BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED AMENDMENTS TO RULES REGARDING OVERHEAD ELECTRIC FACILITIES TO ALLOW MORE STRINGENT CONSTRUCTION STANDARDS THAN REQUIRED BY NATIONAL ELECTRIC SAFETY CODE. — DOCKET NO. 060173-EU

PROPOSED RULES GOVERNING PLACEMENT OF NEW ELECTRIC DISTRIBUTION FACILITIES UNDERGROUND, AND CONVERSION OF EXISTING OVERHEAD DISTRIBUTION FACILITIES TO UNDERGROUND FACILITIES, TO ADDRESS EFFECTS OF EXTREME WEATHER EVENTS. — DOCKET NO. 060172-EU

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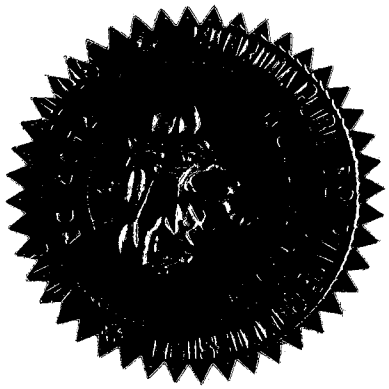

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PROCEEDINGS: RULE DEVELOPMENT WORKSHOP

DATE: Monday, April 17, 2006

TIME: Commenced at 9:30 a.m.
Concluded at 3:18 p.m.

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

REPORTED BY: JANE FAUROT, RPR
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporters

P R O C E E D I N G S

MR. HARRIS: This is a staff rule development workshop, a notice was issued for dockets, let's see, 060172 and 060173, notice of rule development workshop. The purpose of the workshop is set forth in the notice which you all have seen since you are here.

There is a sign-up sheet in the back of the room. Everybody that wants to speak needs to make sure you are signed in.

There are copies of the packet, also make sure you have those. They were published with the notice, but we have some extra copies over here to my right.

The purpose of today's workshop, as I understand it, and the technical staff will correct me, is we want to get you all's input on the staff proposed rules. We have a number of them in the packet. You all have looked at them. What we are trying to do today is get your comments. Are they good, are they bad, changes, proposals, additions, things like that. We want to try move pretty quickly. We have got a lot of information here. We have the whole day for this workshop, we have got a lot of people who are probably going to want to speak. So, again, what we are focused on, as I understand it, is trying to make sure that we get you all's comments and input.

With that, I'm going to go ahead and turn it over to

technical staff, who I believe have a couple of slides to start out with, and we will go from there.

MR. TRAPP: Good morning. My name is Bob Trapp. I'm with technical staff, and with me is Jim Breman, from my section, and Connie Kummer, and then Chris Moore, who is going to keep us straight from a rulemaking legal standpoint. And then, of course Larry, our lawyer, who is going to keep us all straight this morning.

We have a fairly daunting task before us today, so staff proposes to pretty much get right down to work. We are going to begin our discussions on Page 7 of the handout. I hope that you all have gotten a copy of the handout. If we need additional copies, please let us know so we can have them made. Please sign the sign-up sheet so we know who is here.

But before we start on Page 7, going through the text of the proposed rules, I just want to throw up some theme slides, if I could. The first one pretty well summarizes what staff has proposed in Rule 25-6.034, standard of construction, pertaining to the hardening of overhead and underground facilities. And, basically, what this rule proposal does is adopt the high wind standards from the National Electric Safety Code. It also -- that's for overhead poles and structures.

For underground facilities, we have basically encouraged the utilities to hardening prepare plans and construction standards to harden, water proof, storm proof

underground facilities in Category 3 storm surge areas.

The three colored maps behind me are three counties that represent the corporate headquarters of the investor-owned utilities. The state map got so small you really couldn't see it, so we picked these three counties just as an illustration of what is available at the website at the bottom of the page that's sited in the rule, and that is the Division of Emergency Management surge zone emergency planning maps. I believe Category 3 is shown in yellow, so that shows you the extent of the coastal areas that we are proposing hardening to take place in.

Other aspects of the rule, if you turn to Page 3 of the handout, in the next slide we have tried to address the issue of rear lot versus front lot construction. Jim did a good job of finding the horror slides of rear lot construction and how messy and difficult they can be in terms of access for utility maintenance and repair. And then we tried to contrast that with a fairly clean-looking front lot overhead.

And then, finally, as we progress through the rules to the underground sections, we have put into formula form the conversion case from overhead to underground for the CIAC calculation. And I assume that we'll later on in the day be discussing the components of this formula in some detail.

And with that, I'll will ask if there are any other staff comments before we get started on Page 7 of the rule.

Chris? Connie? Jim?

We will turn to Page 7 of the rule, then, or the handout, excuse me. And we're looking for your input, so we welcome you. This room is a little difficult for this type of working workshop. It's kind of hard to see and hard to know who is talking, so if you will maybe raise your hand, and also please identify yourself for the record because we are keeping a record here.

The first section has to do with application and scope, and I guess we'll start right off with a tough one, investor-owned utilities. Do you have any problem with our jurisdiction in this rule section? This is just IOUs first, and then we will go to munies and co-ops. Starting from my left and your right, Manny, Florida Power and Light.

MR. MIRANDA: You're just referring to Item 1?

MR. TRAPP: Just Item 1.

MR. MIRANDA: No, no concerns.

MR. TRAPP: Gulf?

MR. BADDERS: Gulf has no concerns.

MR. BURNETT: Progress Energy Florida, no concerns.

MR. TRAPP: Okay. Maybe we need to take appearances.

MR. SPOOR: I'm Mike Spoor, Florida Power and Light Company.

MR. MIRANDA: Manny Miranda, Florida Power and Light.

MR. BADDERS: Russell Badders with the law firm of

Beggs and Lane on behalf of Gulf Power Company.

MR. BATTAGLIA: Ed Battaglia with Gulf Power Company.

MR. BURNETT: John Burnett, Progress Energy Florida.

MR. McDONALD: David McDonald, Progress Energy.

MR. HAINES: Regan Haines, Tampa Electric Company.

MR. H. BRYANT: Howard Bryant, Tampa Electric Company.

MR. WILLINGHAM: Bill Willingham, Florida Electric Cooperative Association.

MR. MOLINE: Barry Moline, Florida Municipal Electric Association.

MR. TRAPP: And if you would, identify yourselves every time you speak.

Fred Bryant wants to be recognized in the back of the room, as well.

MR. F. BRYANT: Fred Bryant, Florida Municipal Electric Association.

MR. TRAPP: And, Fred, there is a whole bank of microphones here to our left. And anyone else who would like to speak, please feel free to come to a microphone.

And this is the most important lady in the room, our court reporter, who makes sure she knows who you were.

I think we got down to TECO.

MR. HAINES: Regan Haines, Tampa Electric Company. No comments on Item 1.

MR. TRAPP: I'll turn now and ask the same question to -- well, I guess the co-ops, since they are next in line.

MR. WILLINGHAM: Yes, we do question your jurisdiction, especially with proposed Sections 5 and 6 of the rule.

MR. TRAPP: Would you -- what's your proposal in Section 1?

MR. WILLINGHAM: Well, I mean, there are a couple of options here. If you are going to leave 5 and 6 the way they are, obviously, we would recommend that you just not put us in the rule. We have never been in the rule before, and we thought that was a correct interpretation before. But those two sections cause us a lot of pain. I can go through the whole spiel if you want to hear it.

I mean, we're -- the co-ops, you know, certainly share the Commission's desire to minimize the outages that are going to result in the inevitable outages from hurricanes, and we welcome the opportunity to work with you on this effort. But we just think you are talking about some big costs here. You're talking about things that, you know, construction standards as opposed to -- you know, the National Electric Safety Code has criteria in it. They are not really standards. And so we think you are kind of making a big leap of faith here that we just don't think is there. But these are -- when you are talking about big dollar items, we think that's exclusively

the co-op board's jurisdiction.

MR. TRAPP: Okay. Municipals?

MR. F. BRYANT: Bob, I have got a couple of questions on the section of the rule on standard of construction. And I would like to really hear from staff on what portion of your jurisdiction as to this part of the rule you believe you are implementing. I'm not trying to take a position right now. I really want to understand more of where you are coming from and the thought process of what you are trying to get to under this section.

As you remember, this particular section never was applicable to the municipals or the co-ops. The next section on safety was. And now you're adding to this section. I'm just trying to understand how you are trying to arrive at that.

MR. TRAPP: So you are more interested in the legal definition or the legal explanation as to why we have jurisdiction, or you're looking for clarification with respect to the technical requirements of the rule and whether or not they conform to existing jurisdiction?

MR. F. BRYANT: Well, obviously, you know that every rule that you adopt must have statutory jurisdiction authority in order to adopt that rule. Heretofore, this portion of the rule was not applicable to municipals or the co-ops, the standards of construction. I understand that in this rulemaking process you are expanding the scope of what you are

trying to accomplish in this particular area, so I'm curious as to which portions of the statute that you believe now are applicable in this one particular portion of the rule. Because, obviously, the next portion of the rule there has always been your safety provision. You have a particular statutory section on safety that applies to municipals and the co-ops that you have had implemented for, I don't know, 10 or 15 years.

So you have gone from one section of your rules that definitely the municipals and the co-ops were included under safety, and it is now going into construction where you have never had the jurisdiction before, so I would like to understand better the thought process of doing that.

MR. TRAPP: Well, I'm not an attorney.

MR. F. BRYANT: No, I know.

MR. TRAPP: I have an engineering background, but before I turn to my attorney, let me just give you the technical staff's perspective. We're given to understand that we do have jurisdiction under the statute, and that it has to do with whether or not that jurisdiction was codified in the rule and enforced in the rule in the past or whether or not the systems that existed up until now have been sufficient for the munies and co-ops to basically follow along, if you would, with what was being required of the investor-owned utilities.

I'm given to understand, though, that with respect to

the standards of construction, our legal staff tells us that we do have jurisdiction, and that if we elect to make you part of this rule, it is within our jurisdiction to do so. Understanding that the purpose of this rule is to try to strengthen Florida's ability, enhance our ability to serve the public good, protect citizens and their essential services to the extent that we can and to the extent that it is cost justified to do so, to withstand the onslaught of hurricanes and storms which seems to have increased in frequency.

So, again, I hope that we -- we trust that we haven't been Draconian in the measures that we have proposed here, but that is what we are here for today is to hear whether or not they need to be strengthened, softened, modified, or altered. So I hope, notwithstanding the jurisdiction arguments that we will have some good input from all the people here today about how we can make this a good rule, and then we can fight the legal battles later.

MR. F. BRYANT: I understand. You know, lawyers are caught up in technicalities, and I'm just trying to understand which portion of the statute that this new change to 25-6.034 is derived from. That is the technical question, and perhaps your legal staff could --

MR. TRAPP: Bill pointed specifically to Sections 5 and 6 of the rule which we will get to pretty quickly to discuss the merits of the language. Is your objection to the

overall exercise of jurisdiction or could it be possibly be ameliorated by fixing 5 and 6?

MR. F. BRYANT: Normally, you know, when I have an objection, I take my shoe off and bang on the table. This is really just a preliminary question to make sure that we understand where you all are coming from.

MR. TRAPP: Okay. Larry, did you have --

MR. HARRIS: Yes. I don't want to go into a lot of detail about the argument, but I think, essentially -- I think it is 366.05, Subsection 8, I believe, requires all electric utilities, and my understanding of all electric utilities is everybody in the state needs to maintain a reliable grid. And we have the authority after due process, after hearing concerns -- and "we" being the Commission, have the authority to require what the Commission would determine to be in the public interest and necessary for safety and reliability.

I think there is a distinction between public utilities and electric utilities. And my recollection is the statute that I'm thinking of refers specifically to all electric utilities within the state.

Again, I think Mr. Trapp was correct. Our real interest here today is in making sure you all feel that you have presented enough information that we can take to the Commission for their determination of public interest. But I do believe that under the Grid Bill the Commission has the

authority to require for safety or public interest, you all to step up to some standards if a determination is made that the standards you are operating under today are not sufficient.

MR. F. BRYANT: So I guess the answer to my question was this is not based upon your safety jurisdiction the specific section that the next rule is based upon as opposed to your Grid Bill jurisdiction.

MR. HARRIS: Correct. There's a difference between our safety -- the Commission's safety jurisdiction and the Commission's reliability jurisdiction.

MR. F. BRYANT: I understand. Okay.

MR. TRAPP: I guess for the time being we will move to Paragraph 2. Paragraph 2, the intent of Paragraph 2 is to recognize the current edition, which is the 2002 edition of the National Electric Safety Code, as the minimum construction standard for transmission and distribution facilities. This parallels recognition of this code in the safety statute and the safety rule, but we wanted to make a separate statement and make a clear distinction that there are overall construction standards and then there are safety standards, and they are two different things. So this basically codifies the National Electric Safety Code in its current form, and as it is updated.

At the same time, let me cover Paragraph 3 which, basically, is staff's attempt to acknowledge the grandfathering provision that's usually associated with the National Electric

Safety Code. This says that existing facilities are judged by the code at which they were constructed or at the time they were constructed. And, basically, new construction, new code standards only come into play when you have major repairs, replacements, retirements, things of that nature. So taking 2 and 3 together, anybody have a problem with 2 and 3?

Bill.

MR. WILLINGHAM: Yes. Bill Willingham with the co-ops. I just have -- it's kind of a technical problem. I'm not sure it is a big problem, but calling the National Electric Safety Code the minimum construction standards, I kind of have a problem with. Because the electric safety code, they are not design specifications, and it is not really a construction standard. We have the rural utility services that pretty much defines what our construction standards are, and if the PSC is going to get into the business of defining the co-ops' standards, then we have got some problems under the RUS, because we loan covenants with the RUS, and we will follow their specifications.

I don't know where we are going with this, but we have got the potential down the road to have a conflict with those, and that would be a huge issue for the co-ops.

MR. TRAPP: To what extent do the code requirements or construction standard requirements of the co-ops fall below the National Electric Safety Code?

MR. WILLINGHAM: Oh, none of them are below. That is the absolute minimum that we design to. Several of our co-ops are designed above that standard.

MR. TRAPP: Well, if they are the absolute minimum, what's wrong with calling them the absolute minimum?

MR. WILLINGHAM: If they are the minimum, I don't have a problem with. I just have a problem with saying that they are construction standards, because I don't think they are. In fact, the code specifically says they are not design criteria.

MR. TRAPP: If you look at Line 12 at Page 7, it says as the minimum construction standards. Does that not satisfy your concerns?

MR. WILLINGHAM: Well, yeah. I don't think the National Electric Safety Code are construction standards. So, you are adopting them as construction standards, and I just have got a problem with that terminology. If you want to say as, you know, the minimum safety criteria or something like that, I think that would be more appropriate.

MR. TRAPP: Well, again, we are trying to make a distinction here between safety requirements and construction standards for reliable adequate provision of service. So, I'm not sure that that solution would work. Do you have another solution?

MR. WILLINGHAM: No, I don't.

MR. TRAPP: Maybe think about it for the written phase.

MR. WILLINGHAM: We'll do our best.

MR. TRAPP: Thanks. Anyone else?

MR. BURNETT: Bob.

MR. TRAPP: I'm sorry.

MR. BURNETT: Thank you, Bob. John Burnett, Progress Energy Florida. Bob, I think you answered sort of the question we had in your description of the interplay with Subsection 2 and 3. And you actually used the word major there when referring to expansion, rebuild, and relocation. I think that clarified staff's intent for us. And in the written phase we wanted to offer up maybe some definitions that would capture the intent of major.

But, again just to reflect. That was staff's intent, though, is to make the expansion, rebuild and relocation major projects and not, for instance, touching one piece of equipment on one pole which would require an entire line to be upgraded out of the grandfather standard.

MR. TRAPP: So you are speaking of Lines 14, 15, and maybe 16?

MR. BURNETT: Yes, sir.

MR. TRAPP: We have difficulty with that, understanding what is major maintenance and what is minor maintenance. And to the extent that you can clarify that, I

think it would be helpful.

MR. McDONALD: Well, I think as we consider -- David McDonald, Progress Energy. As we consider this rule, and I'm sure I'm going be oversimplifying it, but we are looking at potentially the replacement of a pole is when this rule would be invoked. Because we go under the premise of a work order number to a lot of poles doing a lot of different things. And when you look at a relocation, as an example, you may -- on a feeder you are may have a thousand poles, and you are only affecting 20 or 30 poles on that. The way I would interpret what you are striving for is the 20 and 30 would fall under this premise as long as those poles are being removed and relocated to another location. Is that a pretty good -- but not the rest of the pole line.

MR. TRAPP: I really don't know, David. We're torn, to be honest with you. We have got the pole inspection plan out there that was intended to find every rotten pole and make sure that it met standards. And I think our -- I don't know. I personally see that as the weakest link in terms of a storm resistance load, whatever, that pole standing there. So I think our intent is to address major work orders, and we attempted to address it with work order, but I think you're right, a work order could be one pole or it could be many.

