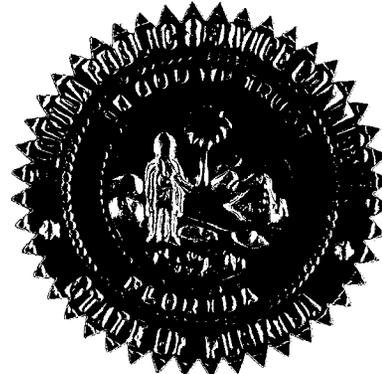


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050531-EU

In the Matter of

PETITION TO INITIATE RULEMAKING  
TO ADOPT RULE 25-6.0186, F.A.C.,  
BULK POWER SYSTEM RELIABILITY  
STANDARDS, BY FLORIDA RELIABILITY  
COORDINATING COUNCIL, INC.



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PROCEEDINGS: WORKSHOP

BEFORE: CHAIRMAN BRAULIO L. BAEZ  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER LISA POLAK EDGAR

DATE: Thursday, October 6, 2005

TIME: Commenced at 10:49 a.m.  
Concluded at 12:00 noon

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

REPORTED BY: LINDA BOLES, RPR, CRR  
Official FPSC Hearings Reporter  
(850) 413-6734

DOCUMENT NUMBER - DATE

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

1 IN ATTENDANCE:

2 PAUL SEXTON, ESQUIRE; GREG RAMON; KEN WILEY and LINDA  
3 CAMPBELL, Florida Reliability Coordinating Council, Inc.

4 JOSEPH McGLOTHLIN, ESQUIRE, Office of Public Counsel.

5 BOB WILLIAMS, ESQUIRE, Florida Municipal Power  
6 Agency.

7 CHRIS MOORE, ESQUIRE; BOB TRAPP; TOM BALLINGER and  
8 JUDY HARLOW, Commission Staff.

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

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2 CHAIRMAN BAEZ: Good morning. We'll call this  
3 workshop to order.

4 Ms. Moore, will you read the notice, please.

5 MS. MOORE: Commissioners, this rule development  
6 workshop is being held in this docket at this time and place  
7 pursuant to notice issued by the Commission on September 9th,  
8 2005, and published in the Florida Administrative Weekly on  
9 September 16th, 2005.

10 CHAIRMAN BAEZ: Thank you, Ms. Moore.

11 Commissioners, this is a rule development workshop  
12 agenda. It's based on an FRCC petition for rulemaking  
13 concerning reliability, electric reliability. And I guess we  
14 have some introductions. Mr. Wiley, you want to handle  
15 introductions on your side and --

16 MR. WILEY: Yes, Mr. Chairman. With me is Greg  
17 Ramon. Greg has been the chairman of our task force that has  
18 been working on this rule that we are proposing to you, and  
19 he's going to provide some introductory remarks. And seated  
20 with me is Paul Sexton, he is our attorney representing us on  
21 this issue, formerly of the Commission, by the way. He used to  
22 be with the Commission, and subsequently with the Department of  
23 Transportation where I renewed my acquaintance with him, and  
24 now he's in private practice.

25 CHAIRMAN BAEZ: Welcome back. And, Mr. McGlothlin,

1 you're here on behalf of Public Counsel.

2 MR. McGLOTHLIN: Yes.

3 CHAIRMAN BAEZ: Today will you be having comments as  
4 well?

5 MR. McGLOTHLIN: Some short comments, yes.

6 CHAIRMAN BAEZ: All right. And, sir, if we can have  
7 your introduction as well.

8 MR. WILLIAMS: Bob Williams from FMPA. Some very  
9 brief comments.

10 CHAIRMAN BAEZ: Thank you. Mr. Wiley, I guess we'll  
11 take your remarks and presentation; Mr. Ramon's as well. You  
12 can handle them in any order that you want to get, to get us  
13 started.

14 MR. WILEY: Yes, sir. Greg.

15 MR. RAMON: Good morning, Commissioners. I have just  
16 a few opening remarks and then hand off to Ken. I apologize in  
17 advance. I have a little bit of a summer cold here.

18 The FRCC petition is an initiative in recognition of  
19 legislation by Congress to formalize and codify the  
20 FRCC/Florida Public Service Commission process of the  
21 development of regional standards and planning and the planning  
22 process at FRCC.

23 Early on we formed an ad hoc task force directed by  
24 the FRCC board to develop this petition. The need and  
25 objective of this petition, again, in recognition of the

1 national legislation, we need to maintain the FRCC and FPSC  
2 ability to develop, approve and enforce Peninsular Florida  
3 reliability criteria standards.

4           The FRCC support of national reliability legislation  
5 was always contingent upon the fact that such reliability  
6 legislation would not preempt the Commission's jurisdiction on  
7 electric reliability matters. FRCC in most regions develops  
8 region-specific standards or variations to national standards  
9 to accommodate the unique reliability needs of the region. And  
10 what should be crystal clear in a sea of uncertainty with all  
11 that's going on with the energy bill and reliability  
12 legislation and the implementation of it is that prior to the  
13 act and after the act the Commission, under the statutes of the  
14 state, has the authority to develop these rules. And also the  
15 legislation reinforces that. Pursuant to Section 215, a  
16 regional entity may petition a state, in our case the state  
17 PSC, to take action or the state on its own may take action to  
18 ensure the safety, adequacy and reliability of electric service  
19 within the state. The state action may include the  
20 establishment of regional reliability criteria and enforcement  
21 mechanisms as long as it was not inconsistent with any  
22 reliability standard and did not reduce reliability in some  
23 other region as recognized in the savings provisions.

24           And I would ask that we focus on the rule itself and  
25 the clear authority of this Commission reinforced by the

1 savings provision in the legislation to go forward with this  
2 rulemaking. In terms of the interaction between our  
3 development here and the FERC's purview over what we do down  
4 here, that, that, I think, is a matter of debate. So I would  
5 like to hand off to Ken.

6 MR. WILEY: Thank you, Greg.

7 Mr. Chairman, Commissioners, the FRCC and its  
8 predecessor organizations have actively since the early '60s  
9 established rules, policies, standards, whatever, criteria,  
10 whatever you want to call them. We have a very long history of  
11 doing that in this state. The immediate predecessor  
12 organization, FCG, was formed in 1972, and that's when we  
13 formalized the concept. And in 1996, with the things that were  
14 going on and the new market entrants and the industry changing,  
15 the FCG decided that things were going to be happening at the  
16 national level regarding reliability standards that we wanted  
17 to be a direct part in too, and so that's when we formed the  
18 FRCC to concentrate on reliability.

19 Since that time we began working very closely at the  
20 national level with the North American Electric Reliability  
21 Council, called NERC, to propose legislation at the national  
22 level that would require mandatory adherence to the NERC  
23 standards. And, as a matter of fact, Greg worked with me when  
24 we were actually developing that first legislation at the  
25 national level. And I might say that, that the basic

1 principles of what we discussed back in 1997 and 1998 are the  
2 ones that were codified into -- by Congress this year. Not  
3 everything, but the basic principles were.

4           In working with, with NERC through the years, as we  
5 thought that reliability legislation might pass, we decided we  
6 needed to, to get NERC organized to become what the legislation  
7 calls the ERO or the Electric Reliability Organization, the  
8 organization to set national reliability standards. So in  
9 19 -- or in 2003, in anticipation of becoming the ERO, NERC  
10 established a reliability standard-setting process. It was one  
11 that was going to be open and fair and develop things in  
12 somewhat of a public forum. And we participated and supported  
13 that particular process. Well, that particular reliability  
14 standard-setting process is in place today at NERC and we are  
15 very supportive of that. As a matter of fact, that particular  
16 process has a committee they call the Standards Authorization  
17 Committee that is responsible for seeing that that process is,  
18 in fact, utilized properly and implemented properly. And I'd  
19 like to say that FRCC's Director of Reliability, Linda  
20 Campbell, is the chairman of that national committee that  
21 worries about setting national reliability standards.

