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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO.

UNDOCKETED

WATER PETITION.  
\_\_\_\_\_ /

PROCEEDINGS:

RULE DEVELOPMENT WORKSHOP

TAKEN AT THE  
INSTANCE OF:

The Staff of the Florida  
Public Service Commission

DATE:

Tuesday, October 7, 2014

TIME:

Commenced at 1:00 p.m.  
Concluded at 2:30 p.m.

PLACE:

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

REPORTED BY:

MICHELLE SUBIA, RPR  
Certified Court Reporter  
(850) 894-0828

1 APPEARANCES:

2 MARTIN S. FRIEDMAN, ESQUIRE, Friedman, Friedman &  
3 Long, P.A., 766 N. Sun Drive, Suite 4030, Lake Mary,  
4 Florida 32746-2554, appearing on behalf of Utilities,  
5 Incorporated.

6 PATRICK FLYNN and JOHN WILLIAMS, Utilities,  
7 Incorporated, 200 Weathersfield Avenue, Altamont  
8 Springs, Florida 32714, appearing on behalf of  
9 Utilities, Incorporated.

10 TROY RENDELL, U.S. Water Services Corporation,  
11 4939 Cross Bayou Boulevard, New Port Richey, Florida  
12 34652, appearing on behalf of U.S. Water Services  
13 Corporation.

14 ERIK L. SAYLER, ESQUIRE and DENISE VANDIVER,  
15 Office of Public Counsel, 111 West Madison Street, Room  
16 812, Tallahassee, Florida 32399-1400, appearing on  
17 behalf of the Office of Public Counsel.

18 ROSANNE GERVASI, ESQUIRE, DAVID L. DOWDS, KEVIN J.  
19 BLOOM and MARK A FUTRELL, Florida Public Service  
20 Commission, 2540 Shumard Oak Boulevard, Tallahassee,  
21 Florida 32399, appearing on behalf of the Florida  
22 Public Service Commission.

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

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MS. GERVASI: Good afternoon. I think we'll go ahead and call the workshop to order. It's one o'clock. And I'll begin by reading the notice. "Pursuant to notice, this time and place has been set for an Undocketed Staff Rule Development Workshop on the initiation of rule making to adopt Rule 25-30.091, FAC, Petition to Revoke Water Certificate of Authorization and to Amend Rule 25-30.440, additional engineering information required of Class A and B water and wastewater utilities in an application for rate increase.

My name is Rosanne Gervasi. I am with the Commission's Office of General Counsel. And with me, I have staff up here at the table, Kevin Bloom and David Dowds, Stan Rieger and Mark Futrel.

We thank you all for being here and for participating in the workshop today. Your participation will be very helpful and important to us in formulating a rule proposal recommendation to the Commission.

We have extra copies of the materials if anybody needs them on the table in the back. And the materials consist of the Commission notice

1           itself, the FAR notice of development of rule  
2           making, the two draft rules and a document  
3           entitled "Instructions for Petitioning for  
4           Revocation of Water Certificate," as well as a  
5           sample petition form and the agenda for today's  
6           workshop.

7           This workshop is being broadcast through the  
8           Commission's website and it will be archived there  
9           as well for your future reference. And for anyone  
10          listening in, you may access the workshop  
11          materials by rolling over the conference and  
12          meeting agenda tab on the Commission's home page  
13          and then clicking on notice of staff workshops.

14          Before we begin, I just want to say that, you  
15          know, the primary purpose of this workshop is to  
16          seek and discuss your input on the draft rules  
17          that we have provided. And when making your  
18          comments, please be mindful that we do have a  
19          court reporter here who will prepare a transcript  
20          of the workshop, so we will only be able to have  
21          one person speak at a time, so please wait to be  
22          called upon to speak. And I think maybe we'll  
23          just go on down the line until everybody has given  
24          their comments. Please state your name before you  
25          begin your comments and spell it the first time

1           you speak and speak clearly into the microphone.

2           With that, I will turn it over to Kevin  
3 Bloom, who will give a brief overview of the draft  
4 rules. And then after that, we'll take up any  
5 general comments that you all may have before we  
6 delve into the rule language, paragraph by  
7 paragraph.

8           MR. BLOOM: I'll be brief, mostly because I'm  
9 sure everyone here is as familiar with this new  
10 statute as we are. From a broad perspective, as  
11 we see it, the statute does two things. The first  
12 thing it does is create an avenue for our  
13 customers of water utilities to approach the  
14 Commission about the quality of their service  
15 outside of the usual processes which would be  
16 either a limited proceeding or a full-blown rate  
17 case.

18           Second, it includes Secondary Water Quality  
19 Standards and embeds them into the ratemaking  
20 process. Most of the work we have engaged in so  
21 far as staff has to do with the petition process,  
22 obviously, because that is completely new ground  
23 for us.

24           The handouts that Rosanne referred to, the  
25 one that deals with the petition process is

1 25-30.091, and the one that deals with the water  
2 quality -- Secondary Water Quality Standards is  
3 25-30.440.

4 Before we delve into this, there's one  
5 question we have received relating to the draft  
6 rule on the petition process is why does it stop  
7 where it does. And from a narrative perspective,  
8 that's probably a fair question.

9 The way we're looking at it is that once a  
10 petition is held to be sufficient and the  
11 Commission determines -- should the Commission  
12 determine that there's a reasonable likelihood  
13 that a utility is failing to provide quality water  
14 service, every subsequent proceeding from that  
15 would kind of flow into 120. And I think everyone  
16 here is as familiar with Chapter 120 as any of us  
17 are up here.

18 And by the way, that reasonable likelihood  
19 standard is straight from the statute. That's not  
20 something that's been concocted by us, you know,  
21 it's not incipient or whatever on the staff's  
22 part. That's what the statute reads. And that  
23 would be a Commission decision.

24 So essentially I think at least where we have  
25 approached it is when you have a determination

1           that there's a reasonable likelihood, in essence  
2           you would be in a show cause sort of posture. And  
3           I think everyone here is probably familiar with  
4           how that works. That's what our thinking is at  
5           the current time.

6                     But the reason we're here is to hear what  
7           other people have to say. We all kind of know  
8           what we think up here, but we're really more  
9           interested in what you guys have to say. So with  
10          that, I'll stop.

11                    MS. GERVASI: Thank you, Kevin.

12                    Does anyone have any general comments that  
13          you want to give before we get into the specifics  
14          of the rule language?

15                    MR. FRIEDMAN: Yes. Marty Friedman,  
16          F-r-i-e-d-m-a-n, attorney for Utilities, Inc.

17                    Yeah, just as a general conception, it really  
18          dealt with the last comment from a general  
19          conceptual standpoint, the rule doesn't really say  
20          what happens once they have determined that it  
21          should go past step one, you know. And so whether  
22          it's handled as a show cause or a 120, I mean,  
23          that's important from a burden of proof standpoint  
24          and from just a procedural standpoint as to what  
25          process happens. Do you treat it as a show cause

1 or do you treat it as the customer is filing a  
2 petition for some sort of hearing under 120? But  
3 I think that that's what's left out of this. It  
4 just needs to be addressed somehow.

5 And I do have specific comments on the rule,  
6 but I'll save those for later. That's my biggest  
7 general comment is it just doesn't say what  
8 happens when you get to stage two.

9 MS. GERVASI: Thank you, Marty. And before  
10 we move on down the line, let me just say very  
11 briefly in response to that, if you look at the  
12 instructions for petitioning for revocation of  
13 water certificate -- and we do contemplate  
14 referencing these instructions into the rule and  
15 incorporating them into the rule by reference so  
16 that they will actually be a part of the rule --  
17 the second to last paragraph there -- and it is  
18 short and sweet and it doesn't go into detail as  
19 to how the Commission will proceed -- but what it  
20 says is that "If the petitioners obtain the  
21 required signatures and the petition is deemed  
22 sufficient, the Commission will determine if a  
23 reasonable likelihood exists that the utility is  
24 failing to provide quality water services. The  
25 Commission's subsequent action on the petition



1 will be subject to the requirements of" the  
2 various provisions of Chapter 120 that pertain,  
3 and that includes 120.60(5), which deals with  
4 license revocations and so forth, as well as the  
5 new Statute 367.072, which we're here to  
6 implement. Those procedures are all laid out, we  
7 believe, in Chapter 120.

8 To the extent that you think we need to  
9 include any specifics that are not simply  
10 duplicative of those procedures, we're more than  
11 happy to look at them. We would be interested to  
12 see your comments and suggestions, perhaps in a  
13 post-hearing filing.

14 MR. FRIEDMAN: Okay. So under this, it seems  
15 like that the Commission is going to treat it as  
16 if it were a license revocation under Chapter 120  
17 and those rules and requirements and standards and  
18 burdens of proof would apply?

19 MS. GERVASI: If the Commission determines  
20 that a reasonable likelihood exists, yes, we will  
21 need to go to hearing. And the revocation of a  
22 certificate, yes, we believe is akin to revoking a  
23 license such that that provision of 120 would  
24 apply.

25 MR. FRIEDMAN: Okay.

1 MS. GERVASI: Any other general comments?

2 MR. RENDELL: Yes, ma'am. Troy Rendell. I'm  
3 with U.S. Water Services. I've actually written  
4 out my comments. I brought ten copies that could  
5 be distributed. I have both general and specific.  
6 I don't know what your reference is, if I go  
7 through the letter itself or just save the  
8 specifics when we go into the actual paragraphs.

9 Would you like me to just make the general  
10 comments first and then save those?

11 MS. GERVASI: Yes, please, if you would,  
12 Troy, go ahead and give your general comments.

13 MR. RENDELL: Okay.

14 MS. GERVASI: And then we will take up the  
15 paragraphs one at a time, so you'll have an  
16 opportunity to give your specific comments at that  
17 time.

