

P R O C E E D I N G S

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2 **MS. COWDERY:** Good morning. Pursuant to
3 notice, this time and place has been set for the
4 undocketed staff rule development workshop to take input
5 from all interested persons on the possible adoption of
6 Rule 25-6.0431 and Rule 25-7.0391 relating to the
7 application procedure for limited proceedings, and on
8 amendments to Rule 25-22.0406, concerning notice and
9 public information requirements. I'm Kathryn Cowdery
10 with the Office of General Counsel. Also here on behalf
11 of staff are Connie Kummer, Marshall Willis, and Cheryl
12 Bulecza-Banks.

13 There are sign-in sheets at the back of the
14 room, if you could please sign in, so we have a record
15 of who's attended today. And the materials for today's
16 workshop are located on the table where you all are
17 sitting. The information is the same information that
18 you find online, and it's the same workshop materials
19 that were also sent out with the notice. So there have
20 been no changes since that time.

21 Does anyone have any preliminary matters
22 before we begin?

23 **MR. BURNETT:** Hello. John Burnett for
24 Progress Energy. I'm not sure it's a preliminary
25 matter, but if, if you were accepting some preliminary

1 comments, I would love to do that when, when
2 appropriate.

3 MS. COWDERY: Oh, yes, we are.

4 MR. BURNETT: Thanks.

5 MS. COWDERY: So are these oral comments or
6 are you talking written?

7 MR. BURNETT: No. Oral. I just -- yes.

8 MS. COWDERY: Oh, yes. Absolutely.

9 MR. BURNETT: Thanks.

10 MS. COWDERY: As we go through the rule
11 sections, we'll ask for comments as we go so we can get
12 them on a section-by-section basis.

13 MR. BURNETT: Great. So thanks. So if this
14 is an appropriate time to just make some opening general
15 comments on this.

16 MS. COWDERY: Sure.

17 MR. BURNETT: I appreciate it. So, again,
18 John Burnett for Progress Energy. And, you know, I'm
19 new to this. One of my colleagues was handling this for
20 me. So forgive me if I get into some ground that you
21 guys have already plowed, and I'm going to throw out
22 something that's maybe kind of a wild idea. So, you
23 know, if you have a coffee mug or something that you
24 want to toss at me, I'll duck.

25 But, you know, one thing, being new to the

1 process, that I came in and said -- you know, this is a
2 page turner usually when you get into a rule workshop
3 wanting to go line by line, item by item, and offer
4 comments. So I said, hey, you know, an efficient way I
5 usually do that is let's circle the wagons with our peer
6 IOUs and let's get with the Public Counsel and the other
7 intervenor parties, if we can, and see if there's some
8 commonality. Because probably the worst use of this
9 time is to bicker and offer up legal arguments and
10 positioning.

11 We did that, and even between the IOUs we had
12 some difficulty in reaching commonality on what we
13 thought about the various provisions. And then
14 certainly when we got with, with the Intervenor parties,
15 we had some things that we agreed on that we would maybe
16 want to change and then some things that we just had
17 very disparate views on. So that led me to kind of
18 believe that we may be here a long time today if we go
19 for that.

20 So my wild idea I told you about is the next
21 thing I kind of did is said, well, is there some
22 commonality? And I just started, hey, do we need this
23 rule at all? If we do need this rule at all, what's the
24 most efficient, streamlined way that we could all agree
25 on if we had a rule like this to avoid some controversy?

1 And does it make any sense to put out all the things
2 that we all could maybe agree on and bring that back to
3 you guys as a strawman and say this meets our needs,
4 does it meet yours?

5 So one thing that I would offer up is can we
6 do that? Can you guys send us back with some time to
7 talk among, among ourselves, put us on a deadline to
8 bring you back a strawman to where we can say what do
9 you think about this, and maybe have another workshop or
10 some written comments?

11 **MS. COWDERY:** Okay. Well, one thing that we
12 would anticipate and what we would want is we always --
13 this sort of, to me, falls in the category of post
14 workshop comments with a new, if you want, alternative
15 language, you do a type and strike type rule, and send
16 it back to us for our review. Does that -- that's sort
17 of how I would think about it.

18 Marshall?

19 **MR. WILLIS:** John, I think, I think your idea
20 is a good one personally, and I'm certainly not averse
21 to that. If there's something we can do that's
22 beneficial today as far as going through so we can get
23 an understanding of what you all kind of agree with and
24 don't agree with, it would kind of help us to some
25 point. I sure don't want to sit here today and spin our

1 wheels, but I do like your idea. I mean, I do like the
2 idea of the companies and Public Counsel getting
3 together and trying to come up with a strawman that they
4 believe they can live with.