22           So we come to you with, with a lot of knowledge on  
23 what is happening at NERC regarding the legislation and the  
24 interpretation of it and of how NERC goes about setting  
25 reliability standards.

1 I think there's been a lot of confusion since the  
2 FERC notebook (phonetic) came out as to what we mean when we  
3 talk about reliability standards, and I'm hoping to give all of  
4 us a little education on this so we can eliminate confusion as  
5 to what we might be proposing to the Commission in our  
6 petition.

7 I believe you have a, a handout, and the first page  
8 of that handout is entitled "NERC Definitions." And these are  
9 some excerpts out of their standards process which are  
10 currently in effect and that NERC will, in our opinion,  
11 continue to utilize. These definitions are important.

12 The first one is reliability standards. That's a  
13 word that is used in, in the federal statutes. You can read  
14 it, but basically it says it's a standard that, that NERC is  
15 going to develop for the bulk power systems in North America.  
16 And so whenever NERC approves something, they are approving  
17 that reliability standard as defined there. It is under the  
18 new regime. After FERC approved that reliability standard --  
19 after NERC approved it, they would submit that to FERC. And if  
20 FERC approved that reliability standard, it would then become  
21 mandatory for all the users of the bulk power system in the  
22 United States.

23 The NERC process also provides for regional  
24 differences, and this is where confusion comes in. If the  
25 FRCC -- if NERC was developing a national standard, a

1 reliability standard, and FRCC felt that there was something in  
2 that reliability standard that didn't apply to us and that we  
3 needed a difference for our uniqueness down in, down in  
4 Florida, we could propose to add to that net reliability  
5 standard a regional difference. That would go through the same  
6 standard-setting process which takes six to nine months as part  
7 of the reliability standard so that, once that was approved,  
8 our regional difference is now a part of the reliability  
9 standard that NERC approved. So that is what a regional  
10 difference is as far as NERC is concerned.

11           The NERC process also allows for regions to have  
12 regional standards, and this is a very important one. The  
13 regional standards allow that regions such as the FRCC may  
14 develop, through their own processes, separate regional  
15 standards that go beyond the national reliability standard,  
16 that add detail to the national reliability standard, or that  
17 implement those reliability standards of NERC's. FRCC has many  
18 of those items, and that is what we're going to be talking  
19 about today is those regional standards. You can go on to read  
20 that the regional standards may be developed and exist  
21 separately from NERC reliability standards, or, if we so  
22 choose, we can propose them to go through the NERC setting  
23 process and become a reliability standard. If we have a  
24 regional reliability standard that doesn't go through the NERC  
25 process, they have to be not inconsistent with the NERC

1 standards and they cannot be less stringent than the NERC  
2 standards. That is, that is the world as it exists today at  
3 NERC, and it's the world that I think is going to exist after  
4 the FERC/NERC relationship has gone its course.

5           And I think that's a very -- this definition is  
6 something that, that is being misconstrued by a lot of members  
7 of the federal -- FERC and by a lot of members of our industry  
8 who have not been involved in these matters at a detailed  
9 level. So I wanted to ensure that we understood that.

10           With those definitions in mind, earlier this year the  
11 NARUC decided that they wanted to support states moving forward  
12 with making reliability standards of all kinds, especially at  
13 the national level, mandatory by the state commissions or  
14 whatever authority at the state levels because we had just  
15 failed over the years to get our reliability legislation passed  
16 through Congress. And as you recall, NERC resolved that, and  
17 that gave us the impetus at the FRCC to begin working on this  
18 project of coming up with a rule that would have this  
19 Commission look at the NERC standards and make those NERC  
20 reliability standards enforceable in Florida, make those  
21 regional standards that we have separately from NERC's  
22 enforceable in Florida. And that's one of the things that gave  
23 us the impetus.

24           When the Energy Modernization Act of 2005 passed, we  
25 had already filed our petition with the Commission, and it

1 included the NERC reliability standards in it. We have since  
2 revised our petition and have stricken any reference to NERC  
3 reliability standards in this particular rule. We feel that  
4 the reliability standards as defined under the NERC rules are  
5 the sole province of FERC and that they would preempt this  
6 state Commission. However, we feel that the regional standards  
7 that are under the NERC's definition that we just talked about  
8 do not fall under that, and that this Commission has the  
9 jurisdiction, if it so desires, to adopt these regional  
10 standards. So that's why we are, we are continuing to promote  
11 to the Commission the, the adoption of the rule that we have  
12 presented to you.

13 I might add on Page 2 I have taken a stab at defining  
14 some of the confusion at the national level, and I've called it  
15 "FERC Definitions." Actually this is definitions of some of  
16 the comments that we're hearing from some of the FERC people  
17 and also from some of our own industry people across the  
18 country. And I believe that these, what I'm calling FERC  
19 definitions, are coming out of a misunderstanding of what the  
20 NERC process is and what a regional standard really is. So I  
21 think the people that are looking at these new, what I'm  
22 calling the new FERC definitions, that the NERC definition of  
23 reliability standard, yeah, they've got that right. But on the  
24 NERC definition of regional difference, it's the same as NERC's  
25 except they think that they would not, that they would require

1 a regional entity such as the FRCC to submit that regional  
2 difference as a stand-alone standard to NERC and to FERC, and  
3 that's not the case. As we talked about before, if we have a  
4 regional difference that we want in a NERC reliability  
5 standard, we will submit it to the standards-making process.  
6 And if it survives, that regional difference just becomes part  
7 of a NERC reliability standard.

8           The third area of misinterpretation is that some  
9 people feel a regional standard, regardless of what it is,  
10 should go to FERC for -- to NERC and to FERC for their approval  
11 prior to it being made mandatory. And that's where I feel that  
12 the, the difference in interpretation just goes awry. And  
13 certainly I feel that this Commission has the authority to  
14 adopt regional standards that are not inconsistent nor less  
15 stringent than NERC's.

16           Quickly, just getting to the rule itself without  
17 saying anything else -- well, no. There's two other things  
18 I -- no. I'll cover them in a moment.

19           First of all, our proposed rule would be applicable  
20 to all electric utilities in the state of Florida. That would  
21 include the IOUs, all the municipals and all cooperatives,  
22 whether or not they were generating entities or not. It would  
23 not be applicable as we have proposed it to the non-utility  
24 generators or their marketers, which -- or the merchant plants.  
25 We have taken a conservative interpretation of the Commission's

1 statutory powers in that regards. And, thirdly, our proposal  
2 sets up a process for this Commission to adopt standards in  
3 Florida that would be mandatory. This does not, this petition  
4 does not propose any specific standards at this point for the  
5 Commission to consider. It merely sets up a process so that if  
6 and when this Commission desired to have some, you could  
7 implement proceedings. Or if the FRCC felt there should be a  
8 standard that we needed mandatory compliance with, we would  
9 propose that to the Commission under this process that we have  
10 developed here for you to consider making mandatory.

11 I'd like to give you some examples of things that  
12 might fall under a regional standard which would come before  
13 this Commission, and that is found on Pages 3, 4 and 5 of the  
14 handout.