18 MR. RENDELL: Okay. Great. First I would  
19 like to commend the Senator sponsor of the Senate  
20 Bill and the Commission in the attempts to address  
21 concerns on water quality throughout the state of  
22 Florida. The issue of quality of water service  
23 and customer concerns has long been an ongoing  
24 issue in the water industry. I'll skip over the  
25 specifics.

1           My general comments are in the proposed rule  
2           in Section 25-30.091(9), it refers to whether the  
3           petition is sufficient for the Commission to act;  
4           however, there's no indication of what this  
5           Commission act may be. The newly enacted Statute  
6           367.072, Florida Statutes, specifically  
7           Section (5)(b), establishes that the Commission  
8           may require the utility to take necessary steps to  
9           correct the quality of service -- water service  
10          issues identified with the establishment of  
11          benchmarks and a timeline, or in the alternative,  
12          Section (5)(c) allows the Commission to revoke  
13          certificate.

14           So from my reading of the statutes, it's  
15          either/or, they could take either steps, either  
16          allow the utility to attempt to meet with the  
17          customers and address the concern or move towards  
18          a revocation if those criteria aren't met.

19           There's no indication of what standards may  
20          be established in determining whether the utility  
21          will be allowed to address the concerns raised by  
22          the petition or the Commission immediately moves  
23          forward with revocation. This may be intended --  
24          this may be an intended act as each circumstance  
25          must be evaluated on its own merits. Moving

1 forward with the revocation is an extreme measure  
2 without an opportunity for the utility to rectify  
3 any customer concerns.

4 This consideration should also include a cost  
5 factor, in that the utility should be allowed the  
6 opportunity to not only identify potential  
7 solutions but also to compile the potential costs  
8 and the potential impacts on its customers. I  
9 believe it's imperative that the utility should be  
10 allowed to meet with the customers and discuss  
11 these potential impacts to rates prior to being  
12 directed to undertake any such solution.

13 A further discussion should be undertaken as  
14 to the revocation process in how a subsequent sale  
15 of a utility will move forward. Although outside  
16 the jurisdiction of this Commission, the  
17 subsequent sale of a utility's assets should be  
18 further discussed as to avoid any unconstitutional  
19 taking of property without justification -- I  
20 mean, without compensation, sorry.

21 You know, it brings to mind what Mr. Friedman  
22 said is if you're going straight to a revocation  
23 or 120 hearing. The dynamics of the water  
24 industry has changed dramatically over the past  
25 several years. There's not many large utilities

1 left. I mean, most of them are Class B's and the  
2 majorities are Class C's. So they don't  
3 necessarily have the financial wherewithal to hire  
4 attorneys, fight, you know, a hearing process  
5 without getting the opportunity to at least  
6 address the issues up front.

7 And with that, that's my general comments,  
8 and I'll reserve the right to go through my  
9 specific comments later.

10 MS. GERVASI: Thank you. Anybody else have  
11 general comments to make?

12 MR. SAYLER: Yes.

13 MS. GERVASI: Erik.

14 MR. SAYLER: Good afternoon. Erik Sayler  
15 with the Office of Public Counsel, E-r-i-k,  
16 S-a-y-l-e-r. With me today is Ms. Vandiver from  
17 our office.

18 We have do a few general comments and also  
19 just some questions, as opposed to specifics. And  
20 I'll get to my questions as we go through the  
21 rule, but our general comments are as follows.

22 We believe that the draft rules that the  
23 Commission has drafted to petition to -- for a  
24 petition to revoke a water certificate is a good  
25 start. It follows the intent of the statute. And

1 we do have some questions that we would like to  
2 ask in order to understand the process, how it's  
3 going to work, because we expect that if a  
4 revocation petition process is started, the  
5 customers will ask us questions about how that  
6 works. I'm sure Commission Staff will be asked a  
7 lot of questions, but they may also be asking us a  
8 lot of questions, so we want to be able to  
9 understand that. And at the appropriate time, as  
10 we're going through the different rules, I'll pose  
11 my questions.

12 MS. GERVASI: Thank you. Anybody else  
13 general comments?

14 (No response).

15 MS. GERVASI: Let's then move on and take up  
16 the draft revocation rule language first one  
17 paragraph at a time. That's what we've identified  
18 as Rule 25-30.091. Of course, it's only in draft  
19 form.

20 Paragraph (1), which reads: "The purpose of  
21 this rule is to establish a process by which  
22 customers of investor-owned drinking water  
23 utilities may petition the Commission to revoke a  
24 utility's certificate of authorization pursuant to  
25 Section 367.072, Florida Statutes."

1           Does anybody have any remarks, suggestions  
2           about that opening paragraph?

3           (No response).

4           MS. GERVASI: It's pretty self-explanatory,  
5           we think.

6           Paragraph (2) deals with the letter of  
7           intent. "Utility customers who intend to file a  
8           petition with the Commission for revocation of  
9           their utility's certificate of authorization  
10          pursuant to Section 367.072, Florida Statutes,  
11          shall notify the Commission in writing of their  
12          intent to file a petition for revocation of  
13          certificate. In the letter of intent, the  
14          customers shall advise the Commission of the name  
15          and address of their water utility. The letter of  
16          intent shall be filed with the Office of  
17          Commission Clerk."

18          And we didn't provide an address for the  
19          Commission Clerk in this paragraph simply because  
20          we now allow for electronic filing as well as  
21          filing by mail, so it leaves it open to either,  
22          and we have a separate filing rule.

23          Any questions on Paragraph (2) concerning the  
24          letter of intent?

25          MR. FRIEDMAN: Yes. This is Marty Friedman.

1 Is it going to be a docketed item at that time?  
2 Is the letter of intent going to be docketed by  
3 the Clerk with a docket number or is it going to  
4 be handled in some other manner?

5 MS. GERVASI: We envision that that will  
6 cause us to open a docket, the receipt of that  
7 letter of intent, is my understanding.

8 And, staff, please do feel free to pipe up if  
9 I misspeak. But, yes, we think this will be the  
10 easiest way for everybody to track the process.  
11 As soon as that letter of intent comes in, that  
12 will trigger the opening of a docket.

13 MR. FRIEDMAN: The reason I ask is I'm trying  
14 to figure out how that ties in to whether a  
15 utility has filed a rate case or not, because they  
16 can't file a letter of intent if there's a rate  
17 case pending. And so I'm presuming that once a  
18 utility files a request for a test year and that  
19 test year request is docketed, that that's the  
20 initiation of a proceeding as interpreted by this  
21 statute, which would mean that they could not file  
22 a letter of intent subsequent to a utility filing  
23 its test year request.

24 Is that your understanding of how the process  
25 is going to work?



1 MS. GERVASI: I think that you raised a good  
2 point, and it's something we have discussed, you  
3 know, when is the rate case filed, is it when you  
4 have received your test year approval or is it  
5 when you have filed your minimum filing  
6 requirements.

7 MR. FRIEDMAN: Well, it's got to be the  
8 first.

9 MS. GERVASI: Tell us why, Marty.

10 MR. FRIEDMAN: Because, otherwise, as soon as  
11 you send in a test year request letter, all of the  
12 sudden the customers are going to come out of the  
13 woodwork and say, uh-oh, our rates are going to go  
14 up, we need to do something, and they'll muster  
15 the troops and file one of these letters of  
16 intent.

17 And if their letter of intent puts a dead end  
18 to our rate case, then all the sudden this process  
19 can last for years. There's no deadline for how  
20 long this revocation process lasts. And you're  
21 taking away a utility company's opportunity,  
22 constitutional opportunity to earn a fair return  
23 on its investment during that process. So the  
24 beginning of the filing of a rate case or a  
25 proceeding, I think is the terminology they use,

1 has got to be when the test year request comes in.

2 MS. GERVASI: And I'm looking at the language  
3 of the new Statute 367.0812(3), which basically it  
4 says that "The customers cannot petition for  
5 revocation if the utility is the subject of a  
6 proceeding under this chapter."

7 MR. FRIEDMAN: That's my question.

8 MS. GERVASI: Yeah, I think you're right that  
9 it --

10 MR. FRIEDMAN: When does it become subject to  
11 a proceeding. And to me it's got to be when you  
12 file the test year request letter, because there's  
13 a lag. You know, you file the letter, you got to  
14 wait 30 days before the Chairman has to approve or  
15 disapprove. And that 30-day time period, you  
16 could, in some of these communities, you know,  
17 particularly the mobile home communities that have  
18 well-organized HOAs, they could probably get  
19 together and file something in that 30-day time  
20 period.

21 So I think that the proceeding has got to --  
22 you've got to interpret this to make this process  
23 work for the filing of a proceeding being the  
24 request for a test year, not the approval of a  
25 test year, the request for a test year.

1 MS. GERVASI: Thank you your for comments. I  
2 agree that it's open to interpretation and we do  
3 need to make an interpretation of that.

4 MR. FRIEDMAN: That's a huge issue.

5 MR. BLOOM: I think, Mr. Friedman, the  
6 statute says if the petition is in compliance and  
7 the Commission finds there's a reasonable  
8 likelihood, you are then prohibited from filing a  
9 rate case. But you could file for a test year and  
10 it might take a long -- a fair amount of time to  
11 get the Commission to a reasonable  
12 determination -- a reasonable likelihood posture.

13 MR. FRIEDMAN: Yeah, but the reasonable  
14 likelihood is the process under the revocation  
15 proceeding.

16 MR. BLOOM: Correct.

17 MR. FRIEDMAN: So you're saying that anytime  
18 before they issue that determination of reasonable  
19 likelihood, you could file a test year letter and  
20 that would initiate a proceeding which would  
21 forestall a revocation proceeding?

22 MR. BLOOM: Not being an attorney, just  
23 looking at the plane language, it says there has  
24 to be a reasonable likelihood finding before you  
25 would be prohibited from moving forward.