So, again, staff is struggling, trying to define this. Much of it, in my mind, may come into play, as you do,

and we are going to ask at the end of the workshop that you do do some economic analysis on these words. And to the extent that maybe you could give us some feedback on what the cost impacts would be as to whether or not we narrow it to one pole versus 20, 30, 40. You get into line segments. I don't know -- we haven't heard that much trouble with that, so I'm not sure I am as concerned, but you did touch on the sore point, poles.

MR. McDONALD: And the biggest point is the demarcation. When you look at a relocation, it's pretty well defined what that takes. And I'm just using that as an example, the major relocation and the major project. It has pretty good boundaries. If you start going beyond those boundaries, then where do you stop? Do you stop at the next disconnect point? Do you go all the way back to the substation? And, then, do you go beyond that, do you go to the lateral? So that's the clarification, in order to answer this economic evaluation, we need to consider.

MR. TRAPP: I take your point, and would very much appreciate words to support the point, because time is going to be of the essence here. And we do need proposed alternative language if you have a real heartburn with something we're proposed.

Are there any more comments?

Manny. I'm sorry, I think Fred was first.

MR. F. BRYANT: We are on Page 7?

MR. TRAPP: Yes.

MR. F. BRYANT: Okay. I'm a little confused with talking about the -- and maybe it wasn't intended. It seems that you are saying the National Electric Safety Code is minimum construction standards. And then I read the introduction to the National Electric Safety Code, and it says, and I will paraphrase: The purpose of NESC is the practical safeguard of persons during the installation, operation, or maintenance of electric supply and communication lines and associated equipment. The NESC contains the basic provisions that are considered necessary for the safety of employees and the public under these specific conditions.

And this is the line bothers me: The NESC is not intended as a design specification or as an instructional manual. Do you see any inherent conflict in the verbiage of your proposed rule that seems to indicate that the NESC is a minimum construction standard?

MR. TRAPP: My problem is I don't think you want us to write construction standards for you.

MR. F. BRYANT: Oh, I agree. And I'm not quarreling with what you are trying to get at. I'm just asking. It's a verbiage question more than a technical question. I was just troubled by what I was reading in the NESC prologue, if you will.

MR. TRAPP: Well, the easiest way to take care of that trouble is to just say that we ignore that sentence in the code, and we don't adopt that sentence. But I don't think that is very practical. Just to throw an idea out there, what if we said that -- instead of saying as the minimum construction standards, what if we were to concept it as the basis for minimum construction standards to be proposed and adopted by the utilities?

In other words, what we're looking for here is a base line, a starting point, and we have selected the National Electric Safety Code because that is pretty much all we are aware of. The burden, though, is on you. The burden is on the utility to construct and maintain its facilities in a safe, efficient, effective, adequate, reliable manner. And that is what is we are trying get to here. This is just the starting point. Now we are going to add to it a few more hardening concepts later on in the following paragraphs. So does that make you feel any better if we were to --

MR. F. BRYANT: I'm --

MR. TRAPP: The basis -- you know, the basis for plans to be developed by utilities?

MR. F. BRYANT: We might have some suggested words. You know, I'm just trying to think through how you are using your language here.

MR. TRAPP: Well, I am hoping to get some kind of

consensus out today.

MS. KUMMER: Bob, could I jump in for just a minute?

MR. TRAPP: Connie.

MS. KUMMER: I'm not sure that just because the NESC doesn't set itself out as being a standard that we can't adopt the criteria in that as a standard. Now, that is just a thought. We haven't talked about that in particular. But just because it doesn't hold itself out to be a standard, I don't think is really a controlling factor.

MR. F. BRYANT: I understand, Connie. The last sentence of Subsection 2 talks about a copy of the NESC can be obtained from the Institute of Electric and Electronic Engineers, EEI. Just a suggestion, you might want to think about how you word that in here. Because if I were John Doe Public and read this and then called and asked for a copy, and I was told as I was last week when I called them, yes, you can have a copy, send us $200. I guess if I were the public I would be a little upset with the Commission saying to the public you can get a copy, but then I find out it cost me $200.

MR. TRAPP: I think I would be a little upset with the Institute of Electronic and Electronic Engineers for putting those publication requirements on such a public code. And maybe we should refer those phone calls to them and to ANSI and to some other -- your point is well-taken. Staff has one copy, by the way, that's what we can afford.

I think Manny was first, and then Mr. Nelson, is it, Nelson Bingel?

Manny.

MR. MIRANDA: Manny Miranda, Florida Power and Light. Generally, we are in agreement with the context of it. One area that we would like to ask about is during a storm restoration event, and we would like to make sure that during a storm event that we have an exclusion for that. We would come back and rebuild, but there is a possibility that we don't want anything that would delay our restoration efforts.

So we want to make sure that, you know, for example, you may have a concrete pole that broke due to some kind of toppled tree or something. We may want to go back with a wood pole temporarily, get lights on and then come back and build it back to the appropriate code.

MR. TRAPP: As you propose that language, keep in mind that temporary repairs should not be permanent repairs.

MR. MIRANDA: We understand that.

MR. TRAPP: And so any exclusion that we grant should be followed by, in my mind at least, a very stringent requirement to get the permanent repair in.

Mr. Bingel, I believe it is.

MR. BINGEL: Yes. I'm Nelson Bingel with Osmose, and I am also on the NESC. And there is -- at every meeting we get together there is always a reminder that it is a basic safety

standard. That is the definition of the NESC. It is not a design guide.

But I think, Bob, you were moving in the direction that maybe could blend these two requirements together with the idea that if it said as the minimum standards for safe construction of transmission and distribution facilities, then we are not really calling it a construction guide or a design guide.

MR. TRAPP: That is a point well taken.

Do we have other comments? Barry.

MR. MOLINE: Bob, I just want to clarify, to follow up David's question about major and your comment back to him that said staff was a little uncertain about what you were -- how you were defining that. And you asked us for words to define that or economic analysis. What are you looking for? I mean, we can do anything, but are you looking for a list of 20 examples we consider this to be major and this not to be? I mean, are you looking for, you know, just a sentence that tries to define it? But, you know, you asked us for information, but I'm trying to figure out what kind of information you need to have to define it.

MR. TRAPP: As we attempt to define the granularity, I guess, of what we mean by what is a replacement, what is major, what is minor, what is in between, it occurs to me that the decision has to be governed to some degree by cost, cost

impact. If it was free, every time something breaks replace it. But it's not free. So I need some type of system analysis from each utility on what, you know, order of magnitude cost impacts of different gradients of the words you're going to propose. I need to know what it is going to cost.

MR. MOLINE: Okay.

MR. TRAPP: Yes, sir.

MR. ROLLINS: My name is Martin Rollins. I'm a consulting engineer from Gulfport, Mississippi. I'm here this morning on behalf of the North American Wood Pole Council, which represents all of the wood pole manufacturers in North America. I just wanted to, you know, make a short comment that I had questions as I read this in terms of interpretation and applicability. Some of the things that Mr. McDonald, I think, has sort of alluded to.

In Paragraph 2 we talk about new construction, but when we get over to Paragraph 5 or 6, we get as specific as new structures. And we talk about relocations and we talk about expansions, rebuilds, et cetera, the interpretation is going need to be made as to, you know, what are you really saying in this rule. And you talked about a line relocation and how far back does it go? Does it go to the next switch gear or whatever.

I guess my question, or to further expand on that is are we only talking about structures? If we are going to

upgrade to NESC extreme wind criteria, then we have got all other aspects of the system that need to be evaluated at that the time also. That would include cross-arms and conductors and insulators, et cetera. So how do you -- and I guess what I'm saying and I'm raising the issue that there is a great deal of interpretation or clarification that's going to be needed to be developed in order for the utilities to be able to understand what you are actually asking of them.

MR. TRAPP: Well, just to answer your question, on Line 13, it says construction standards for transmission and distribution facilities. Facilities is meant to be all-encompassing. I think our discussion may have gotten focused into poles, but we are talking about everything.

MR. ROLLINS: Right. But I guess the question is I'm going out on a routine replacement to replace a single pole, be it wood, steel, or concrete. I'm replacing a single pole on a routine maintenance basis. Do I have to design that new pole to NESC extreme wind criteria in accordance with Paragraphs 5 and 6, or am I not going to be allowed to do that? Because, you know, Paragraph 5 says new structures.

MR. TRAPP: We're on Paragraph 2.

MR. ROLLINS: I understand. But I guess it goes to the definition of what we are calling new construction, then.

MR. TRAPP: Well, let's try to get to Paragraphs 5 and 6, because that is really what we are here for.

MR. ROLLINS: Yeah. I wasn't objecting --

MR. TRAPP: No. At that point I think your point needs considerable discussion.

MR. ROLLINS: The other thing is I think you should properly reference the National Electrical Safety Code, I think is the property name.

MR. TRAPP: Excuse me. Say that again.

MR. ROLLINS: It's the National Electrical Safety Code, not the National Electric Safety Code.

MS. KUMMER: Let me just jump in. I think I'm hearing the same types of things from different people around the room.

You have to remember rulemaking is by its nature a generalized concept. You are not going to put a laundry list of every possible thing that could happen in a rule. It just doesn't work. So we try to capture as much as we can. And, granted, there will be some ambiguities. There is in every rule in the rule book. There are gray areas, and we have to deal with those. What we're trying to do is capture a broad concept with enough detail that we can implement it and maybe draw some lines in individual circumstances down the road. But we will never be able to capture in the rule every single circumstance that will arise.

MR. TRAPP: Can we move to 4?

Having established the National Electric Safety Code

as kind of bare bones minimum, Paragraph 4 says the utilities can do more. Does anybody have a problem with that?

MR. WILLINGHAM: Bob.

MR. TRAPP: Yes, Bill.

MR. WILLINGHAM: This is Bill Willingham. I don't have a problem with exceeding the minimum National Electric Safety Code or Electrical Safety Code, excuse me. But, again, just -- I have just a conceptual problem with dealing with the code as being a reliability standard. It is not really designed to be a reliability standard. So I don't know if there is anything out there that we can use, but calling it, you know, for reliability purposes is -- I'm not sure that is appropriate.

MS. KUMMER: You mentioned that RUS has standards. How do they compare to the code? Are they roughly the same types of things or is it a totally different concept?

MR. WILLINGHAM: It's different. I mean, this is just for 14.4 kV construction and these are all the construction drawings. It's very different than the code. The code really has the minimum criteria that these drawings are based on. So, you know, these are construction standards, and the code is certainly -- they are built to withstand the minimums of the code. The code is like our -- is your ground floor. This is where you start. You have to design to this level.

MS. KUMMER: But RUS exceeds the NESC across the board?

MR. WILLINGHAM: Not across the board, no, ma'am. But in several cases co-ops -- they are allowed to go above the RUS standard if they want to. They just -- they can't go below the RUS standard.

MR. TRAPP: And that's what this rule says.

MR. WILLINGHAM: Exactly. But the concept of using it as a reliability standard, that is not what the code is for. You know, we take reliability into concern when we do our construction standards, but the code is not a reliability standard.

MR. TRAPP: Okay. I understand your problem is with the words --

MR. WILLINGHAM: Yes, sir.

MR. TRAPP: -- as we have used them. But, again, I will offer the concept. If we use the National Electric Safety Code as a starting point and say that utilities will adopt minimum standards in adherence to that code or some other way of saying it, you know, does that help you?

MR. WILLINGHAM: Yes. Because actually we are fine with it, and we do that already. It's just the word reliability is what is troubling to us.

MR. TRAPP: Okay. So we will call the duck a goose, and it will be fine.

MR. WILLINGHAM: Okay.

MR. TRAPP: Okay. Can we move to 5?

Well, before I leave 4, I want to go to Lines 2 through 4 of the previous section in 4, where it says each investor-owned utility, and here we are making -- I want to make it clear we are making a distinction here that we have ratemaking authority over investor-owned utilities, but not over munies and cooperatives. So to the extent that cost justification is required for ratemaking purposes, we're focussing in on investor-owned utilities. We have asked that they -- that you, IOUs, identify and report the effects on total system costs and reliability and justify any resulting increases in rates to any standards that you adopt that exceed the minimum level of the code. Is there any comment on that?

MR. HAINES: Regan Haines, Tampa Electric. Just to clarify and make sure I understand the intent, the minimum standards as you have defined here includes the extreme wind that you are proposing in 5?

MR. TRAPP: No.

MR. HAINES: So if we were to exceed the minimum as the NESC is currently written --

MR. TRAPP: Correct.

MR. HAINES: -- we need to justify that?

MR. TRAPP: The intent of our rule construction is to first establish the minimum, then allow utilities to go beyond

that where it is prudent and cost justified to do so, and then identify two specific areas where you are ordered, basically, to exceed the code. That's the concept.

MR. HAINES: Okay.

MR. PORTUONDO: This is Javier Portuondo with Progress Energy. Bob, I need to understand Line 4, resulting in an increased rate charged to ratepayers. This is at the time that this construction standard is exceeded, is that case-by-case? Help me understand what staff is getting at there.

MR. TRAPP: My perspective is that you manage the company, we don't. We don't micromanage you. You have to make decisions out there every day to budget, expend money. At the time you make those decisions, you make some assessment as to whether or not you think that's going to be viewed as prudent by the Commission. And then you take the action, then you take the risk, and then you justify it at the time of cost-recovery. That is, I think, the concept we were trying to capture here, is that you have to be prepared to defend any increase in cost as being justified.

MS. KUMMER: It's the same kind of standard analysis we go through in every rate case. We look at your expenses, your expenditures. If they look high or out of the ordinary, you would be required to justify them.

MR. PORTUONDO: Okay. I was just more concerned that

we may provide more specificity of when that is going to take place.

MR. TRAPP: We are not proposing a clause, and we are not proposing a time -- it is, basically, at the time of cost-recovery.

MR. PORTUONDO: At time of cost-recovery.

MR. TRAPP: When you request cost-recovery would be, you know, the last time -- excuse me, the latest time, I guess, we would look at it. But you know very well how we are. We talk. You come up and tell us some things that you're doing if you feel uncomfortable about it and get some guidance and things of that nature.

MR. PORTUONDO: That's perfect. And I may even, you know, recommend that we add at time of cost-recovery, increase at time of cost-recovery.

MR. BREMAN: One clarification. This is Jim Breman. Is your question with respect to the report, the timing of the report?

MR. PORTUONDO: No, I would believe that it would all occur at the same time.

MR. BREMAN: Right.

MR. PORTUONDO: You would be justifying it at the time of cost-recovery requests.

MR. TRAPP: But I'm hearing you are probably going to suggest that language -- those words be tagged on to the end of

Line 4?

MR. PORTUONDO: I think it gives it more clarity.

MR. BADDERS: One comment. This is Russell Badders on behalf of Gulf Power. Where we discuss, report the effects of the total system cost and reliability, I heard you say that you are really just trying to get at the regular prudency review. Instead of tying this to reliability or anything like that, wouldn't it be better to go ahead and just point this to the simple prudency review language, just discuss prudency?

I guess my concern here, if you tie it solely to reliability, there may be other reasons you go beyond the NESC standards. It may be that you want to try something, and you can't show that it may have -- that it will have an increase to reliability, you would still want to do it and it would still be prudent. I mean, it is still prudent to pilot things. It is still prudent to take activities, even if it isn't tied solely to reliability. It just seems to me that this ties this to reliability as the prudency review. That's the standard -- you're not following?

MR. TRAPP: No, no. I am following. I'm just having a hard time understanding what areas you would -- I mean, this is a reliability rule, so --

MR. BADDERS: I understand. I guess my concern is there may be things that a utility would want to try or that they are going to do that they might may not be able to show a

reliability increase at the time.

MR. TRAPP: What other purpose --

MR. BADDERS: Well, it could be that you are trying to discover whether or not it will or it won't. You have to pilot, you have to try it. I would hate to undertake something, and you go in and it's, well, what are the increases? Show me the increased reliability. How does that effect the numbers? You may not have that up front. It may be something you will get over time, but it would still be prudent to undertake those activities.

MR. BREMAN: Does your question really go to whether or not this rule applies to R&D?

MR. BADDERS: Maybe to some point. I guess really I was trying to bring it up to one step -- I guess to a more general just discuss prudency review. They have to undertake -- they can exceed minimum construction standards where it's prudent to do so, something in those terms, rather than basically tying it to total effect on system costs, reliability and all of that. I know -- I think we're getting to the same point, I'm just trying too make the rule a little broader.

MR. TRAPP: And I'm trying to understand your concern. On Line 3, it starts a compound sentence, and it requires two things. It requires you to report some information, because we are interested in knowing that

information. But then the second stand-alone phrase in my mind really occurs on Line 4, and shall justify any resulting increase. Now, you can use any reason or excuse under the sun as far as I'm concerned to justify an increase, but at minimum we want to know what the effects are on the total system cost and reliability.

Now, if there are other effects, maybe we should include those in the rule. But what I'm hearing is maybe you want us to tone that down to say report the effects, period.

MR. BADDERS: I think we get to the same point. I was just trying to make this a little more general, because I thought I heard Ms. Kummer just say that we're really trying to get to the regular prudency review. Obviously, anything that an IOU does for cost recovery in a rate case or otherwise, you have to prove up the prudency of your actions. I was just trying to bring the language back to that.

