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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20230123-WS

Proposed Rule 25-30.0372, Alternative  
Procedure for Establishing Rate Base  
Value of Acquired Utility System.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 2

COMMISSIONERS  
PARTICIPATING: CHAIRMAN MIKE LA ROSA  
COMMISSIONER ART GRAHAM  
COMMISSIONER GARY F. CLARK  
COMMISSIONER ANDREW GILES FAY  
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, March 5, 2024

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

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

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

2 CHAIRMAN LA ROSA: Let's move on to Item No.  
3 2, and I believe we are already in place.

4 So I know that there is certainly some more  
5 activity. We will allow them to jump in, but Item  
6 No. 2 is the alternative procedures for  
7 establishing rate base value of acquired utility  
8 systems, so --

9 MS. SAPOZNIKOFF: Give everyone a chance to --

10 CHAIRMAN LA ROSA: Yeah.

11 You are recognized when you are ready.

12 MS. SAPOZNIKOFF: All right. Good morning.

13 Item 2 is staff's recommendation regarding the  
14 proposal of a new rule, Rule 25-30.0372, to  
15 implement Section 367.0811, Florida Statutes, which  
16 was enacted last year.

17 This new statute allows certain large water  
18 and/or wastewater utilities to use the purchase  
19 price or average appraisal price, whichever is  
20 lower, to establish the rate base value of the  
21 acquired utility system for use in its next rate  
22 case.

23 The statute is very prescriptive and limited  
24 to what could be contained in the rule. However,  
25 as explained more fully in the recommendation, the

1 rule clarifies ambiguous terms in the statute, and  
2 sets forth procedures for handling the petition to  
3 establish the alternative rate base value before  
4 the Commission.

5 The rule also contains general filing  
6 requirements and notice requirements to provide due  
7 process and assist in the efficient implementation  
8 of the statute.

9 Some stakeholder representatives have  
10 requested to address the Commission, and others are  
11 present to answer any questions the Commission may  
12 have.

13 Staff is also available to answer any  
14 questions.

15 Thank you.

16 CHAIRMAN LA ROSA: Thank you.

17 And we -- let's -- I will just go from what I  
18 have in front of me. Ms. Clark, would you like to  
19 address the Commission?

20 MS. CLARK: Yes, Mr. Chairman.

21 Good morning, Mr. Chairman and Commissioners.  
22 My name is Susan Clark. I am with the Radey Law  
23 Firm. Also with me today is Tom Crabb, also with  
24 the Radey Law Firm. And to my right is Josiah Cox,  
25 who is the President of Central States Water

1 Resources.

2 Mr. Chairman, if I may, I would like to  
3 briefly go through the changes we are suggesting to  
4 the rule, and then let Mr. Cox elaborate on  
5 those --

6 CHAIRMAN LA ROSA: Yes.

7 MS. CLARK: -- requested changes.

8 The first changes are starting on page three,  
9 going over to four. It's with respect to the  
10 providing of information, of reports, governmental  
11 reports and governmental correspondence. We  
12 suggest you add the terms "if available".

13 It's been our experience that sometimes those  
14 items are not available because of poor  
15 recordkeeping on the part of the utility being  
16 acquired.

17 The next change is also on page four, and it's  
18 with reference to the cumulative present value  
19 revenue requirement form. Our suggested change  
20 there is simply to make the use of the Commission's  
21 form optional, that a different CPVRR analysis  
22 could be provided, as long as all the information  
23 is in it. And this change would be consistent with  
24 what staff is recommending in the rule you will  
25 take up as Item 3. They make it optional on that.

1           The next change, also on four, is down on the  
2           bottom, and that's a suggestion as to what is  
3           considered a significant increase in rates. Our  
4           thinking there is that what is significant should  
5           be judged by what the rates otherwise would have  
6           been if the utility was not acquired, and the  
7           acquired utility would have had the opportunity to  
8           do the price index throughout that five-year  
9           period. So that should be the basis that if they  
10          otherwise could have had it, then it has to be  
11          something over that. That's how I read what the  
12          staff was recommending with regard to the price  
13          index.

14          The last suggestion is with regard to the  
15          notice. I don't believe -- your staff is  
16          suggesting that notice be given to the utility  
17          being acquired and all the other customers of the  
18          acquiring utility. So you might have an acquired  
19          -- a utility down in Pasco County and you have to  
20          notice people in the Panhandle about this  
21          acquisition.

22          I would suggest to you that there is no  
23          substantial interest for which you have to give  
24          notice, because those customers in the Panhandle  
25          are not being affected by this acquisition. So

1 under the APA, there is no requirement that you  
2 notice them.

3 With that, I would like to have Mr. Cox  
4 address you on these changes.

5 CHAIRMAN LA ROSA: Mr. Cox, you are  
6 recognized.

7 MR. COX: Thank you. I appreciate it, Mr.  
8 Chairman.

9 First of all, I just want to thank the staff.  
10 I can tell a ton of work went into this, so I think  
11 it's very usable in the form it came across, so I  
12 really appreciate that.

13 I think, from our perspective as a water and  
14 wastewater utility, we are trying to cut any kind  
15 of red tape, streamline the process here in some  
16 ways, is what we are looking for with these  
17 changes. I mean, the idea we want to make sure,  
18 one, that, you know, it's very clear, and now we've  
19 bought a number of utilities in Florida, it's  
20 turned out to be the same as we've seen in other  
21 places. There are a lot of financial records that  
22 are not available. There is permitting records  
23 that are not available, engineering records that  
24 are not available, so we just want to be very clear  
25 so we know what the guidelines are.

1           On the rate increase size, I mean, you know,  
2           over a five-year period, you know, rates, just on  
3           the CPI basis, are going up 25 percent. So we  
4           think we just need to define that so that it's  
5           clear as we are going through this process.

6           And the notice requirement is really clear for  
7           us. You know, the people getting acquired, they  
8           need notice, and, you know, later on, if we are --  
9           if we try to do a consolidated rate, if there is  
10          something that affects, you know, all the customers  
11          in the state, obviously they will get notice in  
12          that proceeding. So we are trying to make this  
13          just as streamlined and easy to use as possible  
14          because these utilities really need bought.

15          CHAIRMAN LA ROSA: Thank you.

16          MS. CLARK: Mr. Chairman, I would like the  
17          opportunity to respond briefly to comments  
18          regarding these suggested changes.

19          CHAIRMAN LA ROSA: Okay. Briefly, if you  
20          could. Oh, yeah.

21          MS. CLARK: I would like to comment on adverse  
22          comments is what I was suggesting.

23          CHAIRMAN LA ROSA: Gotcha. Okay.

24          Mr. Friedman, would you like to speak?

25          MR. FRIEDMAN: Thank you. I am going to let

1 Mr. Twomey, who is the President of Sunshine Water,  
2 speak first.

3 CHAIRMAN LA ROSA: Sure.

4 MR. TWOMEY: Good morning, Mr. Chair and  
5 Commission.

6 I just wanted to note that Sunshine Water is  
7 appreciative of all the work that's gone into this  
8 rulemaking, and we believe that such rules put in  
9 place will further consolidation and help improve  
10 the industry in the state.

11 Thank you.

12 CHAIRMAN LA ROSA: Great.

13 MR. FRIEDMAN: And, Mr. Chairman, Sunshine  
14 Water generally agrees with the comments that Susan  
15 Clark has mentioned. I would just stress two  
16 particular points.

17 One is that using the index to determine  
18 whether there is going to be a substantial rate  
19 increase. And if you do that, then the flip side  
20 of that is that in the indexing every year, you are  
21 saying that that index that the Commission allows  
22 every year is a substantial increase in rates. And  
23 that's exact opposite of what the index is intended  
24 to do, to give minimal increases, and allow using  
25 that indexing as the standard for determining it is



1           just not reasonable.

2           OPC, in fact, in the first workshop, suggested  
3           50 percent. And I think in this position, we've --  
4           we concur that 25 percent is a good compromise on  
5           that. So that's on the rate stabilization plan.

6           On the notice requirement, from Sunshine's  
7           perspective, here's what happens if we have got --  
8           Sunshine has got 34,000 customers. So if we bought  
9           a little sewer system -- and we, in fact, bought a  
10          little sewer system -- say it's got 350 customers,  
11          and those are the kind of systems that the rule --  
12          that the statute is intended to do. Let's get rid  
13          of the small and nonprofessionally run utilities  
14          and let's put them -- bring them into the grasp of  
15          a real utility. And if they bought a small sewer  
16          utility of 350 customers, they've got to notify  
17          34,000 of their own customers.

18          I don't know what notices cost. I think post  
19          stamps themselves are now up to 67 or 68 cents.  
20          It's got to cost a buck a person to send it out.  
21          And as Susan mentioned, legally, they would not be  
22          substantially affected people under the APA.

23          So I would suggest that we not include the  
24          noticing of the utility's existing customers, and  
25          if for some reason you do, let's put a threshold.

1           If there is more than 20 -- if it adds more than  
2           20 percent to the customer base, something to add a  
3           threshold so that a company like Sunshine doesn't  
4           have to spend \$34,000 to send notices to resolve  
5           what we hope is getting rid of small unproductive  
6           utility companies.

7           Thank you.

8           CHAIRMAN LA ROSA: I am going to go to staff  
9           and ask this question.

10           Are any of the items, or issues that have been  
11           addressed today, are any of these new items that  
12           are new to you, as far as issues from the industry?

13           MS. SAPOZNIKOFF: Yes, a few of them are.

14           The request to add the term, or the phrase "if  
15           available" in the two places was not brought up  
16           before during workshops or prior to -- we got Ms.  
17           Clark's letter the other day.

18           In response to that, unlike the acquisition  
19           adjustment rule, the information we are looking for  
20           here is information that would not necessarily only  
21           reside with the utility being acquired. It's  
22           coming from DEP, county health department, things  
23           like that. So it is accessible. And this language  
24           is taken directly from the Rule 25-30.037, which is  
25           on the application for transfer. And this is

1 information that's required this that proceeding.

2 So we are not looking for them to do anything  
3 more or extra. It's just information staff felt  
4 would be useful and necessary to the Commission in  
5 looking at the -- setting the rate base value under  
6 this rule, and it only comes into play if the  
7 engineering assessment finds deficiencies. So for  
8 that reason, we would -- staff stands by not  
9 including that additional language.

10 At workshop, it was brought up that the use of  
11 a uniform CPVRR form was not favored by some  
12 utilities. The concept of the CPVRR was not  
13 disputed, but using the Commission's CPVRR form.

14 We feel it's important because of the very  
15 short timeframe. We only have eight months in this  
16 from the time of a filing of a complete petition to  
17 entering an order. So the more that can streamline  
18 things for staff and the Commission to be able to  
19 readily find the information that's necessary for  
20 it to make its determination we feel is very  
21 important.