1 MR. FRIEDMAN: But that belays the question  
2 of when are you filing a proceeding? When is a  
3 proceeding pending? Does it pend when you file  
4 your test year request letter? Is it pending when  
5 you get a test year approval? Is it pending when  
6 you file your MFRs? Is it pending when you get  
7 your official date of filing?

8 The time frames between those is sometimes  
9 huge because sometimes we file our test year  
10 request letter -- you got to file it at least 60  
11 days before you're going to file the MFRs in order  
12 to give yourself time to get the approval back.  
13 And a lot of times we file even earlier than that.

14 And then what we have typically done is we  
15 sit down with the staff in a beginning -- in a  
16 particular year and say here's what -- you know,  
17 to help the staff know what we're doing, we sit  
18 down -- at least on behalf of Utilities, Inc. --  
19 and say, here are the cases we think we're going  
20 to file this year.

21 Now, we can't do that if that means that the  
22 Office of Public Counsel knows about it and the  
23 customers all of the sudden know about it and they  
24 start filing, you know, these petitions. So we  
25 can't -- this whole process is going to take out

1 one part of what we typically do informally, which  
2 is let the staff know in advance when we're going  
3 to file test year request letters. We can't do  
4 that anymore under this process, and it's  
5 unfortunate. But I don't think it fits within the  
6 provisions of this without jeopardizing our  
7 ability to get that rate increase.

8 So the next step then is actually filing the  
9 test year letter. And the initiation of a  
10 proceeding has got to be interpreted to be that  
11 date. When that test year request letter is filed  
12 has got to be when that proceeding is initiated;  
13 otherwise, you could -- the customers could play  
14 with the system and just keep a utility from  
15 getting a rate increase for, you know, however  
16 long one of these proceedings lasts.

17 And that's the other part of our question is,  
18 you know, there's no deadline for doing anything.  
19 And we all know that when there's no deadline in a  
20 case pending at the PSC, we know what tends to  
21 happen to those cases. They get put off because  
22 you've got deadlines on other cases you've got to  
23 meet. You only got so many staff and so much  
24 time, and so obviously the non-deadline matters  
25 get pushed to the end.

1 MS. GERVASI: Marty, we will certainly take  
2 all of your comments into consideration. And if  
3 you have specific rule language that you would  
4 like to suggest that needs to be included or that  
5 we at least need to consider in including and any  
6 recommendation on the rule proposal, we would be  
7 more than happy to look at it and we would  
8 appreciate the opportunity.

9 We will have, you know, a post-workshop  
10 comment period if you don't have specific language  
11 with you today.

12 Are there any other questions, concerns,  
13 comments about Paragraph (2) concerning the letter  
14 of intent?

15 MR. SAYLER: Erik Sayler with the Office of  
16 Public Counsel. Not necessarily with the letter  
17 of intent, but similar to what Mr. Friedman raised  
18 earlier today. When a docket is opened, and  
19 really at this juncture it looks like the  
20 threshold issue is whether the petition is  
21 sufficient to meet the requirements of the  
22 statute. And there's two parts to that; the  
23 sufficiency of the petition and, also, that the  
24 Commission finds the reasonable likelihood that  
25 the utility is failing to provide quality of water

1 service.

2 But the question is how is that going to be  
3 evaluated? Is that going to be proposed agency  
4 action? I mean, what process is the Commission  
5 going to apply to that? Would the utility be able  
6 to participate in that process or is it -- I mean,  
7 I'm just trying to understand that.

8 MS. GERVASI: This particular paragraph only  
9 deals with the letter that we will receive from  
10 customers -- a customer or customers saying that  
11 they intend to file the petition, so we haven't  
12 gotten the petition just yet.

13 MR. SAYLER: Maybe it's more of a global  
14 issue.

15 MS. GERVASI: How we process the actual  
16 petition, I think that -- let's continue on with  
17 the rule and I think we'll get there.

18 MR. SAYLER: All right.

19 MS. GERVASI: Okay. Paragraph (3), unless  
20 there are any other comments concerning  
21 Paragraph (2).

22 (No response).

23 MS. GERVASI: "Within ten days after receipt  
24 of the letter of intent, the Commission staff will  
25 notify the utility of the customer's intent to

1 file a petition for revocation of its certificate  
2 of authorization."

3 Comments on that.

4 MR. SAYLER: Office of Public Counsel has a  
5 question about that. And it's not just for  
6 Subsection (3), but any time there's letters going  
7 to the utility or to the customers, what proof of  
8 notification of receipt will be required? I don't  
9 necessarily see anything in the rule.

10 I mean, how do you prove that the customers  
11 received the instructions or how do you prove that  
12 the utility received the letter within ten days,  
13 because, I mean, you have certain time frames that  
14 the statute puts forth.

15 MS. GERVASI: We do intend to send the  
16 instructions for petitioning for revocation of  
17 water certificate via certified mail, return  
18 receipt requested, and that's indicated in the  
19 instructions.

20 We haven't really thought about making that a  
21 certified letter, the notification of the  
22 utility -- to the utility of the customer's intent  
23 to file. I don't know whether that's required or  
24 would be necessary, or that we can just send it  
25 via regular U.S. mail.



1 MR. SAYLER: Well, putting on -- playing  
2 devil's advocate for a utility -- if I was a  
3 utility, I could say I've never been notified that  
4 the customers have this intent to revoke my  
5 certificate. Unless you have some sort of proof  
6 that would stand whatever legal sufficiency to say  
7 that they were notified, then a utility could  
8 certainly argue that they didn't receive proper  
9 notice and then that would reset and cause issues.

10 MS. GERVASI: Thank you, Erik. I think we  
11 would also file any letters in the docket as well.  
12 That would probably help to track these things.  
13 But we'll consider that as well.

14 Paragraph (4), "In the notification letter to  
15 the utility, the Commission staff will request  
16 that the utility certify, within 30 days from  
17 receipt of the notification letter" -- and maybe  
18 we will need to make it certified for that reason  
19 -- "the number of water customers the utility  
20 serves by counting its service connections, and  
21 provide staff with a list of its customers' names  
22 and addresses."

23 Are there any concerns with that?

24 Troy.

25 MR. RENDELL: Yes. Troy Rendell again. My

1 first comment is on 25-30.091 Subparagraph (4). I  
2 applaud the Commission in obtaining a complete,  
3 current customer listing of the water utility in  
4 any such petition that may be filed. It's  
5 imperative to obtain an accurate listing of actual  
6 customers to compare to any alleged customers of a  
7 utility; however, I urge the utility -- I'm sorry,  
8 I'm urge the Commission to address the  
9 confidentiality and privileged nature of any such  
10 information.

11 It's been long -- it has been long Commission  
12 practice to consider and treat customer personal  
13 information, such as names and addresses, as  
14 confidential information. See orders PSC 070552  
15 and PSC 020356. The strict confidentiality of  
16 customer-specific personal information should be  
17 streamlined to inherently consider any such  
18 information confidential and most -- in the most  
19 expeditious and least costly manner.

20 As I indicated earlier, the majority of the  
21 remaining regulated water utilities are Class C  
22 and B's, with limited financial and technical  
23 expertise to file a request for confidential  
24 consideration without the use of an outside  
25 attorney. The procedure should be made clear in

1 the proposed rule that this information will be  
2 treated confidential and proprietary without the  
3 need to file for any such release -- request and  
4 incur any additional expense to do so, basically  
5 to make it automatic in this type of proceeding so  
6 that all of that is held confidential by the  
7 Commission.

8 MS. GERVASI: Thank you for your comment.  
9 And this is something that we have discussed  
10 in-house, the fact that this information is often  
11 classified as confidential. We envisioned that  
12 the information would come to us via the utility,  
13 along with a request for confidentiality. And, of  
14 course, if that happens, the information is  
15 treated as confidential until such time as the  
16 Commission rules.

17 Whether or not we can make that an automatic  
18 process, we would have to look at whether that's  
19 even something that we could do under the public  
20 records law. I don't know offhand.

21 MR. RENDELL: As long as the procedure is  
22 streamlined and, you know, pretty simple. Like I  
23 said, I'm currently over 13 utilities throughout  
24 the state of Florida, and the majority of them are  
25 Class C. And I do the filings personally, I don't

1           have an attorney to file for me. So as long as  
2           it's very -- you know, I guess it's boilerplate  
3           language for this type of request and it becomes  
4           more routine -- hopefully it won't become routine  
5           in this type of proceeding -- but that it's just  
6           easy, you know, something easy to do that the  
7           Commission can act upon quickly.

8           MS. GERVASI: Thank you. Other comments on  
9           Paragraph (4)?

10          MR. SAYLER: Yes, Office of Public Counsel  
11          has a question about it. But to the question  
12          about should customer names and addresses be  
13          treated confidential, at any customer hearing or  
14          service hearing, they're always asked for their  
15          name and address to prove that they live within  
16          the service territory. And Ms. Vandiver reminded  
17          me that, you know, some utilities treat it  
18          confident, some don't, so I don't know if you need  
19          to have blanket confidentiality.

20          And I haven't looked at the confidentiality  
21          statute to see if utility customer records,  
22          personal billing information, is something that  
23          comes within the public records law, but that's  
24          something for you guys to think about and to  
25          ponder. I'm not making a stand on the issue of

1 confidentially.

2 My question is related to what is being  
3 requested. And it kind of ties in with  
4 Subsection (5), which is if the utility doesn't  
5 comply. So my question is if the utility doesn't  
6 comply with the request for these names and  
7 addresses to be able to verify them against the  
8 petition forms, I mean, what will happen to the  
9 utility? Would they be potentially subject to  
10 show cause on another docket for failure to comply  
11 with the rule? I mean, what happens if they don't  
12 comply?