MS. KUMMER: Okay. Well, my comment went to the rate increase in the recovery of the clauses. I think Bob is right, the whole purpose of this rule is to improve the reliability of the system, and that's what we are trying to get at is what have you done. There may be other reasons in addition to reliability that you do something. That is really what we are trying to key in on is reliability.

MR. BADDERS: Okay. Thank you.

MR. TRAPP: Manny, I guess. I'll take my investor-owned utility first, if you don't mind.

MR. MIRANDA: Bob, one of the things as we are working through trying to translate the extreme wind into an operational tool, one of the things that is starting to surface for us is, you know, we serve 35 counties, and not having so many different standards within each one of those. So as we are looking at translating it into a real operational tool, we are defaulting into, like, three or four horizons, for example, within the state. And in some cases, some of those zones exceed the minimum of the NESC, and I just wanted to get some clarification. Is this what you are looking for as to come forward and say we are going to exceed it, but in the case of FPL, for standardization and economies of scale and for translating to real construction standards, at minimum we would meet the NESC requirement.

MR. TRAPP: I don't think the word system in here constrains you from that concept, if that's your concern.

MR. MIRANDA: That's my concern.

MR. TRAPP: You know, I think it is the responsibility of the utility to determine what is best, and if you feel that addressing divisions differently for just cause, that you report and justify, I think that's absolutely acceptable.

Jim, did you have a comment?

MR. BREMAN: I think he is trying to jump to the goal-plating question of when you go to a rate case here numbers are somewhat overstated, because you have built to 140-mile-an-hour zone when in reality the area you are serving is 110.

MR. MIRANDA: Jim, as we translate, it doesn't go to those levels, but you might be between 135 and 140, for example, and it doesn't make sense to have one for different wind speeds. So we were saying maybe that's an area we would go to 140, and the minimum requirement under NESC might be 135.

MR. TRAPP: I think the code -- is it still up there? Yeah. The wind speed code already has different requirements for different parts of the state. If you have a problem with a hot spot that repeatedly gets hit with higher winds than are shown by this code, I would think you need to react to that.

MR. MIRANDA: Sure.

MR. TRAPP: And I think in two ways. First, go to the hot spot and fix it, and then send your person that represents you on the committee with ANSI to fix the code. And then that in turn would be adopted by the Commission if it's prudent.

MR. MIRANDA: I will give you an example up there, Bob. For example, Broward County has three zones within it. In order to manage that effectively, just balancing standardization with, you know, economies of scale, if we can

prove that in the end it is the same for cost-effectiveness, we may prefer to have one standard in Broward County versus three operating practices within one county, and that's what we are referring to is in that region.

MS. KUMMER: I think you just answered your own questions. If that is the most cost-effective construction, then that is what we would always want you to do, and that would be your justification for doing it and your responsibility for showing those.

MR. MIRANDA: And then we would come forward and present it if there is some --

MR. TRAPP: Yeah. And I just want to make it clear, also, that if the rulemaking language that we have selected is too restrictive, give us something else.

MR. MIRANDA: Very good. Thank you.

MR. TRAPP: Because we do not want to tie your hands on this. We want to hold you to cost responsibility, reliability, and those types of measures. But, certainly, we don't want to tie your hands in terms of creativity or efficiencies and things of that nature.

And I had a question here or comment.

MR. ROLLINS: Again, this is Martin Rollins. I'm certainly not knowledgeable at all in terms of the rate structure and how that all works between the utilities and the Commission, but I just want to point out one thing. The

language that we see right now seems to be encouraging, in fact, that we are going to design to NESC minimums, whatever those safety criteria are. And I just want to point out that for distribution lines in particular, I would submit that there is not a single line in the state of Florida that was initially designed at NESC minimums, nor would there be one, in my belief, in the entire United States.

In other words, the distribution system is designed and built with some fat in the system because it is intended to be a capital asset that is going to last for 35 or 40 or even 50 years. So you have to put some fat into the design to allow the additional underbuild, you know, the additional cable TV, telephone, et cetera, potentially to reconductor that line with larger conductors at a point in time in the future where we don't have to replace all the structures.

So this language that I'm seeing, I guess my question is this language is sort of saying that utilities are not going to be able to design distribution systems the way they have in the past, which is to include some excess capacity, so to speak, to allow for future additions of, for instance, underbuild without having to go through, you know, some formal rate determination procedure.

MR. TRAPP: I don't believe that is the intent.

Mr. Bingel, I know that you probably represent your company nationwide. Do you have any examples from other

jurisdictions that might help us here in terms of standards of construction adoption language?

MR. BINGEL: I thought what Martin was referring to is the fact that when you -- distribution in particular, when you build a line you don't engineer each span. And so you will look at some of the higher loaded spans and pick a class pole, and you will install a hundred of those. And, typically, then there is a little extra margin on the majority of the installations out there. I would say that it is true that the vast majority of poles are not loaded to 100 percent. So there is some extra margin in there, but I think that is just part of a construction tolerances kind of thing.

MR. TRAPP: And I think we agree, and I know the word gold-plating was used, but it is not our intent to accuse anyone of gold-plating here today or intentionally doing it in the future. You necessarily want to design more into the system.

I was a Star Trek freak. I just loved it, and you know, Scotty never gave you the true number. He always held back at least 10 percent, so you know. I'm struggling, though, with how to capture that in terms of rulemaking language. And if -- I mean, again, the concept was very simple. We are simple-minded staff. Start with the National Electrical Safety Code, allow the utilities to build in fat where it is prudent to do so, address two specific areas of hardening. That was

where we started. If there is some better language to do that, that's what we would like to know.

MR. BINGEL: I think this might fit in with the previous discussion and your comment about the fact that it's the most cost-effective way to not engineer every single span; it's to engineer the whole line. And inherently there is some extra capacity in most of the poles, but that is still the most cost-effective way to build it.

MR. BUTLER: The concern, though, that I think that -- this is John Butler, Florida Power and Light Company. The concern that we have about the reporting aspect of this is that taken literally and at its extreme, just using the example given of a line where some of it requires a particular size and strength of pole, other parts that are not quite as highly loaded you could you get by and meet the minimum with a little bit less of a pole. And maybe some other part on the line it could be even a slightly smaller pole.

At its extreme, read literally, this reporting requirement would have the utility going in and determining kind of pole by pole where that's the case, and then reporting to you each one of them, what the justification for that one versus another one is. It seems like that could be very burdensome and really not give you any information you're particularly looking for.

This needs some sort of either de minimis threshold

or some sort of intent to have built the line deliberately beyond sort of what would ordinarily be the applicable standard, something like that to keep it from at least potentially creating a real reporting nightmare.

MR. TRAPP: John, I think staff's intent here was -- I mean, we struggled with this. Do we want the Commission to approve every project, every work order? You know, I don't think the Commission has enough time to do that, so we softened it to a report. Maybe that is not the right word. What language would you suggest?

MR. BUTLER: Well, going to what I was saying earlier, it seems to me like that either some sort of de minimis threshold on it where, you know, if you are exceeding by some sort of percentage or going into a separate category than what would otherwise be applicable, that that is something that you would end up reporting.

Or alternatively that, you know, where there is the reporting on plans that a utility has to make a specific kind of conscious exceedance of ordinarily applicable standards in an area that the utility would end up bringing those to the staff's attention, as opposed to the kind of -- inadvertent isn't quite the right word, but just kind of inevitable minor exceedances that come from having some consistency in the system and also allowing yourself some margin for error on what will be required in the future.

MR. TRAPP: The difficulty I see with that is assigning numbers to words like de minimis, margin, things of that nature. And maybe that's where we will get some help with the language in terms of going back to the discussion we had on what is a relocation, what is a repair, what is a fix.

It is not our intent to change the current system. I mean, we think, basically, you build structures properly. It is our intent, however, to focus in on these areas, wind speeds and their effect on overhead facilities in total, and flood zones, that's really -- but in order to get there, in our minds, we had to start with building from a minimum, National Electric Safety Code. The utilities, you know, have their own standards and then maybe -- and more and more in my mind the discussion we had with Bill and the co-ops of instead of calling the National Electric Safety Code a standard, making it the basis for construction plans and standards that utilities adopt internally that are subject to review by the Commission, which I think is the system now, is it not?

You have your own construction manuals. They specify how you are going to build poles, lines, segments, systems. And the Commission periodically, through its staff and through hearings and through site visits, reviews those and feels comfortable with them. We get to a rate case and we give you money for them. So maybe we can reword this a little bit.

MS. KUMMER: Bob and I may disagree on this, but it

seems to me that last sentence is simply to ensure accountability, that you're not going out there putting in things that you don't need and then come in here expecting to be reimbursed for them.

Certainly, put in what you need, what you think is prudent and what is cost-effective. But don't just go out and build everything to the gold standard, and then say, oh, well, we had to do it for reliability, give us the money. That is my take on that sentence. It's simply -- it's a measure of accountability. That is what we were trying get at. If you have got better words, we would welcome them.

MR. BREMAN: John, I don't know if you were in the room at the time, but I think Progress and Gulf Power were making comments to the effect that the language at the time of cost-recovery being added to this sentence might allay some of your concerns about reporting. But that was the general concept. We weren't really trying to change anything or make new reporting requirements.

MR. BUTLER: I was in the room when that was described. Is it the intent of that that it would apply to both the reporting and the cost justification, if you -- that timing constraint?

MR. TRAPP: It would not be my intent. Jim and I may disagree on this point. It would not -- and, again, reporting may be not the right word. But I think you are -- it is your

responsibility to be prepared at any time the Commission asks to justify your actions. And I think that's what is intended by, you know, maintain reports, maintain whatever. When I come to you and ask you, though, why did you spend a million dollars because you, you know, increased this particular standard? And you say, I don't know. We did that ten years ago, and I don't have any justification for it, but give it to me anyway. Well, I want -- you know, we want you held to a standard of being able to justify your actions at any time. And it culminates at the time of cost-recovery, but I think it can take place at any time in the continuum.

MR. BUTLER: We'll think of some other words, if we can.

MR. TRAPP: Yes, sir.

MR. ROLLINS: Any possibility of just changing that word minimum to normal? Because your normal construction is going to exceed the minimum standard and --

MR. TRAPP: Which line?

MR. ROLLINS: On Line 2.

MR. TRAPP: Line 2, exceed minimum construction.

MR. ROLLINS: Just say normal construction standards.

MR. TRAPP: That might work. Can we move to 5? Now that we have described, you know, the way things work, Paragraph 5 is the new stuff.

Yes.

MR. BURNETT: Thank you, Bob. John Burnett, Progress Energy. Bob, if it's acceptable, we have some proposed language that we would just like to tell you first and then tell you why we would propose the different language there.

MR. TRAPP: Okay.

MR. BURNETT: Starting at Line 8, Progress Energy Florida would propose that the sentence read, "The extreme wind loading standard shall be applicable to targeted facilities as identified by utilities as a result of post-storm data gathering and analysis." So, effectively, we would strike everything on Line 8 after the word "to," pick up the word targeted and facilities in Sub C, and then add as identified by the utilities.

MR. TRAPP: So you would not eventually build the state of Florida to the wind code standards through replacement, you would only do it on a targeted basis?

MR. BURNETT: That's right. And, Bob, the justification behind that is it seems that what staff has done in this whole hurricane hardening process is taken a tiered approach, which we think is a good idea. You have set forth an inspection plan, a sort of data gathering and reaction plan that we are going to present in June. And then we think gathering data from that targeting, making good decisions that make good sense based on the inspections and the data gathering that we have done. We think that process works and should be

carried on.

And, also, I think that process is consistent with the concept that staff has set forth in Subsection 4 that we just talked about. If it makes sense, justify why it makes sense. Be prepared at any time, as you say, to say why did you do this here. So we think rather than having the global application of Subsection 5, that same standard should be applicable as reflected in Subsection 4. If it makes sense, we should do it, and we should be prepared to say why we did it.

I would like, if I could, to let David McDonald here briefly tell -- he's got three points as to why we don't think the global application in Subsection 5 would be a good idea.

MR. TRAPP: Okay.

MR. McDONALD: David McDonald, Progress Energy.

As we considered this, as you know the National Electrical Safety Code is being revised for the 2007 year. It has been looked at since roughly 2003. And this one issue that's being discussed, especially about the extreme wind loading, has been discussed since that point. And based upon the investigation and analysis at the National Electrical Safety Code, more specifically Subcommittee 5, their recommendation is that this extreme wind loading shouldn't be applied to distribution facilities.

There were three proposals that were going to reverse that and eliminate the 60-foot exclusion, but based upon the

analysis, based upon all the investigation that they've done, the feedback they have gotten from as far away as New Hampshire, Texas, and everything in between, that subcommittee has rendered that they are going to reject the elimination of that exclusion policy. So they feel, based upon their understanding, that it should be -- that exclusion should remain in there.

So looking at that from their perspective, looking at this over three years and also understanding how we are looking at -- no matter how we say it, utilizing the National Electrical Safety Code as a basis for our construction standards, however that wording comes out, at this point to not adopt totally what they're looking at, we don't feel is a prudent thing to do.

And we also feel like, based upon what John said, you follow an adhered path, you looked at our existing infrastructure, said we need to inspect it to ensure the strength and stability of that. It makes sense. The next piece, doing the analysis so that we can look at our targeted areas that need this type of upgrade. And then you put in the Tenet 4 to allow us to do that.

The second thing that I want to mention is our performance. When you look at our performance at Progress Energy, we went through four hurricanes. As a result of those four hurricanes we lost less than 6/10ths of a percent of our

poles. So you can do the math and look at what caused those numbers. We had pretty good performance related to this. So we don't feel that our performance warrants going to this stepped-up criteria.

And then the final thing, when you look at what that could -- if you were to adopt that, what that would do to our operational and construction procedures. When you look at us as a company, we have roughly 50 digger derricks. Those are the type trucks that install poles. Based upon going to an increased wind loading standard, depending upon what type poles you ultimately have to use, you may have to change out that entire fleet. Also, our rear easement construction -- or construction efforts or procedures, that would be changed drastically if we were to pursue this. So there are a lot of issues to determine if this were to be adopted.

But, again, from a Progress Energy perspective, National Electric Safety Code has seen no reason -- the National Electrical has seen no reason to pursue this. Our performance as a company, we see no reason to pursue it. So based upon those and the impact to our company, we feel like this isn't the best course of action for our customers.

MR. BURNETT: Bob, if I could just add -- John Burnett, again, for Progress Energy. One final word to that is we're not saying that this type of activity would not make sense maybe in some places in our service territory, but,

again, we feel like staff has the right approach, that let's do the inspection, let's do an analysis, let's see if it makes sense, and have us prepared to justify it if it is there.

MS. KUMMER: Would the Commission have an opportunity to look at how you define targeted facilities?

MR. BURNETT: Yes, ma'am, absolutely. I think that would be part of our process, is that we would -- we, as the utility, would necessarily have to define why we made that decision, what we were looking at.

MS. KUMMER: I mean up front. Would you be interested in filing any kind of a description up front so the Commission would have some idea, rather than wait until afterwards when perhaps we didn't think you targeted the correct facilities, and we've got people out unnecessarily if they have been built to a different standard?

MR. BURNETT: Connie, I think we can do some of that now, because we do have, as David said, you know, two hurricane seasons in this '04 and '05 year behind us. I think we can do that, but I think it will be an ongoing and interactive process based upon a lot of the things that staff has implemented. As David mentioned, our pole inspection plan and the June plan. So, yes, to some degree, but I think it is a changing target, that it will necessarily have to evolve over our experience.

MR. TRAPP: John, could I ask a few questions? I don't mean this as unfriendly cross, but there are some things

you all have said that I would like clarification on. Maybe I should springboard off of what Connie said with the more global before I get more picky with you. It seems to me what you are proposing is higher risk to the ratepayers that facilities might be adversely affected through a hurricane, but what I also heard was that there is higher cost associated with doing this as opposed to your more targeted approach.

You did quote some cost numbers. Can you define that in post-workshop comments? In other words, can you tell us how much this is going to cost to do it the way staff has proposed it, and then can you tell us how much it's going to cost if we do it on your targeted approach? That's my first point.

MR. BURNETT: Bob, to your question, I think we can give you estimates of what we think it would cost to do it on a global basis as the current rule is drafted. And, certainly, as I have mentioned to Connie, based on the experience we have now, give you some idea of what we think the cost would be under a more targeted plant, based on the information we have.

But, Bob, one thing I did want to mention is the higher risk. That's a point that I wanted to make sure we made well enough, is that we are not necessarily in agreement that there would be a higher risk to the ratepayer that the equipment would fail. I think that is one of the key points we're trying to make is that we didn't see that. So far of what we have seen in our '04 and '05 experience, we are not

seeing that this standard would have done anything to help the ratepayer out at all with respect to the poles that failed.

MR. TRAPP: Then I would encourage you also to include that risk assessment in your response or your comments to the as proposed and what you would like proposed analysis.

MR. BURNETT: Yes, sir.