15 Page 3 talks about reliability standards that  
16 implement or add detail to reliability standards. By NERC's  
17 definition those are allowed to be regional, regional standards  
18 without going to NERC and without going to FERC for approval.  
19 And you can see there's a long laundry list there of  
20 standards -- and it's, by the way, it's not complete -- of  
21 things that we now have in place at FRCC that would fall under  
22 that category of implementing or adding detail to NERC  
23 reliability standards. We do not currently feel that these  
24 need to go to NERC for approval. We do understand there's a  
25 national debate going on, and that debate could lead to a FERC

1 ruling, ultimate rule that mandates us to submit these type of  
2 regional standards to NERC and FERC for approval. We hope not.  
3 We're certainly commenting opposite to that. But if, in fact,  
4 that does happen, these are the type of things that would have  
5 to go to NERC for approval. If we win that case, these are the  
6 type of regional standards that we would be considering  
7 proposing to the Commission for you to adopt as mandatory  
8 regional standards in Florida.

9           The next page discusses regional standards that go  
10 beyond that covered by the NERC reliability standards, and  
11 that's covered in the NERC definitions. And this is just a  
12 very short list of things we do. And I know a lot of it is  
13 Greek to you, but this, this reliability responsibility that we  
14 have in this state is very detailed and it takes a sum of a lot  
15 of little standards and criteria like this for us to be  
16 effective. And I'm certainly not going into that. I gave this  
17 merely as a representation of the type of things that we get  
18 into, and there are many more.

19           Greg, you had something to add on that?

20           MR. RAMON: Right. I just kind of thought it might  
21 be good to point out on the list of Greek things the daily  
22 capacity assessment procedures and definitions. That's an  
23 outgrowth of a state action directed at us.

24           MR. WILEY: Okay. Yeah.

25           So in summary on what this rule would do or allow

1 for, it would allow for, unless FERC enters the picture and  
2 disallows it, it would allow for us or the Commission to make  
3 mandatory, or request that the Commission make mandatory the  
4 regional standards that we have to implement or add detail to  
5 NERC's standards, and it would allow for us to do those  
6 regional standards that go beyond the NERC standards and that  
7 NERC does not address them.

8           Lastly, the order or the rule would require the  
9 utilities to make reliability assessments and annually report  
10 those assessments to the Commission. This would, this would  
11 codify a lot of things that we're, we're now doing at the  
12 Commission's request in a voluntary manner.

13           Having said all of that, there is one thing that we,  
14 that we do need to revise in our proposed rule, and that is we  
15 are still calling things reliability standards in there. I  
16 believe in order to divorce ourselves from the confusion that's  
17 going on at the national level about what a reliability  
18 standard is -- because when you say reliability standard,  
19 that's in the legislation, and FERC is going to, every time  
20 they hear that word, say, that's our jurisdiction. I think  
21 then that we, we are proposing to change the wording in this  
22 proposal to reliability criteria just to simply divorce that  
23 from the national thought process.

24           With that, Mr. Chairman, I'd be glad to take any  
25 questions.

1           CHAIRMAN BAEZ:  Why don't we let OPC -- we'll get,  
2 we'll get through with the comments and then we can open up for  
3 questions.  Mr. McGlothlin.

4           MR. MCGLOTHLIN:  My name is Joe McGlothlin.  I'm here  
5 for the Office of Public Counsel.  And my remarks are very  
6 preliminary in nature, and they are perhaps as much in the form  
7 of a question as they are in the form of comments.

8           Mr. Wiley alluded to several things that are involved  
9 in terms of the background of the proposal here.  There's the  
10 national legislation, there is the issue of the Division of  
11 Labor or the relevant jurisdictions of federal, state  
12 authorities, there is the NARUC resolution.  But when all that  
13 gets filtered and filters down to what we're doing today, this  
14 is PSC rulemaking, and PSC rulemaking has to comply with the  
15 procedural safeguards that are applicable to the PSC.  
16 Mr. Wiley just says that they have come up with a process.  But  
17 as I read the proposed rule language, I don't see that the  
18 process that is contemplated there provides for either a point  
19 of entry or opportunity to participate for our office or for  
20 other interested parties.  If you, if you read the rule  
21 language, it works this way:  The utilities would, would  
22 develop a standard, and it isn't apparent to me that that would  
23 be an open process.  There is no reference to a point of entry  
24 or opportunity to participate.  They would bring it to the PSC,  
25 and it appears to me that the PSC would evaluate that on

1 something like a pass/fail basis. There's no mention of the  
2 opportunity for consideration of alternatives. It would either  
3 approve it or remand it to the FRCC. Under what type of  
4 procedure? It's not clear. And then the utilities would again  
5 develop a different standard ostensibly to respond to whatever  
6 concerns the PSC had and bring it again. So I don't see  
7 anywhere a reference to the opportunity to take part and  
8 participate. And even though this is a highly technical area  
9 and probably the man on the street is not likely to wander in  
10 and want to delve into some of these very technical areas,  
11 still under the statute that governs rulemaking you have to  
12 provide for the opportunity to allow interested people to  
13 participate. And also the standard that you adopt should be  
14 the Commission's own, and this smacks to me of a delegation of  
15 that role to the FRCC. That gives me very significant  
16 concerns.

17 CHAIRMAN BAEZ: Thank you, Mr. McGlothlin. And I  
18 know that part of your comments were posed in the form of a  
19 question, and we'll just hold that over because I do want to  
20 have an opportunity to discuss that. But we'll hear from  
21 Mr. Williams at this point, and then we can really get into the  
22 questions and answers. Go ahead, sir.

23 MR. WILLIAMS: Thank you, Chairman and Commissioners,  
24 Robert Williams, Director of Regulatory Affairs for FMPA in  
25 Orlando.

1           The FMPA has participated in the development of this  
2 rule proposal and has supported the filing. Since then  
3 national events continue to develop, and we believe they may  
4 have significant effect on the final wording of this rule. And  
5 for that reason we do not oppose the continued development, but  
6 we would urge caution in finalizing the rule before the  
7 national debate is over, and, and we expect that to be early  
8 next year. So it's not -- I'm not sure it's that difficult a  
9 task, but that's our only concern. Thank you.

10           CHAIRMAN BAEZ: Thank you, Mr. Williams.

11           Commissioners, at this point we can open it up for  
12 questions, and I guess I would, I would suggest, Mr. Wiley, if  
13 there -- Public Counsel did raise a, I think, a fair point or  
14 at least a fair question. How -- is there any way you can  
15 answer the question to help us clarify exactly what by your  
16 filing you would anticipate accommodating the rulemaking  
17 processes that this Commission as well as other agencies are  
18 subject to -- how you see -- how do you see that melding  
19 together or accommodating your proposal?

20           MR. WILEY: The first part of the question related to  
21 the FRCC developing the standard that they would propose to the  
22 Commission, and that's a very good question. The FRCC, prior  
23 to this legislation, has a process through its committees and  
24 its board of directors to adopt that. We recognize that that  
25 must change as we go forward at the federal level, as well as

1 if this rule were proposed at the state level. We have begun  
2 work on what that new standard-setting process might look like  
3 at FERC, and we haven't run it through our committee structure  
4 and our board of directors yet, but it most surely will include  
5 entities other than members of the FRCC. And I might add that  
6 right now the members of the FRCC include everybody that, that  
7 has access or has interest in the bulk power system in Florida.

8 We would first extend an invitation to people that  
9 are not members of the FRCC but that do have interest in the  
10 bulk power system to participate in the rule, in the  
11 standards-setting process. We have a number of entities in the  
12 state who own transmission or distribution systems or that are  
13 wholesale customers that are not members. They would be  
14 allowed to participate in this new one that we're developing.