22 If there is additional information that any  
23 utility wants to provide over and above what's in  
24 this CPVRR, they are certainly welcome to do it.  
25 But staff believes it's very important to have a

1 standardized form that makes it easy for us to  
2 access the information that we believe is necessary  
3 to assess the public interest, for you to assess  
4 public interest.

5 And on to notice, that was something that was  
6 not part of the rule version that was at the  
7 workshop. However, we really don't see any  
8 justification for not providing due process to all  
9 people that could possibly be affected.

10 This statute indicates that the alternative  
11 rate base value established using the statute in  
12 this new rule will be used in the next rate  
13 proceeding. So anyone that doesn't have a point of  
14 access in this proceeding is not going to be able  
15 to come in in the subsequent rate case and  
16 challenge anything.

17 So while it might not be strictly required by  
18 the Administrative Procedures Act, certainly making  
19 sure that all people who are potentially affected  
20 by this alternative rate base value that's going to  
21 be used in subsequent ratemaking should have an  
22 opportunity for a point of entry to come in,  
23 because, you know, when the actual rate case comes  
24 up, if they have any issues, we are going to have  
25 to tell them, too bad, so sad, you know, this has

1 already been decided, and we just don't think  
2 that's FAIR.

3 CHAIRMAN LA ROSA: OPC, are you are  
4 recognized.

5 MS. CHRISTENSEN: Thank you, Commissioner La  
6 Rosa.

7 We are here today, we support staff's rule as  
8 written. We believe that it's been well thought  
9 out. We agree with staff, that there should be a  
10 uniform CPVRR format so that that could be  
11 evaluated at the time that the Commission is making  
12 the decision whether or not to establish the market  
13 rate, and so that it can be uniform across the  
14 years. One of the things is you have to be back at  
15 some point when you are doing a future rate case,  
16 and having that information in an easily accessible  
17 format will help in those further proceedings down  
18 the road.

19 We also agree that the rule as written with  
20 the price index should be maintained. Essentially,  
21 that places the customers of the utility that's  
22 being acquired in a no harm position as far as any  
23 rate increases that would have otherwise happened.  
24 And I think that's the appropriate posture for the  
25 customers to be in.

1           And we also agree with staff, that notice to  
2           all of the customers that could be affected in the  
3           future should be given at the time of the transfer  
4           -- or, I am sorry, at the time the market  
5           evaluation is being determined, because that's the  
6           time that they would have their chance to have  
7           their voices heard.

8           And while we appreciate that it can cost the  
9           utilities a little bit more money, that money  
10          eventually, in the next rate case or in future rate  
11          proceedings, usually gets passed on to the  
12          customers through some sort of rates.

13          So we think that it's appropriate to ensure  
14          that all customers get timely notice so that they  
15          can make a determination whether they want to  
16          intervene and so that they have notice. Otherwise,  
17          we are here in support of Commission staff and the  
18          hard work they did on developing this rule.

19          Thank you.

20          CHAIRMAN LA ROSA: Thank you.

21          Ms. Clark, is now a good time to address some  
22          of the things you just heard?

23          MS. CLARK: It is. Mr. Cox would like to  
24          respond to the CPVRR.

25          CHAIRMAN LA ROSA: You are recognized, Mr.

1 Cox.

2 MR. COX: Yeah. I would just say the CPVRR  
3 seems to be designed for electrical utilities in  
4 general. I think it's pretty burdensome, and it  
5 doesn't actually what we represent what we do as a  
6 water and sewer utility.

7 Our idea is we provide the exact same  
8 information as inside the CPVRR in a spreadsheet  
9 format with all of our assumptions. It's not  
10 something that -- we just think that it is more  
11 appropriate when you are looking at, you know, the  
12 cost basis in a water and sewer utility. You know,  
13 we are fine providing both if that -- if that's a  
14 compromise there, just so we can show how we got to  
15 our numbers, but really think it's the  
16 appropriateness, especially for small water and  
17 sewer utilities, is our rationale behind that.

18 CHAIRMAN LA ROSA: Ms. Clark.

19 MS. CLARK: Yes, Mr. Chairman. Just a couple  
20 of things.

21 I think on the notice, I sort of want to  
22 address it from a practical standpoint first and  
23 then a legal standing point.

24 Supposedly, you know, you have to give notice  
25 to all the customers. And somebody in the

1 Panhandle in gets this notice and goes, what's this  
2 have to do with me? So they start calling, and  
3 they say, what does it have do with me? Why should  
4 I care? Well, in the future you may be affected,  
5 but two things have to happen. A rate case needs  
6 to be filed, and also there needs to be some sort  
7 of consolidated rates, so in the end that you would  
8 be affected by it. I think it creates unnecessary  
9 confusion with the rest of the customers.

10 And I would point out that under the APA, it  
11 has to be an actual injury in fact at the time of  
12 the filing of the petition. We know that's not  
13 true. And it has to be or immediately in danger of  
14 sustaining some direct injury or adverse effect,  
15 and that's not true.

16 In effect, what staff is suggesting, Public  
17 Counsel, is that you rewrite the standards for  
18 entry into a proceeding.

19 The other thing I would mention on the  
20 substantial increase, I would think when the  
21 Legislature put that in the statute, they meant  
22 something other than what would normally occur with  
23 the pricing increase.

24 Now, we may be wrong on what that should be,  
25 and at least in the proceedings on this, we did



1 comment that we didn't think it should be the price  
2 index. It should be some increment indicating a  
3 substantial interest -- I mean, indicating a  
4 substantial increase.

5 If I may, I would like to save my opening  
6 comments kind of reflected that I wasn't brought up  
7 in the south. I should have complimented the staff  
8 on how hard they worked on this rule. We really  
9 appreciate all their work on it, and I particularly  
10 appreciate them educating me on what they are up  
11 against as far as working with the APA, and trying  
12 to get a rule that will pass muster over there. So  
13 they've been very helpful to us. They've  
14 considered everything we brought forward, and we  
15 appreciate them doing that.

16 Thank you.

17 CHAIRMAN LA ROSA: Thank you.

18 MR. FRIEDMAN: Mr. Chairman, might I make one  
19 comment?

20 CHAIRMAN LA ROSA: Sure, Mr. Friedman, you are  
21 recognized.

22 MR. FRIEDMAN: I have not heard whether staff  
23 was opposed to putting a de minimis exception of  
24 the noticing. And we had this, as the staff  
25 mentioned, it's the same rule that we have in an

1 amendment. And we have run into that in small  
2 amendments that we do, and we've got to file an  
3 application for a rule waiver, and all of what that  
4 goes through, you know, JAPC, and publishing, and  
5 an agenda. That's an arduous time-consuming  
6 process to get a rule waiver. So I would be  
7 interested to see if the staff had any inclination  
8 for a de minimis exception from noticing existing  
9 customers.

10 And then again, this substantial thing just  
11 defies logic. How the index could be a substantial  
12 increase just blows my mind.

13 CHAIRMAN LA ROSA: I know we are getting  
14 antsy. We are going to get a shot at this in a  
15 second. I am going to go to staff.

16 Do you mind clarifying the question just asked  
17 by Mr. Friedman?

18 MS. SAPOZNIKOFF: Certainly. And I apologize,  
19 I recognized that I had failed to address the  
20 comments regarding the price index in my initial  
21 response.

22 At the workshop, there was absolutely no  
23 consensus, and there was no consensus in any  
24 comments received after the workshop as to what a  
25 substantial individual increase in rates would be.

1           Suggestions were all over the board, and everyone  
2           decided it was very hard to define.

3           While the index, you know, could be considered  
4           a minimum increase, and that allows the utilities  
5           to come in and get an increase in rates without  
6           having to bring it to a hearing, we felt that's a  
7           pretty bright line that then if it's over that,  
8           then that could be considered substantial.

9           So, you know, otherwise, we are looking at,  
10          you know, 25 percent. Well, why not 20 percent?  
11          Why not 15 percent? Why not 30 percent?

12          If this rule moves forward, it would need to  
13          be able to withstand challenge to not being  
14          arbitrary. And without having any particular  
15          justification for a certain percentage over the  
16          price index versus any other percentage that has  
17          been suggested over the price index, or any other  
18          suggestion for an alternate way to evaluate it, I  
19          think we would have a hard time saying why that  
20          wasn't -- you know, any percentage we kind of  
21          pulled out of thin air would be -- would not be  
22          arbitrary.

23          So by linking it up to something that we have  
24          set in stone, and just saying, if it's over it at  
25          all, then that's a fairly bright line in that we

1           have already indicated one is not substantial and  
2           now this would be substantial.

3           In terms of the de minimis impacts, the only  
4           response we received from anyone in response to the  
5           SERC questionnaire indicated that it would cost  
6           anywhere between nine and I think 31,000 to comply  
7           with the notice. And certainly, you know, looking  
8           out for the smaller utilities, 9,000, that's not a  
9           substantial impact on the utility to have to  
10          provide notice, even the 31,000 on the larger side;  
11          particularly, since what we are looking at here is  
12          otherwise precluding potentially affected  
13          residents, customers will have an opportunity to  
14          come in and challenge something that they would not  
15          otherwise be able to have any input on.

16                 CHAIRMAN LA ROSA: And just for clarification,  
17                 how many workshops were there?

18                 MS. SAPOZNIKOFF: There was one workshop.

19                 CHAIRMAN LA ROSA: All right. Commissioners.  
20                 Commissioner Clark, I know you are antsy. You are  
21                 recognized.

22                 COMMISSIONER CLARK: I studied this one more  
23                 than I did the tax code. Just a couple of  
24                 observations, and I will address, I guess, the  
25                 Commission -- Commissioners, as much as anything.

1           My markups of the proposed changes, I don't  
2           have any major -- didn't have any major issues, but  
3           I think, in hearing some of the conversations, the  
4           if available -- if available qualification that's  
5           put in there, if we change that to "if existing"  
6           would that make a substantial change? Would that  
7           suffice both sides?

8           I understand that something may be available  
9           but it may not exist yet. We have it in here as a  
10          requirement, and I see the qualification of if  
11          exists -- if the document exists being a  
12          compromise.

13          MR. HETRICK: I don't mind responding to a  
14          little bit of that as I understand it, Chairman  
15          Clark -- or Chair Clark.

16          The if available, in our view, we put in this  
17          rule if available under certain circumstances where  
18          the information, the utility may not have that  
19          information available, we have accounted for that  
20          in the petition requirements.

21          In this particular requirement, that  
22          information is available in the form that it exists  
23          with DEP or the Department of Health, as Susie.  
24          The problem is if you put if available or if  
25          existing here, the utility may not have it, and it

1 allows them to say, we don't have it, and then it  
2 -- it's difficult for us to come back and get that  
3 information, even from the health department or the  
4 Department of Environmental Regulation.