MR. TRAPP: And then just to get picky with you. On the IEEE committee business that met on the wind speed, I don't understand how that process works. That's a Florida map. It's only one state. Did the nation make judgments for Florida, or did Florida representatives make judgments for Florida on that committee?

MR. McDONALD: I apologize. I may not have been clear enough. What I was trying to demonstrate is they were speaking about the National Electric Safety Code nationally.

MR. TRAPP: Okay.

MR. McDONALD: They weren't speaking for Florida in particular.

MR. TRAPP: Well, it seems to me that we need to focus on that map and not what, you know, Maryland and New York and some other --

MR. McDONALD: Your point is well made. My only reason for bringing that out is there was a lot of data gathering, there was a lot of input from throughout the nation in order to determine exactly what is the risk. Was that risk

quantified? Not that I have found so far. But the intent was to say all of these areas that have been impacted -- when you look at the Carolinas, they had five hurricanes in a two-and-a-half-year time frame, from '98 to 2000. So the intent was to say based upon all the global feedback that we've received, is there risk, greater risk by not adopting this for distribution poles. And what I have inferred from my reading, is that that is not the conclusion they came to. The conclusion was there is not greater risk.

MR. TRAPP: How granular was their study? Did they, for instance, differentiate between just any distribution pole and like feeders? Did they look at feeders separately or --

MR. McDONALD: To my level of understanding right now, I couldn't answer how granular it was.

MR. BREMAN: These are all investor-owned utilities primarily that are on the NESC committee?

MR. McDONALD: That is not correct from what I have read. There were cooperatives --

MR. BREMAN: But you are not on the committee at all?

MR. McDONALD: Myself?

MR. BREMAN: Well, I mean, Progress isn't represented on the committee?

MR. TRAPP: Go ahead. Yes, sir.

MR. BINGEL: Progress actually has a very good transmission engineer on the committee. I just thought I would

give a little background on the extreme wind load case. Previous to 1977, there was only light, medium, and heavy loading in NESC. There was no extreme wind load case. Then what happened in the -- and the light, medium, and heavy is considered a winter storm, because there was a combination of ice and wind.

Then there were several transmission failures in the northern central part of the U.S., and it was only in transmission, and they were in the summer. So they were high wind summer events, and that's when the code said, you know what, we have to adopt an additional criteria for transmission poles to protect against summer storms. In 1977 then is the first time that extreme wind was in the code, and that is what its function was.

During the late '60s and '70s, as wire size increased, that was the difference in what happened, was that the higher speeds and the larger wire started causing those transmission systems to fail. So that becomes the governing load case even in icy areas, the extreme wind with a large conductor.

Now, for the last 30 or 40 years all the wind speeds have been measured at 33 feet above ground. And there were people on the code saying, well, look, this new map we just adopted all the speeds are at 33 feet, yet we are saying don't apply it until 60 feet. It didn't seem to make technical

sense. And that was the genesis of saying, you know, I think we could remove that exclusion and apply that extreme wind to all structures.

A task force was formed which I was part of to evaluate that. And after several meetings, a lot of discussion, the general feeling was that once debris starts flying around in a storm, that's when the wind-only loading criteria kind of aren't adequate. It's hard to design for tool sheds running into lines. And so the result of the task force effort was to cap the speeds.

For Grade B it was 94 miles an hour, and for Grade C it was 77 miles an hour. And that tied in with the Saffer-Simpson Hurricane Category 2, which is where they describe is when things start flying in the air. And that category is 96 to 110 miles an hour. And Fujitsu Tornado Damage Scale, where it said F-1, 73 to 112 miles an hour is when things start flying around. So that was the effort in the task force, to say, hey, if we really want to increase reliability and safety, we can only go up to the point where debris starts to fly around, because it would be very difficult to design for those conditions.

The public comment came back. We received 167 comments on that proposal, and overwhelmingly from people that were out after storms seeing what had happened, there is a very strong opinion that trees and debris cause a majority of the

failures, as well as foundation failures. Now, I am also aware that in last year's storms in Florida there were some pure wind failures.

But based on the cost to design all lines to the extreme wind criteria and the uncertainty of the improved reliability and the comments from the public, I couldn't really justify increasing four pole classes and still being unsure of what the benefit that was going to be from a reliability and a safety standpoint. So the end result was that proposal was rejected, and the NESC at this point still has the 60-foot exclusion limit in there. And I throw that out as background to understand what was the original intent of the extreme wind load case.

And the one thing I might submit is it could well be that just going all the way from not applying it to a 40-foot pole to applying the full impact of extreme wind might be way beyond the load case where you really get some benefit from it. And just an idea in my mind would be to evaluate it more closely and say, well, rather than going just from your light conditions of 60-miles-an hour wind times four, that to go all the way to extreme wind might go way beyond where you are going to get benefit from it. And that maybe there is some point in between, but just the idea that that could be looked at and come up with perhaps the best solution. And, again, I think the targeted idea is -- that's a wise way to apply it, as well.

MR. TRAPP: I assume under a targeted idea we could -- we could collect the science. We could collect the data. We could refine standards over time?

MR. McDONALD: Well --

MR. TRAPP: But where do we start is the problem I'm having.

MR. McDONALD: Obviously, we are going to have to look at our history from 2004 and 2005 to see if there is any areas that we may have that is targeted application. But as we go forward we are going to continually refine that and make that part of our standards as we learn those lessons.

MR. TRAPP: Well, it's 2006 now, so I'd have to ask the question what have you incorporated into your own standards now as a result of those two years of storms? And I'm looking at you, but I am asking everybody. What has been put -- you know, give staff a feel of what amendments you have done to your own internal standards that would help to support a targeted approach only. And I'll swing to Power and Light down here, and start down there again, if you don't mind, Manny.

MR. MIRANDA: For FPL, our change, of course, is our announcement (phonetic) storm secure, which goes forward with NESC extreme wind, which in some ways kind of adapts those specific areas to upgrade. And that's the approach that we are taking going forward.

MR. TRAPP: Have you adopted this map?

MR. MIRANDA: No. That's where we --

MR. TRAPP: It's a different standard that you have adopted. What number did you adopt for wind loading?

MR. SPOOR: Bob, this is Mike Spoor. That is the standard that we're actually striving to move towards.

MR. TRAPP: Okay. That is the standard. So you have adopted what is in Section 5?

MR. MIRANDA: That is what we've proposed, yes.

MS. KUMMER: And you are doing that for all facilities, not just targeted facilities, everything you are putting in?

MR. MIRANDA: For new construction. We are still working on, you know, the rebuild and expansion, defining that. Now, the only -- the only difference, though, is for targeted infrastructure in major thoroughfares. At the very end, we put to the extent practical and feasible. What we are finding is in the few projects that we are trying to go back as far as, you know, critical infrastructure, sometimes it's not possible to install the quantity of poles, possibly the additional poles or the size poles that may be required in order to meet the extreme wind. So it's up to where it is practical and feasible, so up to the extreme wind in those areas where we are going back to rebuild or CIS.

MS. KUMMER: Are the prohibitions cost or space or right-of-way?

MR. MIRANDA: Mostly customer issues, Connie. Right-of-way issues. Customer issues. And then, of course, there are some cost issues where it is cost prohibitive because of the limited space that you have to rebuild.

MR. TRAPP: Russell. Ed.

MR. BADDERS: At the moment, we're still looking more at a targeted approach. We have not developed it as much as I believe Progress, but we are trying to learn from the storms. As far as new construction, in some areas it is possible. Some areas it will not be. As was just previously discussed, you will not have the ability to put in the number of poles that you would need to meet this. We also have some concern with regard to when would you apply this if we were to go with staff's language with regard to rebuilds and relocations.

It gets back to the discussion we had earlier, we'll try to make some comments on that. We are also going to get with Progress and kind of get an idea and understanding of the direction that they are looking at promoting here. But as far as what have we done in response to the last hurricanes, in a beach area or places like that where we see an issue or where there may be an issue, we try to design the pole line or the structure to withstand what we think it may see. I mean, will it withstand a Category 3 or 4? I really don't think anybody in the room can tell us that. We are still learning.

I don't think we have all the information and that

kind of gets back to the studied approach, to try to learn from what we have seen, and maybe implement some things and just see how they perform. Now, we may not have a hurricane in Escambia County for another ten years. We don't know that. So we may not have all the hard facts on what direction to go here, but we are trying. We are making some efforts.

MR. TRAPP: So I am hearing a case-by-case basis? You haven't done a system-wide upgrade to your standards, you are doing a case-by-case assessment?

MR. BADDERS: That is correct. That is more or less what we have done over time, even before the last two hurricanes. And I think that may have played out to some degree. We didn't see -- I believe, and this is subject to check, I believe we had one and a half or 1.6 percent pole failure in Ivan. And, obviously, Ivan hit in a very populated area for our system, so I believe what we have done in the past worked. Now, there may be some areas, like I discussed, that we may need to look at, or we are looking at, that we may need to do something different. We may install additional guy wires or something. But as far as an across-the-board system minimum standard upgrade, we have not undertaken that.

And that gets back a little bit to being able to prove what do you get for that effort. We just don't have all of that information. We don't have what effect that would have on our reliability with regard to a storm.

MR. TRAPP: David.

MR. McDONALD: David McDonald, Progress. As of this juncture, most of our focus has been looking at the Pinellas County area, identifying the potentials from a coastal standard perspective. We have a team that's looking at that. Presently they are looking at those associated with operations, and then we're determining what is the next step we may proceed on. But I will emphasize nothing that we have seen in the past two storm seasons has led us to revise our standards, our construction standards from a statewide perspective.

Now, what it has caused us to do is revise our maintenance programs and the way in which we apply those maintenance programs. More specifically, surveying the backbone of our feeders prior to storm season, trimming the danger trees and all of those prior to the storm season. Where we are starting our OSMOSE efforts as far as the pole treatment. Where is that starting? We're starting in Pinellas County working through the Pinellas-Pasco. So how we're applying our maintenance procedures and when we are applying our maintenance procedures has been the biggest lesson learned that we are applying as a result of those two storm seasons.

MR. TRAPP: Okay.

MR. HAINES: Regan Haines, Tampa Electric. I think it was mentioned that there are different standards within the National Electric Safety Code. There is a minimum Grade C

standard and then there is a Grade B standard, which is to a higher wind. And our current standards, and it has been this way for awhile, is the higher Grade B standard. So it might be that middle ground between the minimum and the extreme wind.

Our experience with the 2004 hurricanes is that our system performed very well, and we also had less than one percent failures from poles -- of our poles, and not due to strictly wind. It was trees, debris, those types of things. So what we have done is really beefed up our tree trimming, vegetation management. We have not changed our standards, as far as construction goes, but really focused on vegetation management and on the inspection and the maintenance piece of our system.

MS. KUMMER: Bob. Do you want to --

MR. TRAPP: Yeah, we've still got two more participants.

MR. WILLINGHAM: Bill Willingham with the electric co-ops. A couple of things. Just to answer your question first, vegetation management is something that we have also stepped up on. You know, we used to have the story of don't come by and cut my tree. Now, it's get your tree out of my yard when the storm comes through. It has been a lot easier to do the vegetation management. We think that is going to have a huge impact.

We have got different co-ops that are doing different

things. One co-op is switching to all aluminum conductors whenever possible. They are getting the steel core out of the pole. We've found that when the trees come down and hit the steel core wire, that that will bring down the poles and the wire, but if it's aluminum, it will snap the aluminum wire. You just go back and splice it. It's a real quick restoration. So there is little things like that that we are looking at.

But Section 5, in general, while we very much agree with the comments by Progress, we just think that it's going to be kind of a waste of money to go to that extreme wind standard for the lower poles. And for co-ops it's going to be a big dollar issue. In rural areas we tend to have longer spans. So we are talking about a much bigger cost for us overall, and it's also a much bigger cost for the customer because of our low density.

But the majority of our pole failures are really due to falling trees. Very few are just from direct wind. We think that those that did fail because of wind would have failed anyway under the extreme wind standard. Because what we were dealing with primarily was spin-off tornadoes and microbursts that the extreme wind standard is not going to make a difference.

And I think the other, kind of on the jurisdictional issue here, this is potentially a big dollar impact. We believe that this is a ratemaking decision that should be left

up to our cooperative boards.

MR. TRAPP: Well, that was my first question. If we went to a targeted-only approach, does that relieve your jurisdictional concerns any?

MR. WILLINGHAM: It relieves them some. I'm not sure if it gets there all the way, but it definitely makes it a lot easier.

MR. TRAPP: Barry.

MR. MOLINE: Bob, I concur with a lot of what has been said on this issue, and I made a note when I first read this that this is an area for investigation. You know, it's a component of the hardening investigation of PURC, involving PURC and, you know, further research and investigation. I don't -- I don't need to repeat everything that has just been said, because it has been said so eloquently, but we don't know the answer to this.

There has been some work done, clearly in North Carolina. There has been a little bit of evidence, you know, of work that has been done here in Florida. But because of the failures that we have seen, we didn't see that this was needed, so -- I mean, that the failures weren't coming from just wind pushing down distribution lines or poles. They are coming from stuff bringing it down, trees specifically. So I would ask that we see some additional -- this would be a good place for investigation by PURC.

MR. TRAPP: Going to the specific question, are you aware of any of the municipalities that you represent that have changed their construction standards as a result of their experiences in 2004 and 2005, and has it been a system change or has it been case-by-case?

MR. MOLINE: I can't answer that question completely. I am not aware. I could get the answer, but, you know, I have got a couple of anecdotes, but I don't think that is a complete answer. So I will get the answer for you.

MR. TRAPP: Thank you.

Connie, do you --

MS. KUMMER: I have just got one comment and then a question. Don't get hung up on percentages of poles damaged. People who were out of power for three or four weeks are not real interested that you've got a fraction of a percent of your poles that were damaged. So that's just kind of a statement.

The other thing I found very interesting, Mr. Bingel, the point that you brought up about a category -- if it's above a Category 2, strengthening it beyond that is not going to help wind speed. Has that been -- do any of the utilities have an opinion on that, that above a Category 2 it's debris rather than wind?

MR. SPOOR: Connie, this is Mike Spoor, Florida Power and Light. As Nelson did make reference to, I think our experiences, especially during Hurricane Wilma in 2005, we did

have pretty good evidence from our forensic teams that were out in the field right after the storm to show that, you know, we did have some outages and pole breakage due to wind only. Certainly, we had our share of those that were caused due to trees and debris, but we did, indeed, have some for that Category 3 transitioning to a Category 2 storm as it crossed across the state to show that they were wind only, poles breaking.

MS. KUMMER: I think TECO mentioned that it -- well, one of the companies, that it was more tornadic winds rather than just the flat hurricane wind speed. Now, he's shaking his head no.

MR. MOLINE: Yeah. The evidence that we saw was the gusts that we experienced in excess of the design criteria for the poles, perfectly good poles that broke because of the wind only.

MR. BADDERS: With regard to Gulf Power -- this is Russell Badders -- we do not have all of the forensic data I believe that FPL may have collected. We do have a lot of anecdotal information from people in the field just observing what we went through with Ivan, mainly, and in the subsequent storms, that most of the poles that came down, came down from wind blown debris. Now, to say that we did not have any that came down from a purely wind event, that's not likely. I'm sure we did. But the majority is, it's sheds being blown into

it, more trees off the right-of-way, those are the big issues.

And, clearly, we are sensitive to people being out, and it's just looking at this with the available data and with what we are trying to do with regard to storm hardening going forward, I think we'll have more information. And we probably need to -- our position is to take the time and get that information so we can really see what really does work. It would kind of -- it is a bad situation. I think if you say, well, we are going to do this, and we're sure that it's going to have this impact, and then lo and behold, you have a hurricane, poles come down for the same reasons that were before that were not addressed. We would like to take the time and get the information and implement some of these things as we go and just see what we get out of it.

MS. KUMMER: What kind of time frame are we talking about?

MR. BADDERS: Knowing exactly what the impacts are, we may never know. But, I mean, right now we have several projects that we are implementing. It will take a few years to get some information out of that. It may take a decade if we don't get any hurricanes. But I think with tropical storms and just everyday tornados or anything else like that, high wind events, just thunderstorms, I think we will learn and we will get more information.

We are not -- we are doing something. I don't know

that we have all the answers to say that we know the answer. I think that is the real point I'm trying to make. Will we have something in place over the next few years, I think so. I think some of the efforts as far as guying facilities, flush-mount transformers for underground, things like that in certain areas may have an impact. It is just going be a little while before we know the exact impact.

MR. F. BRYANT: I have a question, if I might, on a word that you are using in Subsection 5, and the word is structures. What do you mean by structures? Structures extreme wind, structures of 18 meters or less, what do you mean by the word structure?

MR. TRAPP: That's language straight from the Electrical Safety Code. And when I read structures, I think of anything that is above the ground.

MR. F. BRYANT: A building?

MR. TRAPP: Yeah.

MR. F. BRYANT: Huh?

MR. TRAPP: Sure.

MR. F. BRYANT: A substation?

MR. TRAPP: I'll have to defer to Jim on some of these, because he is my technical guy.

