have in the works?
9 Does that maybe fall before your storm hardening
10 plan? Is that it? Is that just something to have
11 on your radar to consider? Is that the trigger or
12 where the line's drawn? Is in-service date, is it
13 completed in-service and base rates in, you know,
14 rate base for your earning surveillance purposes
15 prior to your storm plan? Maybe that's something
16 to think about.

17 That was mentioned earlier, the unrecovered
18 investment amount that we talked about earlier.
19 The assets that are being replaced through this
20 storm protection plan. I think you have two
21 different routes to go accounting-wise that I
22 thought -- that I said earlier that I would
23 specify. You have your grouped assets that you
24 depreciate, grouped assets and your ungrouped
25 assets. I think maybe it works out in the mix for

1 your group because of how depreciation works there
2 at the retirement. You lower your plan and you
3 accumulate depreciation by the same amount. Is
4 that all there is to it? There it works out in the
5 depreciation process outside of a rate case, or
6 what -- and I think that's going to be the majority
7 of the assets that are going to be replaced in this
8 protection plan, that capital investment and
9 protection plan calls is going to be grouped
10 assets, but you do have some small amount, I think,
11 that you're going to have an ungrouped. How is the
12 accounting for that? How is that going to be
13 treated? Is that going to remain in base rate
14 recovery, et cetera? That's something to consider
15 in your post-workshop comments.

16 Property taxes. Something to consider there.
17 You have the assets that you're being -- that are
18 being replaced. It's basically you have assumption
19 that they're already being recovered through --
20 property taxes bring recovered through base rates
21 of those assets that are been retired and replaced.
22 What are you going to do for the clause recovery?
23 Is it just going to be the incremental amount that
24 you're going to seek in the clause for the new
25 projects, that you're actually replacing the old

1 ones with until that gets worked out in your rate
2 case? Is it just the incremental part that you're
3 going to ask? Because, if it's not, then you got
4 to kind of have an offset to base rates if it's not
5 going to be incremental, in my view.

6 So, as you go through, if there's any other
7 comments that you already had prepared regarding
8 this section or to verify, that they're basically
9 not a double recovery through this clause recovery
10 versus base rates, we'll welcome any comments.

11 MR. RUBIN: We'll address those issues in our
12 written comments.

13 MR. BERNIER: Unless Mr. Foster has got a
14 pocket answer he's got ready, I think we'll have to
15 do that in our written comments, too.

16 MR. BADDERS: And the same is true for Gulf.

17 MR. WRIGHT: Nothing for now. Thanks.

18 MR. REHWINKEL: We will do -- we will address
19 in our comments.

20 MR. FLETCHER: Okay.

21 MR. KING: Okay. Last one is dealing with how
22 the costs will be shown on customer bills, I guess
23 is what this question is getting at. Is there
24 someone from staff that wants to add more detail to
25 this question?

1 MS. EICHLER: This is just kind of the factor
2 that we get at the end of all this process. Do the
3 utilities want that visible on a customer bill as a
4 line item, or do you want it behind the scenes and
5 then just added into the final number?

6 MR. RUBIN: So, from FPL's perspective, we
7 would suggest planning to treat the new clause
8 factors just as we do with other clause factors.
9 So combine this particular clause factor in with
10 the others and not have a separate line item on the
11 bill.

12 MR. BEASLEY: Tampa Electric would urge the
13 same approach be approved.

14 MR. FOSTER: Duke agrees.

15 MR. BADDERS: Gulf agrees.

16 MR. WRIGHT: I'm going to consult with my
17 client, but as a general proposition, we'd like to
18 know that what we're paying. We think -- I think
19 it ought to be a separate line item and I believe
20 my clients agree.

21 MR. REHWINKEL: Not surprisingly, the Public
22 Counsel believes that customers ought to have
23 visibility into what incremental costs they're
24 paying for this activity, at least in the early
25 stages of clause recovery. Certainly as it goes

1 forward and as there gets to be some level of
2 regularity in the level of costs, consolidation
3 with this cost recovery -- with the capacity cost
4 recovery factor might be appropriate, but we think
5 it ought to be itemized at the initial.

6 MR. KING: Okay. Well, that concludes our
7 agenda. Thank you, everyone, for all your
8 comments. We -- just to reiterate something
9 Samantha said earlier about your post-workshop
10 comments is we're going to have the transcript from
11 today, so you don't have to repeat things,
12 arguments you've made today or suggestions you've
13 made today, because we'll have those in the
14 transcript.

15 And, with that, I think we're going to talk
16 about the next steps. So we envision the
17 post-workshop comments being due on July the 3rd.
18 And then what will happen after that is staff will
19 look at these comments, we'll analyze them and
20 we'll determine whether or not there needs to be
21 substantive changes to the rule and, if so, whether
22 another workshop will be necessary. And, of
23 course, you'll be notified two weeks before the
24 workshop if another one is needed.

25 MR. GRAVES: If I may, for the post-workshop

1 comments, we had a lot of discussion about the
2 specific projects versus programs, and I think from
3 looking at the storm hardening plans, I can kind of
4 see the difference, but if you could provide an
5 example of that in your post-workshop comments.
6 And, also, I know Mr. Wright was going to provide a
7 definition for modification that he thought would
8 be appropriate. And I don't know if the utilities
9 could also provide a similar definition.

10 And I was handed a note -- or shown a note, I
11 guess, that the bill was presented to the Governor
12 for signature with the decision to be made before
13 July 10th, I believe.

