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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240107-GU

Petition for approval of modifications
to cast iron/bare steel pipe replacement
rider, by Peoples Gas System, Inc.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 8

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

DATE: Tuesday, February 4, 2025

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: All right. Let's move to
3 Item No. 8. I will give a little bit of time,
4 obviously, as folks get reorganized here. I will
5 give it a few more seconds. I am seeing something
6 getting passed around, so I am assuming this is
7 something we should probably take a look at. This
8 is new, right?

9 All right. Let's go ahead and start from the
10 top. Mr. Ward, you are recognized for a summary.

11 MR. WARD: Good morning, Commissioners.
12 Oakley Ward with the Division of Economics.

13 Item 8 is a petition by Peoples Gas System,
14 Inc., for approval of modifications to its cast
15 iron/bare steel pipe replacement rider.
16 Specifically Peoples is petitioning to expand the
17 definition of eligible projects under the rider,
18 and rename it to the safety of facilities and
19 infrastructure replacement rider, also known as
20 SAFIR.

21 Staff recommends approval of the petition in
22 part. Specifically, staff recommends approval of
23 the rider expansion to include, one, maximum
24 allowable operating pressure reconfirmation and
25 material verification. Two, pipeline spans and

1 shallow/exposed pipe. And, three, the relocation
2 of facilities and rear easements.

3 These components are either reasonable
4 additions that are required by recent changes to
5 the United States Pipeline and Hazardous Materials
6 Administration regulations, or are consistent with
7 approved items and previous Commission orders.

8 Staff recommends denying the inclusion of,
9 one, pipeline pressurization monitoring and
10 management. Two, pipeline damages and leaks.
11 Three, pipeline within casings. Four, undetectable
12 facilities. And, five, system enhancement
13 projects.

14 These components are not required by PHMSA
15 regulations where they are a part of the utility's
16 norm operations and, therefore, more appropriately
17 addressed through traditional ratemaking processes.

18 Staff additionally notes that there is a
19 scrivener's error on page eight of the
20 recommendation. The dollar amount in the sentence
21 above Table 1-1 should read: 343.8 million instead
22 of 342.8 million.

23 Peoples and OPC are here to address the
24 Commission, and staff is available to answer
25 questions.

1 CHAIRMAN LA ROSA: Thank you, Mr. Ward. Is
2 that what the handout is, or should I just go to
3 the -- is that what the handout is, is the
4 scrivener's error or no? It doesn't look like it.

5 MR. SANDY: No, it is not, Mr. Chair. That is
6 from the utility. They have proposed a language
7 change in the recommendation, which I will allow
8 them to address. They have consulted with staff,
9 and we don't have any issues with the language
10 change.

11 CHAIRMAN LA ROSA: Great. Let's go to
12 Peoples.

13 Peoples, you are recognized.

14 MS. PONDER: Good morning, Mr. Chairman and
15 Commissioners. Virginia Ponder with the Ausley Law
16 Firm on behalf of Peoples Gas. I am here with Luke
17 Buzard, Vice-President of Regulatory and External
18 Affairs with Peoples.

19 Thank you for the opportunity to address you
20 on this item, the cast iron/bare steel rider has
21 been an efficient and effective means of addressing
22 critical safety issues in an accelerated manner,
23 whether the activities are specifically required by
24 a rule or not.

25 As Mr. Sandy mentioned, the company does have

1 a small change it proposes in the recommendation.
2 This would allow -- the change would allow the
3 company discretion to -- in the timing of filing
4 its petition to seek approval for the
5 implementation of the surcharge for those projects
6 that started in 2025. The specific language change
7 has been passed around.

8 On page nine, again, the language, a separate
9 petition to be filed with the Commission just gives
10 the company discretion in filing that at the time
11 of its annual filing in September, or earlier if
12 needed. And in addition to that, similar changes
13 would need to be made where the recommendation
14 references January 14, 2026, or 2026.