5 So we have tried to be accommodating and put  
6 if available throughout the very petition  
7 requirements where they may not have the  
8 information available. And certainly if this  
9 information is not available, we are not going to  
10 sit there and hold their feet to the fire.

11 So that's kind of our response to the if  
12 available.

13 COMMISSIONER CLARK: I understand. But if you  
14 changed it to if existing, wouldn't that accomplish  
15 the same thing and satisfy both parties?

16 MS. SAPOZNIKOFF: I think it would still pose  
17 a problem. When they file the petition, the one  
18 thing the staff is going to do immediately is  
19 review the petition to determine if it's complete,  
20 if it meets all the statutory requirements, and as  
21 further expounded by the rule. If that isn't in  
22 their and staff goes back to the utility and goes,  
23 how come you don't have X, Y, and Z in there. If  
24 they have an explanation as to why it doesn't  
25 exist, then the petition could move forward as

1 being complete.

2 So it will have an opportunity for them to  
3 bring it up. This is just information that we know  
4 does exist, should exist, and they should be able  
5 to access from third sources, even if the utility  
6 being acquired wasn't great on recordkeeping. And  
7 as stated before, this exact language was pulled  
8 out of another rule, where it's not proven to be a  
9 problem for them to get this information.

10 MR. CICCHETTI: Commissioner, we also  
11 anticipated that if the -- there was a reason why  
12 it didn't exist, the company could request a rule  
13 waiver.

14 COMMISSIONER CLARK: Well, isn't that the  
15 purple of doing the rule modifications now, is to  
16 keep from having to do rule waivers in the future?

17 MR. CICCHETTI: Well, we think that the  
18 information is necessary, and if there was some  
19 reason why it wasn't available, then they would  
20 request a rule waiver.

21 COMMISSIONER CLARK: Okay. But I am still  
22 saying that if the document exists or it doesn't  
23 exist, I mean, that's proof within itself. You  
24 don't have to go beyond that to say it's available.  
25 I see we are dug in there. I am moving on to the

1 next one.

2 The CPVRR, would the satisfying both parties  
3 if -- I realize I assumed that we are trying to get  
4 some specific information into the rate filing by  
5 including your spreadsheet in the CPVRR as opposed  
6 to just putting what the staff is asking. If you  
7 are going above and beyond that, staff, can we  
8 require that they submit their own spreadsheet as  
9 well as your form? Is your form going to require  
10 any voluminous amount of work that's extra? Can  
11 they populate your form from a spreadsheet? I  
12 assume this is a pretty simple task.

13 MR. CICCHETTI: Commissioner, we've always  
14 anticipated that the company could add whatever it  
15 is else that they wanted to. We just thought  
16 having this basic information, which is all related  
17 to revenue requirements, which applies to all  
18 industries, would be just the minimum. They could  
19 present whatever else they wanted to the  
20 Commission.

21 COMMISSIONER CLARK: If their spreadsheet  
22 included everything that you are requiring, do you  
23 have to have the form for a very specific reason  
24 that you need that form, or is the information in  
25 itself enough?



1           MR. CICCHETTI: Well, we just wanted it  
2 uniform and make sure that we would get the same  
3 thing every time, and we would get it at the  
4 beginning of the process, and not have to go  
5 through discovery to ferret out what it is that we  
6 definitely need.

7           COMMISSIONER CLARK: Okay.

8           MR. COX: Commissioner, that's great with us.  
9 It's a both and piece that we are looking for.

10          COMMISSIONER CLARK: Okay. Gotcha.

11          And my other observation is, again, coming up  
12 with what is a substantial rate increase, I  
13 understand. If you go back and look at the index  
14 for the last five years, we've been all over the  
15 board with that number. It's 1.1, I guess. Last  
16 year was, what, six, almost six last year, or a  
17 little over six.

18          I think that is -- that is saying that this is  
19 what is due in a year's time. I think anything  
20 above that could be considered a substantial  
21 increase. I don't think that it rises to the level  
22 of 25 percent. You know, you make a change in my  
23 bill of 10 or 15 percent, that's substantial to me.

24          And my suggestion is that, and this is as  
25 arbitrary as it gets from the perspective of I am

1 going to throw it out there, is that we look at a  
2 15-percent number. If the rate increase is going  
3 to be beyond 15 percent, that we would require the  
4 rate stabilization plan. That's just a suggestion  
5 I would make.

6 And moving on, the last thing -- I am sorry,  
7 let me find my notes. Oh, the notification. So I  
8 guess my concern with the notification and how that  
9 is going to work is that I don't think you should  
10 have to notify customers that are not going to be  
11 affected either. However, if you are going to  
12 have, or move into consolidated rates over the  
13 period of time before a rate increase would take  
14 place for that individual company, then I think you  
15 should have to notice that. That's the only  
16 difference.

17 There is not going to be a financial impact on  
18 a set of customers that are not under consolidated  
19 rates through this acquisition process. It's only  
20 going to effect those that are being acquired. So  
21 my -- if you can figure out a caveat there to word  
22 it as such as that unless customers are going to be  
23 substantially affected, then I don't see where we  
24 should require notification of anybody outside that  
25 group.

1           They all have a puzzled look on their face,  
2           Mr. Chairman, when I said that.

3           MS. CLARK:   Mr. Chairman.

4           CHAIRMAN LA ROSA:   You are recognized.

5           MS. CLARK:   I do think that they will have the  
6           opportunity to do that.   First of all, the rate  
7           case has to be filed.   It has to be a consolidated  
8           rate case, and they have to be asking for  
9           consolidated rates.   At that point the customers  
10          say, wait a minute, I don't think that amount that  
11          was given in the acquisition adjustment, or  
12          whatever, should be applied to me.   That's the  
13          point at which they can contest that.

14          The other thing is it may be that by acquiring  
15          this, their rates actually are going to go down by  
16          being consolidated, so they are not adversely  
17          affected at all.   And I think that's why the APA is  
18          written that way.

19          CHAIRMAN LA ROSA:   I am going to ask staff in  
20          A second for the consolidated perspective in this,  
21          but I want to go to OPC first.

22          MS. CHRISTENSEN:   Yes.   And while we  
23          appreciate if there were no prospective chance of  
24          these customers ever being affected, they wouldn't  
25          need notice, clearly.   But utilities such as CSRW

1           have come in for consolidated rates and  
2           consolidated rate cases, and they -- and we've seen  
3           a lot more of that frequently. And because the  
4           customers --

5           You know, the utility is the only one that  
6           knows whether or not they are going to file a  
7           consolidated rate case at the next rate filing.  
8           And therefore, if you put in that caveat into the  
9           rule that, you know, if their rates are going to  
10          be -- or if they are going to be substantially  
11          affected by a consolidated rate case, it would --  
12          it may create a problem if, for some reason, you do  
13          the market evaluation, you do the approval process,  
14          and at that point in time, the utility was not  
15          contemplating consolidating rates, and then after  
16          that's completed, for other business reasons they  
17          decide, well, now we are going to consolidate. Now  
18          you have got a group of customers who potentially  
19          never had a notice at the appropriate time to  
20          protest the market evaluation that's been approved,  
21          and I think it would be very difficult for those  
22          customers when they will be affected in the next  
23          rate case, and when rates are consolidated, to  
24          protest whether or not that approved market-based  
25          rate is going to be applicable to them, because it

1 becomes part of the whole consolidation.

2 And it's very difficult to unpeel an onion  
3 once it's, you know, once it's grown. I mean, it's  
4 already baked into the way the utility comes to you  
5 for consolidated rates. I think it would be very  
6 difficult, if not impossible, to undo at a later  
7 time. You do have some administrative efficiencies  
8 that attach once that decision has been made by the  
9 Commission in an earlier date.

10 COMMISSIONER CLARK: May I respond?

11 CHAIRMAN LA ROSA: Yes. Sure. Commissioner  
12 Clark.

13 COMMISSIONER CLARK: So how do you have a  
14 situation where you change from requesting none  
15 consolidated rates to consolidated rates and not  
16 having a point where you could notify customers at  
17 that point. Would that not require -- would that  
18 not require any different actions?

19 MS. CHRISTENSEN: All I am pointing out,  
20 Commissioner, is at the point that you would notify  
21 all of the customer base that they are going to get  
22 consolidated rates, if it already has -- if a  
23 utility's system has already been approved for  
24 market rates at a previous date and time, it's  
25 going to come into whatever the consolidation is

1 with that rate base approved. And I don't think  
2 you can unapprove it -- those customers that are  
3 going to be affected now by the higher rate base  
4 can't come in and challenge that market base rate  
5 that was established in an earlier time. And I  
6 think that's the problem that we are talking about  
7 here, and I think that's the problem that staff was  
8 potentially attempting to address.

9 So that's really the scenario we are talking  
10 about, is you acquire a system. You request the  
11 approval for the market-based rates. You don't  
12 address all the other systems that are owned by  
13 that utility owner. The market-based rates are  
14 approved for that one system. They come in in two  
15 years, ask to have their systems consolidated.  
16 That rate base has been approved and then cannot be  
17 undone even if the other customers who are going to  
18 have their rates potentially be higher. It is  
19 correct, they could be lower, but it is also  
20 correct they could go higher. They don't have a  
21 point of entry to protest that a market-based rate  
22 was approved in an earlier point in time.

23 COMMISSIONER CLARK: But does it withdraw the  
24 Commission's jurisdiction over approving that?

25 That's --

1 MS. CHRISTENSEN: Well, the Commission, at  
2 some point, once you approve a market-based rate  
3 for a utility and the utility relies on the  
4 Commission's approval of that market-based rate,  
5 you do have administrative finality that attaches  
6 to that order.

7 Now, I have seen in certain cases where the  
8 Commission at the time it orders it with like, you  
9 know, with the acquisition adjustment puts in  
10 caveats that if, you know, if cost savings aren't  
11 materialized in five years, we can take the  
12 acquisition adjustment back, but that's on a going  
13 go forward basis.

14 I think you have something a little bit  
15 different here, because what you have here is you  
16 are establishing a rate base going forward in time.  
17 And so I think you may have administrative finality  
18 issues that attach once the Commission has approved  
19 that.

20 MS. SAPOZNIKOFF: In this case, the statute  
21 actually mandates that the rate base value  
22 established in the proceeding, the alternative  
23 proceeding, shall be used in the next rate case for  
24 that acquired utility.

25 So the -- unlike with the acquisition

1 adjustment rule, there is some flexibility. There  
2 is not flexibility here.