13 MS. GERVASI: I don't know that we have  
14 thought about show causing the company. It's  
15 something to consider, I guess. But that is the  
16 subject matter of Paragraph (5), and we  
17 contemplated -- I think what we contemplated is  
18 giving the utility the option to give us the  
19 information. And if they don't, we have fallback  
20 information that we can use which would be the  
21 most recent annual report. It may not be quite as  
22 accurate and it may not have as many customers in  
23 the old -- you know, the old annual report may  
24 have fewer customers than what the utility  
25 actually has. So in those cases, I would think

1           that it would be to the utility's advantage to  
2           give us, you know, that information, to make sure  
3           that we have the most current information.

4           Paragraph (5) reads: "If the utility fails  
5           to certify the number of customers it serves by  
6           the date requested in the notification letter,  
7           Commission staff will utilize the number of  
8           customers reported by the utility in its most  
9           recent annual report on file with the Commission  
10          to evaluate the sufficiency of the petition  
11          pursuant to Section 367.072(1)(b), Florida  
12          Statutes."

13          Are there any other comments concerning that  
14          paragraph?

15          MR. RENDELL: Can I back up really quick on  
16          (4)? I mean, my understanding of the reason of  
17          asking for this information is so that staff can  
18          take the petition and actually compare the  
19          customer name and address against the actual  
20          customer, because there have been times where  
21          someone will sign and they're not a customer of  
22          the company or they live outside and, you know, we  
23          don't even know who they are. So that was my  
24          understanding, so it would be in the best interest  
25          to hand that over so that you can -- staff can

1 verify that whoever is signing the petition is  
2 actually a customer of the utility.

3 MS. GERVASI: Yes. Thank you.

4 MR. SAYLER: To that point, just backing up,  
5 you're saying that Subsection (4) is optional as  
6 opposed to mandatory?

7 MS. GERVASI: The way we have it written,  
8 Erik, is that we will request that they certify  
9 this.

10 MR. SAYLER: Okay.

11 MS. GERVASI: Not that we will require that.

12 MR. SAYLER: I just wanted to understand  
13 that.

14 And then also under the Commission's 367, is  
15 it 152 Subsection (1) where they have access to  
16 the utility's books and records, that authority,  
17 the Commission could request the same information  
18 pursuant to that authority and that it be  
19 mandatory upon the utility, correct?

20 MS. GERVASI: I believe that would be  
21 correct, yes.

22 MR. SAYLER: All right. And then the other  
23 question I had for Subsection (5) is your  
24 statutory reference. Never mind, I see my  
25 mistake.

1 MS. GERVASI: Okay. Other comments on  
2 Paragraph (5)?

3 (No response).

4 MS. GERVASI: Paragraph (6), "The Commission  
5 will send the following materials to customers who  
6 file a letter of intent pursuant to Subsection (2)  
7 of this rule." And then there are five  
8 subparagraphs here enumerating what those  
9 materials are.

10 And rather than reading through it all, I'll  
11 just ask you if you think that this is a  
12 comprehensive list or whether we have missed  
13 something or if you have any comments or  
14 suggestions about Paragraph (6), this would be the  
15 time.

16 MR. SAYLER: Office of Public Counsel has a  
17 question. The subsection indicates that this  
18 letter will be sent along with the petition forms,  
19 and our question is how long after the receipt of  
20 the letter of intent to file a petition does staff  
21 envision that these customer instructions would be  
22 sent to the customers?

23 MS. GERVASI: Staff, do we have any idea  
24 about that?

25 MR. BLOOM: I didn't catch the question, I'm



1           sorry.

2           MR. SAYLER:   How long after the letter of  
3           intent is received by the Commission, a docket is  
4           opened, how many days after that does staff  
5           envision sending the instructions to the  
6           customers?

7           MR. BLOOM:   Ten days.

8           MR. SAYLER:   Ten days?

9           MR. BLOOM:   (Nodding head affirmatively).

10          MR. SAYLER:   Ten days after receipt, to the  
11          customers or the utility?

12          MR. BLOOM:   I'm sorry, I'm not sure what your  
13          question is.  I'm not reading it.

14          MR. DOWDS:   Erik, Dave Dowds.  I think it is  
15          ten days from the date that we receive the notice  
16          of intent.  And the instruction package we  
17          envision being sent certified mail back to the  
18          customer or the petitioner, whatever way we phrase  
19          it, so we know when the clock starts, because once  
20          they get the package, they have 30 days to file a  
21          petition.

22          Do I have that right?

23          MR. BLOOM:   (Nodding head affirmatively).

24          MR. DOWDS:   Thank you.

25          Does that help?

1 MR. SAYLER: Well --

2 MR. DOWDS: It's the same ten days that we  
3 have in the rule explicitly to notify the utility.  
4 In that same ten-day period, we are also  
5 envisioning that we would mail the instruction  
6 package.

7 MR. SAYLER: Okay. That brings up another  
8 question. If you look at your instructions for  
9 petitioning, the fourth full paragraph, it gives  
10 "Insert either sentence one or sentence two." And  
11 sentence one is contingent upon receiving the  
12 verified address -- names and addresses of  
13 customers. Sentence two is that the Commission  
14 calculates it themselves.

15 So that's what prompted my question how long  
16 after the receipt of the letter of intent would  
17 this letter go out, because Paragraph (4) gives  
18 you an alternative, depending upon how the utility  
19 responds.

20 MS. GERVASI: Thank you. We'll consider  
21 that.

22 Other comments about Paragraph (6)?  
23 (No response).

24 MS. GERVASI: Moving on.

25 MR. SAYLER: The Office of Public Counsel

1 did. On Subsection (6)(b) where it's talking  
2 about the form, the "Public Service Commission:  
3 Petition to revoke the certificate of  
4 authorization."

5 Two questions. Is this the petition now for  
6 the rest of the purposes of the rule, this  
7 particular form that the customers are being  
8 required to use, or is there a bit of a different  
9 petition, because the word "petition" sometimes  
10 seems to be used a little bit different, more  
11 flexibly in both the statute and the rule. That's  
12 one question.

13 And then the second question is if a customer  
14 uses a customized version of this form, it's not  
15 the exact form but it substantially complies, how  
16 does that affect the testing of sufficiency which  
17 occurs under Subsection (7)?

18 MS. GERVASI: Let me try to answer them one  
19 at a time. The first question you asked -- now  
20 I'm losing the first part of the question.

21 MR. SAYLER: Okay. The first question is  
22 under Subsection (7), it says a petition to be  
23 deemed sufficient, it must satisfy all of these  
24 things.

25 MS. GERVASI: Right.

1 MR. SAYLER: When you're talking about a  
2 petition, is it -- conceptually is it a big  
3 petition and then followed by an attachment with  
4 all of these little petition forms or is each  
5 individual form considered a separate petition  
6 that must satisfy all of these requirements, along  
7 with -- and then you have to have enough petitions  
8 to satisfy the 65 percent threshold? Does that  
9 make sense?

10 MS. GERVASI: Yes. Thank you, Erik. We need  
11 65 percent -- pursuant to the statute, we need  
12 65 percent of the customers to sign the petition.  
13 The petition being the accumulation of all of the  
14 petition forms that would need to equal 65 percent  
15 of the customer base of the utility.

16 We would need -- and we need signatures of --  
17 and we say it on the sample petition form, that  
18 only one customer for each service address may  
19 sign the petition. And we kind of use petition  
20 and the petition forms interchangeably.

21 I think that might cause a little bit of the  
22 confusion. I think the -- I don't know how to get  
23 around that. But you have one big petition, and  
24 that needs to encompass 65 percent of the customer  
25 base in order for it to be sufficient. And then

1 we need each customer, only one for each service  
2 address, to fill out the form as completely as  
3 they can. And then it will be up to the staff to  
4 determine the sufficiency of each petition form  
5 and whether -- and then counting them all up to  
6 see if we have 65 percent.

7 MR. SAYLER: Okay. If there's a way to -- I  
8 don't know -- to clarify in the rule when there's  
9 a reference to the petition form or the big  
10 petition itself, I don't know if that -- I don't  
11 know if my colleagues had some concerns about the  
12 flexibility of the difference between the form and  
13 the petition itself, but if there's a way to  
14 clarify that in the next iteration of the rule,  
15 that would certainly be helpful.

16 MS. GERVASI: And we have thought about it  
17 and struggled a little bit with that, quite  
18 frankly. So if you can help us along those lines  
19 and give us some specific language for us to  
20 consider --

21 MR. SAYLER: Certainly.

22 MS. GERVASI: -- it would be appreciated.

23 MR. SAYLER: I'll give myself a homework  
24 lesson for that for you.

25 MS. GERVASI: The reason we have the

1 highlighted word "sample" across this petition  
2 form is because, again, we envision this form to  
3 be incorporated into the rule and made part of the  
4 rule. And the rules, now they're all online and  
5 there are hyperlinks to all of the materials that  
6 are incorporated by reference and so we don't want  
7 customers to print out these forms from the  
8 Internet and start using them, because we have a  
9 specific timeline that we need to follow, and we  
10 need to know, you know, when the 90-day clock  
11 starts ticking.

12 So we will send -- once we get a letter of  
13 intent, it is our intention to send a petition,  
14 not the sample, but an actual petition form, and  
15 we will have the docket number and so forth on  
16 there, and that will be the petitions that we'll  
17 be using. So we'll keep the word "sample" across  
18 the page here for the purposes of the rule.

19 And the second part of your question Erik,  
20 was -- I don't remember now. Do you?

21 MR. SAYLER: Yes. It was just about whether  
22 the customers needed to use the petition form that  
23 was provided by the staff or if they had a  
24 petition form that met all of the requirements of  
25 the statute but wasn't -- didn't have the, for

1           lack of a better word, the magic this is form PSC  
2           number one, two, three, four, X, Y, Z petition  
3           form, especially if there's a gap of time period  
4           between the time when they filed their letter of  
5           intent and they actually received the preprinted  
6           form that has the utility's name and the docket  
7           number that staff provides. Because I could  
8           envision some customers that are just ready to hit  
9           the ground running and just get flying down the  
10          road and realize they have insufficient petitions  
11          or that don't match what is eventually provided to  
12          them later on and then just their issues of having  
13          to go back and get those, track down their  
14          customers and get them to re-sign the official  
15          form, hence, that was kind of my question there.