5 The one thing that does concern me a bit is I
6 think I see the electric industry represented but I
7 don't see the gas industry people here. Is anybody
8 representing the gas industry here today besides
9 Charles?

10 **MR. BEASLEY:** (Inaudible. Not on microphone.)

11 **MR. WILLIS:** I was just wondering because we
12 do have the two separate rules. And I don't know that
13 you all would be working on -- wait, we've got somebody
14 coming up.

15 **MR. CALHOUN:** (Inaudible. Not on microphone.)

16 **MR. WILLIS:** Do you want to come to a
17 microphone and introduce yourself?

18 **MR. CALHOUN:** Dale Calhoun. I'm with the
19 Florida Natural Gas Association.

20 **MR. WILLIS:** Okay.

21 **MR. CALHOUN:** And the Associated Gas
22 Distributors of Florida.

23 **MR. WILLIS:** The one thing I was wondering,
24 it's -- you all are talking about a strawman for the
25 electric industry. And since there is no one here

1 really representing the IOUs, I don't know if you are or
2 not.

3 **MR. CALHOUN:** Well, we have IOUs that are part
4 of our membership.

5 **MR. WILLIS:** Okay. But that's something we
6 might want to talk about too, if you, if you have any
7 comments on that. But if we could start that direction
8 and go down with the, with the electric rule first. And
9 we don't have to get into the weeds today, we really
10 don't. But if you all would like to tell us the
11 sections you think you have some commonality with so we
12 have a general idea of what you may be filing as a
13 strawman, it would help us out when that comes in.

14 **MR. BURNETT:** Yeah. And, Marshall, I guess
15 what we were thinking, in the legislative branch, I
16 think they call it, it's a, it's a delete all replace.

17 **MR. WILLIS:** Right.

18 **MR. BURNETT:** And that's why I was thinking
19 maybe the page turn may not be the best idea. And the
20 concept at least that -- I have no authority to speak on
21 anyone's behalf here. But at least the concept that
22 we've, we've been routing together over the last week or
23 so is something that says, kind of gate keeping
24 processes, like if a limited proceeding is filed,
25 there's a process by which -- and these are just

1 concepts -- a process by which interested parties are
2 allowed time to intervene and be part of the process.
3 And then there's sort of a post filing meeting perhaps
4 that we have to try to gain some commonality. You know,
5 do we agree it's PAA or a full hearing? Is there a
6 scope of issues that can be agreed to? Is there
7 anything else that perhaps needs to be filed? And then
8 perhaps that's elevated, if it's agreed to, to the
9 Prehearing Officer. If it's not agreed to, then it
10 maybe goes to the Prehearing Officer, and there's a
11 process by which the prehearing officer could
12 conceptually take that to the full Commission; expand
13 the scope of the proceeding, if they need to; ask for
14 various things to be filed.

15 So it's a little bit less prescriptive but I
16 think still gets to a lot of the same places the current
17 rule is trying to get to. So that's sort of our
18 concept, and that's why we were thinking sort of a --
19 not necessarily a do-over in concept, but a lot of
20 different language.

21 **MR. WILLIS:** Sure.

22 **MS. COWDERY:** That's fine.

23 **MR. WILLIS:** How about OPC and FIPUG? Are you
24 all on board with that or -- Charles?

25 **MR. REHWINKEL:** From the Public Counsel's

1 standpoint, what John has laid out to you is, is a
2 concept that's in the ball park of where we think the
3 rule that would be required under 366.06 should fall,
4 somewhere in that kind of process and mechanics, rather
5 than getting into the substantive prescription or
6 limitations on the Commission's authority.

7 So we would be very eager to talk about, in,
8 in an informal process, to bring something back to you
9 that went in that direction rather than what we see is
10 a, is a process that's pretty much almost guaranteed to
11 have legal challenges from both sides. So we think that
12 would be a much more efficient way to, to get to where
13 you need to be with this rule.

14 **MR. WILLIS:** Okay.

15 **MS. KAUFMAN:** Thanks, Marshall.

16 I, I wasn't part of the group that discussed
17 this informally, but Mr. Burnett approached me this
18 morning, and I also think it's a good idea. And I agree
19 with Charles that, that rather than going in the
20 direction -- the proposed or the working draft of the
21 rule is lots of substance. I think we would be more
22 comfortable working with the parties to maybe come up
23 with one that's more process or procedural.