15 We would want adjacent regions such as the  
16 Southeastern Electric Reliability Council or SERC, which covers  
17 Georgia and Tennessee and all those states, we would want them  
18 to participate in that to ensure that something that we're not  
19 doing with our regional standard would impact their region. So  
20 those are two things that we have already recognized that we  
21 must bring in in this new world to our reliability  
22 standards-setting process, development process.

23 Mr. McGlothlin certainly brings up a good point. I  
24 mean, I would certainly envision that the Commission staff  
25 would be welcomed to be involved, and so would the consumers'

1 advocate office also be welcomed to be involved in that. So we  
2 just haven't thought beyond that point. I think that's an open  
3 point, but that needs to be resolved.

4 CHAIRMAN BAEZ: There was, there was a second part to  
5 Mr. McGlothlin's question, I think, that was more readily  
6 directed at what -- how, how our rulemaking process as it  
7 exists now is, is, is accommodated. And I guess that's a -- to  
8 me, that describes an after process. I mean, whatever,  
9 whatever the, whatever the FRCC's, let's call it an adoption  
10 process for the time being anyway, how you come up with what  
11 reliability standards you want to flow up to the Commission,  
12 that that process, whatever it is notwithstanding, there still  
13 is a rulemaking process that's statutorily set that we are  
14 subject to, I mean. And there seems to be some suggestion that  
15 maybe your filing or your proposal doesn't necessarily comply  
16 with that or doesn't, doesn't consider that.

17 MR. WILEY: This filing does envision that if this  
18 rule passes the way it's currently written, that if the FRCC  
19 developed a new reliability standard through the process that  
20 we just discussed, that we would propose that through the  
21 Commission and that the rule, that the Commission would go  
22 through its rulemaking procedures, expedited, we would hope, so  
23 you wouldn't have elaborate hearings over it. But, absolutely,  
24 we would not pass, you know, this Commission's rulemaking rules  
25 or Chapter 120 rules. And that's the way we envision it.

1           And I might add that this is exactly the model that  
2 is going on up at FERC and NERC. I mean, FERC is, is going to  
3 pass this rule eventually that is nothing but a process rule.  
4 And only when NERC has gone through its process of setting a  
5 reliability standard, it would file with FERC and they would go  
6 through their rulemaking procedures to adopt or to not adopt  
7 that proposed reliability standard. So what we're proposing  
8 here is, is very consistent with, with what's going on at the  
9 national level.

10           CHAIRMAN BAEZ: Commissioners, questions?

11           Commissioner Deason.

12           COMMISSIONER DEASON: Well, Mr. Williams brought up a  
13 question about timing, as to whether this is premature, whether  
14 the national debate needs to be more fully heard. What's your  
15 position on that?

16           MR. WILEY: Well, this state has gone through, in my  
17 career with the electric utility industry, four decades without  
18 having mandatory reliability standards. And I think from a  
19 reliability point of view in this state that that's not going  
20 to be affected.

21           What I do think are some of the things that should be  
22 considered as to should we wait until we see what FERC is doing  
23 or not is the issue of the state's savings clause in the  
24 federal statute. And I believe that this Commission would be  
25 better positioned in having a rule on its books that provides

1 for regional reliability standards so that if, in fact, we  
2 began getting into any type of a discussion with FERC about  
3 them getting into those items which I showed you on Page 4,  
4 which were stand-alone things, and FERC was trying to get their  
5 hands on those, I think that having, having this on the books  
6 would better the Commission's position if you wanted to contest  
7 it, and it would certainly help our position at the national  
8 level.

9           The other thing that I've -- and I've thought about  
10 this many times because Bob Williams and I have had many  
11 discussions on this, that I've been a planner type in the  
12 electric utility industry for many years, and in my role as  
13 running the FCG and now the FRCC, I've always deemed it my  
14 responsibility to look ahead, not look at today. And looking  
15 ahead in this new mandatory reliability world where FERC is  
16 involved and knowing some of the interests of a lot of the  
17 players out there, I can't predict where we're going in this  
18 area of mandatory reliability standards. And it just -- and I  
19 can't predict what's going to be happening in Florida, much  
20 less the national scene, in terms of future needs to have a  
21 rule like this on the book. And I just feel that it's  
22 necessary for us to have something like this so that we have  
23 the opportunity when a tough situation, we've got a crisis  
24 involved and it comes along, that we have this to turn to.  
25 Because being able to develop a rule such as this when we're

1 having some crisis event going on that is going to be very  
2 contentious is going to be hard to do. If we put this on the  
3 books in calmer, good times when the crises aren't here, I  
4 think we have an opportunity to do that. And so I'm always  
5 looking into the future for those unknown crises. And if we  
6 can get something implemented to help us get through those, we  
7 ought to be doing it today. That's just an observation.

8 MR. RAMON: Commissioners, I'd like to comment on  
9 that. I'm participating heavily in the NERC discussions, EEI  
10 discussions and the debate about this confusion in terms of  
11 regional reliability standards. There's been a lot of  
12 discussion about the state action, and there's no push back on  
13 that, that, in fact, this is well within the state's authority  
14 and under the savings provisions of the legislation. The  
15 debate is once this Commission adopts and approves regional  
16 reliability criteria, does it have to go -- what process, if  
17 any, does it have to go through with the ERO and FERC? And  
18 there is, you know, a degree of uncertainty. But a lot of the  
19 discussion is if that does happen, that it would be an  
20 expedited type of a review, a check by the ERO and the FERC  
21 that the state action is not inconsistent with a national  
22 reliability standard or lessens the reliability of other  
23 states, but not that the state shouldn't do this or could do  
24 it.

25 CHAIRMAN BAEZ: Commissioners, other questions? And

1 I know that staff may have some questions. If they want to  
2 pose them now as well, I would open the floor to whatever  
3 questions staff may have at this point. But if you have other  
4 questions that you'd like to pose, jump on in.

5 MR. BALLINGER: Good morning. I've got just a  
6 couple, Mr. Wiley, just to be clear, kind of clarifying ones.  
7 The FRCC is not proposing any standards today in this rule; is  
8 that correct?

9 MR. WILEY: That's correct.

10 MR. BALLINGER: Okay. But in the future you may  
11 propose standards by, and do it as a rule amendment and not by  
12 order. In other words, you see it as it would go through a  
13 rulemaking process.

14 MR. WILEY: I think the Commission's General Counsel  
15 should answer that. But through some formal process that this  
16 Commission has adopted.

17 MR. BALLINGER: But the standards, too, could be a  
18 new standard that gets developed by this new process that you  
19 explained where you have more public input, I guess, if you  
20 want to call it that, or it could be an existing voluntary  
21 standard that's like you mentioned on Page 4 and 5 of the  
22 handout.

23 MR. WILEY: That's correct. Or it could be a  
24 standard that the, that the Commission wanted to develop and  
25 adopt. I mean, that's feasible.

1 MR. BALLINGER: Okay. So that was my next question.  
2 It could be on the Commission's own motion to say let's make  
3 this standard mandatory.

4 MR. WILEY: Absolutely.

5 MR. BALLINGER: Okay. Is the basic purpose of the  
6 monitoring program that's referenced in the rule, the  
7 compliance and monitoring program, does that basically  
8 recognize an existing process that the FRCC uses now?