3 MR. CICCHETTI: And another consideration that  
4 we were thinking about is we want the rule to apply  
5 it to a wide variety of circumstances, and there  
6 could be a situation allowed under the statute,  
7 allowed under the rule, where a utility pays a  
8 significant amount above book value, which the  
9 Commission only allows a fraction of. And then  
10 that could affect the parent company to the extent  
11 that this he have, you know, spent a significant  
12 amount of money that they are not earning a return  
13 on, which may affect their credit metrics and could  
14 result in anything from increased cost of borrowing  
15 money to bankruptcy. And so we just wanted to make  
16 sure we had a robust enough notice requirement that  
17 there is not going to be a situation that gets by.

18 CHAIRMAN LA ROSA: Commissioner Graham.

19 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

20 A couple of things popped in my head when I  
21 read through this. Number one was the appraisal.  
22 According to what I see here is the utility gets to  
23 pick an appraiser, the buyer gets to pick an  
24 appraiser, and then the staff gets to randomly pick  
25 appraisers.



1           The problem I see is the utility is going to  
2           want to pick the appraiser that picks the highest.  
3           The buyer is going to want to pick the appraiser  
4           that picks the highest, and the staff is random.  
5           So then you are going to have the propensity for  
6           everybody to be appraising high.

7           Why don't we just do all three appraisals  
8           random? Because it's a list of all qualified  
9           people. If they are all random and we do the  
10          average of the random, I think that works out best  
11          for everybody. That's number one.

12          Number two, the index. I read through this,  
13          and I thought the index was a clever idea. It  
14          flexes with the economy, but I agree with the  
15          utility, the index, it's not substantial. In my  
16          opinion, the index is basically the minimum or the  
17          -- what's normal. I think it needs to be higher  
18          than the index.

19          Now, this is where it comes to where Gary and  
20          staff was talking about how much higher than the  
21          index? I think it should be tied to the index.  
22          Maybe you make it 20 percent higher than the index  
23          or your 15 percent higher, whatever you want to do,  
24          but I think it should be tied to the index, but it  
25          should be more than that index number because, once

1           again, I think that's -- I think that's more of  
2           what's normal, not substantial, because when we  
3           came up with the whole idea of the index, that was  
4           never considered to be substantial, substantial has  
5           got to be higher than the index.

6                    COMMISSIONER CLARK:  Mr. Chairman, if I may, I  
7           agree with Commissioner Graham.  I was thinking  
8           about this.  If we -- you want to try to keep  
9           something that's not as arbitrary, if we did a  
10          factor of the price index and maybe said three  
11          times the price index, if we are -- you know, if we  
12          are at two-a-and-half, three percent price index.  
13          If we said three times that, we would be at 10  
14          percent differential, or we could say four times  
15          the price index to keep it from being at this  
16          arbitrary number that we came up with.  I guess  
17          with four times or three times, it would be  
18          arbitrary, but it's tied to something substantial.

19                   COMMISSIONER GRAHAM:  Whatever the multiplier  
20          is, I just think the index is the minimum, I mean.  
21          And you guys can work out what that multiplier is,  
22          or we here as a commission can decide what that  
23          multiplier is, but I don't think the index should  
24          be -- should be the number.

25                   COMMISSIONER CLARK:  Agreed.

1 MR. BAEZ: Commissioners.

2 COMMISSIONER GRAHAM: Yes.

3 MR. BAEZ: I just wanted to lend a little bit  
4 of context to why it wound up at the index. I  
5 mean, you have heard a number that, you know, that  
6 a number that's agreeable to everyone, a threshold  
7 that's agreeable to everyone is pretty difficult to  
8 pin down. I mean, you ask 20 people, you will get  
9 20 different. So that put us in a posture to be  
10 searching for a standard below which no one has any  
11 concern.

12 In discussions, at least in my mind, is why we  
13 landed on the index was the index is a number, it's  
14 a threshold below which there is no process. You  
15 don't have -- it's not -- you don't have to file  
16 anything. You don't have to justify anything. It  
17 is the index. It is set outside of the building so  
18 we don't get into the is 20 too much, is 15 too  
19 little, and so forth. I mean, you have experienced  
20 that various conversation at the dais today.

21 It's set outside. It's not -- and it is a --  
22 it is a point at which the Commission doesn't  
23 necessarily require any process. It doesn't jump  
24 into action. That number is a given.

25 If a utility off the street wanted to -- say,

1 the index was 12, for example, and they wanted to  
2 raise to 13. We would -- we would require filings.  
3 We would require paperwork and petitions and  
4 process.

5 Keep in mind that this threshold only applies  
6 to whether they have to file certain  
7 forward-looking information with the Commission.  
8 One of the biggest -- one of the biggest questions  
9 that the Commission always has is how is this going  
10 to impact rates. I think we had a little bit of  
11 the conversation earlier today on another rule.

12 This is -- that's what the index is applying  
13 to, is whether this commission is going to want to  
14 look at what the -- what the -- what the rates are  
15 going to be, how they are going to be impacted in  
16 the future.

17 Is it -- is it too low? Perhaps. The way  
18 y'all seem to be going is to peg it to some, you  
19 know, some different variety of index, and that  
20 probably would be perfectly acceptable.

21 I wanted to let you know what the staff was  
22 thinking as to, well, there is -- there is a point  
23 at which we don't get involved. That's the index.  
24 Beyond that, we get involved. And if you look at  
25 it at that -- at that point, I think -- I think you

1 see where we start, the Commission itself starts  
2 requiring more information. Anything above that  
3 index, right? Same principle here.

4 You are right. You can -- you can pick a  
5 number and let it -- let it have some rational  
6 basis to it, so that it's not arbitrary, I guess.

7 COMMISSIONER GRAHAM: Well --

8 CHAIRMAN LA ROSA: Commissioner Clark has a  
9 point on this.

10 COMMISSIONER CLARK: And just to add -- I  
11 understand that that's why we came up with the  
12 price index. What we are looking at here is a  
13 utility company that is buying a nonviable utility  
14 company. There is a presumption here, I think,  
15 that we can all just live with, that the price is  
16 going to go up or it would have been a viable  
17 utility to begin with.

18 So I think the point I was trying to look at  
19 is that you are asking to file a rate stabilization  
20 plan, a five-year rate stabilization plan. Do you  
21 really need one when the presumption should have  
22 been, yeah, there is going to be increases here  
23 anyway, and so let's set a number that doesn't  
24 require the stabilization -- rate stabilization  
25 plan that is a more reasonable expectation of

1           what's going to happen over the next five years  
2           than just saying if it's a 1.1 increase, assuming  
3           that's the index, well, yeah, they are going to  
4           have to do a rate stabilization plan every five  
5           years.

6           MR. BAEZ: Commissioner, I understand -- I  
7           understand your concern. The only -- the only  
8           thing that I would gently disagree with is that  
9           there is no presumption that these are -- that  
10          these are any troubled systems, or this is -- this  
11          rule applies to commercial transactions in the  
12          main. Arm's-length transactions, we -- we trust,  
13          but there is no requirement in this rule for the  
14          application of this rule that it be a troubled  
15          system. That probably resides somewhere else.  
16          This is straight up business deal. Does it make  
17          sense financially for a buyer, and certainly does  
18          it make sense financially to a seller? It's on  
19          economic terms.

20          So I don't know that that changes your -- the  
21          underlying presumption. I mean, you know, what is  
22          -- what is too low to be requiring more  
23          documentation?

24          Having said that, I can understand the policy  
25          about having it a little bit more streamlined and a

1 little bit easier, more incentive to acquire  
2 troubled systems. And I think you will visit that  
3 conversation in the acquisition adjustment rule  
4 that's coming up. But this one, keep in mind,  
5 these are -- these are -- can be the healthiest of  
6 systems. It just makes sense for somebody to come  
7 in and acquire them.

8 Thanks. Thank you.

9 CHAIRMAN LA ROSA: Commissioner Graham, we are  
10 back to you.

11 MS. SAPOZNIKOFF: And if I could just add, if  
12 it's okay. One of the things this commission is  
13 going to have to consider under the statute, and  
14 whether to approve the alternative rate base is  
15 whether there are rate reductions or rate stability  
16 over a long-term period. So the more we show  
17 through a rate stabilization plan that there is  
18 going to be rate stability, it enables this  
19 commission to do what it's required to do under the  
20 statute.

21 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

22 Mr. Baez, I respectfully disagree. I think  
23 the intent of the legislation, when it says  
24 substantial increase, is something above the index.  
25 Whatever above the index is something we can have

1 the discussion on.

2 MR. BAEZ: I don't disagree, Commissioner. I  
3 think where -- I think where we all get caught up  
4 is that I think I'm pretty sure everyone agrees  
5 that a significant individual increase in rates is  
6 a -- is a term that is subject to interpretation,  
7 and the -- and where our starting point was was to  
8 identify something that is not subject to  
9 interpretation, i.e., an objective -- an objective  
10 standard.

11 The only objective standards that certainly  
12 exist in our world are things like the index, where  
13 it's set and we -- and we offer no requirement of  
14 documentation or process. It's not a number that  
15 we come up with.

16 The second we -- second we engage in whatever,  
17 you know, whatever voodoo we do here to come up  
18 with a number is subject to scrutiny under whether  
19 it was arbitrary. We have to support where it came  
20 from. And certainly, we can go through -- we can  
21 go through that process here, but that is the  
22 vulnerability of coming up with a number that  
23 already doesn't exist.

24 I am -- I won't disagree with your feelings  
25 that it may be too low. I would tell you, remember



1           that this really -- this threshold really only  
2           triggers to the requirement to file information  
3           that the Commission -- that you all regularly have  
4           concerns about, and rightfully so. How is -- how  
5           are the rates going to be impacted into the future?  
6           It's a common question that gets asked in any  
7           number of context here where rate setting is  
8           involved. And this arguably -- although, others  
9           may tell you differently, this arguably is on the  
10          path to rate setting, and that -- that's the reason  
11          for erring on the side of more information rather  
12          than less.

13                   CHAIRMAN LA ROSA: Commissioner Graham,  
14           anything further?

15                   COMMISSIONER GRAHAM: Thank you, Mr. Chair.

16           Once again, I disagree. I think that, once  
17           again, I thought the index was a clever idea, but I  
18           think that the index is a minimum and should not be  
19           considered what the legislators thought when they  
20           were talking about substantial.

21           The other thing is, and I believe with -- I  
22           agree with Commissioner Clark, when he said if the  
23           information exists. I think we are saying the same  
24           thing that staff is saying, because if it exists,  
25           the utility still has to provide it. It's not like

1 the staff has now got to go get it. The utility  
2 still has to provide it, and our 80-day clock, or  
3 however many days it was, starts when the utility  
4 provides all that information. It's not during  
5 discovery. It's all that stuff.

6 So I think we are saying the exact same thing.  
7 And I agree with Mr. Clark, I think it eases the  
8 tension from the utilities, and it does exactly  
9 what staff is asking for.

10 And there was one other one. And I was going  
11 to get into the whole notice thing, but I will  
12 leave for somebody more smarter than I.