15 So I would just like to make that oral
16 modification on the record. And, again, staff does
17 agree, or is not opposed, rather, to these changes.

18 CHAIRMAN LA ROSA: Awesome. Thank you. I
19 will come back to staff on this.

20 Mr. Rehwinkel, Office of Public Counsel, you
21 are recognized, sir.

22 MR. REHWINKEL: Thank you, Mr. Chairman and
23 Commissioners. My name is Charles Rehwinkel. I am
24 with the Office of Public Counsel. I am here on
25 behalf of the customers of Peoples Gas.

1 I am here on behalf of Public Counsel to speak
2 largely in opposition to the petition, even as
3 modified by the staff's recommendation, but I want
4 to start there, though, and thank the staff for the
5 analysis that they applied in support of their
6 recommendation.

7 The OPC cannot support the position -- the
8 petition because it seeks the creation of a new
9 rider in the guise of extending an existing highly
10 limited scope rider designed to recover the cost of
11 safely replacing two highly specific types of
12 natural gas distribution mains for a discrete
13 period in response to unusual urgent circumstances.

14 The current petition was filed a little over
15 30 days after the effective date of Section 366.99,
16 Florida Statutes. That law created a rider to
17 recover the costs, including capital costs, of
18 government mandated relocation of facilities. This
19 is significant.

20 In PGS's 2008 rate case, decided in 2009, that
21 very same relocation rider was denied approval by
22 this commission alongside a second facility's
23 extension rider. The Public Counsel filed a brief
24 strongly objecting to the agency's creation of
25 these riders. Our position then and now is

1 faithfully represented in the 2009 order.

2 Commissioners, I provided that order and some other
3 materials to staff counsel yesterday by email.

4 The Commission denied both riders and invited
5 the company to file limited base rate proceedings
6 or to seek legislation to achieve the ends they
7 sought in these riders. 15 years later, the
8 Legislature has granted one of the wishes, while
9 sending a strong message that the creation of
10 riders for recovery of capital costs is uniquely
11 the prerogative of the Legislature.

12 In 2012, as the petition correctly notes, the
13 current CIBSR rider was created under some very
14 specific circumstances -- I lost my cursor.
15 Peoples Gas came to the OPC at that time and sought
16 our support, or at least non-opposition for their
17 proposal to meet a somewhat urgent need to rapidly
18 replace aging and corroded cast iron and base --
19 and bare steel pipes in the wake of a horrific
20 fatal accident killing eight people in San Bruno,
21 California in September 2010, and other incidents
22 in Allentown, Pennsylvania and Perry, Florida, and
23 on the heels of some strong directives from PHMSA
24 to replace these pipes ASAP.

25 They at the agenda approving this rider, and a

1 very similar one for FPUC/Chesapeake called GRIP,
2 the Public Counsel put aside its objections
3 expressed three years earlier and expressly
4 committed to not challenge the tariff if --
5 containing the rider if it was limited to very
6 specific circumstances. And I have included the
7 2012 transcript in what I sent staff and the
8 company yesterday.

9 There, we stated on page four of that
10 transcript, the Public Counsel's office took the
11 position that the creation of these mechanisms in
12 that 2008 case was more properly in the realm of
13 the Legislature. We take a cautious approach to
14 whether the Commission should be creating clauses
15 or trackers or riders of this sort. So we state
16 our objection to that.

17 I will say to you, though, that to the extent
18 that language in your order addressing this issue,
19 the PAA order sufficiently walls off this type of
20 program and keeps it from becoming a precedent that
21 grows without control, you would minimize or
22 diminish our reasons for asking for a hearing on
23 this item. So I would just state that up front.

24 I am not here to unequivocally state
25 opposition to this program. I think there are a

1 lot of safety benefits and potentially some
2 long-term customer benefits to what the company
3 proposals proposes. It's really more the mechanism
4 that is being it proposed.

5 And on page five of that very transportation
6 discriminate, we also said these remarks apply to
7 the FPUC/Chesapeake GRIP order, which was virtually
8 identical in seeking to replace cast iron/bare
9 steel pipes for the same reasons on the same basis
10 as were proposed in the PGS order item which went
11 first.