9 MR. WILEY: Yes. That's a process that we use in  
10 looking at how our entities comply with the NERC standards.

11 MR. BALLINGER: Okay. And it might be helpful if you  
12 could kind of walk -- on Page 3 of 33 of that monitoring  
13 program, and, Commissioners, you have this in your packet, the  
14 monitoring program. It's just a flow chart of the process. If  
15 you could kind of just walk us through that basically how it  
16 goes from top to bottom.

17 MR. WILEY: Yes. I would like to get Linda Campbell,  
18 she is the Director of Reliability for the FRCC, and this is  
19 her area of expertise. And if I get involved in it, she might  
20 get mad at me, so we're going to let her talk about that.

21 MR. BALLINGER: Commissioners, did you find that in  
22 your packet?

23 CHAIRMAN BAEZ: Thank you.

24 MS. CAMPBELL: Good morning. My name is Linda  
25 Campbell. I'm the Director of Reliability for FRCC. And, Tom,

1 if I heard you properly, you're asking to sort of just walk  
2 through at a high level this flow chart on Page 3?

3 MR. BALLINGER: Yes.

4 MS. CAMPBELL: Okay. This is really just trying to  
5 give a visual idea of what our process is. And it starts with  
6 the development of NERC reliability standards or what we've  
7 been calling FRCC reliability standards. And once those  
8 standards are developed and approved, we would convey that or  
9 help our members and operating entities understand what that  
10 is, and that could be through workshops or through our  
11 meetings, our committee meetings or however; also providing  
12 them the program document with the instructions and the  
13 information inside it.

14 The box number three is really a whole lot of  
15 activities that are really sort of identified within that. And  
16 the basic of the compliance program is there's a lot of  
17 different ways to go out and review and measure if the entities  
18 are, in fact, complying with the standard requirements. Some  
19 of the ways that we might be made aware of a violation or a  
20 suspected violation could be through a complaint of someone  
21 else, it could be through, you know, an investigation of  
22 another matter that may uncover something. And we also do  
23 self-certification assessments on an annual basis and we do  
24 periodic audits. So all of those kinds of means are used to  
25 determine if someone is complying with the requirements of a

1 standard or not. And the results of that may be made through  
2 reports on a periodic basis or a written audit report, things  
3 of that nature, that then would be provided to the compliance  
4 committee, the FRCC compliance committee. They would review  
5 that report, look at the findings, determine if there was an  
6 area of noncompliance or not and then assess the penalty. And  
7 right now, of course, they're simulated penalties, which would  
8 be either a letter to the entity describing that with an  
9 indication of some sort of monetary penalty that might take  
10 place if -- and this is speaking with the NERC program right  
11 now -- but they're very much simulated just to let them know  
12 since nothing is mandatory and enforceable at this time.

13           That entity then at that point really has the option  
14 to say, yes, I agree, we did violate that, we understand that,  
15 we'll correct it. They can develop a mitigation plan and then  
16 provide that back to the FRCC for review. Or they may say, no,  
17 you're wrong, we don't agree and here's why. And then we'll  
18 bring that to the compliance committee and they'll try to  
19 appeal that level of noncompliance. And if they're unhappy  
20 with how that turns out, they have the FRCC dispute resolution  
21 process as a final step to go, and that would then bring our  
22 board of directors involved. And if they, if they did, as I  
23 said, they would develop a mitigation plan to come within  
24 compliance. The compliance committee would review that and  
25 make sure that it is acceptable, that it does protect the

1 reliability and moves towards that and bring that back. And  
2 once all of that is done, the compliance program and monitoring  
3 is really essentially over.

4 MR. BALLINGER: Okay. And you envisioned a lot of  
5 the reporting requirements in this plan would have to be  
6 updated or modified to reflect now the PSC's role in this whole  
7 scheme, I guess, if you will, of going to mandatory standards  
8 for regional standards.

9 MS. CAMPBELL: Yes, sir.

10 MR. BALLINGER: Okay.

11 MS. CAMPBELL: We -- if this rule is put forward, we  
12 would need to make some modifications to this document to  
13 reflect some of the steps that we would need to do to enter  
14 into the workings with this.

15 MR. BALLINGER: Okay. That's all I have.

16 CHAIRMAN BAEZ: Any other questions, Commissioners?

17 I have one, Mr. Wiley. You, in your comments you  
18 tried to explain or at least suggest that modifications to your  
19 filing or to your petition for rulemaking would have to be done  
20 or had been done in the form of we're leaving behind or trying  
21 to -- we're leaving behind those standards that we don't know  
22 about, i.e., those that have not been adopted by NERC or have  
23 not been ratified by FERC on the national level. And, and  
24 you -- it seemed to me that you were suggesting that your  
25 petition for rulemaking was to take into account what we're

1 calling regional standards. That suggests to me that we're  
2 going at it piecemeal. Is that, is that fair to say? We're  
3 taking what is certain and in your estimation certainly within  
4 our jurisdiction and within our authority to have adopted  
5 anyway and leaving behind the uncertain of the national  
6 standards?

7 MR. WILEY: Yes, sir. Well, I think it is -- I think  
8 there is a certainty that what NERC calls a reliability  
9 standard, which would include regional differences, I think the  
10 certainty is that it is at FERC's jurisdiction, and we would  
11 not have any of those standards proposed under this rule. What  
12 we have talked about as being a regional standard, which were  
13 on Pages 3, 4 and 5, I believe, those are the ones that we  
14 would propose that are in, that would be covered by this rule.

15 Now if, in fact, you know, we were defeated at the  
16 FERC level, then I think it would be prudent to wait until that  
17 before we ever filed with this Commission any of those items on  
18 Page 3 which implemented the national standards, I think it  
19 would be prudent on our part not to file any of those with this  
20 Commission until we see what happens at FERC.

21 CHAIRMAN BAEZ: Now -- okay. I think you answered my  
22 question in part, but that begs or at least that raises this  
23 question in my mind.

24 What is the relationship, and forgive me for not  
25 understanding, but what is the relationship between those

1 standards, those standards that you're determining or at least  
2 trying to make the case to us are available for our adoption  
3 without conflict from a, from a national process? Can they  
4 operate on their own? I mean, is there -- I guess I'm missing  
5 the, I'm missing the, the operability of having a few regional  
6 standards that don't have any, that may not have any relation  
7 or may have relation to as yet unadopted national standards. I  
8 mean, what's the relationship between the two? How can we  
9 adopt one set only because they're within our jurisdiction  
10 without having the same mandatory, mandatory level on the ones  
11 that we can adopt? How do they work together or how don't they  
12 work together? Are we, you know, essentially adopting half a  
13 puzzle?

14 MR. WILEY: Well, I think when the FERC is done,  
15 we're going to see standards -- the reliability standards at  
16 NERC are going to be mandatory and enforceable and we're going  
17 to have to do, enforce those at the regional level.

18 I think what we call the regional standards, if FERC  
19 doesn't take some positive position on some of those, those  
20 will not be enforceable at the regional level unless this  
21 Commission acts.

22 CHAIRMAN BAEZ: But I guess my question is this. Can  
23 they be enforceable independent of any adoption of national  
24 standards?

25 MR. WILEY: Yes, sir.

1 CHAIRMAN BAEZ: Okay.

2 MR. WILEY: Yes, they can. You know, for example,  
3 one of the NERC standards which is one sentence, one paragraph  
4 in their standard that says "Thou shalt," we have -- we convert  
5 that to five to ten pages of very detailed stuff as to how to  
6 implement it and make sure that we comply with that national  
7 standard, and it's very detailed and very specific to our  
8 unique situation here in Florida. And I doubt very seriously  
9 if there's anybody else in the country that has a set of  
10 implementation standards of the NERC standards that are  
11 identical. And I don't think that they should be identical  
12 because all of the regions have differences, especially ours.  
13 And to go beyond this, there are -- the, the act that was  
14 passed does not authorize the FERC to get involved in adequacy  
15 issues, and so they will not assert any jurisdiction over  
16 adequacy issues. That is the sole domain of the states as  
17 spelled out in the federal statute. And so I could conceive in  
18 the future that there might be standards relating to adequacy  
19 that we or the Commission might want to consider in this.