16                 MS. GERVASI: Okay.

17                 MR. SAYLER: But as far as providing a form  
18                 that the Commission has the utility's name and the  
19                 docket number, when that is provided with the  
20                 instructions, I think that's helpful to the  
21                 customers.

22                 MS. GERVASI: Yeah, that's what we want. We  
23                 would like them to take that official form and  
24                 copy it and use it. And that, I think, will  
25                 minimize confusion as to how we're looking at it.

1 MR. SAYLER: All right. Thank you.

2 Appreciate that.

3 MS. GERVASI: Sure. We are on -- yes.

4 MR. FLYNN: Patrick Flynn, Utilities,  
5 Incorporated. Referring to (6)(e),  
6 Subparagraph (e) where it addresses State Primary  
7 Drinking Water Standards information. It seems to  
8 me it would be advantageous or appropriate to  
9 maybe add a clarification statement with that copy  
10 that identifies or distinguishes between Primary  
11 and Secondary Drinking Water Standards, why there  
12 are two different groups of parameters, because  
13 they do have a different distinction or different  
14 significance.

15 The secondary standards are oftentimes the  
16 reason for the petition being signed and in effect  
17 and, yet, say those standards aren't parameters  
18 that identify health risks, so it's important, I  
19 think, to clarify for purposes of the information  
20 to provide to the customers that there's not equal  
21 standing between a primary standard and a  
22 secondary standard. And it may not be necessarily  
23 clear in the way the rule references 62-550. So I  
24 would just suggest that we have some kind of a  
25 clarification statement that gives some kind of



1           clue to the customers about what distinguishes  
2           between primary and secondary standards.

3           MS. GERVASI: Thank you.

4           Other comments on Paragraph (6)?

5           (No response).

6           MS. GERVASI: Let's move on then to  
7           Paragraph (7). "For a petition to be deemed  
8           sufficient, it must include the printed name,  
9           signature, service address and telephone number of  
10          each customer-signatory. State with specificity  
11          each issue that each customer-signatory has with  
12          the quality of water service provided, each time  
13          the issue was reported to the utility and how long  
14          the issue has existed." And (c) "Be completed by  
15          at least 65 percent of the customers as that term  
16          is defined in section 367.072."

17          We believe these are statutory mandates. But  
18          if you have any questions or comments or  
19          suggestions, we would love to hear them on this  
20          paragraph.

21          MR. RENDELL: I have two quick comments. The  
22          first one is Subparagraph (7)(a). I would  
23          suggest, if possible, the customer include the  
24          actual account number on the petition. This  
25          should help both the Commission and the company

1 identify the account.

2 You know, sometimes a spouse will file,  
3 although, they live in the house and they consider  
4 themselves a customer and they are, but the  
5 account may be in someone else's name, either a  
6 parent or a -- so, if possible, maybe put a place  
7 for account number.

8 The other is (7)(b). I'm assuming -- and  
9 maybe I'm just reading too much into it -- but  
10 when you say "Each time the issue was reported,"  
11 I'm assuming you're asking for the date. Is that  
12 the date? Because I see it on the form, and it  
13 says include the date. But is that what you're  
14 intending when it says "Each time the issue was  
15 reported," to actually put the date they contact  
16 the utility?

17 MS. GERVASI: Yes.

18 MR. RENDELL: Okay.

19 MS. GERVASI: I believe so.

20 MR. RENDELL: Thank you. That was all.

21 MS. GERVASI: Okay.

22 MR. SAYLER: Erik Sayler with OPC.

23 Mr. Rendell's question was something that we had  
24 as well. The statute says, "Each time the issue  
25 was reported to the utility." The rule says,

1 "Each time the issue was reported to the utility."  
2 But then the form -- and I have additional  
3 comments on the form when we get to it -- uses  
4 different language. It doesn't exactly track the  
5 rule or the statutes, so I was just -- I had a  
6 question why that was different and would it be  
7 better to just track the rule and the statute as  
8 opposed to diverge from the statute and the rule.  
9 We can get to that when we get to the form, I just  
10 wanted to highlight that here.

11 MS. GERVASI: Thank you. And we will go  
12 through and see what the comments are on the  
13 actual form itself.

14 Other questions or comments on Paragraph (7)?

15 (No response).

16 MS. GERVASI: Paragraph (8), "The customers  
17 must file the completed petitions with the Office  
18 of Commission Clerk within 90 days after receipt  
19 of the staff's instructions and must provide a  
20 copy of the petitions to the utility."

21 And there again, we will get a return receipt  
22 card so we'll have that date so that we're all on  
23 the same page with respect to that 90-day  
24 statutory deadline.

25 Comments on that paragraph?

1 (No response).

2 MS. GERVASI: Paragraph (9), "Within ten days  
3 after receipt of the petition, the staff will  
4 provide notice to the customers by letter whether  
5 the petition is sufficient for the Commission to  
6 act. If the petition is deficient, the notice  
7 will specify what additional information is  
8 required."

9 Comments on (9)?

10 (No response).

11 MS. GERVASI: Paragraph (10).

12 MR. SAYLER: Pardon me. Same notice would be  
13 certified letter of some sort to the customers?

14 MS. GERVASI: Have we decided whether it will  
15 be certified?

16 MR. FUTRELL: (Shaking head negatively).

17 MS. GERVASI: We'll consider that. I don't  
18 know that we have specified.

19 MR. SAYLER: All right.

20 MS. GERVASI: We were most concerned about  
21 having the certification for the time periods that  
22 are statutorily mandated.

23 Paragraph (10), "If the notice identified  
24 deficiencies in the petition, the customers must  
25 file a corrected petition with the Office of

1 Commission Clerk curing the noticed deficiencies  
2 within 30 days after receipt of the notice and  
3 must provide a copy of the cured petition to the  
4 utility."

5 Questions, comments, suggestions on that  
6 paragraph?

7 MR. SAYLER: Just getting back to this  
8 paragraph and the prior paragraph. In the letter  
9 noting the deficiencies, will it be similar to a  
10 deficiency letter a utility receives when their  
11 MRFs are deficient? Will it spell out the  
12 deficiencies and how to cure that or how does that  
13 work, or will it just say it's deficient and go  
14 figure it out?

15 MS. GERVASI: I would assume -- not that I  
16 know that we have talked about this  
17 specifically -- but I think we will do our best to  
18 lay out exactly what's deficient, much the way we  
19 do with the utilities to give them specifics so  
20 that they can -- so that they have the directions  
21 and can go forth and cure within the allotted  
22 time. We'll do our best with that.

23 MR. SAYLER: Thank you.

24 MS. GERVASI: Any other questions about the  
25 rule itself, the draft rule?

1 MR. FRIEDMAN: Marty Friedman again. So you  
2 envision that when you send the letter back saying  
3 it's deficient, and if they don't respond within  
4 the 30 days, do you just close the docket  
5 administratively?

6 MS. GERVASI: Do we go to agenda? I'm not  
7 sure? It may be. Since we haven't done it, I  
8 don't know. But certainly the Commission would be  
9 the ones to determine whether there's a reasonable  
10 likelihood that there's a water service quality  
11 issue, if we got that far.

12 But if we don't even get 65 percent of the  
13 customer base or the petitions are clearly  
14 insufficient just on facial grounds or they don't  
15 cure specific deficiencies, we may. That may be  
16 an administrative process. It's something we need  
17 to --

18 MR. FRIEDMAN: Okay. And then do I  
19 understand from comments made earlier that up till  
20 the point -- you all will issue a letter if it's  
21 sufficient, you're going to issue a letter saying,  
22 yeah, it's sufficient like you do an official  
23 filing date letter? Is that what's contemplated?

24 MS. GERVASI: You mean to let the customer  
25 know?

1 MR. FRIEDMAN: Let everybody know, yeah, we  
2 got it and at least procedurally it's sufficient,  
3 just like you do the minimum filing requirements,  
4 you file it and then you do a deficiency letter,  
5 you file your responses, you get a letter back  
6 saying, yeah, here is your official date of  
7 filing?

8 Is there going to be that same type of letter  
9 that's going to say, okay, now it's good, you're  
10 good to go? And is that the point at which the  
11 utility can't file a rate case after that point or  
12 can we file one up till that point, or initiate a  
13 proceeding I guess is the terminology that's used?  
14 Can a utility initiate a proceeding up till the  
15 date that a petition is deemed acceptable,  
16 procedurally acceptable?

17 MS. GERVASI: Do we know offhand or do we  
18 need to think about it?

19 MR. BLOOM: Again, just reading the statute,  
20 it says, unless the Commission finds a reasonable  
21 likelihood, you're not prohibited from filing  
22 anything.

23 MR. FRIEDMAN: Okay.

24 MR. BLOOM: It's once the Commission makes  
25 that decision that you cannot file a rate case.

1 MR. FRIEDMAN: Okay. That's a good answer.

2 MR. SAYLER: Erik Sayler with OPC. Would  
3 that be staff recommendation brought to the  
4 Commission where the Commission votes and says the  
5 petition's in compliance and there's a reasonable  
6 likelihood? Is that how you're envisioning that?

7 MS. GERVASI: Yes.

8 MR. SAYLER: Okay.

9 MS. GERVASI: Once the staff determines that  
10 we have a facially sufficient petition, it will go  
11 to the Commission for the Commission to determine  
12 whether there's a reasonable likelihood or not.