13 So the appraisal, as I said before, I think  
14 that all three should be random. I think it should  
15 be something more than the index, and we can  
16 discuss that, or decide how we are going to come up  
17 with that number, and if the information exists.

18 Thank you, Mr. Chairman.

19 COMMISSIONER CLARK: There are three  
20 appraisals in this document.

21 CHAIRMAN LA ROSA: It's not in -- it's not in  
22 that, correct?

23 MS. CLARK: Mr. Chairman, we have some  
24 response to the comments made.

25 CHAIRMAN LA ROSA: Yeah, give me one second.

1           COMMISSIONER CLARK: We are looking at  
2           25-30-0372 right now, right?

3           CHAIRMAN LA ROSA: Yes.

4           COMMISSIONER CLARK: I am sorry. Where is --

5           COMMISSIONER FAY: It's page five of the  
6           recommendation on item two, where the rule speaks  
7           to appraisals, subsection (2), paren (2).

8           CHAIRMAN LA ROSA: Commissioner Graham's  
9           recommendation is new, but the appraisals are in  
10          there.

11          COMMISSIONER CLARK: Page five.

12          COMMISSIONER PASSIDOMO: Paragraph two.

13          COMMISSIONER CLARK: I'm looking at the wrong.  
14          Okay. I -- this document. Gotcha. Thank you. I  
15          am sorry. My apologies.

16          CHAIRMAN LA ROSA: So look at -- yeah, look at  
17          section two of the rule, the proposed rule.

18          MS. SAPOZNIKOFF: So on the rule that's  
19          attached to the recommendation, it would be page  
20          12, starting at line 15. And line 18 is where  
21          specifically the choice, or the process of choosing  
22          the appraisers is.

23          CHAIRMAN LA ROSA: Commissioner Clark, before  
24          you get started, continue to look for it. That's  
25          in it in my book.

1           COMMISSIONER CLARK: Thank you.

2           CHAIRMAN LA ROSA: So, Commissioners, so  
3 obviously we've heard from Commissioner Graham,  
4 we've heard from Commissioner Clark. Commissioner  
5 Fay, I am going to recognize you here in a few  
6 seconds. Commissioner Passidomo, I will come to  
7 you if you would like to speak on this.

8           What I would like to do is all of us kind of  
9 have our input. Obviously, there is a lot of  
10 discussion, a lot of moving parts, maybe a lot to  
11 reconsider, maybe not. We will see.

12          So after we've all spoken, I would like to  
13 take a quick break, and I will say a few more  
14 comments right before we get to that depending on  
15 where exactly we are. So just that we don't  
16 necessarily feel rushed, and we have to decide on  
17 certain things, I want to make sure that everyone's  
18 input is considered. We thoroughly talk through  
19 it. And I think the way I may do it is break it  
20 down, at least for this rule, break it down per  
21 section, but we will come back to that.

22          Commissioner Clark, do you have something to  
23 say specifically on the appraisals?

24          Okay. Commissioner Fay, you are recognized.

25          COMMISSIONER FAY: Thank you, Chairman La

1 Rosa, and I hopefully can make this a little bit  
2 easier, since I am last year Chair, my opinion is  
3 the only one that matters, so we can go ahead and  
4 ignore the commentary.

5 CHAIRMAN LA ROSA: So you cut two of us out.

6 COMMISSIONER FAY: Exactly.

7 So, no, I, you know, I might, you know, be one  
8 of the only people, but I really appreciated the  
9 debate. I mean, this is the goal for both of these  
10 rules, we have another one coming after this, I  
11 mean, the idea is to really try to improve the  
12 current situation. Some of us should spend some  
13 time in DC with other regulators. This is a  
14 challenge in every state, and we are trying to  
15 figure out ways to improve consolidation and  
16 improve the systems for the customers, and make a  
17 viable way to do that.

18 And so I think, you know, it might sound like,  
19 because of our differences in opinions on some of  
20 this language, that it's a negative thing. It's  
21 quite the contrary. I mean, I think we are trying  
22 to move something forward. And the nature of the  
23 beast is that, you know, most agencies, if you have  
24 a single individual, a secretary of that agency,  
25 they roll out the rule. We do all of this in the

1 public. I mean, we are more transparent in this  
2 process than maybe any other entity, and so I think  
3 it makes it challenging to rule forward.

4 I will give sort of my just quick comments  
5 then on the various sections, and then to your  
6 point, Commissioner La Rosa, or Chairman La Rosa, I  
7 think the idea of, you know, we are definitely  
8 going to have pretty much everybody unhappy and  
9 pretty much everybody happy, to a certain extent,  
10 in the rulemaking process, and that may be a  
11 healthy thing. But I really do want consideration  
12 as to the entities that might be impacted by this,  
13 because I think unlike Item No. 3, Item No. 2  
14 creates a more narrow scope as to who would be  
15 impacted and what that would mean. And if we are  
16 putting a rule forward that does not improve the  
17 situation for companies under that consolidation  
18 process, then, you know, I think we have to revisit  
19 that, and make sure, you know, the goal is  
20 accomplished.

21 I love Commissioner Graham's idea on the  
22 random appraisal process. I think, arguably,  
23 probably out of all of us it, he knows more about  
24 this topic of water, which is becoming more and  
25 more, you know, relevant on a national level.

1           The CPI verse, kind of the number of that, the  
2           only thing I really want to be clear about that is  
3           based on this discussion, I think any number we  
4           come up with is the opposite of arbitrary. I mean,  
5           we are trying to find a threshold that we think is  
6           appropriate that meets that definition of  
7           substantial. And so where that trigger is, maybe  
8           some will get in, some will not, depending on that.  
9           We can't see the future, but we are trying to be  
10          really, really thoughtful about what that number  
11          could be. And if it's tied to an index or it's a  
12          specific number that we come up with, like, I just  
13          -- I don't see that, based on this discussion,  
14          being arbitrary in any way. I think it's us really  
15          trying to find what would meet that appropriate  
16          threshold, where we don't open it on everything.  
17          Maybe from an index perspective it's not enough,  
18          but we don't open it to everybody, and so I think  
19          that's, you know, our goal at the end of the day,  
20          and I think we will be able to come up with  
21          something that does that.

22                 The reports, to me, I disagree with arguments  
23                 presented. When I read these -- and I know  
24                 Commissioner Clark spent some time at DEP. I am  
25                 pretty sure all of these are public record. It's

1 DEP, health -- county health. I mean, these seem  
2 like public entities where the information would be  
3 available, including the correspondence they  
4 receive back from the entity.

5 So it may be really difficult for one of these  
6 small utilities to access that information based on  
7 their system, or whatever is available. But if  
8 it's something where the Commission would engage  
9 with those public entities to maybe get that  
10 information, I am not opposed to that. I just  
11 think that those documents are available.

12 And then lastly on the notice provision, I  
13 think the due process argument is a very  
14 significant component of this, and I take that  
15 extremely seriously. I don't know if a threshold  
16 as opposed resolves that, and I think that's the  
17 dilemma here.

18 I don't like the idea of the example Mr.  
19 Friedman gave where thousands of customers, and you  
20 acquire something that's 100 customers and, of  
21 course, we would only be speaking to the customers  
22 that are within Florida. If a larger entity has  
23 customers outside Florida, they wouldn't require  
24 notice. But that cost, you know, might be somewhat  
25 of what a deterrent, and that's concerning to me.



1 I don't feel comfortable sort of trading that with  
2 notification to customers and the due process  
3 components that come with that.

4 So maybe there is a better way to do that  
5 cheaper. I think the estimate of 31,000 for  
6 distribution of customer notice is, you know, it's  
7 a number that would impact customers for sure, and  
8 I am concerned about it. But there -- maybe there  
9 is another way to do that to ensure that we check  
10 that due process box, but also don't create a  
11 deterrent.

12 And so I really want to thank my colleagues  
13 for the debate on this. I appreciate you listening  
14 to me even though you don't think my opinion is the  
15 only one that matters. And, you know, I think  
16 hopefully with this rule and the next one, we will  
17 be able to move something forward that really  
18 reflects how thoughtful this commission is in the  
19 work that we do.

20 There are states that are struggling right now  
21 because they move too quickly to try to resolve  
22 some of these issues, and we don't want to be there  
23 either. So I think this is a perfect resolution to  
24 us trying to get it right. And I don't think it's  
25 easy, and so I appreciate, Mr. Chairman, you

1           letting us have the time to debate this publicly to  
2           get it as right as we can.

3           Thank you.

4           CHAIRMAN LA ROSA: Absolutely. And, you know,  
5           very well said. And this is -- you know, other  
6           states are considering similar legislation that was  
7           obviously, you know, done their legislature, and  
8           certain commissions are now looking at the  
9           rulemaking process.

10           And I have heard a little of horror stories of  
11           folks maybe moving a little bit too quick, so, of  
12           course, I have been very methodical in our approach  
13           to this, you know, paid attention to different  
14           meetings, of course, that were happening and the  
15           workshops, and so forth.

16           Any other Commissioners?

17           Commissioner Passidomo, you are recognized.

18           COMMISSIONER PASSIDOMO: Thank you, Mr.  
19           Chairman. I am sorry, my allergies are so bad.

20           My -- I had so much trouble with this because  
21           -- I mean, as I think we all did. And as  
22           Commissioner Fay has pointed out, like, we are  
23           having a really thoughtful discussion here, you  
24           know, breaking ground CSWR's, you know,  
25           recommendations of this proposed change.

1           The notice one, when I read CSWR's, you know,  
2           recommendations, I thought from the -- really, from  
3           the practical standpoint, as Ms. Clark has pointed  
4           out. Like, if I was, you know, a customer of the  
5           acquiring utility but wasn't being affected here, I  
6           would be very confused by that notice. But then  
7           when I talked to staff about this, the due process  
8           concerns that are -- that they wouldn't have that  
9           chance to be able to put in their objection to the  
10          fair market value that we would be granting  
11          through, you know, through that initial process,  
12          that's -- that's disconcerting.

13                 I know that we've -- staff has said that there  
14          is a lot of flexibility in what can go into those  
15          notices. That doesn't take away the cost of what  
16          the notices, you know, distributing them would be.  
17          But I do want to -- I would hope that, you know,  
18          depending on where this all goes up, that the  
19          language that's in the notices makes it very, you  
20          know, obvious to those customers about when and  
21          where they are going to be affected. Plain  
22          language is really important.

23                 As far as the substantial increase in rates, I  
24          have to agree, you know, with Commissioner Graham.  
25          I don't see how the price index, I don't see that

1 as, you know, it's, you know, the dictionary  
2 definition substantial, I don't see that  
3 necessarily. But, again, whether coming up with  
4 some number here, if that's arbitrary or not.