12 In your order that day approving the PGS cast
13 iron/bare steel and the FPUC/Chesapeake GRIP
14 riders, in your conclusion, you said that it is
15 clear to us that we have the authority under our
16 broad ratemaking powers found in Sections 364.0 --
17 366.04, 366.05 and 366.06, Florida Statutes, to
18 establish this type of surcharge to recover a
19 discrete set of costs incurred in response to
20 unusual urgent circumstances.

21 And you went on later in that conclusion
22 section to cite to storm surcharge -- surcharges
23 that were time delimited two and three years of
24 recovery coming out of the 2004-2005 hurricanes.
25 And this language in this order is identical in the

1 GRIP order.

2 The Public Counsel submits to you today that
3 that language was created specifically in response
4 to the OPC's concerns. And we did not ask for a
5 hearing. We did not challenge that tariff. In
6 2016, the Public Counsel and Peoples Gas negotiated
7 a comprehensive earnings depreciation manufactured
8 gas cleanup ROE range modification and four-year
9 stay-out agreement that included a modification to
10 this rider to include what we dubbed problematic
11 plastic pipe in the eligible replacement costs
12 allowed for recovery.

13 This pipe was a highly specific type and
14 mostly comprised of a specific brand of DuPont pipe
15 called Aldyl A. I think I probably mispronounced
16 it, Aldyl A, A-L-D-Y-L, A, manufactured during a
17 limited period. The pipe and related similar
18 components were thought to have been the product of
19 a manufacturing defect subject to embrittlement and
20 cracking, and were the subject of two PHMSA
21 advisory bulletins.

22 The inclusion of this pipe was closely related
23 to the original purpose of the rider, and was
24 described in the tariff as materials recognized,
25 slash, identified by the Pipeline Safety and

1 Hazardous Materials Safety Administration as being
2 obsolete and that present a potential safety threat
3 to operation -- operations and the general public,
4 including specific polyethylene plastic materials.
5 We submitted that order in our email to staff for
6 your consideration.

7 By a negotiated and approved agreement that
8 provided value for all sides, the rider was
9 narrowly modified in a manner consistent with the
10 original scope and time, with an additional time to
11 recover the PPP after -- problematic plastic pipe
12 -- after the CI/BS was mostly recovered -- cast
13 iron/bare steel.

14 The petition before you today breaks the mold
15 of this tightly constrained cost recovery
16 mechanism. This breakage is most evident in the
17 petition at paragraph three. There, the company
18 treats the rider more as a generic mechanism upon
19 which to tack on a smorgasbord of costs that
20 ostensibly appear to have been peeled out of the
21 base rates and added à la carte to the rider with
22 little or no relationship to the narrow, quote,
23 unusual and urgent purpose of the original rider.
24 And therein lies the gravamen of the Public
25 Counsel's concern.

1 Now, your staff mostly identified what we
2 believe were the overreaches in the petition. The
3 company worked with them and withdrew some of those
4 things. But when they went through this and looked
5 at business as usual versus safety that they
6 thought was within the scope of the rider, they
7 came down to three items that are before you today.

8 Now, the Public Counsel objects in principle
9 to the remaining three items, but we believe there
10 is a possibility of compromise on at least one item
11 related to the limited access to backyard
12 easements, or rear lot easements as described,
13 which are very similar, if not identical, to the
14 SAFE program that was approved back in the same
15 timeframe for Florida City Gas.

16 The remaining two items we have significant
17 concerns with, and we believe that a hearing would
18 be required if they are included in the tariff in
19 this matter.

20 As you know, Peoples Gas completed a rate case
21 in 2023 for new rates effective in 2024. And they
22 have also filed a test year letter for a rate case
23 to be filed in March of this year. This will then
24 be their third rate case filed within five years.
25 And I mention this because it is curious to us that

1 tightly sandwiched between a 2024 test year from
2 the last case and a 2026 proposed test year,
3 Peoples seeks to carve out costs, or the type of
4 costs that would otherwise be recovered in base
5 rates.