13 MR. SAYLER: All right. And would the  
14 opposite be true if staff say the petition's not  
15 sufficient or it's sufficient but it doesn't meet  
16 the second prong, would they bring a  
17 recommendation to dismiss it because it satisfied  
18 A but not B or say they don't have the threshold  
19 number of signatures on the petitions, would the  
20 Commission -- would staff just bring it to a  
21 motion to dismiss like I've see the Commission do  
22 with like complaints against utilities, they say  
23 you fail to state a claim and then it's voted on  
24 and voted out?

25 MS. GERVASI: And I think that you're getting



1 to the same question that Marty had, I believe.  
2 And I'm not positive it's going to go to the  
3 Commission on those or not. If they're clearly  
4 facially insufficient, we need to, I think,  
5 probably discuss that further in-house.

6 MR. FUTRELL: I think where we are, Erik, I  
7 think looking at the statute, it speaks to if it's  
8 not a sufficient petition, the Commission shall  
9 dismiss the petition. So I believe that would put  
10 us in a posture where it has to be a  
11 recommendation to the Commission by the staff to  
12 dismiss the petition, and then it would be subject  
13 to a decision by the Commission.

14 MR. SAYLER: Okay.

15 MR. FUTRELL: Now, if there's an option for  
16 some kind of an administrative disposal of an  
17 insufficient petition, I think we would all like  
18 to maybe hear about that, talk about that. But I  
19 think a plain reading of the statute it appears to  
20 be it's a Commission decision to dismiss an  
21 insufficient petition.

22 MR. SAYLER: Right. That was my reading and  
23 understanding of the statute too. But I had heard  
24 that if it was insufficient that it could be  
25 dismissed administratively, and that's what

1           prompted my question.

2           MS. GERVASI: Thank you for clarifying that  
3           for me as well.

4           MR. FLYNN: Patrick Flynn, Utilities, Inc.  
5           again. If a petition is dismissed, does that mean  
6           that the issue cannot be raised again, the issue  
7           has been raised once and addressed and not found  
8           warrants further action, that it couldn't be  
9           raised again?

10          MR. FUTRELL: For one year.

11          MR. FLYNN: Okay.

12          MR. FUTRELL: One year per the statute.

13          MR. FLYNN: Thank you.

14          MR. FRIEDMAN: I just have one other comment.  
15          I don't think just because the statute says the  
16          Commission shall do something, that it necessarily  
17          means that it's the Commissioners themselves. I  
18          think there are a number of procedures that the  
19          Commission has in place here where orders are  
20          entered administratively without ever going to an  
21          agenda.

22          And so I don't think necessarily because the  
23          statute says "Commission," that that really means  
24          that it's got to go to an agenda conference. I  
25          think that's a determination that the Commission

1 makes, just like, you know, orders that are issued  
2 administratively, you know, not issued  
3 administratively subsequent to a Commission action  
4 authorizing it, you know, in a particular rate  
5 case but just an order that's entered by the --  
6 you know, I think most of the orders on  
7 confidentiality are not -- they don't actually go  
8 to the Commission, but I'm sure the statute  
9 requires it to be a Commission decision. So I  
10 don't think the language necessarily means it's  
11 got to go to an agenda.

12 MS. GERVASI: Which is why I wasn't certain  
13 of the answer either. And that's something that  
14 we will be discussing further and considering. So  
15 thank you for your comments on that.

16 MR. WILLIAMS: This is John Williams with  
17 Utilities, Inc. And it's kind of at this  
18 juncture -- I mean, you've ended the rule here.  
19 This is the juncture sure where I think there  
20 needs to be additional guidance in terms of what  
21 happens in terms how would the Commission make the  
22 decision then on the reasonable likelihood issue.  
23 And the that triggers the utility's response in  
24 how long do you have on that. I mean, the rule  
25 needs to keep going here, to my way of thinking.

1           It's kind of like you ended it here and this isn't  
2           the end of the --

3           MS. GERVASI: All of the instruction are  
4           not -- you're right, they're certainly not  
5           included in the rule. The rule will need to be  
6           read in conjunction with the statute and also in  
7           conjunction with the Commission order that will be  
8           issued on the reasonable likelihood  
9           recommendation. The process will be laid out on a  
10          case-by-case basis is the way we're envisioning  
11          it, John, depending on what the Commission's  
12          decision is on the reasonable likelihood that the  
13          company is providing less than satisfactory  
14          service.

15          There will be specific directions, but  
16          they're not all contained in the rule because we  
17          can't be duplicative of the statute. And the  
18          Commission's procedure for going to hearing is  
19          already laid out in statute and also in the  
20          uniform rules, so that's the reason why we did  
21          stop there. And it does look like an abrupt stop  
22          before the end of the statute. But the statute is  
23          descriptive, and the Commission's hearing process  
24          is already in place and is codified. That's the  
25          way we're thinking.

1 MR. RENDELL: Could I add to that real quick?

2 MS. GERVASI: Please.

3 MR. RENDELL: I think I have a similar  
4 concern because in Section 367.072, Paragraph (3),  
5 it says a utility -- basically it gives the  
6 utility an opportunity to respond to the petition  
7 and the concerns brought up, but there's no  
8 deadlines of when the utility's got to respond.  
9 And then when you get to, I guess, (5)(a), that's  
10 kind of like the meat and potatoes of this is, you  
11 know, what then?

12 And I think there's like -- there's three  
13 different options. One is to dismiss the  
14 petition, the other is to require the utility to  
15 take necessary steps to correct the quality of  
16 service. And that, to me, doesn't necessarily  
17 require a hearing. I mean, the Commission can  
18 order a utility to do something. They have that  
19 statutory authority and they've done it before.  
20 But it also avoids, you know, the expense and the  
21 process of going to a hearing and basically tells  
22 the utilities to do something, go out and, you  
23 know, find solutions, meet your customers, find  
24 the cost, explain what the cost is going to be,  
25 and then let the customers decide, you know, do

1           you want the utility to move forward and address a  
2           specific secondary standard knowing that your  
3           rates may go up to \$200 a month? I mean, do you  
4           want that or do you want the opportunity to say,  
5           well, I understand what the problems are, I know  
6           how to address it, but it's just too cost  
7           prohibitive, you know, we can't afford to pay  
8           that, so we're willing to live with, you know, the  
9           water, or there might be a less costly solution  
10          but not necessarily goes straight to a hearing  
11          process? I think there needs to be the  
12          opportunity.

13                 And then I think the very last one, (5)(c),  
14                 is to proceed forward with the revocation that the  
15                 utility is ignoring the customers' concerns, the  
16                 utility is not attempting to rectify the problems  
17                 and that, you know, as a last resort, as has been  
18                 Commission practice, then we will proceed to  
19                 revocation because you just can't get the utility  
20                 to do what you need to do to meet the rules and  
21                 provisions.

22                 So I just want to caution that, you know, the  
23                 answer shouldn't be, well, we're going to go  
24                 immediately to a hearing process. You know,  
25                 there's going to be some type -- you know, under

1 (5)(b), there should be some type of other  
2 opportunity to address the customer's concerns  
3 without the expense and time to go through a  
4 hearing.

5 MS. GERVASI: Once the -- and I appreciate  
6 all of that. And I can tell you that when we  
7 first drafted a rule, we attempted to include the  
8 procedural information. And it turned out to be  
9 just the same as what's written in the statute,  
10 which we want to avoid duplication. So if you can  
11 think of something that should be there that isn't  
12 already in the statute, we would be more than  
13 happy to look at that language and consider  
14 including it.

15 But once the Commission determines that  
16 there's a reasonable likelihood, I think we have  
17 to go to hearing. And the reason I say that is  
18 because the statute in (5)(a) allows the  
19 Commission to dismiss the petition, but the  
20 decision must be supported by clear and convincing  
21 evidence. To me that means going to hearing.

22 Let me know if --

23 MR. RENDELL: Well, for dismissal I agree  
24 with that.

25 MS. GERVASI: Okay.

1 MR. RENDELL: But I don't know what a hearing  
2 process would solve on (5)(b) to require you to  
3 take necessary steps, unless the utility refuses  
4 to do so. I don't know what a hearing -- I don't  
5 even know what evidence you would present and what  
6 type of testimony you would present without giving  
7 the utility an opportunity to go out and even --  
8 you know, to identify the problem and identify  
9 solutions. So I don't think (5)(b) necessarily  
10 automatically triggers a hearing process.

11 MS. GERVASI: I agree.

12 MR. RENDELL: Maybe a PAA but not --

13 MS. GERVASI: But if anybody thinks that  
14 there would be value to having some of this  
15 procedural information in the rule as to, you  
16 know, which paragraphs will trigger a hearing and  
17 which won't, let us know in writing after the  
18 workshop with specific language, to the extent you  
19 possibly can, is what is most helpful to us.

20 MR. RENDELL: Yeah. I know it's problematic  
21 as each one is going to be unique and each one is  
22 going to have its own specific circumstances. And  
23 I don't know how a rule is going to codify that  
24 for every utility. But, you know, I'll just give  
25 my comments just to caution, you know, to try to



1           avoid a hearing, if possible, and find a solution,  
2           a least costly solution.

3           MS. GERVASI: Thank you.

4           Does anybody have any comments or suggestions  
5           with respect to the instructions for petitioners?

6           MR. SAYLER: Office of Public Counsel has a  
7           question. On the instructions in, I guess, the  
8           second full paragraph, the last sentence where it  
9           says, "Please be advised that an individual  
10          signing a petition may be asked to testify under  
11          oath before the Commission and be subject to cross  
12          examination by the utility and parties." And  
13          there's similar language on the petition form.

14          Question: Why is that particular statement  
15          included and is it necessary? Because there are  
16          often many customers who will show up at a  
17          customer service hearing or a customer meeting but  
18          they won't necessarily want to speak publicly for  
19          fear of public speaking or they don't want to  
20          testify under oath at a service hearing, but they  
21          want to participate and show their participation  
22          by their numbers. And I can envision a number of  
23          people wanting to sign a petition but not  
24          necessarily wanting to testify or be forced to  
25          testify for those and other reasons, or they just

1           may be seasonal residents and the hearing is held  
2           at a time when they're up north.