20 CHAIRMAN BAEZ: And by adequacy, you're referring to  
21 --

22 MR. WILEY: Generation.

23 CHAIRMAN BAEZ: -- generation reserves and things of  
24 that nature?

25 MR. WILEY: Yes, sir.

1           CHAIRMAN BAEZ: Well, then let's -- let me ask you  
2 something about that. By -- is it your -- would you  
3 contemplate one of those standards to be a generation adequacy  
4 standard?

5           MR. WILEY: I think that's one of the ones that we  
6 will put forth to our board to consider. We currently, and the  
7 Commission is well aware of this, have a standard on generation  
8 adequacy in this state. And --

9           CHAIRMAN BAEZ: Would -- and -- but we're also  
10 operating under some, an agreement that is over and above, over  
11 and above the standard that FRCC actually has on the books.  
12 Just looking down the road, what kind of, you know, what kind  
13 of discussion would you anticipate having on that? I mean,  
14 obviously the Commission has, has stated or at least expressed  
15 its preference by virtue of the agreement. I mean, is that  
16 something that we're going to be debating, is that something  
17 you would anticipate having a lengthy discussion on what's the  
18 appropriate --

19           MR. WILEY: Let me, let me state what the FRCC  
20 standard is right now, which has been adopted by our board, and  
21 that is that the region as a whole will have 15 percent or  
22 greater reserves. And it also goes on to state that if any  
23 entity is less than 15 percent, that, that that will be noted  
24 and shown and discussed at our board. And if it's significant  
25 enough, it would be anticipated that that board would take

1 action. In other words, if anyone started getting way out of  
2 line and one party had 5 percent and somebody else had  
3 20 percent, but yet the state still had 15 percent, which means  
4 we met our standard, you know, I think that if someone started  
5 getting way out of line, that our board would look at that and  
6 I'm certain the Commission might look at it. But I -- you  
7 know, what we would do down the road when and if your, the  
8 Commission's stipulations with the three investor-owned  
9 utilities changed, I really don't want to speculate on that.  
10 I'm sure there would be a lot of discussion, Mr. Chairman.

11 MR. RAMON: Mr. Chairman, I have one comment just to  
12 add to that. We've been talking about generation adequacy.  
13 But in the proposed rule it also addresses transmission  
14 adequacy. And we have recently enhanced the FRCC transmission  
15 planning process. And to, we think, have a more explicit  
16 Commission oversight over that process will add to the  
17 credibility of the new process.

18 CHAIRMAN BAEZ: Commissioners, other questions?

19 Ms. Moore.

20 MS. MOORE: Yes, Mr. Chairman, I would like to ask  
21 Mr. Wiley a question.

22 You said that Florida would be in a better position  
23 if you have a rule on the books, if we had a rule on the books.  
24 And I'm wondering what it is you think we need to have on the  
25 books, whether this rule which seems to provide just the

1 process or a rule that incorporates and adopts actual  
2 standards, reliability standards.

3 MR. WILEY: I believe it's the process that would be  
4 good to have on the books. I don't think that we would be, the  
5 process would sit there too long if it was on the books before  
6 we would be recommending that you consider certain standards to  
7 make mandatory.

8 MS. MOORE: Do you think -- are you saying there's  
9 agreement now on this process and that it could, we could go  
10 forth with this rule and then later -- and providing an  
11 enforcement mechanism for standards we don't have yet?

12 MR. WILEY: Well, we -- you know, I'm not an expert  
13 attorney or anything, but that's the concept of this rule. And  
14 our attorneys haven't advised us that we're too far off track  
15 with it. I mean, it might not be perfect, but I think that, I  
16 think that this would fit that, that bill.

17 MS. MOORE: That's all, Mr. Chairman.

18 MR. TRAPP: Mr. Chairman, may I pursue this issue  
19 further?

20 CHAIRMAN BAEZ: Oh, go ahead, Mr. Trapp.

21 MR. TRAPP: Mr. Wiley, could I turn your attention to  
22 the rule itself on Page 2 of your proposed rule?

23 CHAIRMAN BAEZ: Mr. Trapp, can you speak more  
24 directly into the mike.

25 MR. TRAPP: Am I there?

1 CHAIRMAN BAEZ: And can you, can you repeat that page  
2 reference, please.

3 MR. TRAPP: In the notebook, the proposed rule  
4 section, Page 2, Section 3, which refers to adoption of  
5 reliability standards. I don't wish to belabor the point that  
6 has been gone over, I think, well by the bench. But for  
7 clarity's sake, my own clarity's sake, if I understand this  
8 correctly, the FRCC is going to have a process by which your  
9 membership reviews standards for possible adoption is mandatory  
10 criteria they will operate in Peninsular Florida; is that  
11 correct?

12 MR. WILEY: That's correct. And I'm not, I'm not  
13 saying that every reliability criteria, I'm going to use that  
14 word now, it would be, we would ask you to make that mandatory  
15 because perhaps some of them were minutia enough that it  
16 wouldn't warrant the Commission's time nor interest to make  
17 them mandatory, or those standards might be so, you know, very,  
18 have very low risk factors associated. So I don't think we  
19 would burden the Commission with everything, but some of them  
20 would be very important and we would burden you with those.

21 MR. TRAPP: And that language is in the middle of  
22 Section 3 that says, "Such reliability standards," and I  
23 understand we're going to change the word "standards" to  
24 "criteria."

25 MR. WILEY: Yes, sir.

1           MR. TRAPP: "Such reliability criteria which the FRCC  
2 determines should be mandatory and enforceable shall be filed  
3 with the Commission for adoption and inclusion as reliability  
4 criteria." So you're, you're going to propose those that would  
5 be mandatory for adoption by this Commission. Now will that,  
6 that -- let me understand then, in relationship to the national  
7 act that has just been passed, would that be considered a state  
8 action under the, under the act?

9           MR. WILEY: If the Commission approved that standard  
10 as mandatory, yes, it would be.

11           MR. TRAPP: Right. And that state action under the  
12 national act would have to be consistent with the intent of the  
13 FERC-approved standards.

14           MR. WILEY: That's correct. The wording is not  
15 inconsistent with or less stringent than the national standard.

16           MR. TRAPP: So there would have to be coexistence  
17 between the state and the federal processes here. We would  
18 have to take into consideration whatever standard you propose  
19 as a regional criteria, that it fit within the national scheme  
20 of things. Otherwise, as I recall, is there not a process in  
21 the, in the proposed rules for an outside party or any party to  
22 protest a state action?

23           MR. WILEY: That's correct. If this Commission did  
24 something, if someone could protest that and take it to NERC  
25 and FERC and say this Commission took some action that we think

1 is, is FERC's jurisdiction and protest it on that basis, that's  
2 correct.

3 MR. TRAPP: So the whole scheme of the thing is at  
4 the national level you've got these reliability standards that  
5 are proposed by the ERO and adopted by FERC, and then you have  
6 these criteria that are more specific to Florida, more specific  
7 to our region that are going to be proposed by the FRCC to this  
8 Commission for adoption, and all of that has to work and be  
9 consistent.