24 So we would support the idea that let the
25 parties go off and see what we can come back with to you

1 and see, see if that, you know, can alleviate some of
2 the parties' concerns. Because I know we're not getting
3 into specifics and that's fine. FIPUG has a lot of
4 concerns with the current draft of the rule.

5 **MR. WILLIS:** Do you, do you both have concerns
6 with the gas portion too?

7 **MR. REHWINKEL:** We would have similar concerns
8 with the gas portion. There are, there are common
9 issues there. Our -- our -- probably don't have as
10 overarching a concern with the gas provisions. But I
11 think that, that the concepts still ought to be more
12 procedural and mechanical rather than substantive
13 ratemaking concepts.

14 **MR. WILLIS:** Okay. I don't really have a
15 problem with that idea, with the electric and gas
16 portion. Because I don't want to go forward with the
17 gas if we're going to hold off and let them come back
18 with a strawman.

19 But what about the noticing rule? Can we, can
20 we at least talk about that? Because I think staff is
21 looking at the noticing rule as it needs to be cleaned
22 up. There need to be changes made to the noticing rule
23 so it's fairly clear. And with or without a limited
24 proceeding rule on procedures, the noticing rule ought
25 to, we think, ought to at least go forward with some

1 cleanup.

2 **MR. REHWINKEL:** From, let me say from the
3 Public Counsel's standpoint, the noticing rule
4 interrelates to one of the more substantive aspects of
5 the, of this rule, the limited proceeding rule that we
6 had. So there's language in here about the time frame
7 and the mechanics of noticing whether it's a five-month
8 PAA protest or an eight-month clock ran out.

9 We think there are issues that are there that
10 are unique to kind of the mechanisms that are in the
11 limited proceeding rule. So rather -- I think if we
12 went and kind of went through that here today, it would
13 be maybe deck chairs on the *Titanic* in the sense of
14 we're really -- maybe that's not going to really be
15 there in the end if we come back with something. So I
16 don't know if that makes sense to you. But I think
17 there's aspects of what we think ought to be in the
18 notice if you do the limited proceeding rule, but I
19 don't think the limited proceeding rule should be as, as
20 comprehensive such that it impacts these provisions.

21 **MR. WILLIS:** I understand. Just be aware that
22 if we go that route and we put all three rules off until
23 you come back with a strawman, even if, even if the
24 outcome of this was that the Commission would just stay
25 with the status quo right now, we wouldn't go forward

1 with a rule or go forward with a limited rule, we'd
2 still want to try and come forth with a cleaned up
3 version of the noticing rule. It's much easier to
4 understand, and everybody is living by the same
5 requirements at that point.

6 **MR. REHWINKEL:** Yeah.

7 **MS. KAUFMAN:** Marshall, I just think it's,
8 it's kind of hard to know what you're going to notice
9 and how you're going to notice it and what the time
10 frames for the notice are going to be until you know
11 what the rule is going to be. So I think that's, that's
12 the difficulty with, with -- you know, if you were to go
13 forward and segregate out this rule and propose it and
14 go through all that, it might be that you might have to
15 go back and change it after the electric and gas rule
16 come out. It's just hard to know.

17 **MS. KUMMER:** Excuse me. If I could jump in
18 here.

19 **MR. WILLIS:** Absolutely. Jump.

20 **MS. KUMMER:** Sections 1 and 4 through 8 apply
21 to both, and I don't think those are specific to the
22 limited proceeding, and paragraph 2 applies to regular
23 old rate cases. And a lot of this is just cleanup
24 language. For example, we're eliminating the
25 requirement to put MFRs in business offices because

1 y'all don't have them anymore. You know, this kind of
2 cleanup. Adding some things we'd like to see -- the
3 notice of -- like the Commission address for complaints
4 and safety violations and those kinds of things. And I
5 can't see that those are peculiar to whether or not
6 there's a limited proceeding. Paragraph 3 is the only
7 part of this that really is specific to limited
8 proceedings.

9 **MR. REHWINKEL:** I would agree with that.
10 It -- that's -- my comments were at a very high level
11 incorporating the interrelationship with a limited
12 proceeding. I didn't look at this in super detail, but
13 I did review the rule and I, and I understood the
14 modernization and updating aspects of that, and we
15 didn't see any particular problems with that. The folks
16 that have to implement it over here, I don't know where
17 they were.