3                       So the question is that -- I understand why  
4           the language is there, but is it necessary?

5                       MS. GERVASI: We put it there as kind of a  
6           proviso, you know, that they may be asked to  
7           testify. There won't be a revocation of a  
8           certificate unless there's a hearing. And some of  
9           the customers may be subject to cross examination  
10          and may be asked to testify. I don't know whether  
11          they would be subpoenaed and forced to testify.  
12          But we thought, you know, just for the sake of  
13          candor.

14                      MR. SAYLER: But say there's a utility with  
15          500 customers and 65 percent have signed these  
16          forms, does the Commission envision having 200 and  
17          some-odd customers all come testify as to  
18          supporting their petition? That would make for  
19          potentially a long and lengthy hearing. That was  
20          my question, you know.

21                      I understand that you need customers to come  
22          testify to support that there is competent  
23          evidence to support a revocation or evidence to  
24          support that the Commission should order the  
25          utility to make certain changes to address the

1 water quality issues. But was there some vision  
2 that all these customers who signed a form, each  
3 and every one would have to testify?

4 MS. GERVASI: No, I don't believe so. No.  
5 And I think that will be -- you know, the  
6 customers will need to put on their case and  
7 decide which customers will be testifying.

8 MR. SAYLER: Okay.

9 MS. GERVASI: The Commission, we don't  
10 envision having -- you know, mandating that a  
11 certain number of customers must testify or  
12 anything like that.

13 MR. SAYLER: Okay.

14 MR. FRIEDMAN: But would you envision that  
15 those folks would be subject to cross -- subject  
16 to deposition anyway, if the utility chose to  
17 depose somebody, anybody who filled out one of  
18 these forms would be subject to a deposition,  
19 testimony under oath?

20 MS. GERVASI: We will be in the hearing  
21 process at this stage. Once the Commission sets  
22 the matter for hearing, you know, the standard  
23 discovery procedures are in place, so I would --

24 MR. FRIEDMAN: But they would be a  
25 petitioner, they would not be a third party, they

1 would actually be a petitioner.

2 MS. GERVASI: Right. So I think they would  
3 be subject to discovery.

4 MR. SAYLER: But that, I think, gets back to  
5 -- I'm sorry, go ahead.

6 MR. FUTRELL: I think I would just offer this  
7 is -- you know, part of what's driving this  
8 language is just a recognition. This is a much  
9 different proceeding than customers coming to a  
10 customer meeting and complaining about an issue  
11 they may have with a utility. This is a much  
12 different posture that the utility and the  
13 Commission is being put into as far as a  
14 revocation of its operating certificate. And,  
15 therefore, the customer needs to be aware of that  
16 and be willing and able to come and make its case  
17 as to what its specific issues are and meet the  
18 criteria enumerated in the statute, to provide the  
19 Commission with that information to potentially  
20 revoke the certificate of the utility. So that  
21 was kind of the purpose. This is heightened level  
22 of participation given the nature of what's at  
23 stake here.

24 MR. SAYLER: Do you envision it being similar  
25 to a quality of service hearing at the start of a

1 rate case where customers would come and testify  
2 about the quality of service? Here they're  
3 testifying to that and then they would be subject  
4 to cross examination if they're testifying?

5 MR. FUTRELL: Well, I think what we envision  
6 is if there is a reasonable likelihood finding of  
7 the support going into the hearing process -- at  
8 least that's how, at this point, in development of  
9 the rule the Commission -- I think the staff is  
10 viewing this -- at that point going into that  
11 hearing, the customers may be asked and needed to  
12 testify to support what they're alleging in their  
13 petitions in the hearing.

14 Now, as far as numbers, we haven't gotten  
15 that far as to how many of the petitions need to  
16 be available. That will certainly be developed as  
17 we go on a case-by-case basis. But certainly a  
18 recognition that this is a much different type of  
19 process.

20 MR. SAYLER: All right. And if a customer  
21 decided not to testify, would their petition then  
22 be deleted for the purposes of counting towards  
23 that 65 percent threshold?

24 MR. FUTRELL: No.

25 MR. SAYLER: Or once it's in and met the

1 threshold, then --

2 MR. FUTRELL: No. How the case gets -- you  
3 know, the evidence it brings to the Commission --  
4 the record will be developed as it's developed.  
5 And if it's developed with customer testimony,  
6 then that will potentially support -- potentially  
7 be supportive of their contentions. But if  
8 there's no customer testimony, then it will play  
9 out as it plays out.

10 MR. SAYLER: All right. And I know we're  
11 going beyond into an actual hearing process, would  
12 the customers be required to do prefiled testimony  
13 or would they be able to do live testimony like at  
14 a customer hearing? I guess that's something to  
15 be discussed down the road?

16 MR. FUTRELL: I don't think we've gotten that  
17 far.

18 MR. SAYLER: Okay.

19 MS. GERVASI: Certainly if customers decide  
20 to prefile testimony, they would be --

21 MR. SAYLER: Subject to deposition and cross  
22 examination?

23 MS. GERVASI: -- subject to cross examination  
24 and depositions and everything. I think that much  
25 is clear. Whether we'll have a customer service

1 hearing for customers in addition to the  
2 revocation hearing, I mean, it may be all one  
3 hearing and the customers, you know, may need to  
4 testify and be subject to cross examination, any  
5 of them who choose to testify, you know, are  
6 always subject to cross examination, even if it's  
7 more informal. But we don't envision this to be  
8 an informal hearing. This will be a show cause  
9 hearing, and the standard of proof is higher.

10 MR. SAYLER: Is prefiled testimony required  
11 in show cause from the customers? I'm just  
12 asking.

13 MS. GERVASI: We wouldn't expect that all  
14 65 percent of the customers will testify. But  
15 those who do may need to -- may need to prefile  
16 their testimony.

17 MR. SAYLER: I guess that will be a bridge  
18 that the customers will have to cross with the  
19 Prehearing Officer and the Commission at that  
20 time?

21 MS. GERVASI: Yeah, exactly, and whether the  
22 Prehearing Officer will have a customer service  
23 hearing in addition to the full evidentiary  
24 hearing.

25 MR. SAYLER: Okay.

1 MR. FRIEDMAN: Wouldn't the question of  
2 whether there was 65 percent of the customers be  
3 an issue that we could address at the hearing?

4 MS. GERVASI: Yes.

5 Other comments?

6 MR. FUTRELL: And if I may, I think that's  
7 also part of the sufficiency determination. That  
8 will be earlier on in the process, is there  
9 65 percent? And if the staff sees what's filed as  
10 sufficient, then that would lead potentially to  
11 the reasonable likelihood determination. That  
12 could be a potential point of entry of contending  
13 whether or not their 65 percent of the customers  
14 have met the threshold, and that would be before  
15 we even got into the hearing process.

16 MR. FRIEDMAN: Yeah. But all you can do is  
17 look at it and say if Mary Smith said she filed a  
18 complaint, then Mary Smith filed a complaint. At  
19 some point in the process, that's got to be able  
20 to be vetted by the utility because, you know,  
21 sometimes people say things because their neighbor  
22 wants them to say it.

23 MR. FUTRELL: Right.

24 MR. FRIEDMAN: And maybe you get five or ten  
25 of those people who didn't really, you know, stand



1 up to what they're saying, didn't really have  
2 these complaints that, you know, maybe five or ten  
3 may make the difference between whether you got  
4 65 percent or not.

5 MR. FUTRELL: Right.

6 MR. FRIEDMAN: So, you know, that could  
7 still, I think, be an issue to be vetted at a  
8 hearing as to, you know, not just looking at it  
9 and say, yeah, they say the right things but  
10 whether there's any truth behind what they're  
11 saying.

12 MS. GERVASI: Thank you. So these are all  
13 reasons why we think it's important to let the  
14 customers know up front that they may be asked to  
15 testify.

16 MR. FRIEDMAN: I do have another comment on  
17 the instructions. It's in the paragraph that  
18 starts "Once the petitions are submitted," kind of  
19 like one, two three -- the fifth one down where it  
20 says, "For petitions to be sufficient, they must  
21 state with specificity each issue."

22 And I think the terminology here needs to be  
23 consistent with what the petitions say, and I  
24 think it needs to say "Specificity with each issue  
25 each customer has relating to water quality," each

1 time the issue was reported by the customer to the  
2 utility so that they realize that these forms are  
3 specific to them and not just generic to what  
4 their neighbors may have complaints about. We  
5 want to know what complaints you have made and,  
6 you know, what complaints you have. And I think  
7 that's -- if you change that terminology back to  
8 the same terminology that's in the statute or the  
9 rule, I think it will be more consistent.

10 MS. GERVASI: Thank you.

11 Other suggestions with respect to the  
12 instructions?

13 (No response).

14 MS. GERVASI: Let's move on to discuss the  
15 sample petition form. Does anybody have any  
16 comments concerning that, or suggestions?

17 Erik.

18 MR. SAYLER: Earlier I indicated that in the  
19 middle column where it says, "Indicate if customer  
20 has contacted the utility, including the dates of  
21 contact," that language doesn't track the statute  
22 or the rule. I would suggest that it should track  
23 the statute or the rule.

24 I would also make the observation that some  
25 customers may keep meticulous records and know the

1 date that they contacted the customer, others may  
2 say it was in the spring of last year. So as far  
3 as, you know, if they -- and I agree with  
4 Mr. Friedman's point that, you know, if a customer  
5 is signing it, hopefully they have made contact  
6 with the utility about it, about their particular  
7 issue. But, still, some customers may still have  
8 black water or something and may have never  
9 contacted the utility but they still have that  
10 same quality of service issue.