6 There are no base rate reductions proposed in
7 this matter. There is no mention in the petition
8 of these costs being removed from base rates like
9 there is in their annual filings that they make in
10 the cast iron/bare steel rider process.

11 Staff did ask some questions in dataset two,
12 number seven, and dataset three, numbers three and
13 four. And aside from a representation of no double
14 recovery, there is no demonstration how the
15 forward-looking costs were not contemplated for
16 recovery through the base rate process, or not
17 still included or not removed.

18 In the recent rate case, the PGS capital
19 budget was highly scrutinized, as you may remember,
20 and the MAOP concept was mentioned in the testimony
21 of Witness Richard related to the JAX project.

22 This raises a concern to us that the revenues
23 given to the company were intended to cover these
24 types of activities, given that the PHMSA
25 regulations became effective in March of 2023,

1 after the case was filed. So clearly, they would
2 have contemplated these PHMSA MAOP requirements
3 that weren't a requirement when they filed their
4 case, when they did their budget, when they
5 developed their capital costs.

6 The cite -- and I want to say -- I have to
7 take issue with staff's recommendation. The
8 citation in the rec at footnote eight, which is the
9 beginning of page three, continuing onto page four,
10 relative to the MAOP reconfirmation and materials
11 verification element of their request says: This
12 is consistent -- at the very bottomed of the
13 page -- this is consistent with a prior Commission
14 decision approving activities needed to comply with
15 PHMSA regulations. And then they cite the GRIP
16 order, not the PGS order, for that proposition.

17 This is a serious concern to us because, first
18 of all, neither the GRIP order nor the PGS order
19 established some sort of concept that if there is a
20 PHMSA regulation, you can come in, take those costs
21 and put them in a rider. That's not what these
22 orders say. These are about a serious urgent
23 matter of safety relative to defective, corroded
24 facilities, not just because PHMSA said you got do
25 something.

1 And in any event, why would you go to a GRIP
2 order that was issued the same day and not look at
3 the language of the PGS order? That doesn't make
4 sense to us, and we don't think that that's
5 precedent for you to take this action.

6 So the other -- there is another item called
7 other problematic pipeline. And that's the various
8 facilities that are exposed across waterways or
9 other transient media. We think that's misleading.
10 The word problematic was used in the 2016
11 settlement for the PPP problematic plastic type.
12 That was a term we coined to avoid potentially
13 calling the pipe defective for legal reasons. We
14 called it problematic because is it was. But
15 that's not a word that can be then adopted to call
16 -- used for some other category to bootstrap it
17 into this tariff. So we object to that.

18 And so there is nothing problematic or
19 defective about the facilities they seek to change
20 there. They are not -- in fact, this Aldyl A, it
21 was the subject of lawsuits. It's linked to seven
22 deaths at a chocolate factory in Pennsylvania, and
23 explosions in Cupertino, California in 2011. The
24 chocolate factory was in 2023. There was a bill
25 filed in 2024 to take that stuff out ASAP.

1 So the PPP is a real and existing problem.
2 This other stuff is not the same thing, so we think
3 it's outside the realm of why the Commission
4 created this rider in the first place.

5 We think -- and to summarize. Given the
6 possible overlap of these items with the rate case,
7 the lack of compatibility with the original rider,
8 and the lack of legislative authorization in the
9 wake of 366.99, that this petition should be
10 denied.

11 Since the rear lot issue has been adopted in
12 the SAFE order, we would not seek a hearing if you
13 limited this petition to just that, based on the
14 fact you have created that solid precedent.
15 Otherwise, we think this ought to be rolled into
16 the rate case, and we can look at whether these
17 costs are in base rates or not, and if they have
18 been properly taken out, if you are still going to
19 try to take them out and put this out. Absent
20 limitation to the rear lot easement issue, we would
21 ask for a hearing on this.