MR. BREMAN: The definitions are in the National Electric Safety Code, if you want to read them. They have a definition in there.

MR. F. BRYANT: I would suggest for purposes of your rulemaking you might want to consider your own definition, otherwise you might have a flaw in your rule. But I'll leave that up to your legal staff. But I'm trying to understand --

MR. TRAPP: I'll answer you straight out. My understanding is that it's everything above the ground. It's buildings, it's poles, it's wires, it's transformer stations, it's pad mounts, anything.

MR. F. BRYANT: So all of our buildings, all of our substations, all of our fences, everything.

MR. TRAPP: Right.

MR. F. BRYANT: That's fine.

MR. TRAPP: That's my understanding, Fred.

MS. KUMMER: Progress, I think we are back to --

MR. BURNETT: Thank you, Connie.

John Burnett, Progress Energy Florida.

Connie, definitely our experience was consistent with Nelson's comments on what we saw from our past two storm seasons were flying debris, primarily vegetation, and other debris, and then tornadic spin off and microbursts. That's what we have seen has been the cause of the majority of our failures.

And, Connie, definitely I wanted to say that certainly our company is sensitive to the fact that the customers, even if they are a small percentage on poles that

are out, they are out. But the point we want to make is that if they are out because a live oak saturated with water that we couldn't trim on private property fell on them, they are out as well if we have these standards. And then, not only are they out, but they are paying more money, and we have problems justifying why. So that's the biggest concern that we had with that. But to answer your question, absolutely flying debris and spin-off activity.

MR. HAINES: Tampa Electric would concur with that. Again, the experience that we had in 2004, pole failures, very few, but the ones that we did experience were due to trees, trees outside the right-of-way. And we think that improving the vegetation management program that we have and our maintenance program is probably dollars better spent than investing in a higher construction standard that you're going to have similar issues with.

MR. BINGEL: Connie, I just want to respond, too, that the NESC evaluation is always looking at things from a safety perspective, not necessarily reliability. And the thought was that once roofs are flying around from a safety standpoint that there is not much we can do in the structures, because people shouldn't probably be exposed to that anyhow.

And I just wanted to add, too, the point I was making before is right now if you go from a Grade B construction to approximately 140-mile-an-hour extreme wind that requires an 80

percent stronger pole. It's almost twice as strong. And my point was that it could be that a 30 percent stronger pole is going to give you some additional reliability, and anything beyond that you have got another weak link. It could be the foundation, which also would be addressed, but there could be a variety of things that conductors are snapping. You're going to have outages anyhow.

And that was the point I was trying to make, is that maybe there is some range in between the light, medium, and heavy loading districts and extreme where there is definitely a benefit and a cost justification. And then beyond which that -- I mean, there is no additional benefit from a reliability standpoint.

MR. BREMAN: Larry, I think it's to you. We're about ready to shift.

MR. HARRIS: I think now might be a good time for a short break. Let's give the court reporter a few minutes to limber up again. And we are going to move on to -- I guess shift gears a little bit. We have been talking about above ground, I guess the next section deals with undergrounding a little bit. So ten minutes. We will be back at -- let's call it 11:15.

(Recess.)

MR. HARRIS: Did we have anymore comments on Paragraph 5 or are we ready to move on to Paragraph 6?

MR. BRYANT: I have a question on Paragraph 5.

MR. HARRIS: And we do have a new court reporter, so if you all could reintroduce yourselves again. You've been doing a very good job of it, but we need to keep that up. We have a replacement, some fresh hands.

MR. BRYANT: Fred Bryant, Florida Municipal Power Agency. Good morning.

What is the, the corridors -- where is that language -- major thoroughfares. What do you mean by major thoroughfares, (c), targeted critical infrastructure and major thoroughfares?

MR. TRAPP: My thought on the matter, Fred, is major feeders, places where you've got a lot of power running to the people.

MR. BRYANT: Okay. You didn't mean -- okay. You didn't mean facilities crossing major thoroughfares, but major thoroughfares --

MR. TRAPP: No. No. Not in the technical sense that's used in the Code. At least my idea of it was that you wanted to focus on where you get the most bang for your buck, where, where your major distribution supply is, you know, coming out, coming down feeders, not necessarily laterals or secondary, but --

MR. BRYANT: And then the words "taking into account political and geographical boundaries," what did you have in

mind there?

MR. TRAPP: I think you need to ask Power & Light because we kind of lifted their language. But --

MR. BRYANT: Does anyone know what that means that we're fixing to put into rule?

MR. MIRANDA: This is Manny Miranda with Florida Power & Light. For political boundaries, what we're referring to is the way some of the maps define, you literally could divide a city in half, would have different design criteria for each one of them. So trying to look at what may be municipality boundaries, city boundaries are as you define your codes.

And as far as geographical, what we're referring to is you may have some situations with like a highway crossing or a river crossing where it might cross across a couple of, you know, a water, you know, like a lake or, you know, any kind of facility that you may want to design to a little bit different standard.

MR. BRYANT: We might suggest a word change or two for "political." I hear what you're saying and I don't disagree, but I wonder if it's -- corporate might be, government or corporate, something like that. I just don't understand what the "political" meant. I don't want to get in a situation where a county might challenge what's being done inside a city limits for construction standards as opposed to

outside the city limits. Maybe some of y'all will understand my reason for that sensitivity.

MR. TRAPP: I would tend to agree with you. But on the other hand from an IOU perspective, IOUs serve non-utility municipalities and communities, and all of those communities have their own concerns about things. And we want to make -- as we pointed out in the other aspects of this process, you know, we wanted the, we wanted the investor-owned utilities to begin talking more to their local utilities and understanding what their needs were, and to the extent that it was feasible, practical, prudent and cost-effective, to take those into consideration to do that. So I think those words may pertain to that somewhat too.

MR. BRYANT: Right. I don't quarrel with the concept. I think it makes good sense. I just want to make sure that the words are better defined. Okay.

MR. TRAPP: Yeah. Well, we do too. And I'm glad you brought it up because I did want to ask Manny, because some of this language did come from a Florida Power & Light proposal that was addressed at Agenda some time ago and we pushed it into this rulemaking docket, we thought we understood the words when we put them in here. But I just want to clarify with you, what was your understanding of "major thoroughfares"?

MR. MIRANDA: I'm glad you brought it up. For us, thoroughfare was a roadway. One of the things that we found --

MR. TRAPP: Okay. So you were referencing the specific language that was in the National Electric Safety Code pertaining to thoroughfares.

MR. MIRANDA: Yeah. What we found during these storms is many of these thoroughfares that have, you know, the supermarkets, gas stations, restaurants, it's very critical from a community need to get them restored as quickly as possible. So as we were targeting, targeting critical infrastructure, we also thought targeting major thoroughfares that serve many of these facilities would be also part of our initiative.

MR. TRAPP: So you're, so you're not talking about major feeders here. You're talking about things like streetlight intersections, major streetlight intersections, grocery stores, gas stations, that type of thing.

MR. MIRANDA: Correct.

MR. TRAPP: Okay.

MR. BUTLER: Well, and also the power that would serve the facilities that are along the major thoroughfares. You know, if you have a bunch of malls along that would have the sort of businesses it would be good to get back into service quickly.

MR. TRAPP: So does that lend itself to the terminology "commercial feeders" as opposed to just "feeders" or -- I guess, you know, my perspective is feeder, commercial

and residential, you want to --

MR. MIRANDA: What we were trying to do is translate it to -- from a customer viewpoint. What we have a lot of times on these roadways, our feeders don't necessarily run parallel to these major thoroughfares. You may have multiple circuits serving a single thoroughfare. So, for example, you might have U.S. 1 down in Miami, you know, that runs, you know, many, many miles. But if you can target portions of it and, you know, harden those portions of it and be able to communicate externally that, you know, that these sections have been restored or have been targeted for improvement so that the, the communities know where they can go to get gas and food and water and so forth.

MR. TRAPP: Uh-huh.

MR. MIRANDA: That was our intent.

MR. TRAPP: Okay. Can we move to six? Again, five addressed overhead facilities and structures. Six is intended to address underground facilities. And staff's thinking here was that the, the primary impact area in hurricanes for underground facilities were in areas that are subject to flooding. And I know that there's probably inland flooding that takes place in the State of Florida as rivers swell and things of that nature. But what we witnessed, I guess, in the workshops, in the aftermath and the press and everything was mostly the coastal areas of the state. So we went to the, the

Division of Emergency Preparedness and looked at some of the maps that they prepare and keep maintained, and they've done -- Jim, correct me if I'm wrong, this is primarily for evacuation route purposes, but --

MR. BREMAN: I think they mapped all developed counties. I don't know what developed means. I don't think Jefferson County has been mapped like this. Maybe that might --

MR. TRAPP: But in any event, this purportedly is information that's available on the Internet, it's maintained by another state agency, and it's constantly updated to identify areas that are prone to be affected by different category storm surges.

And so it occurred to us to base a rule on, and we just picked Category 3, and that's the yellow on the maps, and drafted Paragraph 6. That having been said, is there any response, comments, questions?

MR. BADDERS: This is Russell Badders on behalf of Gulf Power. I guess I have more of a question. We talk about as practical and cost-effective as possible, protected from flooding and storm surges in areas on this map, I guess, Category 3. I guess I'm not really sure that we know what will definitely protect our system from a Category 3 or even a Category 2. I think this gets back a little bit to some of the things that we're trying. But as you know, Pensacola Beach was

devastated. Navarre was devastated in another subsequent hurricane. In many of those areas, I don't think there was anything that could have been done -- the roadway was completely relocated and destroyed. There are some areas where flush mount and switchgear may be effective. Those are things that we're looking at.

But I guess if we codify that we have to do something in these areas, I think we need to have an idea of what may work and what doesn't work, and I just don't know if we're there yet. So that's kind of an overall concern. That's not to say that we can't do anything. It's just I think we have to be careful how we word this so we don't create a rule that cannot be complied with, that we just really don't have a solution for some of these areas.

MR. TRAPP: Personally I tend to agree with you, Russell, and I think that's why the staff opened the rule by saying, putting the responsibility on the utility to come up with the construction standards and what is reasonable and prudent.

I have to also say that during the January 23rd workshop I was a little surprised and impressed with some of the things that Gulf Power has been doing with respect to strategic locating of pad mounts behind buildings to try to protect them. Some of the concrete runs that you were installing your supply cable into, I didn't know that was going

on.

MR. BADDERS: Right.

MR. TRAPP: And I don't know what kind of after experience analysis or forensic review you've done on that, but, I mean, it sounded like a good idea to help dam, help keep it from moving, those types of principles. So that's the kind of stuff that, you know, we're looking for y'all to, you know, experiment with, see if it works, and then maybe codify into your own construction practices. I'd be real interested to know your feelings after the fact of whether any of that worked --

MR. BADDERS: Right.

MR. TRAPP: -- any better than just direct burying it.

MR. BADDERS: Right. And some of that information we're gathering, some of it we have some information on. I don't think, even given Ivan, Dennis and some of the Katrina effects, that we have a very clear picture of what will work and what will not work in a different, I guess, Category 3 or 2. I mean, as we all know, even a Category 2 can have significant storm surge. I mean, it really depends where it hits, high tide, low tide. There's a lot that goes into that. We don't have -- and even given the experiences we have, and we have tried a lot of these things and we're continuing to try things, I don't think we even have enough information to say,

yes, if we do those things, that we will be in compliance with Part 6, and I think that's my concern.

And I don't -- I believe staff's intent here is to give us some opportunity to develop those things and use those things. I just, I just want to make sure that the language doesn't assume that they will all work and that we have the answer. That's the only thing. And it may just be a softening of the language, and we'll try to offer some of that up in our comments.

MR. TRAPP: Someone mentioned, I think, offline the word "assure" gave them some heartburn. Is that one of the words you're referring to?

MR. BADDERS: Right. Right. Yeah. It assumes --

MR. TRAPP: We didn't say insure or ensure, we said assure, which to me is a softer word. But is there something better?

MR. BADDERS: And that's something we have to work on. But that is part, part of the concern is, is what are we holding out to the public and everyone else that we are capable of doing to meet this rule and what does this rule assume is possible?

MR. TRAPP: Do you agree that the flood zone maps are a starting point to focus in on an area that has -- of critical concern?

MR. BADDERS: I agree these are good starting points.

I also believe that, I think, given Mississippi's experience with Hurricane Katrina, that you take this as a good starting point. But you have to factor in a lot of other things that we may not have all the information right now, but this is a good start.

MR. TRAPP: Any other comments, questions? Bill.

MR. WILLINGHAM: I have one comment. Bill Willingham with the electric co-ops. I certainly agree with everything Russell just said. And I guess conceptually I'm trying to figure out, you know, of course, whether or not Category 3 is the right area. But are we looking at down the road having a URD or underground differential for these potential flood areas, storm surge areas and then a different URD differential cost in inland areas?

MR. TRAPP: Our current plans are to discuss that, to discuss that after lunch because that's where we're going with the next section of rules is the underground CIAC calculations, and we're going to talk about that formula and how these hardening impacts -- well, I think it's also -- it may be in here too. I think, I think it's in the URD rules. And we were kind of hoping to wrap this one up by lunch and then shift over to the cost CIAC stuff after lunch. So hopefully if you'll hold your questions.

Manny.

MR. MIRANDA: Manny Miranda. Like Russell said, you

know, the word "assured" for us was kind of an area of concern because there was really no guarantee you could hurricane-proof any infrastructure including our underground system.

MR. TRAPP: It's got a comma after it though. It says, "To the extent practicable and cost-effective."

MR. MIRANDA: As far as the storm surge maps, you know, we're not sure that this is the right application of the storm surge maps, you know, since they really were intended for evacuation maps. But, you know, we look at, like, base flooding levels. I understand the issues that Gulf had with the storm surge. I'm not quite sure what infrastructure is out there that can prevent that type of facility damage. We did experience some of that during Frances and Jeanne a little bit, and the storm surge issues are much more complicated than even in the overhead area for us right now.

MR. BREMAN: Are you at least using the 100-year flood plain?

MR. MIRANDA: No. We followed basically base flood levels as kind of the criteria. We design our infrastructure, you know, say a substation control house to the local building codes that are required.

MR. BREMAN: The SLOSH model, is that, is that what you're using or --

MR. SPOOR: Jim, I think -- this is Mike Spoor, FPL. You know, to the extent that, you know, the local governments,

as Manny mentioned, have some type of flood elevation levels certainly for a substation perspective, I believe that's what we're following.

This particular topic though, in our analysis, so far we've struggled with a little bit because whereas the NESC for aboveground structures certainly is kind of shown, as the map up on the screen suggests, this whole issue of surge and, and flood zones, et cetera, has certainly, from our research at least, been deferred to some of the local communities and local governments to kind of dictate and mandate. So it certainly could differ across your service territory, whereas, you would not have some type of national type of guideline and terms to follow. So this is one area that we've struggled with a little bit in terms of what makes sense. This could be a good starting point, but I know we could potentially have some concerns, especially as you move further south. If you look at Miami, Dade and Broward, these same type of pictures certainly would be a cause of concern.

MS. KUMMER: I think what Jim's question was, or maybe it's just a question I have, Manny, you keep using the term "base flood level." How are you defining that? Is that a specific criteria, objective criteria or what?

MR. MIRANDA: Well, most local governments, they've been given the authority to define those base flood levels. And so when we design, you know, our infrastructure, you know,

we try to meet that minimum requirement.

MS. KUMMER: So it's just whatever the local governmental entity defines as the flood level?

MR. MIRANDA: Correct.

MR. TRAPP: How would you define that for rulemaking purposes?

MR. MIRANDA: We'll submit some, some language.

MR. TRAPP: Okay. Moving now to Section 7, we'd like for you to build an easement. Is there any reaction to that? Easements and road, public road right-of-ways.

Hearing no outcry, Section 8 -- there you go. Jim put up our pretty slide. We'd like for you to install new facilities and move, to the extent you can, with relocation or re, what's the word, replacement and retirement from rear lot to front lot. Is there any reaction to that?

The last section of the rule is stricken. I'm sorry.

MR. BURNETT: Bob, I'm very sorry. John Burnett, Progress Energy. We had one question, if we could ask, on Rule 8. Would staff consider striking the word "operational need"? And it may be us just being too hypertechnical, but it's on Line 7.

David brought up a commercial application where we may have to, where it may make sense in a commercial setting to put something in the back of a commercial establishment. And technically it would not be operational, but, you know, but

still would make sense. So I think you'd still get the same intent of the rule if we had "operational" out. I could get David to explain a little bit more, if you need him to.

MR. TRAPP: No. Your explanation is not needed. It's just, you know, we like rules that we all understand how to interpret, and those modifying words tell staff what to look at in terms of need, but you want it more generic. So I think it's a constant battle we're always in. Y'all want generic, we want a little more specific. But that doesn't do a lot of harm to me personally.