14 MR. BERNIER: So if I could, this is Matt
15 Bernier for Duke Energy. And I've got a couple of
16 questions about the July 3rd due date for comments,
17 which I think is eight days from today. I think
18 we've got a -- I didn't keep a running tally, but I
19 think we've got a list of some 15 topics or so that
20 we're going to have to address in our post-workshop
21 comments, including potential draft red lines to
22 two new rules and consolidation of, I didn't count,
23 another 10 or 15 rules.

24 I'm not sure that -- and I'm speaking just for
25 Duke here, so for everybody else, I'm not sure that

1 we can get quality comments to you in eight days.
2 It seems to me that to Mr. Rehwinkel's point
3 earlier, in order to get, you know, more
4 substantive comments that are going to be of value
5 to you, I think we're going to need additional
6 time. I haven't talked too much with my colleagues
7 here, but I was thinking more along the lines of
8 like the 13th for these comments to give us
9 additional time to engage all of the different
10 areas who we're going to need to talk to really get
11 you substantive comments. So that would be my
12 suggestion is that we have additional time to --

13 MS. CIBULA: Well, the 13th is a Saturday so I
14 guess the 12th, July 12th.

15 MR. BERNIER: I love working on Saturdays. No
16 the 12th would be --

17 MS. CIBULA: Does that work for everybody?

18 MR. REHWINKEL: That would certainly be
19 better.

20 MR. WRIGHT: I'm going to vote for the 15th.
21 We have rebuttal testimony in the Gulf's docket due
22 on the 12th.

23 MR. BERNIER: Just to say that, actually out
24 loud on a transcript once, I completely agree with
25 Schef.

1 MR. WRIGHT: I'm okay with the 15th.

2 MS. CIBULA: 15th it is.

3 MR. BREMAN: This is Jim Breman. There's one
4 thing on the clause I probably forgot to mention is
5 staff's been looking at some of the schedules that
6 you all file in the Environmental Cost Recovery
7 Clause, so that's sort of where we're leaning as to
8 the level of detail in some of the typical annual
9 schedules that would be filed. There might be
10 additional ones, but right now that's sort of where
11 we're leaning.

12 MR. HINTON: So feel free to take a look at
13 those and comment on whether you think those are
14 acceptable or not, or will be effective. Thanks.

15 MS. CIBULA: And please file your comments in
16 the docket. Since we issued this notice, a docket
17 was opened, so please file your comments in the
18 docket.

19 MR. REHWINKEL: Are we about to wrap? I know
20 Andrew's talking -- If I could -- I overlooked one
21 thing. I hate to do this, but it's just something
22 that might show up in our comments, so I kind of
23 wanted to give folks a heads-up that we might raise
24 this. Back on Page 7, this is in the first rule on
25 Line 7, this is in the -- what's to be in the plan,

1 it says, a description of how the proposed storm
2 protection project is projected to strengthen
3 utility's existing transmission and distribution
4 facilities, et cetera. We would probably suggest
5 that the word designed is better than projected
6 because it seems like this is more of an
7 engineering thing than -- projected there's, first
8 of all, there's too many P words in that line
9 anyway, but in all seriousness, it just seems like
10 designed is the better criteria and we would
11 probably advocate that. I just wanted to let
12 people know we were going to say that in our
13 comments, just so they could think about it.

14 Back on a more procedural point, if comments
15 are due on July 15th, it seems like this has been
16 helpful and we appreciate this, all the thought
17 that staff has put into this. It's obvious a lot
18 of staffers have put a lot of time and effort into
19 this, and we appreciate it. There have been some
20 issues raised by both the utilities and, I think,
21 the public side that could be thorny. And we would
22 say it that it would be our preference that after
23 comments come in, that the Commission staff
24 consider another workshop where we can have more of
25 this dialogue.

1 And I say that in this spirit, is clearly if
2 someone had the intent to just drag things out,
3 they could ask for a hearing and all that, that
4 would not be our intent, but if there's a lot of
5 unstated questions, unresolved questions at -- on
6 this side of the rule adoption process, it's more
7 likely to push to a rule hearing and to push out,
8 you know, all of the dominoes fall, because then
9 you don't have a rule, then you can't have a plan,
10 then you can't have cost recovery hearing. So I
11 would just urge that you give strong consideration
12 to more pre-adoption workshop than less.

13 MR. KING: Just to address that comment. The
14 reason why we originally said July the 3rd was
15 because of this time line. This time line is
16 pretty tight, and so moving it back to the 15th
17 takes some of that time away from having a later
18 workshop. And, like I said earlier, staff has made
19 no decisions on whether a second one will be needed
20 yet. That's kind of up to what the comments look
21 like and what the analysis from staff as a whole is
22 after we get those comments, so -- but I do
23 understand.

24 MR. HETRICK: I would like to add one thing,
25 and that is that, Charles, I hear what you're

1 saying, and we want to be as inclusive as possible.
2 We do have time constraints. So I would also
3 strongly encourage the parties, OPC, the Retail
4 Federation and all the parties and the utilities to
5 also get together to try to come to some mutual
6 understandings that would facilitate an expedient
7 additional workshop so we can move through that
8 quickly and still meet our time frames.

9 MR. REHWINKEL: Message received.

10 MR. KING: Okay. One other clarification on
11 the post-workshop comments, staff would really
12 appreciate any answers you can give to the
13 questions that we talked about in 6. Of the
14 agenda, the additional topics for discussion,
15 things we might not have brought up here at the
16 workshop, we would really appreciate that.

17 And, if there's nothing else, I really thank
18 all of you for coming, making the time for this.
19 It's very helpful for staff for -- to have your
20 input. And, with that, we are adjourned.

21 (Workshop concluded.)

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CERTIFICATE OF REPORTER

25 STATE OF FLORIDA)

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

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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.

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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.

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DATED THIS 8th day of July, 2019.



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