10 MR. WILEY: Yes, sir.

11 MR. TRAPP: And at both levels, at the point in time  
12 in which you propose, and I think I also heard that you said  
13 that it might be permissible for the Commission on its own  
14 motion to propose a Florida standard or Florida criteria.

15 MR. WILEY: We didn't feel we needed to put that in  
16 the rule.

17 MR. TRAPP: But it's okay for us to clarify it, if we  
18 wanted to put it in the rule?

19 MR. WILEY: Yes, sir.

20 MR. TRAPP: But, anyway, if that's state level where  
21 the Commission is being asked to look at a state criteria,  
22 there would be an opportunity for parties to participate in  
23 that process, would there not?

24 MR. WILEY: Yes.

25 MR. TRAPP: And to the extent that the Commission

1 ruled in that process and did a state action, if a party felt  
2 that that state action was inconsistent with the national  
3 scheme of things, they could take that and participate before  
4 FERC to protest the state's action.

5 MR. WILEY: That's correct.

6 MR. TRAPP: Okay. And turning now to Section 4, this  
7 is basically just again -- no standards are being adopted.  
8 This is just a procedure by which the FRCC currently monitors  
9 compliance with the existing voluntary standards, and you're  
10 asking this Commission to basically adopt that by specific  
11 reference in the rule.

12 MR. WILEY: Yes, sir. However, the specific document  
13 which we've furnished you would need to be tweaked if this  
14 Commission were to adopt a rule to reflect exactly what you  
15 ended up making the rule on. We have to put in there for  
16 Florida Public Service Commission standards this would be the  
17 process and spell it out very succinctly and present that to  
18 this Commission. And that would be the final one. We just --  
19 you know, without knowing what the rule might look like, we did  
20 not go through and come up with a pro forma new compliance  
21 program, but it would need to be addressed.

22 MR. TRAPP: That kind of takes us to the next step in  
23 the process, and I don't want to preempt my staff here and  
24 everything, but when could we expect that draft? Because I  
25 don't perceive that we could really have a final rule until we

1 had the piece of paper that we were going to adopt in the rule.

2 MR. WILEY: I would say that the moment we have an  
3 indication that there's a possibility of this moving forward,  
4 we would, and the general concept of what we're talking about  
5 here, we would hastily get something to you.

6 MR. TRAPP: That's all the questions I have,  
7 Chairman.

8 CHAIRMAN BAEZ: Ms. Moore.

9 MS. MOORE: Yes. Mr. Wiley, how much value would be  
10 lost if the Commission were to propose or adopt all but  
11 Section 4 of the rule until there are actual reliability  
12 standards to be enforced?

13 MR. WILEY: I haven't thought about that. I would  
14 have to sit back and contemplate that because the whole -- you  
15 know, if you're going to adopt and make something mandatory,  
16 you would have to have some compliance and enforcement  
17 mechanism. So I'm not sure what we would have if, if we had  
18 mandatory standards without a compliance mechanism.

19 MS. MOORE: But at this point we don't have the  
20 mandatory standards. That's, that's my point, is that when  
21 there are standards for the Commission to adopt as their own or  
22 reliability criteria, at that point also adopt a compliance and  
23 enforcement mechanism.

24 MR. WILEY: I'd have to think about that one  
25 thoroughly and reread this whole document again. I have a hard

1 time -- my immediate reaction is, was what I just said. I  
2 think you'd need to envision what type of a compliance process  
3 you're going to have. And certainly we would like to know with  
4 some certainty what it might be. If you were to, you know,  
5 come up with something, you know, that you're going to go out  
6 and hire an outside agency to be the compliance and  
7 enforcement, we might not particularly care for that. So I  
8 think that -- my opinion at this point is this is kind of a  
9 package.

10 MS. MOORE: As it's -- without any reliability  
11 criteria for the Commission to adopt, Subsection 4 wouldn't be  
12 used. There was -- it couldn't be because they're --

13 MR. WILEY: That's correct.

14 MS. MOORE: Okay. Thank you.

15 CHAIRMAN BAEZ: Commissioners, any other questions?

16 MR. MCGLOTHLIN: Chairman Baez, if --

17 CHAIRMAN BAEZ: Mr. McGlothlin.

18 MR. MCGLOTHLIN: Could I have an opportunity to pose  
19 a couple of questions that are follow-ups to what has been said  
20 before?

21 CHAIRMAN BAEZ: Sure.

22 MR. MCGLOTHLIN: In response to one of your  
23 questions, Mr. Wiley recognized that at the point in time at  
24 which the FRCC would, would bring you a proposed reliability  
25 standard, there would be rulemaking at that time. And I think

1 that's helpful in terms of my own understanding. My concern is  
2 that the Petitioners may believe that the rulemaking that would  
3 be held at that time would be constrained by the process as  
4 described in this rule as opposed to the broader panoply of  
5 rights and procedures that the statute contemplates. And it  
6 would help me to have answers to three questions in terms of  
7 how the Petitioners think this rule would work.

8           First, if the proposed rule language were in place in  
9 future rulemaking, could an entity other than the FRCC propose  
10 an alternative standard, or does this process contemplate that  
11 the FRCC is the only entity that brings a standard to the  
12 Commission?

13           Secondly, if this proposed rule language were to be  
14 adopted, could this Commission adopt a standard other than one  
15 proposed by the FRCC: Either the one proposed in the first  
16 instance or one proposed upon the remand that's envisioned by  
17 the rule language?

18           CHAIRMAN BAEZ: I think that's similar to the  
19 question Mr. Trapp posed to Mr. Wiley, unless I'm --

20           MR. MCGLOTHLIN: If that's the case, I didn't hear it  
21 that way.

22           CHAIRMAN BAEZ: I mean, that there can be criteria  
23 adopted on the Commission's own motion. Mr. Wiley, is that, is  
24 that -- are we clear --

25           MR. WILEY: Yes, sir.

1 CHAIRMAN BAEZ: Okay. Does that answer that question  
2 for you?

3 MR. McGLOTHLIN: Yes. And would that take place at  
4 the time the Commission conducts the rulemaking on the proposed  
5 standard that the FRCC brings?

6 In other words, could the Commission instead, in lieu  
7 of remanding a deficient standard to the FRCC for further  
8 consideration, could the Commission take input from interested  
9 parties, build a record and decide to promulgate a rule and  
10 standard other than the one that was first brought to it?

11 MR. WILEY: Yes, sir. I certainly envision that.

12 CHAIRMAN BAEZ: Yeah. It seems to me that's what  
13 would be suggested on the Commission's own motion to enter into  
14 --

15 MR. WILEY: We actually had language in here on our  
16 draft, and I think we decided that why would we put something  
17 in that the Commission knew they had the authority to do  
18 anyhow? But, I mean, if the language would help in some way,  
19 we don't have any problems with it.

20 On your first question, Mr. McGlothlin, yes, we do  
21 envision that the FRCC under this would be the only entity to  
22 propose a reliability standard under this rule to the  
23 Commission. If any other party wanted to, they could petition  
24 the Commission and have the Commission act on, through its own  
25 rights to initiate its own rulemaking. So it's always an entry

1 point on something like that. But this rule recognizes that  
2 the FRCC is the, you know, reliability guru for the Peninsular  
3 Florida and should, and should be the only formal  
4 organization to --

5 CHAIRMAN BAEZ: I want to understand your response  
6 but I also want to understand your question. How about that.

7 Are you -- is the nature of your question saying, I  
8 mean, would, would an entity, for instance Office of Public  
9 Counsel, have access to the FRCC process for adoption or some,  
10 some consideration or criteria? Was that your question?