22 Thank you.

23 CHAIRMAN LA ROSA: Thank you. That's a lot of
24 information.

25 And I have to go back to staff, because I

1 understand some of the elements that you are
2 pointing out. I don't know that I necessarily
3 agree with how some of them are framed, you know,
4 in all fairness.

5 Let me go back to staff for a little bit of
6 direction on the comments made, and how that was --
7 how this has been framed out, and how this
8 obviously alters, which it significantly alters
9 what's been recommended before us.

10 MR. SANDY: Mr. Chair, what I would say is,
11 obviously Mr. Rehwinkel has presented quite a few
12 objections regarding the recommendation how it's
13 written. Staff is certainly mindful regarding the
14 issue of scope creep, which I think is the one of
15 the major issues OPC has with this recommendation.

16 I think our concern with scope creep of this
17 rider is reflected in the rec insofar as we did not
18 accept, on face value, the application it is was
19 written. There was quite a lot of analysis that
20 what performed, and there are asks that the utility
21 made that staff has not recommended included in
22 this rider that should be left for a ratemaking
23 process.

24 Ultimately, staff stands by its rec as
25 written. I would say, though, I think we would be

1 interested in getting a response that the utility
2 would have regarding what Mr. Rehwinkel has
3 proposed.

4 CHAIRMAN LA ROSA: Thank you. And I would say
5 this, is that I think staff did a good job of
6 breaking this down and prioritizing safety in this.
7 And I know there is some legal questions, which I
8 think we will flush out here in a few seconds, I
9 think.

10 Let's go to -- let's to go the company, and
11 then I will -- and then I will come back to us, and
12 then I have got some further questions, but go
13 ahead.

14 MS. PONDER: Okay. Thank you, Mr. Chairman.

15 Yes, the company thinks that the three
16 activities approved in the staff recommendation are
17 appropriate for a long-term cost recovery mechanism
18 as set out in the recommendation.

19 Additionally, we read the GRIP order to
20 appropriately cite a PHMSA regulation related to
21 what was at issue in their petition.

22 I think lastly, I would just say it is -- the
23 objections raised are a bit confusing in light of
24 OPC's -- the settlement with PGS in 2020, which did
25 incorporate the cast iron/bare steel rider, and

1 also acknowledged that the company could come back
2 in -- I apologize, I don't have the language in
3 properties front of me, but essentially
4 acknowledged that the company could come back in
5 for activities on such a scale for safety,
6 accelerated recovery. And, excuse me, Mr. Buzard,
7 do you have additional comments?

8 MR. BUZARD: Yes, thank you. I am Luke
9 Buzard. I am the Vice-President of Regulatory and
10 External Affairs for Peoples Gas.

11 Firstly, I just want to comments on the
12 staff's analysis. You know, some of the comments
13 being said, I think the staff did an excellent job
14 and did a number of discovery requests, and we even
15 held a conversation around the elements of what was
16 filed in the docket. So there has been significant
17 analysis. I do believe that there is control
18 around what we are asking for in our petition. And
19 I believe the staff did their job in sorting
20 through the things that we asked for.

21 I can say, as a former leader, and a continued
22 leader of our safety program at Peoples Gas, safety
23 is our priority. So our interest in this docket is
24 focused directly on the safety of our system and
25 prioritizing the investments that we need to make

1 for safety. And so the Commission has been
2 supportive in the past around helping support those
3 initiatives and those efforts, and that was the
4 driving force behind why we filed it.

5 Understanding the safety of our system is
6 driven by API 1173, which is the pipeline safety
7 management system. That system is intended on
8 constantly looking at risks to your system, and
9 making sure that we are doing things in investing
10 in our system to protect the public and our
11 customers. And so the asks within this filing are
12 specific and directed by our pipeline safety
13 management system, and I appreciate, again, the
14 staff's analysis.