MR. McDONALD: The only way -- the only thing I would clarify -- David McDonald with Progress. The only thing I would clarify is we are approached by commercial developers to build facilities in the back of the property for aesthetic reasons. Operationally it doesn't impact us because it's normally a paved area and we can access it with the trucks. So it doesn't apply like you see in those pictures there. Strictly adhering to --

MR. TRAPP: Shouldn't we say unless there's an operational need not to? I mean, that's the point, I think, of this paragraph is rear lot construction -- we think of these residential situations where, you know, back in the '40s and '50s when there were alleys with the garbage trucks and everything running down them, that might have been a good thing. But now people assume that property belongs to them,

built fences, planted stuff, and you can't get to the equipment to maintain it even, much less restore it during a storm. But if you have access in a commercial, industrial application, it doesn't matter where you put it as long as you've got access. That's the point.

MR. McDONALD: That's what we're saying. But a strict interpretation is if we were approached by a commercial developer, we'd have to say no.

MR. TRAPP: You think you couldn't do that? Okay.

MS. KUMMER: I could see that causing problems because a neighbor could say, well, you're putting back for these businesses. We have an investment in our property values. For aesthetic reasons we want our facilities in the back too. You did it for him. Why can't you do it for us? I can see inconsistencies arising.

MR. McDONALD: My only response would be operational accessibility; if we could garner the same accessibility.

MS. KUMMER: If you could come up with some language that captures that thought.

MR. TRAPP: You understand what we're trying to get at. I don't think we've got any disagreement with the utilities. Now the customers might, but --

MR. McDONALD: We'll work on that.

MR. TRAPP: Okay. Thanks. And then the last section that we've stricken through -- I'm sorry.

MR. HAINES: I'm sorry, Bob. Regan Haines, Tampa Electric. Just one other clarifying question on Number 8. Where it says "rebuild," I think the point was brought up earlier as far as restoration following a storm, if we're rebuilding a line, if we're even a couple of poles within a line that's in a rear easement, is it expected that we would relocate the line at that time to the front?

MR. TRAPP: I would encourage you to say yes. You know, my personal opinion is that we've had too much trouble with rear lot, and that every opportunity ought to put it front lot. If it, if it's -- it's a matter of degree and a matter of cost, and I think we may have to think about this in the context that we started out earlier about what does it mean to grandfather and not grandfather facilities, more thought maybe needs to be put to it. But, again, my position is unless it costs an arm and a leg, you ought to take the opportunity to relocate it.

MS. KUMMER: The idea is to migrate away from rear lot lines. And if you're going to keep rebuilding the rear lot lines, we're never going to get there. Now I agree that if it's a choice between getting power up on a rear lot line and taking two months to get poles and easements in the front line, then, you know, that's definitely something that we need to consider. But, again, our goal is to migrate away from the rear lot lines. And if you've got a better way to capture it,

you know -- but that's where we were headed.

MR. HAINES: Maybe some language "where practical" or "cost-effective," "reasonable."

MR. TRAPP: Well, I just challenge you as you do your cost impacts, because, again, we're going to ask you at the end to give us the cost impact of the rule as proposed and then cost impact of your changes, as you do those cost impacts, think of the many, many customer complaints we get about: I've got a squirrel that runs in my back yard; I've got a tree that grows in my backyard. I mean, my staff seems to be -- a lot of their work time is spent chasing down customer complaints involving rear lot construction. The poles aren't big enough, they need to be taller, the lines are dragging the roofs, they need animal guards on the wires, this and this, this and that.

MR. BREMAN: It's also a point of discussion that you need to have with your communities, and it's something you can set up in the damage plan with the community and how you respond to the damage. So on one hand there's an immediate answer, which is some of the discussion that we've had just now. But there's also a long-term view, and that needs to be part of the dialogue with the local communities. If they want to insist on that back lot construction, they're going to have to be aware of the long-term outages that go with it.

MR. TRAPP: And, you know, growing up in Jacksonville Beach, I have to say from personal experience no kid has

experienced growing up in Florida until he's throttled himself on a guy wire in a front lot construction. In the area in Jax Beach that had rear lot construction, it was a real danger because we were climbing the fence to see if we could climb the poles. All we did in the front lot was just throttle ourselves on the guy wires, so.

The last section, again, staff is proposing to strike because these are basically metering requirements that are elsewhere in the rules.

And if we could turn now quickly to 25-6.0345, the safety standards construction. Staff is proposing no changes to this rule. And the reason we're not proposing any changes to this rule is there's a very, in our minds, prescriptive statute on this, and this rule exactly complies with that statute and enunciates what that statute contains. I know that there are some discussions in the Legislature to possibly change that statute, so I guess our going in position is until such time as the Legislature changes the laws, we're going to keep the rule that was designed to enforce the law that is currently on the books.

I know that Florida Power & Light did propose a rule change, and I guess I need to turn to you and ask for your comments on this area. Do you feel we need to try to change this rule, given the fact that the current statute is the current statute?

MR. MIRANDA: Bob, we had -- we will propose in our language proposal to have inputted in there the extreme wind loading criteria. So that was the discussion we had that we thought that it might be a required rule change here.

MR. TRAPP: And you think that's a safety requirement?

MR. MIRANDA: That's -- we'll have to revisit that.

MR. TRAPP: Again, our mentality going into this was to have a rule on reliability construction standards and then, and then a separate rule on safety standards because there are two different statutes that are being implemented in the rules. In this particular rule, I'd encourage you to look at the statute that is on the books for this rule. To me it's very prescriptive. It tells us exactly when to start the code enforcement. It starts in eighty -- what is it, Jim, four, six, four code, I think it was.

MR. BREMAN: 1984.

MR. TRAPP: In interpretations from that, if only new facilities are affected by the safety code, munis and co-ops are specific -- I don't think we have an argument on this one -- munis and co-ops are specifically encompassed in that enforcement action. And I'm a little hesitant to mess with that rule because there's a specific statute over there, and I'd rather fight my battles with Bill and Fred on another statute.

MR. BUTLER: We may be able to do something that would be more -- really the concern here is being sure that what's said in 0345 doesn't trump what's being done in 034. It may be that there's some notwithstanding language that we could propose for 034 that would get the job done.

MR. TRAPP: That might work. That might work.

MR. BUTLER: Okay.

MR. TRAPP: Anybody else have anything on the safety rule?

I think that takes us to Page 13, which is the undergrounding, starting of the undergrounding discussion. Larry, did you want to start or do you want to break for lunch a little bit early or what do you want to do?

MR. HARRIS: You know, Bob, I don't really mind either way. I would say we should probably break. I think undergrounding is going to be a pretty big deal, and I'm not sure that it makes sense to get started and then break in half an hour or an hour for lunch. I think we probably ought to just go ahead and stop a little bit early and then come back and we'll all be fresh and ready to really tear into it.

That would be my suggestion, unless I hear somebody who strongly feels we need to get started now.

MS. KUMMER: I would just like to point out that 6.064 is not an undergrounding rule.

MR. TRAPP: I'm sorry. Well --

MS. KUMMER: We want to talk about it, but it's not an undergrounding rule.

MR. TRAPP: I'm sorry. We start getting into topics that pertain more to underground costs than standards of construction. That's what I meant to say. Connie corrects me.

MR. HARRIS: Yeah. Let's go ahead and break for lunch, come back at 12:45, and we'll get started with 6.064.

(Lunch recess.)

MR. HARRIS: All right. Welcome back. I hope everyone had enough time to get something to eat. We're going to move on.

I misspoke earlier. 6.064 is not undergrounding. It's contributions in aid of construction. But it was probably still a good time to break, so I'm not too upset about that. We're going to move on unless we have any comments anyone needs to catch us up on to begin with. Bob, did you have anything?

MR. TRAPP: Well, I don't, I don't see our friends from the munis and co-ops here to initiate the discussion with them, so -- I can pick on Mark Cutshaw though. I assume that you just love this rule and that FPUC just will --

MR. CUTSHAW: (Inaudible.)

MR. TRAPP: Well, I just wanted to forward you an opportunity to a microphone, should you need one.

MR. CUTSHAW: If I need one, I'll come up there.

MR. TRAPP: Thank you.

MR. HARRIS: All right. Let's go on with 25-6.064 then. Connie, did you want to go ahead and introduce this one?

MS. KUMMER: Okay. In case you're all wondering, this really doesn't have a whole lot to do with hardening, but it's a rule that does have some reference to the new construction standards, and also it just needed cleaning up, period. And that's primarily overall -- all staff was trying to do was to clean up this rule, get rid of a lot of the confusing formulas, the duplicative language. What we have done is expand this from just line extensions to all kinds of CIAC.

And one example that came up as we were going into this was apparently in Central Florida there seems to be movement to buy older homes, tear them down and build mega mansions on the property, and that is requiring upgrade in distribution facilities to serve these homes. And there was not a mechanism in our rules that we could find that would address CIAC in those issues. And that's what we also tried to incorporate in here. So it expands slightly from the line extension issue, and other than that it's just basic cleanup. So we can, we can start at the first, or if you just have general comments, we can tag those. Everybody loves it? Is this silence?

MS. CROSS: I'm Lori Cross from Progress Energy. And just in general on the entire rule, we had a question as to

whether or not this rule was applicable to transmission or did you intend for it to only apply to distribution facilities?

MS. KUMMER: I'm looking for the language in here that -- we had primary and secondary, I believe. I don't think -- typically this doesn't apply to transmission. I thought we had some language in here that I can't find at the moment that limits it to --

MR. TRAPP: Connie, if it, if it applied to lower voltage transmission serving a commercial or industrial customer, would it have application?

MR. BREMAN: I think, I think the question is it has retail applicability, not wholesale.

MS. KUMMER: Yes, it is retail. I'm not sure I understand, Bob, what you're saying.

MR. TRAPP: Well, her question is to transmission, and I think Jim's properly tried to classify what we're trying to do. Are you talking about wholesale transmission, bulk power transmission or transmission that serves a retail customer? Because my reading of the rule was that it would apply to transmission serving directly a retail customer.

MS. CROSS: Yes, that is what I'm asking about.

MR. TRAPP: And I'm asking for clarification too because Connie is the expert on this one.

MS. KUMMER: Quite honestly, I haven't thought -- I suppose if it's serving a customer directly, then it could

apply to that. I would think that if you're extending distribution, the four times use or four times revenue is going to be a meaningless number in that calculation, but I'm not sure.

MR. TRAPP: It just seems to me that over the 31 some odd years I've been here we've had a few transmission customer CIAC situations, and to me this rule would apply in those circumstances. But since you can't calculate revenues associated with bulk transmission, the rule would not have applicability in a bulk transmission situation.

MR. PORTUONDO: This is Javier for Progress Energy. No. What we're trying to assess is we have retail customers that are served out of transmission voltage.

MR. TRAPP: Right.

MR. PORTUONDO: And we just want to confirm, since the original rule addressed distribution facilities, we just wanted to make sure that now this rule is intended to encompass both distribution and transmission voltage facilities.

MR. TRAPP: Where did it limit it to distribution?

MR. PORTUONDO: Well, it talks about extensions of distribution facilities in order to receive electric service.

MR. TRAPP: I got you. Extensions of distribution facilities on Line 10?

MR. PORTUONDO: Right.

MR. TRAPP: Ah-hah. It would seem to beg for

clarification. Why don't you propose some?

MR. PORTUONDO: I mean, is that -- was that staff's intent is to make this holistic, just retail?

MR. TRAPP: I always thought it was holistic myself. But, again, she's the --

MS. KUMMER: Quite frankly, I don't think we even thought about it at that level. I don't see why it wouldn't. I mean, if it's serving a customer directly, I would think that it would be equally applicable, but I have to think about it a little bit more. It's a good point.

MR. PORTUONDO: Okay.

MR. TRAPP: We'll seek to clarify that.

MS. KUMMER: Anything else?

MR. BRYANT: Connie, this is Howard Bryant with Tampa Electric. In the first section could you maybe help us understand a little bit better what "standard installations" means?

MS. KUMMER: What we were trying to get at at that point is the cost -- your base rates include certain types of costs that you would -- to go back to the line extension analogy, it covers the transformer, the service drop and the meter. Now if you've got to put in three or four more poles to get to that transformer service drop, then those would be nonstandard. Standard is what is already, would already be included and recoverable through your base rates.

Anybody else?

MR. BRYAN: Were you going to go section by section or are you just looking for general comments across --

MS. KUMMER: We can. If you want to go section by section, start with paragraph one.

Does somebody have a better term for "standard installations"? Given -- that was the only thing we could come up with to try to succinctly capture the costs that would be otherwise covered in base rates. And it does exempt any of the new subdivision CIAC that's covered under Rule 25-6.078.

Okay. What about our formula in Paragraph 2? Have we missed anything? Okay.

MS. CROSS: Lori Cross, Progress Energy. Yeah. We just wanted to understand what your intent was here with the formula. Was it just to combine and consolidate the calculation? Because at first, when we first read through it, we thought that was the intent and we really didn't have an issue with it. But once we sat down and went through it again and worked through the numbers as it's laid out, we do have issues with it because the formula, the new formula results in the loss of CIAC related to overhead service, and it also doesn't provide for the netting of the estimated revenue against the cost of overhead service in the calculation of the differential between the overhead and underground service. So if you could maybe just help us understand what your intention

was here, whether you meant to change the way it's calculated.

MS. KUMMER: Essentially we were just trying to clean up all the myriad other formulas that were equally confusing. Blame this one on Bob. He wanted one formula, one formula. He wouldn't let me have more than one formula.

MR. TRAPP: I can't read the rule. I don't understand the rule. It's got four formulas that seem to be the same. So I said, "Isn't this one formula?" And so it was purely an attempt to try to streamline the formula. If we've inadvertently left something out, I think we'd like for you to call it to our attention so we can figure out whether we should put it back in.

MS. KUMMER: Yeah. In (a) through (f) following the formula we were trying to capture all the various pieces, parts that might not have been obvious in the formula. But if we have forgotten something, please let us know.

MR. BREMAN: There were two points that you made, at least two points. What were those points again?

MS. CROSS: Yeah, there were a couple -- yeah, there were two. The new formula doesn't provide -- well, it results in the loss of the CIAC related to overhead services because that was the first step in the calculation of the old formula. And then it also -- the, the revenue, the estimated revenue for the -- is netted against it twice, so you lose it. So -- but we can provide, you know, we can maybe lay out for you in our

written comments proposed changes to it. I mean, first we just wanted to understand what you meant to do in the --

MS. KUMMER: Right. What we intended the second column -- this cost of installing facilities is kind of a catchall and maybe we need to explain better what that is to capture, to specifically capture the things that you've put in there or the two things that you cited that are missing. That was kind of -- the cost is, is the cost of installing it, whatever that includes.

MR. PORTUONDO: This is Javier from Progress. Let's go through a simple example. The reading of your formula right now, if we assume these values, the underground service, let's assume, costs $150. Let's assume the cost of the overhead service is $100. The cost to install the new underground facility is $50. That's the net of the two numbers. The four times revenue is a credit of $40. So you'd have a net underground CIAC of $10. In the original formula the way it was laid out you had two components, you had an overhead CIAC and you had an underground CIAC.

In the overhead calculation you take the cost of the new overhead service, which is $100, you'd apply the four times revenue, and you'd have a contribution of CIAC of $60 for that component. Then you took that $60 and you applied it to the under -- you added it to the underground CIAC. So the underground was the differential between the $100 for overhead

and the $150 for underground. So you had a difference of $50. So the sum of the $50 and the $60 would have produced an underground CIAC of $110. So that's how the old formula worked. We were just trying to make sure that that was still your intent. And we can go ahead and show that in our written comments, that example.

MS. KUMMER: Right. Yeah. It was not our intent to change the actual calculations, just to simplify the formulas. So if we missed something, by all means, let us know.

MR. PORTUONDO: There was something else too. Go ahead.

MS. CROSS: Yeah. We just -- one other, one other thing that we noticed was that in the calculation of four times the expected revenues, that it now says four times expected annual demand charge revenues from incremental sales. And the old rule didn't have the word "incremental" in it, so we were also not sure if that was intentional, if -- or --

MS. KUMMER: Well, the old rule only dealt with line extensions, which is different than what we're trying to capture here. So there is a bit of a difference here in terms of what we're trying to capture.

What I was thinking is that more -- think of it in terms of an upgrade, the example I went to, that they built a house four times the old house and you have to install new transformers, whatever, and that's the incremental revenue.

You wouldn't want to give them credit for the whole amount of revenue, but only for the incremental part. And it seems to me that that would work as well for any CIAC.

MS. CROSS: I mean, I can understand in your example for, you know, where you would have incremental sales, incremental demand there. But this rule, does, does it not also cover things where you wouldn't really have incremental sales? Like, for example, would it not cover like an extension of a, of a line where you might not be incurring any incremental sales, so --

MS. KUMMER: Why would you have a line extension without incremental sales? If you're extending a line to a new customer, everything they have is incremental, every new load they put on the system is incremental. I mean, that's our thinking.

A line extension that's built to serve a new customer, all of their load is incremental.

MS. CROSS: Okay. That's fine. Thank you.

MR. BRYANT: Connie, Howard Bryant with Tampa Electric.

I think we share some of the concerns that Lori has been expressing, and I actually kept up with Javier as he did his arithmetic, so I feel pretty good about that, and I believe in what he is saying.