11 MR. MCGLOTHLIN: It's a bit different from that. I'm  
12 glad you brought that up again because, in response to  
13 Mr. Wiley, I do think that the ability of -- if the FRCC were  
14 to open up that process, that would be healthy in terms of  
15 possible streamlining and Issue ID and that type of thing. But  
16 it is more important to me to be assured that whatever process  
17 the Commission adopts in the form of a rule provides the, the  
18 degree of participation that's envisioned by the statute. And  
19 what I had in mind when I framed the question was the  
20 possibility that the FRCC could propose a technical standard,  
21 and not necessarily our office but an interested party would  
22 perhaps have a consultant who has the necessary expertise that  
23 would lend credibility to the point would say, well, their  
24 proposal is lacking in this regard. We propose a different  
25 standard. And in the same process that was initiated by the

1 FRCC, the Commission would have a record and a reason perhaps  
2 to decide that while FRCC proposed Standard A, it's going to  
3 include in its rule Standard B based upon everything that it's  
4 heard.

5 CHAIRMAN BAEZ: Let me, let me ask Ms. Moore  
6 something. And I just want to be, I just want to make sure  
7 that everybody is on the same page. Is it everybody's  
8 understanding that irrespective of whatever the process,  
9 however, however a proposed reliability criteria got in front  
10 of the Commission for adoption, let's say after FRCC has gone  
11 through its internal process, whether it's opened or closed,  
12 irrespective of that, but that now FRCC has taken that official  
13 step of proposing a rule amendment or proposing a criteria for  
14 adoption before this Commission, is it everybody's  
15 understanding that, that now everyone is subject and that  
16 proposal, in fact, is subject to 120 -- what's the -- 54, is  
17 that --

18 MS. MOORE: That's correct.

19 CHAIRMAN BAEZ: Okay. So that, so it's subject to  
20 hearing, assuming the proper circumstances. I mean, it is  
21 subject to testimony and opposing, opposing points of view and  
22 opposing suggestions. Whatever, whatever the, whatever the  
23 opportunities are there under the rulemaking section of 120  
24 would be available in this process as well. Is that  
25 everybody's understanding?

1 MR. WILEY: Yes, sir. Absolutely.

2 CHAIRMAN BAEZ: Because I know that you, I know that  
3 you suggested expedited, on an expedited basis, but I think  
4 that that's something that we can -- you know, exactly what  
5 that means sort of takes different forms, but certainly not at  
6 the expense of --

7 MS. MOORE: The statutory requirements. Right.

8 CHAIRMAN BAEZ: -- the statutory requirements.

9 MS. MOORE: The only thing that really could be  
10 expedited is staff's work.

11 CHAIRMAN BAEZ: Isn't that always the case? Right?  
12 Yeah.

13 MR. WILEY: We are very familiar with 120 and all of  
14 its implications, and if we filed a rule, it would be subject  
15 to that. And we know that in some cases that rule might not  
16 come out exactly the way we wanted it going in.

17 CHAIRMAN BAEZ: Exactly. And I guess,  
18 Mr. McGlothlin, that probably answers your question.

19 MR. MCGLOTHLIN: It does. I would just suggest that  
20 the language of the rule be modified to the extent necessary to  
21 make that clear.

22 The last question is this. Could a party or entity  
23 other than the FRCC under this proposed rule file a complaint  
24 for enforcement?

25 MR. WILEY: We hadn't considered that in the rule,

1 but we would have no problems with it. I would think that they  
2 have that, that ability, that if the Commission made this  
3 particular rule mandatory, that someone would have the right to  
4 petition this Commission to do that. But if -- we would have  
5 no objections to that, Mr. McGlothlin.

6 MR. MCGLOTHLIN: Well, again, the proposed language  
7 suggests otherwise, and I would hope that in whatever process  
8 that follows that would be clarified.

9 CHAIRMAN BAEZ: Thank you. Commissioners, are there  
10 any other questions? Very well.

11 COMMISSIONER DEASON: What's the next step? We're  
12 probably going to go over this anyway.

13 CHAIRMAN BAEZ: I was going to get to that,  
14 commissioner Deason.

15 Ms. Moore, what, what are our next steps or what do  
16 you anticipate? I mean, at this point I've heard a lot of --  
17 based on the questions and the answers and certainly the fact  
18 that staff had some questions that there's probably some, some  
19 clarification and discussion time, and certainly we, I think,  
20 as has been repeated, repeatedly stated, I don't think that  
21 this, this proposed rule is in its final form, even near its  
22 final form at this point.

23 MS. MOORE: No. And Ms. Harlow would like to speak  
24 about the issues to be considered at this point.

25 CHAIRMAN BAEZ: All right.

1 MS. HARLOW: Mr. Chairman, with your direction, what  
2 staff would propose is that for FRCC to redraft the rule to  
3 address the concerns that we heard here today, and also to  
4 redraft the enforcement manual to include the FPSC in the  
5 process and then refile the rule with staff. And also we would  
6 suggest that the other parties, if they have general comments  
7 that they didn't express today or additional comments, would  
8 file those with the PSC by the 14th, next week.

9 CHAIRMAN BAEZ: So now that doesn't, that doesn't  
10 take into account whatever comments there may be after the  
11 redraft of the proposed rule? I mean, is there -- I'm having  
12 trouble understanding the --

13 MS. HARLOW: At this point what we're expecting to do  
14 is to have an additional workshop after we get the redrafted  
15 rule from the FRCC.

16 CHAIRMAN BAEZ: Okay.

17 MS. HARLOW: And that would probably be a staff  
18 workshop.

19 CHAIRMAN BAEZ: Very well. Commissioners, questions  
20 on the subsequent steps?

21 MS. HARLOW: Staff would, of course, also seek  
22 comments from the other parties on the redraft of the rule  
23 prior to a following workshop.

24 CHAIRMAN BAEZ: Very well. Ms. Moore.

25 MS. MOORE: If everyone will make sure they've signed

1 in the sign-in list with their email addresses or however you'd  
2 like us to distribute comments.

3 CHAIRMAN BAEZ: Very well. Do any of the  
4 presenters -- Mr. Wiley, any questions on that type of  
5 direction or some --

6 MR. WILEY: Just a clarification.

7 CHAIRMAN BAEZ: Sure.

8 MR. WILEY: Ms. Harlow said something about the 14th  
9 of next week. Did that apply to the redraft of the rule?

10 MS. HARLOW: No, sir.

11 MR. WILEY: Thank you.

12 CHAIRMAN BAEZ: Mr. Ramon is happy.

13 Any other questions or comments?

14 Ms. Harlow, I think your recommendations or your  
15 suggestions are, are good enough for now, and we would look  
16 forward to seeing the redraft based on the suggestions and the  
17 discussions that we had today. And then just keep, keep the  
18 Chair informed as to when the staff workshops are, are  
19 scheduled as a result of that.

20 MS. HARLOW: Yes, sir, we will.

21 CHAIRMAN BAEZ: Thank you. I want to thank all of  
22 those who presented today, and thank you, staff, for your  
23 questions, and Commissioners. We are adjourned.

24 (Workshop adjourned at 12:00 noon.)

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1 STATE OF FLORIDA )  
 : CERTIFICATE OF REPORTER  
2 COUNTY OF LEON )

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

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

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

DATED THIS 11TH DAY OF OCTOBER, 2005.

  
LINDA BOLES, RPR, CRR  
FPSC Official Commission Reporter  
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