15 CHAIRMAN LA ROSA: Commissioners?

16 Commissioner Clark, you are recognized.

17 COMMISSIONER CLARK: Just a couple of
18 questions. I legalize this was a PAA, but I guess
19 my question goes to our legal staff. Mr. Rehwinkel
20 has requested a hearing. What is our obligation in
21 regard to --

22 MS. HELTON: He hasn't requested a hearing. I
23 am sorry, Mr. Sandy, I didn't mean to -- this is a
24 proposed -- this will be a proposed agency action
25 order. So when the order is issued, anyone who is

1 substantially affected and OPC may request a
2 hearing within a 21-day window.

3 So I think Mr. Rehwinkel is just foreshadowing
4 that if you approve staff's recommendation, it's
5 OPC's intention to request a hearing on at least
6 two of the programs that staff is recommending be
7 approved.

8 COMMISSIONER CLARK: I'm sorry. I thought I
9 heard you say you were requesting a hearing. That
10 was not -- okay, my apologies. I misunderstood
11 the -- that's kind of why I was asking. It is a
12 PAA. So we are going to end up, I assume at some
13 point in a hearing with this anyway.

14 What is the rationale to not defer this for 30
15 days? I notice there are no timeline constraints
16 according to the recommendation that we have, is
17 there any issue with a 30-day deferral?

18 Some of this information is -- I will be
19 honest with you, some of this has caught me a
20 little offguard. I did not anticipate that much
21 discussion in this regard to this item. So I would
22 like a little time to dig some more information
23 out. Ms. Ponder is jumping up and down.

24 CHAIRMAN LA ROSA: Yeah, let's go to the
25 utility.

1 MS. PONDER: I would just note that our
2 petition was filed in July, and I understand busy
3 schedules, but it has been, you know, a
4 considerable length of time that the company has
5 been waiting for consideration, respectfully.

6 CHAIRMAN LA ROSA: Understood.

7 I don't disagree with Commissioner Clark. I
8 kind of feel like there is a lot here to digest,
9 and I heard a lot of things that I either had not
10 heard or wasn't in my thought for consideration.

11 Commissioners, any other thoughts or
12 questions? I know we have -- we are not close to a
13 decision, but any other thoughts or questions?

14 Commissioner Passidomo Smith.

15 COMMISSIONER PASSIDOMO SMITH: I think -- I am
16 not opposed to a delay. I understand the company's
17 concerns about filing it so long ago, but giving us
18 a bit more time.

19 My only comment is really just to commend
20 staff. I think you guys did a great job of being
21 able to -- I remember when we were going -- some of
22 these activities, you know, and being presented
23 with them in the past, and saying that, you know,
24 whether or not it's a PHMSA requirement, but
25 actually digging in of where in the process, you

1 know, whether it's been just a noticed rulemaking
2 by PHMSA or whether it's actually been implemented.
3 I am glad that you did the legal research to see
4 where in the pipeline those regulations were, and
5 whether they were actually a requirement.

6 So I think I am -- I am more than comfortable
7 with, you know, with this if we need a deferral,
8 but I also thought that staff did a really great
9 job of analyzing and breaking out which activities
10 would fall into this tariff and which would not, so
11 that's all. Yeah.

12 CHAIRMAN LA ROSA: No, that's fair.

13 Any other Commissioners?

14 Commissioner Fay, you are recognized.

15 COMMISSIONER FAY: Thank you, Mr. Chairman.

16 It's a strange posture to be in, obviously,
17 from a PAA perspective, and Mr. Rehwinkel stated
18 his position here. I think for purposes of what
19 the Commission is doing, and we move forward with
20 what the Commission believes we should do, and then
21 it's the decision of the parties what they want to
22 do after that based on their right to go to a
23 hearing.

24 I will say that when I reviewed this, I agreed
25 with Commissioner Passidomo. I do think that staff

1 did a good job of finding things that maybe were
2 extending beyond this normal rider process. I
3 think there are some fair questions raised by OPC
4 about the distinctions of this mechanism being used
5 as opposed to in a rate base. I felt this maximum
6 allowable operating pressure, it looks like this is
7 a rule set by PHMSA, it has a timeline that goes
8 all the way out to 2028 and then 2035. It seems
9 like something that I thought maybe would be more
10 likely seen in a rate case, but I recognize that
11 there is a difference of opinion on that.