But also though it appears as if this rule in a

general sense might, and I'm going to use that word carefully, it might be contradicting the normal URD rule in the sense that in this particular case you can extend, speaking of 25-6.064, you can extend for a commercial customer and you will consider the revenue that is going to be brought on to your system because of that extension.

But does it also apply if you're extending to a residential customer that is, shall we say, out in the woods? But, I mean, you're extending and there's going to need to be some CIAC contribution for that residential customer because it's not the standard installation. And so are we, are we giving revenue credit, if you will, to the commercial customer, but are we not giving revenue credit to the residential customer? And if that's the case, is that reasonable?

MS. KUMMER: If you're extending a line to a new customer, then you would include -- as I said before, a new customer's load is all incremental.

MR. BRYANT: Right.

MS. KUMMER: And that would be credited against the cost of the line extension.

MR. BRYANT: Right.

MS. KUMMER: But I'm not understanding the distinction you're making between that and the commercial customer.

MR. BRYANT: Okay.

MR. BREMAN: Can I jump in on this one?

Suppose a new subdivision is being platted five miles from the tap that the company would otherwise provide service. Does the five-mile feeder extension to the subdivision entrance include the kilowatt hour sales that the substation -- that the subdivision is going to produce?

MS. KUMMER: This doesn't apply to new subdivisions. It says specifically in Paragraph 1, "except as provided in 25-6.078," which is the rule that deals with new subdivisions.

MR. BREMAN: I'm talking about the five-mile extension outside the subdivision.

MS. KUMMER: My understanding, the builder pays for that right now. When he builds that subdivision, if he builds it in order to get -- correct me if I'm wrong, but I know I've handled complaints that that's been an issue, where the developer pays for whatever extension is necessary to reach his subdivision.

MR. PORTUONDO: That's correct. I believe that's true.

MS. KUMMER: Is that where you were going, Jim?

MR. BREMAN: Why is that?

MR. TRAPP: If the subdivision -- let's assume it's an overhead subdivision. If the subdivision generates enough revenue to support the construction of the feeder to it, why wouldn't the company build the feeder?

MS. KUMMER: Because you don't have any immediate revenue coming in. Again, the companies could probably better answer this rather than me. But it seems to me that if you build a subdivision, it's speculative on what your revenue is going to be and how soon that revenue is going to be coming.

MR. TRAPP: But if the subdivision, based on the estimates that the company accepts, generates revenues to support the feeder construction, why would you charge the, why would you charge the developer for the feeder? Overhead or underground, it's irrelevant.

MR. GRIFFIN: This is Jesse Griffin from Progress Energy. In your example, if the subdivision was revenue justified, they would not pay for the overhead extension. In a URD they would not pay for the overhead extension but they would still pay the priority differential.

MR. TRAPP: The URD differential within the subdivision. And I thought that was the policy all along, and I don't think it was our intent to change it.

MS. KUMMER: But I think what he's saying, if they want the feeder, the five miles underground, they have to pay the --

MR. TRAPP: They would pay an underground differential for the feeder.

MS. KUMMER: Right. Yeah.

MR. GRIFFIN: That's correct. Even if they were

revenue justified, they would pay the differential if the feeder extension was underground.

MR. TRAPP: Right. That was my understanding of the policy all along.

MR. MIRANDA: This is Manny Miranda with --

MR. TRAPP: The overhead comp only catches the CIAC credit due to revenue, I mean, to the revenue generation but not the URD differential.

MR. MIRANDA: We'll do the same calculation. We will estimate the, you know, what the cost for the five-mile extension would be. And if it's revenue justified, then there would be no cost for that on the overhead portion.

MS. KUMMER: But there have been instances where there was a cost.

MR. TRAPP: Well, I mean, if, if we fouled in some way, it was not our intent to change the, change the rule. I think this one was just simply a cleanup was my understanding.

MS. KUMMER: Yeah. Let me say that over again. We were not --

MR. TRAPP: So if we fouled it, tell us. We'll fix it.

MS. KUMMER: Other than, other than to extend or make clear that the revenue credit applies to any CIAC, it was not our intent to change anything else.

MR. TRAPP: The only real change to this rule in the

context of hardening is on Page 16, Lines 4 and 5. So if we've -- that's the only intentional change. And that just says, "Reflect the cost of hardening in all these calculations." The other takes of the rule was because I read four formulas and thought, my God, why can't we do it in one.

MR. GRIFFIN: This is Jesse Griffin, Progress Energy. If we could in our writing maybe do an overhead and an underground formula or somewhere stick into this formula the overhead differential, if it's necessary, that's -- or the overhead CIAC. I'm sorry.

MS. KUMMER: We started that route and then wanted to get down to one formula. But, yes, I would actually prefer to see an overhead and underground. Quite honestly, I think it makes it clearer.

MR. GRIFFIN: Or if we could add it into this formula in such a place that when we know we're installing underground facilities in the second box, that we could add the overhead CIAC if it was necessary. That would, that would take care of my concerns.

MS. KUMMER: Okay. We appreciate any suggestions. Like I said, this was -- we were just trying to clean it up, and maybe we've caused more confusion than we've cleaned up. But, again, our intent was just to clean up the language because it was a convoluted rule that was difficult to follow.

MR. BRYANT: Connie, I think what we'll do is

probably offer some, some suggestions, still trying to follow what Bob is saying in terms of minimizing formulas, keeping it down to as little as possible.

We do believe that there is one case where the revenue is being accounted for twice in the calculation, and that might not be what the intent was, might not be.

And so we'll try to help it a little bit. And if we send you something that's Greek, if you'll talk to us, we'll try to explain ourselves too.

MR. TRAPP: As long as it's math Greek. It's okay if it's math Greek.

MR. BRYANT: Right. That would be the only Greek we could offer up.

MS. KUMMER: Okay. We got -- because we've skipped over to Paragraph 5. I mean, two is the formula. On Page 16 we've got -- most of this is just a paraphrase again of the existing rule. Paragraph 5 was new to reflect that any construction would meet the, whatever the applicable construction standards were.

Six is a little bit of a change. It requires a true-up.

MR. TRAPP: Connie, Power & Light wants to speak.

MS. KUMMER: Please speak up.

MR. MIRANDA: I wasn't sure if you were finished, so. Connie, I guess in this area one of the things that we were

just concerned about is from an administrative perspective. Many times we're dealing with developers up front. And to calculate and keep up with the CIAC amounts later on it can go in the reverse fashion too, if we did not collect enough CIAC. Now we're dealing with a customer, and just keeping track of all those records during that period was just something that we wanted to make sure we understood what your intent was.

MS. KUMMER: Okay. Well, the rule language -- we tried to capture that in any dispute over the amount of CIAC. If the developer paid it, he would be the one disputing it and he would have to come up with the information to, to argue with whatever you charged. You would be dealing with him, I would think. But that was what the attempt was in saying in any dispute. It requires someone to come forward, not for you to do it unilaterally, but for whoever paid the CIAC to come forward and show that your calculations were incorrect. Does that help?

MR. MIRANDA: That helps.

MS. KUMMER: At least that was our intent. If there's better language --

MR. BREMAN: I think the CIAC is still based on a projection.

MS. KUMMER: Sure. It has to be.

MR. TRAPP: I'm a little curious as to how you do it now. Because, I mean, the original language of the rule said

actual or estimated cost. Well, which one?

MR. MIRANDA: For us it's estimated up front.

MR. TRAPP: That's what I thought. Everybody uses estimated. So the thought was make it estimated unless there's a dispute, in which case you'd have to go argue what the actual was anyway.

MS. KUMMER: But, again, it would be whoever paid the CIAC raising the dispute with you. It wouldn't be going back to homeowners after the fact.

MR. BUTLER: Connie, just as sort of a -- Connie, hi. John Butler, Florida Power & Light. A little bit of a further clarification of that dispute mechanism.

Say that there was a dispute that had sort of arisen and come to fruition at the point where you're trying to resolve it after one year into this four-year period. Is your thought that you would use one year of actual and three years of estimates at that point or is the idea that you need to wait until the end of four years when you have four years of actual to resolve the dispute or something else?

MS. KUMMER: My inclination would be to wait until the four years were over, because trying to true-up an estimate a quarter of the way through the process doesn't seem to make a whole lot of sense to me. But if for some reason the company thought it was appropriate, if the developer raised the point and the company thought it was appropriate, they certainly

could. Whether it would be required to do it in a shorter than four-year time frame --

MR. BUTLER: But your sense is basically, what you had in mind is if, you know, the property owner disputes it, then basically you just wait to see how things turn out at the end of the four-year period, where the actual revenues would be collected. And if the -- say, well, whichever way the CIAC adjustment ought to go, that it would be adjusted at that point.

MR. BREMAN: John Butler, this is Jim Breman. I think the four years also goes to phase construction that extends over a long period of time. And so you have to make your best judgment over phased construction. So I think the four years really goes more towards that than --

MR. TRAPP: And I don't think that the rule is as restrictive as you've laid it out either.

MR. BREMAN: I don't think so either.

MR. TRAPP: I think the rule is flexible. It just says you'll true up to actual. Now if you do that on a six-month basis or one-year basis or wait until the end of four years, you know, it's subject to some interpretation by the utility. And, quite frankly, the proposed language parallels many of the complaint resolutions that I think the Commission has entered into with the companies anyway. We're just trying to reflect some common sense here.

But, you know, like it or not, some customers, some customers don't trust your estimates, so they want, they want a little -- we thought that there needs to be at least some consumer mechanism in here for -- I mean, actual is actual and that should be the final judgment. So that was the intent as I understood it.

MS. CROSS: This is Lori Cross, Progress Energy. You know, we have been thinking about this though. What if -- I heard what you said, but what if the developer is, you know, four years later the developer has moved on? I mean, who -- we chew up the CIAC. Who do we collect it from? There's no one to collect it from. We think the rule the way that it's written is a little bit one-sided because it's going to -- customers are only going to complain when the original estimates are too high versus too low.

MS. KUMMER: What do you do today?

MR. TRAPP: I don't, I don't agree with you.

MS. CROSS: Okay.

MR. TRAPP: The utility shall true-up. True-up means you've already collected the money. So it seems to me the language says to me that it's a situation where you've collected too much and the customer wants a refund, and you have to do that on an actual basis. Now that could be on a six-month actual basis for four years of revenue, or maybe your concern is that you refund a lot in the first six months and in

the third six months they don't realize the revenues and, therefore, they owe you money again. Maybe that could be a mass situation that would apply in. But I think the intent is that you start with your estimate. That's what you collect. If there's any, if there's any dispute about that estimate, you still collect the estimate but you true it up to actual.

MS. KUMMER: Okay. And we're also talking about two different situations here, I think. This -- the language on Line 13 says, "in any dispute." That implies a developer is going to come back to you and say I think what you charged me was too much. Now that's one situation in which you would true-up, as Bob said, where it's an overcollection.

Now I don't think a homeowner is going to come to you and dispute that he paid too little. So the first premise isn't met there. Now I don't know how you handle it today. Do you go back to homeowners and try to collect CIAC if the estimates didn't bear out? This rule wouldn't force you to do that. It says, "in any dispute." If whoever paid the CIAC comes back to you and says, we paid too much, then you'd true it up. And underrecovery wouldn't come into play, I don't think, under this.

MR. BUTLER: But, Connie, what about the situation where the customer believes that he or she paid too much but it turns out that it was too little? That certainly can happen.

MS. KUMMER: That can happen today. What do you do

today?

MR. BUTLER: I don't think today it's based on this notion of truing up. And, I mean, if true-up means you're deliberately making it one-sided and it's just if there's a refund, there's a refund, if there's more owed, then you let it go. Maybe that's how we need to understand and comment on the rule as it's written.

When we had read it, because sort of familiarity with the concept of true-up in the adjustment clause proceedings, I at least hadn't understood it to mean that it would only work one way.

MR. TRAPP: Well, John, you know me, I tend to get argumentative. It's not my area of responsibility, but I'll be argumentative.

The original rule as it's stated now says actual or estimated. Now that is inappropriate rulemaking language. It never should have been in there. If I had a customer complaint come through my department now on a dispute over an estimate, we would recommend resolution based on actual, and we would take you all the way to Agenda and have a Commissioner vote on it. And I have a sneaking suspicion that the Commissioners would side on the favor of the consumer and actual data. Now just because it hasn't happened, we may be arguing about a moot point here and everything -- but, I mean, we can try to work out the details, if you want to, on this thing. But it's

inappropriate for the company, in my opinion, just to give a bunch of estimates out there without being able to stand by and substantiate them and hold them to actual. And, you know, that's just my opinion.

MS. KUMMER: And this doesn't preclude you, I wouldn't think, from, from rebilling or backbilling or whatever you want to, collecting the difference in CIAC. It's just that your estimates, I'm sure, are wrong today to one degree or another, and this wouldn't preclude you, I wouldn't think, to do whatever you're doing today.

MR. PORTUONDO: This is Javier from Progress. That's exactly what I needed clarification on, that it isn't one-sided. That -- to Mr. Butler's example, if we go to the Commission at Agenda and it's determined that that customer underpaid, that they would be at that time four years from now on the hook to compensate the utility for that.

MR. TRAPP: The company would have the ability to make that case, but recognizing that the company is the one that's responsible for the estimates anyway. I think you would have a hard burden of proof.

MS. KUMMER: You'd have to have a really good reason to --

MR. TRAPP: You'd be free to make the argument.

MR. PORTUONDO: No. No. You would have actuals at that point; correct?

MR. TRAPP: Sure.

MR. PORTUONDO: I mean, we would be, like you said, based on actuals. So the evidence would be there black and white, this is the actual revenues, this was the estimate.

MS. KUMMER: But, Javier, the problem is the utility ought to be doing a better job with their estimates. You're the people with the experience. You ought to know what's out there, and that estimate ought not to be that far off. And if it is far off, it's because somebody didn't do a job, do a good job in the company on the front end. And I think that's a, that's a position the Commission would probably take.

MR. PORTUONDO: Well, that's, I mean, that's a little bit unfair. Because if you're talking about a subdivision, you don't necessarily know within that four-year period whether it's going to develop at the pace you thought it was going to develop.

MS. KUMMER: This doesn't apply to subdivisions. This specifically says it doesn't.

MR. PORTUONDO: I'm sorry. Or the consumption, or the consumption of a particular set of customers may not actually materialize the way historic consumption would dictate. So, I mean, we do attempt to try our best. And under the old rule we kind of lived and died by our estimate. Here I just want to make sure that, you know, this isn't unfairly penalizing the company, and not having a reciprocal

opportunity, if challenged, to get the lost revenues that would result from a, a low estimate, let's say.

MS. KUMMER: Well, give us some language and we'll look at it. If you think this is one-sided, then give us some additional language and we'll certainly look at it.

MR. TRAPP: But it does say, "in any dispute." It doesn't say who raises the dispute. So to me your argument is quite justified. If the company wants to initiate a dispute, have at it.

MR. PORTUONDO: That wasn't where I was going, but that's an interesting idea. I was thinking that the developer, let's say, initiated, he had a concern that we had overestimated, it turns out we underestimated. So at that point there would be an exchange of funds.

MR. TRAPP: Notwithstanding what version of the rule we have, in that circumstance I believe we're going to get a complaint here and we're going to have to resolve it through the complaint process, so. And I think this would give you the opportunity to let the judgment fall either way based on actuals is the way I read the plain English of it. But, again, I may be overstepping my bounds.

MS. KUMMER: Again, if you have language that you think makes it more evenhanded, then we'll certainly take a look at it.

Paragraph 7 is just language cleanup. I don't think

we did anything serious there.

Eight, we made a critical change on Line 1 of Page 17. The current rule says the "utility may elect to prorate." We said "shall." I realize that's a significant change. Do we have some input on that?

MR. PORTUONDO: This is Javier. Can we go back to seven?

MS. KUMMER: Sure. I don't think we said anything different. We just said a little shorter.

MR. TRAPP: Well, you put it in proper rulemaking language. You said the "utility shall." Rules require the utilities to do things, not to outline what the Commission is going to do.

MS. KUMMER: Right. The old language said, "The Commission will reduce the utility's net plant in service." And isn't that equivalent to imputing CIAC? Again, we didn't mean to change the concept. We just tried to clean it up a little.

MR. PORTUONDO: Yeah. I apologize. I was thinking of something else.

MS. KUMMER: Okay. That's -- okay. Eight. Mr. Butler, you had your microphone on there.

MR. BUTLER: Yeah. On eight, it seems that two of the, at least to me, most significant changes are the, you know, "may" and "shall" and inserting the word "largest" number

of customers here. And this seems to be something that directs the utility to do the calculation in a way that almost assures that there won't be enough people around yet to collect it all from in any sort of new development. Maybe I'm misunderstanding it. But tell me what you mean here that we shall prorate it over the largest number of customers expected to be served. And particularly if something is, you know, being built out, that almost necessarily means you're prorating it over people who aren't there yet.

MS. KUMMER: Well, it's the largest number of customers expected to be served by the new facilities. And that could be -- if you don't think this is going to develop in the next ten years and it's only going to have two houses, then that's your largest number of expected customers. So it's a pretty open-ended -- it's really based on the utility's judgment of how many customers you expect to be there within that next time period. It doesn't -- it leaves the discretion with the utility to make that determination.