11 We find that at customer service hearings  
12 where customers complain a lot about things that  
13 they've never brought to the attention of the  
14 utility. And then you have a few customers that  
15 are very active, interacting with the utility,  
16 they have a record of every time they've called  
17 and complained about something. So I think you're  
18 going to get all over the field. But getting back  
19 to that column, I think it would be good if that  
20 language tracked the statute.

21 And then the other observation, I see you  
22 have like three rows across. Do you need three  
23 rows, because maybe just a big block and then  
24 customers can write multiple. Because if you have  
25 three rows, that implies that you need at least

1 three complaints to the utility, and maybe the  
2 customer's one complaint is black water and they  
3 don't have any other complaint so they would have  
4 blank rows two and three.

5 And then the last observation is the use of  
6 the greater than sign before one year. I always  
7 get that confused myself and I'm 42 years old, so  
8 I would maybe suggest just one year or more  
9 because I remember learning that in second grade  
10 and still haven't gotten it straight.

11 MS. GERVASI: Thank you. I think we have  
12 blocks because, you know, the language is state  
13 with specificity each issue. There may be --  
14 obviously we don't know how many issues each  
15 customer will have. They may have only one, they  
16 could leave those other two blank. We also have  
17 at the bottom that customers may add additional  
18 pages as necessary because they may have more than  
19 three. I mean, we just don't know.

20 MR. SAYLER: Certainly. Or just something  
21 saying that they don't have to fill out the entire  
22 page if they only have one.

23 MS. GERVASI: Thank you.

24 MR. SAYLER: Because you don't want to get to  
25 a point where they jam up a second and a third one

1 and then under cross examination it turns out,  
2 well, I really only had one but the form had three  
3 blanks and I had to fill it out. So that would go  
4 to their credibility, so just thinking ahead.

5 MS. GERVASI: Thank you. And let us know if  
6 you have specific language to indicate that, that  
7 you can suggest to us maybe in post-workshop  
8 comments or something.

9 MR. SAYLER: Oh, absolutely.

10 MS. GERVASI: Because we have spent a long  
11 time trying to figure out just the right way to  
12 present the petition.

13 MR. SAYLER: And your effort is certainly  
14 reflected for how well it's done.

15 And one last question. I notice there's not  
16 a date, a spot for writing a date on the petition.  
17 Is it on the top?

18 MS. GERVASI: The date of the petition?  
19 Which date are you referring to?

20 MR. FUTRELL: You mean when it's signed?

21 MR. SAYLER: The date it's signed.

22 MS. GERVASI: Oh, the date that the petition  
23 is signed, is that the question?

24 MR. SAYLER: That was my question. I'm  
25 agnostic to it. I just happened to see that it's

1 not there.

2 MS. GERVASI: I don't know that we need it  
3 unless -- you know, what we need is to have the  
4 petitions filed by a certain date, but I don't  
5 know that we need to know the exact date that each  
6 customers signed --

7 MR. SAYLER: Okay.

8 MS. GERVASI: -- their individual form.

9 MR. SAYLER: Thank you.

10 MS. GERVASI: Thank you. Does anybody have  
11 any other comments concerning the draft rule  
12 25-30.091 before we move on to a discussion of  
13 25-30.440?

14 (No response).

15 MS. GERVASI: And I'm wondering if we should  
16 take maybe a five-minute break at this juncture.

17 MR. SAYLER: Office of Public Counsel doesn't  
18 have any comments on that rule. I don't know if  
19 the other utilities do.

20 MS. GERVASI: Okay. Maybe we might not have  
21 a whole lot of discussion on that.

22 MR. SAYLER: You might be able to drive on  
23 through.

24 MR. FRIEDMAN: This is Marty Friedman. I  
25 just have one or two on the change, the two

1 changes to the engineering rule.

2 MS. GERVASI: Okay. If it's going to be just  
3 brief, maybe we should just move on.

4 MR. FRIEDMAN: I mean, there's only two  
5 changes, aren't there?

6 MS. GERVASI: Okay. Yes.

7 MR. FRIEDMAN: In Subsection (7) they just  
8 changed it to be five years whether or not you  
9 ever filed a rate case. It seems like they're  
10 just extending it if you filed a rate case within  
11 five years. And I'm presuming that that's just to  
12 kind of add to make it consistent with  
13 Subsection (c) of .0812 where it says things you  
14 have to provide?

15 MS. GERVASI: Yes.

16 MR. FRIEDMAN: And then my real concern is  
17 with the last section, Paragraph (11) that you  
18 added. And the part I've got a concern about,  
19 obviously, you know, providing customer complaints  
20 that the utility has received. We've been doing  
21 that for years anyway because we have access to  
22 that information.

23 But for the utility, as part of its minimum  
24 filing requirements, to have to file copies of  
25 complaints that the Commission has in its own

1 files, which DEP has in its files, which the Water  
2 Management District or any local government  
3 entity, whatever that means, may have, or a county  
4 health department, we don't have access to those  
5 things, they're not ours, we don't have control  
6 over them. How can we respected as a utility --  
7 expected as a utility to obtain these documents  
8 from other agencies to put in our MFRs, and  
9 particularly the Commission, who has got their  
10 own? Why do they need us to tell them what  
11 complaints they've received?

12 And I think that it's problematic to  
13 receive -- to obtain some of this stuff from these  
14 other agencies. And I don't know any governmental  
15 entity, what the heck that means. I mean, there's  
16 a lot of governmental entities out there that some  
17 of our utility systems are located in. And so I  
18 think everything after the utility providing the  
19 complaints that they have received, I don't think  
20 any of that is necessary and I think it's  
21 unnecessarily burdensome.

22 MS. GERVASI: Thank you, Marty.

23 MR. FRIEDMAN: Because you all go to DEP and  
24 find that stuff anyway in rate cases. You call  
25 DEP if you have any questions about what



1 complaints they've received. I think your staff  
2 does that as part of its quality of service  
3 analysis anyway. And you all can get that  
4 information a lot easier from governments than we  
5 can.

6 MS. GERVASI: Thank you. Other questions or  
7 comments?

8 MR. RENDELL: Real brief. Mine are similar  
9 to Mr. Friedman's. I just wanted to point out a  
10 couple of things, like on the change on  
11 Paragraph (7), and you've also indicated it on  
12 Paragraph (11) about the five years. Just to be  
13 clear, the majority -- actually, all of the  
14 utilities I'm over have recently been transferred  
15 and we may not have five years, we may only have  
16 two years or three years. So it just isn't clear  
17 that, you know, the new utilities -- because right  
18 now the utilities are changing transfers, you  
19 know, almost every day now, but that, you know, we  
20 provide whatever records we have in our  
21 possession.

22 And I have the similar Mr. Friedman had about  
23 providing comments that's on file with the  
24 Commission or DEP, that those are items that the  
25 utility doesn't have. We might have letters from

1 DEP and responses to DEP, but we don't have the  
2 specific complaints. And the Commission has its  
3 own complaints, it's own file, so similar  
4 comments.

5 MS. GERVASI: Thank you. When a utility is  
6 transferred, do they keep the complaints from the  
7 prior owner?

8 MR. RENDELL: Usually we don't receive that  
9 information. I know that, you know, there's a  
10 workshop on the 21st where they're cleaning up  
11 some of the transfer rules, and some of this  
12 language is now in there, like the DEP information  
13 from the previous owner.

14 DEP is not as big of an issue because you can  
15 get a lot of the permits on their site called  
16 OCULUS, and it's accessible by the general public.  
17 And, you know, if that's the intent, you know, we  
18 could potentially do that as long as, you know,  
19 the new company has the records from inception.  
20 But we don't necessarily get customer complaints.  
21 It might be something we can address at that  
22 workshop on the 21st, so that might be something,  
23 if possible, to get from the previous owner, if  
24 they have the records.

25 MS. GERVASI: Thank you.

1 Other comments on this rule amendment  
2 language?

3 (No response).

4 MS. GERVASI: Okay. I think that brings us  
5 to the time frames for the next steps in getting a  
6 rule proposed. It is our intention to file a rule  
7 proposal recommendation for the December 16th  
8 agenda, and that's in order for the Commission to  
9 propose to adopt these rules within 180 days from  
10 the effective date of the new Legislation.

11 Before we can do that, our Division of  
12 Economics will prepare a statement of estimated  
13 regulatory costs based upon the rule language that  
14 we recommend. So we would like to have your  
15 written workshop comments before our Division of  
16 Economics begins that process. So with that in  
17 mind, we would like to solicit the filing of any  
18 post-workshop comments as soon as possible.

19 Can you file them -- can you give us a  
20 one-week turnaround time and have them due a week  
21 from today on October the 14th, post-workshop  
22 comments?

23 MR. SAYLER: Office of Public Counsel will  
24 make an effort. However, some of your may know,  
25 my wife is expecting any day now.

1 MS. GERVASI: Congratulations.

2 MR. SAYLER: So that might delay my comments  
3 and I may have to pass that baton on. But we can  
4 try for ten days, or seven days, but it might be  
5 easier if you gave us ten days or two weeks.

6 MR. FRIEDMAN: We can certainly make that  
7 one-week.

8 MS. GERVASI: You can make the one week.

9 How about -- well, we want everybody's  
10 comments, you know, before we do the request for  
11 the statement of estimated regulatory cost. So if  
12 we do a ten-day turnaround time, will that work,  
13 Erik, for you and for everybody?

14 MR. SAYLER: I will consult my wife. Yes,  
15 ma'am.

16 MS. GERVASI: Thank you. Ten days will make  
17 the comments due Friday October the 17th.

18 Anything else?

19 (No response).

20 MS. GERVASI: I think that that will do it.  
21 And we, therefore, adjourn the workshop. Thank  
22 you all again for your good participation. It's  
23 been very helpful to us.

24 (Proceedings concluded at 2:30 p.m).  
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## CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, MICHELLE SUBIA, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 3 through 76, are a true and correct record of the aforesaid proceedings.

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

DATED this 13th day of October, 2014.



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