5 I am hoping that within our discretion as a  
6 commission, this kind of discussion will be enough,  
7 you know, of a backstop to show that it is not  
8 arbitrary. That we are having a thoughtful  
9 discussion about it.

10 I, you know, initially wanted to think about I  
11 wonder if we could have extra time for us to be  
12 able to go through past records to see about when,  
13 you know, when certain increases of rates have, you  
14 know, historically been significant. I don't think  
15 we have that flexibility here.

16 I am kind of confus-- like, I would like  
17 clarification from staff about, you know, in the  
18 cover page here. We can -- the rule cannot be  
19 deferred. I have worked through the one, Chapter  
20 120, and I see that the April 1st. So if we are  
21 going to incorporate these changes, when would the  
22 -- when we would, we as a commission, have final  
23 approval of that? We have to get it done by April  
24 1st?

25 MS. SAPOZNIKOFF: Because April 1st is a

1 Monday, we would need to get our notice -- send the  
2 notice of proposed rule to the Florida  
3 Administrative Register by Florida, noon on Friday,  
4 March 29th, we would have to have the rule language  
5 that we are proposing.

6 COMMISSIONER PASSIDOMO: So would we have an  
7 opportunity -- would we be voting on this, you  
8 know, the final -- the final rule again? Yeah,  
9 Mary Anne.

10 MS. HELTON: This is your opportunity to  
11 propose a rule. So the rule that you propose by  
12 March 29th needs to be the rule that you would be  
13 comfortable with if there were no requests for a  
14 hearing and no further discussion from the -- from  
15 the stakeholders at the bench.

16 But this is -- this is your day to choose the  
17 rule that you would like to propose unless there  
18 are -- is a request for hearing filed after you  
19 propose a rule. This will be your only opportunity  
20 to look at the language that you propose.

21 CHAIRMAN LA ROSA: So I am contemplating as I  
22 am thinking out this in my head. What is our  
23 notice requirement for a meeting?

24 MS. HELTON: For a -- it's seven days.

25 CHAIRMAN LA ROSA: When is our next Special

1 Agenda?

2 MS. HELTON: You mean Internal Affairs?

3 CHAIRMAN LA ROSA: Our Internal Affairs.

4 MS. HELTON: The 26th of March, the morning of  
5 the Florida Power & Light -- next Florida Power &  
6 Light hearing.

7 CHAIRMAN LA ROSA: And I am not proposing  
8 this. If there was -- if there was a discussion to  
9 hear this then, would there be any complications  
10 with getting it out that Friday, the notice?

11 MS. HELTON: There would be sufficient time to  
12 file a notice so that you could meet and discuss  
13 this. I guess the timing issue would be whether  
14 you would want staff to file another  
15 recommendation. I am not sure whether there would  
16 be time to follow that complete process.

17 CHAIRMAN LA ROSA: Okay. The reason I am  
18 asking that is, so there are no assumptions, is  
19 that we know everything we've got in front of us,  
20 because I think that was a good question and  
21 statement, however, it was done one direction or  
22 the other, but I understood it by Commissioner  
23 Passidomo. I just want to make sure we all  
24 understand what our options are.

25 Okay. So let's pick up a little bit where we

1 left off. We are going to take a break. I do want  
2 to hear from the parties. I did not allow Mr. Cox  
3 to jump in when he wanted to say something. I  
4 think you have heard from all of us -- actually,  
5 you haven't necessarily heard from me, which you  
6 will here in a second.

7 I want to hear from the parties. After we  
8 hear from the parties, I am going to ask if we take  
9 a short break. We will see how long that break  
10 needs to be. And then we will kind of reconvene  
11 and chat in a little bit more depth as far as the  
12 direction that we are going with this. So,  
13 parties, be ready.

14 So we've had a lot of discussion about the  
15 change available or exists from multiple  
16 Commissioners. I am not opposed to that. I don't  
17 want something to be ignored, but at the same time,  
18 I want to make sure that there is -- we are not  
19 prohibiting companies from the objective.

20 And the objective is, I think, where the  
21 discussion has been with this, and I believe the  
22 Legislature was considering, is that we are not  
23 looking for all acquisitions. We are looking for  
24 acquisitions of maybe companies that are not  
25 operating well, right? Where customers don't have

1 good service.

2 So just to make sure, there may be a 300-unit  
3 company that returns very well, and that's okay,  
4 and that's -- in my opinion, that's fine. I don't  
5 believe that was necessarily the intent. The  
6 intent was to make sure that customers had good  
7 service across the board. We are not surprised  
8 with some of these rate increases that we have seen  
9 over the years.

10 On the price index, it is very subjective. I  
11 think we are having good debate, and I think we can  
12 land on something that then makes sense.

13 The noticing requirement, 100 percent that  
14 there is concern from both directions. I am  
15 listening to our legal recommendations. I am also  
16 listening to Commissioners that are making really,  
17 really good points.

18 The appraisal side that was discussed. I  
19 think Commissioner Graham, I thought that was a  
20 phenomenal suggestion. We will see where that  
21 ultimately goes. There is some precedence that is  
22 out there. There is some concern when an appraiser  
23 is picked to do certain things, all of a sudden we  
24 start looking back in history and seeing that there  
25 is a direction because of some of the elements that



1           you brought out, as far as what we want the  
2           appraisals to ultimately look like. And I'm not  
3           necessarily just talking about in the utility  
4           world, I am just talking about in the general world  
5           of appraising.

6           So I think a third party, or us, that maybe is  
7           not subjective to the outcome might be maybe a more  
8           fairer -- fairer decision. So let's ultimately see  
9           that goes.

10           I will throw it back to the companies starting  
11           with Mr. Cox, if you would like to address us, and  
12           then anybody that is -- that is present before us  
13           that has already commented, you will be free  
14           afterwards.

15           Mr. Cox, you are recognized.

16           MR. COX: Thank you, Chairman.

17           Just -- I will kind of go in order there.

18           In terms of the appraisers, we've actually  
19           seen that work in the state of Texas, has that  
20           exact policy. So they vet appraisers. They assume  
21           they have a history of doing utility appraisals,  
22           and then it's random. So I think that's a great  
23           approach. It's something we've seen in other  
24           states, so we love that.

25           In terms of the notice, so, one, I will give

1           you a practical application of the notice.

2           So if we -- and just use a hypothetical -- we  
3           have 30,000 customers. Remember, this fair market  
4           only applies to, you know, customers that are  
5           10,000 connections, either water or sewer or water  
6           and sewer. So these are larger acquisitions.

7           In that case, I think where the notice is  
8           confusing is, and Ms. Clark alluded to this, if we  
9           buy 10,000 connections and we, you know, spend \$3  
10          million at fair market, and we have, you know, 45  
11          systems across the state of Florida, even with that  
12          fair market valuation. The cost for the customers  
13          on a consolidated basis will go down, because these  
14          are larger systems, and larger systems are actually  
15          cheaper to run on an individual basis than smaller  
16          systems are.

17          And so that's a confusing argument to go  
18          through a customer who's concerned about fair  
19          market, and there are a 300-person system, but the  
20          truth is that they are going to benefit from this  
21          acquisition. It's not going to be detrimental.  
22          But you can't convey all of that inside of a  
23          notice. So now we are creating a bunch of  
24          confusion.

25          Maybe, in the alternative, a notice could be

1 in the bill. We say, hey, you know, for example,  
2 Central States Water Resources is engaging in a  
3 fair market transaction. If you want more -- that  
4 could affect you. If you want more information,  
5 please see the website, or have something on the  
6 bill so it's not separate insert, so the customers  
7 that are really concerned, they can see. But we  
8 are not drawing, you know, 30,000 questions from  
9 people spread all over the state and having to go  
10 through a pretty technical explains there, would my  
11 -- maybe a potential other. And then -- what did  
12 you say? Yeah, if it exists.

13 And then last, I -- the last thing, I will  
14 just say I appreciate all the conversation on the  
15 indexes, because that is correct. You are  
16 capturing what we view indexing, as to Commissioner  
17 Graham's point, part and parcel of utility  
18 ratemaking, so we do believe it should being  
19 something above that, so whatever factor it is. So  
20 appreciate the opportunity to comment there.

21 CHAIRMAN LA ROSA: Any other comments?

22 MR. TWOMEY: Thanks, Chair.

23 To go through the same order. Yes, in the  
24 appraisers, I think we would agree to that, the  
25 random selection. I think, if that works in Texas.

1           For the noticing, we have a slightly different  
2           challenge, as we are consolidated a cross the  
3           state. So rates, there is potential impact there.  
4           So I would go Mr. Friedman's suggestion of a  
5           certain percentage. If there is 100 customers, the  
6           impacted on rates would be minimum, even if there  
7           was a lot of infrastructure to be put in the  
8           ground, but -- so I think that would be confusing,  
9           and it as lot of smaller systems. However, if it  
10          was a larger acquisition of 10,000 customers to  
11          come into our 35,000, that -- I could see the need  
12          to notice in that instance. So I think there needs  
13          to be some limit there.

14           And I guess the other one was if exists, which  
15          I think counsel was talking about. I think we  
16          would be happy with that approach even though it's  
17          Central States comments, but if it exists we will  
18          provide it. I think that's a fair way to do it.

19           CHAIRMAN LA ROSA: Okay. Thank you.

20           OPC, you are recognized.

21           MS. CHRISTENSEN: Yes. Thank you.

22           We also appreciate Commissioner Graham's  
23          suggestion of the choosing the appraiser through  
24          randomly. We think that that would be a good idea,  
25          and would certainly address some of the concerns

1           what we had along with Commissioner Graham.

2           Regarding the price index issue, we do have  
3           concerns about going too high a percentage above  
4           the price index because you never know what rate  
5           the existing utility is going to come in with. And  
6           if it gets -- if the percentage gets too much  
7           higher than 15, 10, 15 percent, you may be talking  
8           a significant impact in the actual rate.

9           I mean, could you have somebody come in with  
10          the \$50 water rate, a 10-percent impact is going to  
11          be a lot more than if you acquire a utility that  
12          has a \$15 flat fee. So you have to be concerned  
13          about that as a potential for going too high on  
14          whatever percentage you choose. And that's why we  
15          were comfortable with the price index, because  
16          those customers, irrespective of what their current  
17          rates are, would be susceptible to those increases  
18          without any due process input.

19          As far as noticing of customers that are not  
20          in the system that's being acquired, but are the  
21          customers of the acquiring system that may end up  
22          having to pay for that increased market price, we  
23          do continue to have concerns that anybody who has  
24          the potential for being impacted by a market-based  
25          rate above a cost-based right have the opportunity

1 to know that such a proceeding is going on and to  
2 intervene. Whether that is provided in a notice in  
3 the bill that further directs the customers to the  
4 website with additional information, if they are  
5 more tangentially related, that may be something we  
6 could be comfortable with. But there certainly  
7 would have to be some sort of mailed notice to the  
8 customers making them aware that there is a  
9 proceeding, and that the information regarding that  
10 proceeding can be obtained by that customer, and  
11 additional information can be obtained by that  
12 customer by contacting, you know, the utility to  
13 find out additional information.