12 And so maybe we take forward with what the
13 recommendation is with us today, Mr. Chairman, and
14 then it will be on the parties to make a decision
15 as to what they want to do going forward. I
16 just -- if I could ask one question of legal.

17 There is no preemptive adjustment that the
18 Commission can make based on Mr. Rehwinkel's
19 comments. I mean, when we have PAAs, the idea that
20 there is no opposition -- there is likely no
21 opposition, it's the Commission's decision
22 typically, correct?

23 MS. HELTON: I am not sure I -- to me, you
24 have -- a PAA decision is a decision that you are
25 making, APA purists call it kind of freeform

1 decision-making, which you have made without the
2 benefit of an evidentiary record, but you made it
3 with the benefit of the research that staff did and
4 the legal analysis that staff did.

5 So this is your kind of first foray into
6 decision-making on the petition without the benefit
7 of a hearing. And so any PAA decision is open to a
8 request for a hearing. And so here, I think OPC is
9 just suggesting that if you made a different
10 decision than staff is recommending, then perhaps
11 they wouldn't request a hearing on approval of the
12 one program that Mr. Rehwinkel mentioned, so --

13 But to me, this is just kind of the APA
14 operating as it's intended to operate, and a
15 substantially affected person has the opportunity
16 to request a hearing and kind of make the agency
17 making the decision kind of go through make maybe a
18 little bit more rigorous analysis in getting to a
19 final decision.

20 COMMISSIONER FAY: Okay. And just to clarify,
21 Ms. Helton. We do have decisions, though, that are
22 not PAA, so what's the distinction between that?

23 MS. HELTON: Well, there are quite a few
24 different types of decisions that the Commission
25 makes. A final decision is one that has the

1 benefits of a hearing, or, in some instances, it
2 has given an opportunity up front for substantially
3 affected persons to request a hearing. For
4 instance, in a water certificate case, an original
5 water certificate case, if no one requests a
6 hearing at the beginning of the process, then the
7 decision that you enter, because you have already
8 -- you have given that opportunity to question the
9 decision, that type of decision would be entered as
10 a final order. You enter interim decisions where
11 it's more of a procedural type decision, knowing
12 that you are going to reach a point where you will
13 make a final decision after an evidentiary process.

14 So the bulk of the decisions that the
15 Commission makes is PAA that ultimately become
16 final because no one requests a hearing. That's
17 kind of the beauty of our process. You are able to
18 be efficient in your decision-making by using the
19 PAA process.

20 COMMISSIONER FAY: And the distinction we have
21 here today is just that the information that's been
22 brought forward today was submitted to staff and
23 parties yesterday, and so in the process that we
24 have, this either normally would have been raised
25 on the front end or raised on the back end, is that

1 fair?

2 MS. HELTON: Yes, based on my email traffic, I
3 didn't -- I don't think this came in until after
4 the close of business yesterday with respect to the
5 opinions that Mr. Rehwinkel referenced this
6 afternoon, and that's -- I mean, that's his
7 prerogative. I mean, he doesn't have to tell us
8 that. I think it's helpful when parties do let us
9 know they have an issue so we can come prepared and
10 able to discuss it with you. But this
11 recommendation was, I think, subject to the staff's
12 rigorous analysis and rigorous review of Peoples'
13 petition.

14 COMMISSIONER FAY: Yeah, and I just think, Mr.
15 Chairman, to comment, to Commissioner Clark's
16 point, we are taking a lot on this to make a
17 decision, to a certain degree, on the fly. Staff
18 standby their recommendation, and that's, you know,
19 that's their prerogative. But I do think there has
20 been some questions raised here that are valid.