18 **MR. WILLIS:** That's, that's the other part
19 here. I'm going to ask John and the rest if you have
20 problems at least going through the noticing rule, or do
21 you want to put that off too?

22 **MR. WHITE:** Jordan White with FPL. I mean, I
23 think, you know, if today we were, you know, had the
24 rule as it, you know, fully baked -- in other words, we,
25 you know, we're not going to meet together and come up

1 with a strawman proposal, we would have a few, you know,
2 kind of logistical or mechanical, you know, potential
3 suggestions that we would provide in strike through.

4 But I guess what I'm kind of agreeing with the
5 other folks here is that ultimately it might make more
6 sense just to do it as a complete package once we -- you
7 know, because, I mean, there may be some things that
8 are, that are completely unconnected, but ultimately,
9 you know, rather than kind of having a duplicative set
10 of, you know, suggestions or comments, it might just
11 make sense to do it as a complete package at that time.
12 You know, in other words, once we actually, you know, do
13 the strawman. That's my --

14 **MR. WILLIS:** Okay. Kathryn, how should we
15 proceed then?

16 **MS. COWDERY:** Well, I first want to make sure
17 we don't have somebody who would like to make some
18 individual comments right now. Like, Mr. Calhoun, did
19 you have anything you wanted to say at this time?

20 **MR. CALHOUN:** No, I don't.

21 **MS. COWDERY:** Okay. And are we going to try
22 to have some coordination on the gas rule also? Did you
23 want to be involved in, you know, working with
24 Mr. Rehwinkel at OPC or touch base with him, something
25 like that?

1 **MR. CALHOUN:** Sure. I'll be involved.

2 **MS. COWDERY:** Okay. All right. Do we have
3 anyone who would like to make any specific comments
4 about any specific sections, you know, unrelated to what
5 we've already been discussing? Okay.

6 **MR. WILLIS:** Well, I guess the next thing is
7 to figure out how much time do you all need?

8 **MR. REHWINKEL:** I don't think we need a lot of
9 time. I mean, we'd be willing to work on this in a
10 fairly short order.

11 **MR. BURNETT:** I'll throw out two or three, two
12 weeks, three weeks maybe, if that's acceptable.

13 **MS. COWDERY:** That's fine. Three weeks, if
14 you can --

15 **MR. WILLIS:** How about if we give them four
16 and --

17 **MS. COWDERY:** Yeah. I mean, we --

18 **MR. WILLIS:** Just to make sure.

19 **MS. COWDERY:** Let's see. So we've got --

20 **MR. REHWINKEL:** I think if you just pick a, a
21 time --

22 **MS. COWDERY:** How about April -- Friday the
23 13th on April? That's in four months -- four weeks.

24 **MR. BURNETT:** Sounds, sounds fine to Progress.

25 **MR. REHWINKEL:** I personally think, for people

1 who are watching or whatever, I, I think it would be
2 best for the, for the gas folks to meet with us because
3 I think that, that we would prefer that there be
4 symmetry with respect to the process and mechanics
5 aspects. So I think it would make sense. And TECO is a
6 bridge to that because --

7 **MR. WILLIS:** I would agree. I'm sure Jim
8 could get the word to Peoples' to --

9 **MR. REHWINKEL:** Yeah. So that, that would
10 just be my suggestion. I think that would be workable
11 that we kind of find common ground on something in the
12 neighborhood of what Mr. Burnett talked about.

13 **MR. WILLIS:** That would be preferable.

14 **MR. REHWINKEL:** For both industries.

15 **MR. WILLIS:** So, I mean, but if you all think
16 to get all that organized you're going to need more than
17 four weeks, now is the time to say so.

18 **MS. BANKS:** Mr. Calhoun, will you be able to
19 get in touch with your members and make sure they're
20 aware of what's going on for us?

21 **MR. CALHOUN:** Yes, ma'am, I will.

22 **MS. BANKS:** Thank you.

23 **MR. WILLIS:** Well, then I guess --

24 **MS. COWDERY:** Okay. Well, I guess we will
25 have a transcript of this proceeding, which will be

1 ready on March 23rd or so, maybe before that at this
2 point. And I think that takes care of it.

3 Any, anybody have any last-minute thoughts
4 we're forgetting here? Then we are adjourned. And
5 thank you very much.

6 **MR. WILLIS:** Thanks for coming.

7 (Proceeding adjourned at 9:47 a.m.)
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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4 I, LINDA BOLES, RPR, CRR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 22nd day of March,
19 2012.

20 Linda Boles
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24
25