14 Thank you.

15 CHAIRMAN LA ROSA: Seeing no other speakers,  
16 this is what I would like to see happen. Staff,  
17 you kind of see some of our comments and thoughts,  
18 right? I think we've been clear. If not, maybe --  
19 maybe now is a good time to open that up.

20 Is there any questions of staff on some of the  
21 points that we've made here as a commission?

22 MS. SAPOZNIKOFF: I believe we are clear on  
23 the concern that the Commission has and possible  
24 changes you would like to see into the draft rule  
25 language.

1           CHAIRMAN LA ROSA:   Okay.  If we -- if we took  
2           a break of, let's say, 15 minutes, could an outline  
3           be presented back to us?  I know we are asking for  
4           a lot.  I am not -- well, let me just stop there.

5           MS. SAPOZNIKOFF:   Something verbally going  
6           through or, like, a reprinted rule?

7           CHAIRMAN LA ROSA:   Yes.  No, not a reprinted  
8           rule.  Something verbally.

9           MS. SAPOZNIKOFF:   I believe so.  Yes.

10          CHAIRMAN LA ROSA:   Okay.  All right.  So I  
11          would jump into the next item, but knowing that  
12          there is a lot of overlap, so let's take a  
13          15-minute break.

14          The intentions are that, staff, if you can  
15          repair something for us that we can discuss as a  
16          commission before we decide on what the next  
17          direction and decision that we go with.  So with  
18          that, let's reconvene at 11:45.

19          (Brief recess.)

20          CHAIRMAN LA ROSA:   All right.  Commissioners,  
21          ready to rock and roll with this?  I apologize, I  
22          have taken, of course, a few extra minutes, but for  
23          good measure.

24          So I am going to allow the folks to take their  
25          seat, and I am going to ask staff just to pick up

1           where we left off with an outline of some of the  
2           discussion points we just had.

3           MR. FUTRELL: Commissioners, Mark Futrell with  
4           staff.

5           I think we identified four areas of discussion  
6           that was -- we went through earlier. One was on  
7           the appraiser. I think we've got some language  
8           that Ms. Sapoznikoff can speak to that would modify  
9           the draft rule to reflect the three appraiser  
10          selected randomly.

11          MS. SAPOZNIKOFF: So what we suggest doing,  
12          and this would be on the rule Attachment A and the  
13          recommendations starting at page 12, line 18, and  
14          extending over to page 13, line two. We would  
15          eliminate what's currently (2)(b)1 and 2 and  
16          substitute as (2)(b) the following language:

17                 The Executive Director of the Florida Public  
18          Service Commission or their designee will randomly  
19          choose the three licensed appraisers from the list  
20          of licensed appraisers referenced in paragraph  
21          (1)(d) of this rule using computationally generated  
22          random numbers.

23                 I didn't know if you wanted me to go through  
24          all of the categories, or if you wanted me to  
25          address each one.



1           CHAIRMAN LA ROSA: And we would have a process  
2 of how to come up with random numbers?

3           MS. SAPOZNIKOFF: Right. It's very similar to  
4 the process, and this had been considered at one  
5 point in the process of having us do all three, and  
6 then it was just going to be one, and then it went  
7 back with different things. So the same process  
8 that AIT has for randomly picking one, they've also  
9 come up with a process to randomly select three  
10 unique numbers.

11          CHAIRMAN LA ROSA: Okay.

12          MS. SAPOZNIKOFF: So next, with regard to the  
13 DEP report, which looking at that would be on page  
14 14 and 15. It's just page 14 of the rule that's  
15 attached to the recommendation, on line 21 and line  
16 24, to add "if existing" at the end of each of  
17 those sentences.

18          MR. FUTRELL: And, Mr. Chairman, I think those  
19 are -- I think staff recognizes what's the intent  
20 of those. I think we just want to make sure it's  
21 clear, the burden is on the utility to provide --  
22 to make its case, to provide the documents and  
23 information that will give the Commission all the  
24 information it needs to make an informed decision  
25 and have an adequate record.

1           So that's -- that's staff's perspective. But  
2 I think otherwise, we are -- we are good with that  
3 phrase.

4           CHAIRMAN LA ROSA: Yeah. Commissioners, I  
5 will open that for discussion. In fact, I will  
6 open up all of these points for discussion. And I  
7 apologize I did not come back to us to talk about  
8 the appraisal. I just kind of through it in, but  
9 let's talk about this. Is there any comments or  
10 discussions? I am sorry, on the report.

11           MR. HETRICK: Mr. Chairman, on line 19 of that  
12 that Susie mentioned, just a scriveners. It might  
13 be easier to say, the following, if existing, so it  
14 would apply to both those categories, but if you  
15 were to vote on that "if existing", allow us decide  
16 the best grammatical way to include that, we would  
17 appreciate that.

18           CHAIRMAN LA ROSA: Okay. All right. Let's  
19 move on to the next item.

20           MS. SAPOZNIKOFF: So next is the significant  
21 increase in individual rates that would trigger the  
22 rate stabilization plan. It's on page 15 of the  
23 rule attached to the recommendation.

24           We are looking at a change, starting at page  
25 19, that's very similar to the suggestion that Ms.

1 Clark had submitted, so that the language would be:  
2 For the purposes of determining whether the  
3 petition must include a rate stabilization plan,  
4 under 367.0811(5)(h), Florida Statutes.

5 Significant increase in rates means a rate increase  
6 during any 12 months of the five-year projected  
7 rate impact, period, that is in excess of 15  
8 percent over the current rates of the utility  
9 system being acquired.

10 So remove reference to the price index and  
11 just have it be the percentage over rates. We know  
12 that Ms. Clark had suggested the 25 percent. But  
13 based on the discussions the Commission had before  
14 the break, we feel 15 percent would be more  
15 appropriate, and I believe there is -- are -- some  
16 of the utility reps in agreement with that as well,  
17 are fine with that.

18 MR. FUTRELL: Mr. Chairman, I will also offer  
19 that's certainly within the discretion of the  
20 Commission, and we appreciate any consensus we  
21 could get from you about how to bring that back if  
22 you would like to discuss that further.

23 We would like to point out that we've got an  
24 existing rule, the limited alternative rate  
25 increase rule in the water and wastewater industry,

1           that permits a utility to seek an increase in rates  
2           up to 20 percent, but it has to provide us with the  
3           substantiation for that. It's a abbreviated  
4           process, but that's just some perspective on an  
5           existing rule and the threshold in an existing rule  
6           that's out there for your information.

7           CHAIRMAN LA ROSA: Commissioner Clark.

8           COMMISSIONER CLARK: I would just comment that  
9           I can accept either version. I would also be very  
10          inclined, if staff feels the necessity to tie this  
11          to something to less arbitrary, to using the 3X  
12          price increase as a -- as a non-arb-- less  
13          arbitrary number, I would say, but I am good either  
14          way.

15          MS. SAPOZNIKOFF: So that would be three times  
16          over the price index versus a percentage over  
17          rates?

18          MR. FUTRELL: I am sorry --

19          CHAIRMAN LA ROSA: No, go ahead.

20          MR. FUTRELL: -- Commissioners, we will stand  
21          down on that one and let you discuss, or as much as  
22          you need to and give us some sense of your  
23          consensus.

24          CHAIRMAN LA ROSA: Commissioners, further  
25          thoughts?

1 Commissioner Fay, you are recognized.

2 COMMISSIONER FAY: Sure. So, Commissioner  
3 Clark, I think your intent is clear. You are just  
4 trying to make sure we've got some basis for  
5 putting that number in there. I think -- I think  
6 there is room for debate on what that number could  
7 be.

8 Mr. Futrell, based on the 15 percent, if -- I  
9 think the idea being that we would want to set a  
10 threshold that we believe is appropriate for this  
11 process. So to your point, we have the LARI, the  
12 limited rate adjustment that is set at 20 percent,  
13 is that correct? Okay.

14 And so then -- and we have the price index,  
15 which is a whole separate process, which is lower.  
16 This is trying to incentivize the acquisition  
17 components for some of these systems, and it falls  
18 kind of in between those numbers. And so I think  
19 the key would just be that that 15 percent, that  
20 would trigger, and maybe some of -- Mr. Cox, maybe  
21 you could weigh in -- but that would trigger some  
22 acquisition. I just want to make sure we are not  
23 setting a number that would not be utilized.

24 MR. FUTRELL: Right. Again, it's just to  
25 trigger the filing of a rate stabilization plan,

1           which is a documentation that lays out, is defined  
2           in the statute how the utility's plan to implement  
3           rate changes incrementally over a period of time.

4           So it's contemplated in the statute, but it  
5           leaves it to the -- whether or not it's a  
6           significant increase in rates in order to file that  
7           plan. And that's some -- we are trying to fill in  
8           some, a void there that's in the statute. And so  
9           it's in your discretion to establish what is a  
10          significant individual increase in rates.

11          COMMISSIONER FAY: Okay. Great.

12          And I know rulemaking is a little bit unique  
13          compared to sort of some of the decision-making  
14          that we make. This process is a little more fluid,  
15          so I don't have a ton of heartburn with the 15  
16          percent, Commissioner Clark.

17          But just real quick from the parties, Mr.  
18          Chairman, if we could just get any commentary that  
19          we might have on that number before we kind of make  
20          a formal decision and move on.

21          CHAIRMAN LA ROSA: Sure.

22          Mr. Cox, you are recognized -- or you were  
23          mentioned, so I will start with recognizing you.

24          MR. COX: Yeah, I appreciate, Mr. Chairman.  
25          We are fine with that number. That sounds great.

1 We appreciate the work there.

2 CHAIRMAN LA ROSA: Okay. Any other parties?

3 MR. TWOMEY: We are also fine with it.

4 Thank you.

5 CHAIRMAN LA ROSA: OPC.

6 MS. CHRISTENSEN: I think OPC can live with  
7 15 percent over current rates.

8 CHAIRMAN LA ROSA: Okay.

9 COMMISSIONER FAY: I thought everyone was  
10 supposed to be mad and not happy, so I do apologize  
11 for that one.

12 CHAIRMAN LA ROSA: Yeah, it's contradictory to  
13 what you said earlier. Yes.

14 COMMISSIONER FAY: All right. Thank you.

15 CHAIRMAN LA ROSA: And let's --

16 MS. SAPOZNIKOFF: All right, and before  
17 leaving the price index, if the triggering  
18 mechanism is going to be a percentage over rates,  
19 on page 15, the language about a copy of the motion  
20 recent order establishing price index, that would  
21 be stricken, and then also the definition of price  
22 index contained earlier, under Section 1, would no  
23 longer be necessary.