21 So with that, Mr. Chairman, I will send it
22 back to you.

23 CHAIRMAN LA ROSA: Great.

24 MR. REHWINKEL: Mr. Chairman?

25 CHAIRMAN LA ROSA: Yes, sir.

1 MR. REHWINKEL: Just as a procedural matter.
2 I will be honest with you. I have been looking at
3 this as a tariff. Now, I know it says PAA, but to
4 me, under the file and suspend law, you have two
5 types of opportunities, a tariff filing and a PAA.

6 Now, a tariff filing requires a 60-day review
7 and then decision, but the company waived that. If
8 a tariff is approved under the Wilson cases, what
9 happens is the rates go into effect subject to
10 refund.

11 If a PAA is issued with rates involved, there
12 is no interim created under a PAA. And it's kind
13 of unusual to approve a tariff in a PAA, because --
14 I think it should be either a PAA or a tariff,
15 especially if the company wants the rates to go
16 into effect.

17 I am not -- I really hadn't contemplated this
18 was anything other than a tariff that if you passed
19 it out, the company could put their rates in, and
20 then we would -- they would be subject to refund --
21 I say the rates. They could collect costs under
22 their tariff.

23 You know, I understand their concern that this
24 came to them at the last minute. I would say we
25 were not considered a party. We weren't served

1 this, even though we had been part of this process
2 for many years. We had much -- heavy workload over
3 this time period when this came about, and I regret
4 not having reached out earlier. That's a little
5 bit on me.

6 I called Mr. Sandy yesterday afternoon, and I
7 called Ms. Ponder. That was the first they had
8 notice that we were going to do this. So I
9 apologize to the Commission about that, but we have
10 a heavy workload throughout the entire part of this
11 process. So my apologies there. We are willing
12 to -- well, I will stop right there.

13 CHAIRMAN LA ROSA: I understand.
14 Ms. Crawford.

15 MS. CRAWFORD: Yes, thank you. Jennifer
16 Crawford for legal staff.

17 It's interesting, because I was -- when I was
18 reading the draft recommendation for this item, I
19 had the same initial reaction that Mr. Rehwinkel
20 has, that this is a tariff item. And then when I
21 actually read the item closely, and I looked at how
22 we had approved programs in the past similar to
23 this, this is not actually a tariff that the
24 Commission is being asked to approve at this time.
25 The tariff attached to the item is really just a

1 sample tariff, and they are not requesting that
2 rates be put into effect. It's more a proof of
3 concept of the program, and it is consistent with
4 how we have approved programs like GRIP and SAFE,
5 and so on, we had the proof the concept first, with
6 a sample tariff attached, but it is truly a PAA
7 item.

8 CHAIRMAN LA ROSA: Understood.

9 Commissioners, is there any objection if we
10 give this a 30-day deferral?

11 Staff, do I need to do anything to give this a
12 30-day deferral, other than stating it?

13 MS. HELTON: I think stating it is sufficient,
14 Mr. Chairman.

15 CHAIRMAN LA ROSA: Okay. Thank you.

16 Let's go ahead and do that. I think that will
17 be advantageous to all parties that are affected.

18 All right. Seeing there is -- seeing no
19 further business before us, I am correct, there is
20 nothing else we have following this meeting. Let's
21 say, in 15 minutes, let's -- we will start our
22 Internal Affairs meeting, which is postponed from
23 the storms we had a couple weeks ago. That meeting
24 will occur, and please correct me if I am
25 incorrect, in our Internal Affairs room on the

1 first floor.

2 So if there is nothing else before us, we will
3 see everybody soon in Internal Affairs. Thank you,
4 this meeting is adjourned.

5 (Agenda item concluded.)

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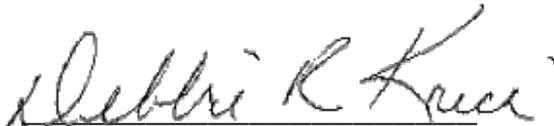
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COUNTY OF LEON)

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DATED this 26th day of February, 2025.



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