24 And then the final component was on notice.

25 Staff does feel very strongly about needing to

1 include both sets of customers with existing and  
2 acquired for due process concerns. However, in  
3 talking with the stakeholders, we've reached a  
4 compromise, I believe.

5 So if you look on page 16 of the order,  
6 beginning at line seven, the notice required by  
7 this rule may be combined with the notice of  
8 application for authority to transfer issue  
9 pursuant to 25-30.034, Florida Administrative Code,  
10 or, for existing customers, the notice may be  
11 included in their next bill. And then the notice  
12 must contain, and all of that would remain the  
13 same.

14 So they would have an additional piece of  
15 paper that would go into the bill for existing  
16 customers that has all of this information and not  
17 have to do a separate mailing, or it could be  
18 combined if they are doing it with the certificate  
19 of transfer.

20 MR. FUTRELL: And, Mr. Chairman, I think with  
21 that, we are hoping to find a lower cost method of  
22 notifying those customers. That's the spirit of  
23 language this we are offering. I do think it's  
24 important that staff feels strongly about the need  
25 to notify the customers of the acquiring utility



1           within the service area in Florida.

2           This process will identify potentially a  
3           premium above book value that will be the subject  
4           of the case, and any amount that's approved by the  
5           Commission, either that is requested by the utility  
6           or is modified, as you have authority to do, that  
7           amount will be fixed and will be a cost of service  
8           that will be part of the rate proceeding in the  
9           future.

10           And the potential, whether the utility  
11           consolidates or not, we don't want to foreclose  
12           those customers from having a point of entry, to be  
13           informed of that potential cost that would be part  
14           of service, and potentially make that process  
15           vulnerable to challenge in the future.

16           CHAIRMAN LA ROSA: Commissioner Graham, you  
17           are recognized.

18           COMMISSIONER GRAHAM: I am not trying to add  
19           any confusion to all this, but can't this also be  
20           done just by referring them to a website and not  
21           have to necessarily print and put all of this into  
22           an envelope?

23           MR. FUTRELL: Well, I think there are  
24           certainly certain requirements for notice, but I  
25           think part of this is that staff would review the

1 notice. It would certainly be our intent to make  
2 it as clear, concise in plain language as possible  
3 for the customers to be as well-informed as  
4 possible. And if there is, again, ways to make an  
5 efficient notification process, we are certainly  
6 open to that.

7 COMMISSIONER GRAHAM: So, I mean, so as far as  
8 I'm -- as far as staff is concerned, you guys are  
9 fine with that. If it just -- if it's just a  
10 notice on the bill referring them to the website  
11 and talking about potential rate increase for a  
12 rate affect?

13 MS. SAPOZNIKOFF: I mean, there is some  
14 concern for people that get E-bills, and, again,  
15 this would be a burden on a person, but I know  
16 myself, when I get my notification, I have a new  
17 power bill, I look at the amount, and as long as it  
18 looks fine, I don't pull up the bill itself. If  
19 they have anything of interest, they send me a  
20 separate email.

21 So perhaps for -- if they did an email  
22 notification for people to be, you know, make sure  
23 they check out their bill, that there is something  
24 knew there. But otherwise, I could see a lot of  
25 people, you know, depending on how it's presented

1 on the bill, of just going to a website that might  
2 not jump out enough at them that there is something  
3 substantially, perhaps, that's going to be  
4 affecting their bill. Whereas, a whole new sheet  
5 in there, you know, would provide them that notice.

6 CHAIRMAN LA ROSA: Other questions or  
7 comments?

8 Commissioner Passidomo.

9 COMMISSIONER PASSIDOMO: I will just say, I  
10 think that adding to the extra, I agree with staff  
11 here about making sure that it's significant enough  
12 that customers know that there is something. I  
13 mean, I think Mr. Friedman had alluded to the cost  
14 of postage was the biggest cost. It's not this  
15 extra sheet of paper, that's probably pretty  
16 insignificant, so I am fine with them doing it this  
17 way.

18 CHAIRMAN LA ROSA: I also don't think that  
19 there is any prohibition of adding a website, or  
20 adding additional information for them to go if the  
21 company decided that was necessary.

22 MR. ZAMBO: Certainly, if they want to put  
23 additional information over an extra sheet with a  
24 notice in there directing them to a website that  
25 might have more information about the process, that

1 would be fine.

2 CHAIRMAN LA ROSA: Any thoughts, questions?

3 Commissioner Fay, you are recognized.

4 COMMISSIONER FAY: Just one quick question of  
5 the utilities. Are most of your customers portal?  
6 Email? Hard copy? A mix?

7 MR. COX: It's a mix, Commissioner. I would  
8 say probably 40 percent E-bill and 60 percent paper  
9 bill still, and that's customers choose, obviously.  
10 They opt in, or opt out.

11 COMMISSIONER FAY: Sure.

12 MR. TWOMEY: Also, I don't know the numbers  
13 like Mr. Cox, but we are always pushing people to  
14 E-bill, but it's still -- it's not by any majority.  
15 It's probably 50-50.

16 COMMISSIONER FAY: Okay. Great. Yeah.

17 And to Ms. Sapznikoff's point, some opt in for  
18 that electric format and they -- maybe the  
19 efficiency is worth it for them, and then others  
20 want that hard copy. Family members, they want  
21 that bill to come to their house hard copy so they  
22 can go through whatever is in there. So it sounds  
23 like either way, the notice requirement would  
24 satisfy that in electric format or a hard copy.

25 MS. SAPOZNIKOFF: Correct.

1 COMMISSIONER FAY: Okay.

2 CHAIRMAN LA ROSA: Any other points?

3 MS. SAPOZNIKOFF: No, I believe that those  
4 were the four main issues of discussion that had  
5 come up. If the Commission feels that we've  
6 overlooked something, we will certainly address it.

7 CHAIRMAN LA ROSA: Commissioners, you have  
8 heard, obviously, what staff has outlined for us.  
9 Any further thoughts? Questions? I did skip over  
10 the appraisals side, so please feel free to jump  
11 in. I know I think we have written -- this was  
12 given to folks -- everyone, right? This was  
13 sitting on my desk when I got here, the appraisal  
14 language.

15 My intentions are not to vote on this today,  
16 but to get this in a proper outline procedure, and  
17 then to hear this in the internal affairs meeting,  
18 unless staff, unless we feel like we are ready to  
19 go right now.

20 MS. HELTON: I think we are comfortable with  
21 the changes as we have recommended them. So if you  
22 all are comfortable, we are prepared to have you  
23 vote, and we will have a rule then that we can file  
24 with the Secretary of State.

25 CHAIRMAN LA ROSA: Commissioners, I am okay.

1 Discussion? Thoughts?

2 COMMISSIONER FAY: Mr. Chairman, I am afraid  
3 if we don't vote, we may never vote.

4 CHAIRMAN LA ROSA: Maybe, maybe not.  
5 Commissioner Graham.

6 COMMISSIONER GRAHAM: Yeah, I just wanted to  
7 here from the utilities to make sure they are fine  
8 with the four things we talked about.

9 CHAIRMAN LA ROSA: Okay. Let's hear.

10 MR. COX: Rulemaking is messy. We appreciate  
11 everyone's input here, so we are good -- we are  
12 good with this. We appreciate you giving us a  
13 chance to speak in on this.

14 MR. TWOMEY: Yes. Thank you very much. We  
15 are okay.

16 CHAIRMAN LA ROSA: Okay. OPC?

17 MS. CHRISTENSEN: I think, based on what's  
18 been said today, and if the rule comes out looking  
19 like what's been discussed today, I think we could  
20 be comfortable with that.

21 CHAIRMAN LA ROSA: Okay. Ms. Clark, yes.

22 MS. CLARK: I am sorry?

23 COMMISSIONER GRAHAM: I said, don't mess it  
24 all up.

25 MS. CLARK: That's what I do.

1 We had a question on the CP --

2 CHAIRMAN LA ROSA: CPVRR?

3 MS. CLARK: -- that form. Can we -- can we  
4 make it so it's optional that we, or is it clear  
5 that we can file additional form?

6 CHAIRMAN LA ROSA: What I understood was that  
7 it was an additional form, but let's hear from  
8 staff.

9 MR. FUTRELL: Yes, Commissioner. They can  
10 file additional information in as many years as any  
11 format they wish to provide, but this provides a  
12 consistent requirement comparable to our MFR rules  
13 for rate cases. It provides a consistent set of --  
14 a schedule and requirements that must be filed. It  
15 gives us the starting point when the clock starts  
16 on the eight months.

17 CHAIRMAN LA ROSA: Okay. All right.  
18 Commissioners, any final thoughts or comments?

19 We have hashed this out, and I do appreciate  
20 everyone's input and thoughts, not just from the  
21 folks, you know, behind the mics here, but  
22 obviously everyone that's behind the scenes. Staff  
23 has done a really good job. I know we've had a lot  
24 of discussions prior to this, of course, you know,  
25 workshops and so forth, and certainly a lot of

1 industry input.

2 So I will open the floor for a motion, and  
3 will allow you to at least take a stab at  
4 explaining that, what we just heard.

5 COMMISSIONER CLARK: Mr. Chairman, I would  
6 prove move to approve the proposed rule as amended  
7 by the Commission and give staff authority to make  
8 the necessary changes to bring -- to make the  
9 changes that we proposed in the final format, of  
10 course.

11 CHAIRMAN LA ROSA: Is staff adequate with that  
12 motion?

13 MS. SAPOZNIKOFF: Yes. Also, that it would  
14 include -- there is going to be some renumbering  
15 that's going to need to be done to accommodate  
16 these changes, and that we have the authority to do  
17 what's administratively necessary to get the  
18 changes that were agreed upon today into the rule  
19 in proper format.

20 CHAIRMAN LA ROSA: Sounds like a step  
21 further --

22 COMMISSIONER CLARK: Editorial privileges.

23 CHAIRMAN LA ROSA: Excellent.

24 COMMISSIONER GRAHAM: Second.

25 CHAIRMAN LA ROSA: Hearing a motion and



1 hearing a second.

2 All those in favor signify by saying aye.

3 (Chorus of ayes.)

4 CHAIRMAN LA ROSA: Opposed no.

5 (No response.)

6 CHAIRMAN LA ROSA: Show that the rule passes.

7 All right. So we should all just take a  
8 breath.

9 Commissioner Graham says, no, let's roll.

10 (Agenda item concluded.)

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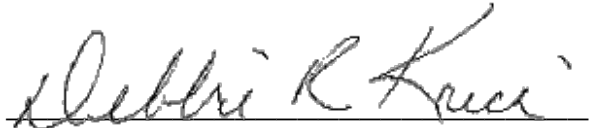
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COUNTY OF LEON )

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