MR. PORTUONDO: This is Javier from Progress. Could this technically by, let's say, a developer, he could use this to argue the opposite position that, you know, this is plotted for 200 homes and we should be using 200 homes?

MS. KUMMER: Well, again, the last line three says, "in any four of the first five years." So it's a build-out within five years. And the old language was even looser, which

said the utility may elect to prorate the line, the total cost over the number of customers expected to connect. I mean, that was less precise. And we're just trying to put some limits around it.

MR. PORTUONDO: Yeah. My concern is you're going to be charging him up front X amount of money for the line extension based on the largest number of customers. What if that doesn't materialize within that five-year period?

MS. KUMMER: If you're charging the developer, there's no proration for the company to be doing anyway. It's only if you have individual -- if you're dealing with a developer and the developer is installing facilities through that subdivision, he's going to be the one paying the CIAC. There's no proration to it. If he wants to prorate it over his lots, that's his business.

MR. PORTUONDO: Okay. I misspoke. So I have an individual, okay, of a larger development, we're extending the facilities or upgrading the facilities, and we're basing the calculation over the total largest number of customers expected to be served on that new or upgraded facility over, in any four of the first five-year period. What happens if we -- the customer says, well, this, this is going to expand to 200, you're going to be serving 200 customers?

MR. TRAPP: What happens now?

MR. PORTUONDO: Well, right now we don't --

MS. KUMMER: There's no proration.

MR. PORTUONDO: There -- yeah.

MR. TRAPP: Because it says "may," and that's just not right.

MR. PORTUONDO: I mean, I think the addition of the "largest" number, I think there's --

MS. KUMMER: How would you --

MR. PORTUONDO: There's the potential for the --

MR. TRAPP: Expected?

MR. PORTUONDO: Expected, probable.

MR. TRAPP: Probable.

MR. PORTUONDO: I mean, some other word. I think the use of the word "large" could be used against the company by a customer unintentionally.

MS. KUMMER: Okay. But let me give you an example of, of what was going through our mind. A situation that this might come into play is if another complaint, that's where we get most of our good ideas is from customer complaints, there was a situation where a developer started a large development and abandoned it. Years before, a customer had bought a lot in this development thinking the whole thing was going to be developed. The developer walked away. And when this customer wants service, he was faced with a five-mile run to get him electric service to his house and his house only. It was some $25,000 to get service to his house. And his argument was if

anybody else builds out here, they're getting a free ride on my $25,000. That's what we're trying to address. Now if there's a better way to do it, please tell us. But that's basically what we were trying to do.

MR. BUTLER: If we were to do that, say that, you know, they made a case for there being another nine customers out there in the next four to five years so that you'd only end up collecting 10 percent from the current customer, what is your understanding of what's supposed to happen for the other 90 percent? Do you -- does one collect that from the other people as they show up even though it's not a new facility as to them? Where does the other 90 percent, how does it get collected?

MS. KUMMER: It would be an assessment when that customer --

MR. BUTLER: So we would be entitled to collect a CIAC with respect to an existing facility for a customer who then comes out and later initiates service from it?

MS. KUMMER: I would think so, yes. Now you can tell me that operationally doesn't work. No? Javier is shaking his head.

MR. PORTUONDO: This is Javier. Yeah. I think -- not necessarily operational but administratively trying to track or flag that CIAC to eventual construction at certain facilities over a four, four-year period is a horrendous task

all across the system.

MS. KUMMER: Did you just never do this before? Because the other language said "may elect to prorate." Did that just not happen? Did proration never happen for CIAC?

MR. PORTUONDO: No.

MR. BUTLER: My understanding is it's pretty rare. And I think one of the ideas of the "may," it's just, it's one of those situation, if it arose, and I'm not sure it even did, but where you're right on the verge of having the other people there and it's just sort of absurd that this person gets his CO today and the next people get them next week or something like that and you would be immediately having the service to those people showing up. Maybe you'd want flexibility to be able to handle that. But now what you're building in is a mandatory provision that's looking out over a five-year time horizon and, as Javier is saying, would really become administratively difficult.

MS. KUMMER: What if we were talking about a transformer upgrade rather than a line extension? Do the arguments change?

Again, another example, a community or a group of homes was tearing down the 1950s houses, building 4,000 square foot McMansions, had to have an upgrade in their underground transformer. Does the first guy who asks for that upgrade have to pay for all of it or does it get prorated to everybody who

is served off that transformer?

MR. MIRANDA: We'll try to work through it.

MS. KUMMER: These are the kinds of questions we've been asking ourselves.

MR. MIRANDA: We know. We know. I guess it depends on what size transformer we put at the first customer that comes along and upgrades his house. That differential, he would be responsible for the differential at that point and we would not prorate it thinking that other customers are coming along.

Now if two or three of them came to us as a group and said, we're going to remodel these three homes, at that point we would include all three of them into, you know, that additional revenue.

MS. KUMMER: But they would have to come to you as a group. You wouldn't -- if resident number one says, well, listen, my neighbor is, you know, over here and his new house is going to be ready next week and he's going to be served by the same transformer.

MR. MIRANDA: Right. At that point, if we know they're working together and they're going forward with that construction, Connie, then we would incorporate them both.

MS. KUMMER: But you would require the customer to get his neighbors together to come to you to get the proration?

MR. MIRANDA: Right. But it needs to be, you know,

construction is really going to occur, you know. Not just, you know --

MS. KUMMER: Sure.

MR. MIRANDA: But that would be an example of one. But typically it's normally one customer that comes forward and says, I'm remodelling my house. We may install a larger transformer at that point. Right?

Now if the second customer comes along and that transformer has the capacity, then he will benefit from that first customer that paid that CIAC.

MS. KUMMER: So there's really no -- in your practices and the way you look at things, there's really no way to eliminate the free rider.

MR. MIRANDA: Well, we understand what your intent is now. We have struggled with that issue as well because, you're right, that one customer that built five miles away, is he unduly paying, you know, the entire cost at that point? That's an issue we've struggled with as well. Now we understand your intent.

MS. KUMMER: Okay. Okay.

MR. GRIFFIN: This is Jesse Griffin for Progress Energy. On that issue I have on Line 2 where CIAC's is shown with an apostrophe s -- we only bill one customer. I don't know of a case where we've ever divided CIACs amongst more than, more than one. I do believe we would help a customer if

they said, I'm going to pay it all up front because that's the only time we'll build, hopefully, and then my neighbor is going to build. Can you help me, you know, show him supporting documents that, yes, I did pay, you know, the full amount? And then they could go together to split it up. But that's a third party transaction and Progress Energy would not be part of it. But we'd be glad to show that, yes, we did collect the full amount from the first person, and where the second person could, I guess, out of the kindness of their heart choose to help pay some of those costs.

MR. TRAPP: Yeah. But on any occasion do you credit the revenue of that second customer to the first customer when you've charged him the CIAC?

MR. GRIFFIN: We would do that if we knew they were going in up front. And that's, again, our best estimate on the customer revenue portion. Our price estimates for our construction better be pretty close. The area where this formula has any weakness is estimated customer revenue because if they don't produce or use as much as they say they're going to, CIAC is affected by less revenue. So if, if we know going in that the first house is half done, the second house has started and we haven't yet billed, we're going to include that second house and potentially any more that we think will be started up within that four-year period of five years.

MR. BREMAN: The focus then is the accuracy with

which the marketing rep calculates the forecasted revenue sales from that extension.

MR. GRIFFIN: That's the biggest weak link in this formula is the revenue that the customer produces.

MR. TRAPP: Do you still use this a lot?

MR. GRIFFIN: Every day. But if I could continue, on Line 2 where it does have the CIAC's, CIAC's, yes, we still, unless we're forced to, would intend on billing the first person in the full amount. Especially in large developments, commercial, residential, whatever, where I know there's two or three different platted sections, it seems almost always the furthest one is the first one to start construction, and they do pay the full cost to get the service to them. Then the second and third ones that fill in the open spaces, they are technically getting a free ride unless we're going to be required to only bill the first person their portion, then we would be putting 100 percent of our construction costs out while only collecting potentially a fraction of our CIAC due. And that is a concern for me. If we could clear that up.

MR. BREMAN: Would it be a problem to, within the first five years, keep track of the new additions and then credit the original customer that paid 100 percent?

MR. GRIFFIN: If that's something that the customer did, we could, we could verify it. I don't think we're going to have the manpower to go around and check all the open lots

between every line extension we bill from where they started to where they serve the first load.

MS. KUMMER: So what I'm hearing is y'all don't use this paragraph now and you would just as soon not have it in there.

MR. BRYANT: Connie, this is Howard Bryant with Tampa Electric. You're probably hitting the nail pretty closely on the head there. The word "largest" is really a concern because it -- in the process of trying to solve some of the complaint issues that you have, which are real, I think it has a tendency to just shift them to a different time, to a different argument, but still surrounding the same issue of the argument over who pays the right amount. And the potential is there for the utility to perhaps not collect all of the additional capital costs associated with extending the line to that furthest customer, to the customer. You know, that potential exists that if there's five lots or five whatever, that they may never, they may never transpire, or one person buys two of them and the two, the fellow who buys one does not equal the load of what two of them were. And so you're not matching load with equipment that's out there kind of a thing or facilities. And so I think that's why we generally would charge, as we have been doing right now, the full load to that first customer because they are the cost causer for why we are extending.

To Jim's point about tracking it over a five-year

period, on the surface that sounds like a possibility, but then you create the situation of giving a credit potentially to the first guy down the line, and five years from now he may not be there anymore, he may have moved or something may have happened, and now you've got the problem of tracking who do you give the credit to. So, again, you create an administrative concern for us.

MS. KUMMER: Okay. If y'all when you respond, and we're going to ask for written comments when we get done with this, if you have ever used this provision, could you describe where and when you used it? And if you haven't, then that's a handy thing to have too. And just go back over the problems that we've talked about today, because this is something that, that comes up over and over again in customer complaints. And I understand the problems that you're raising, and this, again, is something that we struggled with how to track who to give the credit to and how to determine what the credit is. But, again, this is -- you get customers, the poor guy who paid $25,000 just because a developer walked away and decided to build someplace else. So this is -- I hear you and I'm sympathetic to many of your concerns. But if we don't need this, then we better have a good reason for getting rid of it if we're not going to use it. That's all I ask.

And I think 9 is just wording, 10 is just wording. Any other comments in general on this rule before we move on?

MR. BRYANT: Connie, Howard with Tampa Electric. One quick question on comparing Paragraph 10 or Section 10, I should say, and I think Paragraph 6. And I may not be reading it thoroughly enough. So if it's me, just tell me and I'm okay. But Paragraph 6 suggests that there's a dispute process involved, and then Paragraph 10 says that the applicant, if the utility and the applicant are unable to agree, then either party may appeal to the Commission. Are those, are those talking about the same thing?

MS. KUMMER: I see them as being different. Paragraph 6 on Page 16, the customer, developer, whoever pays the CIAC didn't dispute there was a CIAC due or really argue with your calculations in general up front that you based it on the appropriate number of houses and that kind of thing. It's just a matter of getting the pot right with what actually materialized. Ten is when we get the calls that say they want to charge me, you know, $500,000 for this. Why do I have to pay this? So that's the distinction I see; whether or not they ought to have to pay it at all or if the CIAC that you're asking is excessive.

MR. PORTUONDO: This is Javier from Progress. Do you also -- would you also agree that this is more of a, let's say, informal between the company and the customer? If this dispute remains unresolved, then they can execute to come to the Commission?

MS. KUMMER: Oh, certainly. You're talking about Paragraph 6?

MR. PORTUONDO: Yes.

MS. KUMMER: Yeah. Any time you and the customer can't agree, it can come here.

Anything else? All right. I will gladly turn this back over to Bob.

MR. TRAPP: Yeah. The next rule has to do -- this is the residential subdivision rule, isn't it, Jim?

MR. BREMAN: It is.

MR. TRAPP: Yeah. This is the RD charges for the residential subdivision. We've changed nothing. Well, I see one "shall" change.

Basically the main change is on Line -- on Page 18, Lines 12 through 13 where we've asked you just to include the effects of the cost of hardening required in the standard of construction rule in your routine calculations of the RD differential for new residential subdivisions. I do note that on Line 22 a "may" has been changed to "shall." And that's it.

MR. PORTUONDO: On that point a change in the word --

MR. TRAPP: That's a pretty big change, huh?

MR. PORTUONDO: Yeah. It's a pretty big change. I've got concerns. Given the, the differences between overhead and underground and what's considered O&M versus capital, it's, I would say, impossible to put that on a level playing field in

order to determine how much incremental costs underground would have versus overhead.

MR. TRAPP: But you're going to do that in that other docket, right, when you collect the data with respect to the performance characteristics and cost differentials on underground and overhead?

MR. PORTUONDO: What you're going to collect is empirical data that says, okay, I spent X amount on underground repairs, maintenance, X amount on capital. When you try and compare those dollars to the overhead dollars, it's not an apples to apples comparison because you have things in overhead that may be done on O&M where the exact same activity is a capital activity in underground because your units of property are different. So it's very, very difficult to compare those two.

MR. TRAPP: Does that make the number zero?

MR. PORTUONDO: No, I don't think it makes it zero.

MR. TRAPP: You've got a number then. Ah-hah, you've got a number.

MR. PORTUONDO: It's plus or minus from zero. I don't know what the number is. That's the difficulty. You know, we could give you a number of events, underground versus overhead. But truly putting them, you know, on an equal basis is very, very difficult. You would have to make some significant assumptions like you would apply the same units of

property concept for both. You know, you'd either adopt the overhead or you would adopt the underground in the analysis. I don't know that you would really do it on a practical basis.

But, I mean, I guess it can be done. It would be --

MR. BREMAN: We do allocations all the time.

MR. PORTUONDO: I was going to say, it's going to be riddled with assumption. As long as we can get buy-in to the assumptions, it could be something that we can actually complete. But it really would be a very difficult process.

MR. TRAPP: But right now you agree the rule says may.

MR. PORTUONDO: Yes.

MR. TRAPP: And the number is zero; right?

MR. PORTUONDO: Yeah. We do not --

MR. TRAPP: So now it says shall. You've got to propose an assumption. We review these cost deltas every year, I believe, don't we, as a routine tariff?

MR. BREMAN: At least every three.

MR. TRAPP: Excuse me.

MR. BREMAN: Every three.

MR. TRAPP: So every three years you can come up with your best guess assumption, run it by the Commission, have the Commissioners vote on it, and we'll see if a number other than zero emerges. But thou shall propose a number, recognizing that zero is a number.

MS. KUMMER: And I think that we were thinking in terms of something much simpler than, than what you're talking about. We've heard a lot of folks say, and even the utilities themselves say that, well, you do maintenance less often. Perhaps on underground it's more expensive when you have to do it. You have to trim overhead lines, you don't have to trim underground lines. Those are operational maintenance costs. That's really what we were looking -- I mean, in my mind that's kind of a big component of what we were looking at. It's just kind of the obvious things that you should be able to get a handle on apart from the expense versus capitalization type of issues. There are some things, there are some things out there now that you should be able to get a handle on, I would think, that would fit into this category. It won't be a comprehensive list by any stretch of the imagination but it'll be a start. And as Bob said, that's one of the things we're working towards in the other proceedings is to get a better handle on these operation and maintenance costs and differences between them. So it's going to be an evolving process. But it seems to me that there's some things you could be looking at now.

MR. PORTUONDO: I agree. There's some low-hanging fruit like you just presented.

MR. TRAPP: Let us not underestimate the impacts of Lines 12 and 13 also. I assume in the every three-year --

MR. GRIFFIN: This is going to be the hardening

issue.

MR. BREMAN: At a minimum every three years.

MR. TRAPP: You have to present to us a 226 like subdivision model, the old Joe Jenkins model subdivision.

MR. BREMAN: 210, but that's okay.

MR. TRAPP: 210? Excuse me. You design that for overhead, you design that for underground. Now you're going to have to design it taking into consideration hardening costs. Recognizing that -- where's the other slide? Underground hardening costs are going to be different for the coast than they are inland. So we're probably going to need to see maybe two subdivision calculations. Overhead, I guess you're going to have to put wind loading effects, and I guess Power & Light and Progress are going to be most affected, maybe two, three, four different areas of different overhead costs going into your URD calculations. So a few word changes, but to us it's going to require more calculations, more effort in other areas that we normally work in. We just want to make sure you recognize that's the intent.

MR. GRIFFIN: This is Jesse from Progress. If, if we're looking at the hardening issues on URD subdivisions, especially the underground portion, I believe we'd be better off if we required the applicant to provide us the majority of that, of the means to harden it. If it means raising the level of the pad mount of equipment, have them bring the

right-of-ways to the proper level just so we're not getting the, one, the added expense of basically hauling in what might be thousands of yards of dirt, having the applicant provide the elevation we need plus the shoring, we can still then do our normal URD system, and they provided us the hardening part. When we get to, you know, what would be Pinellas County versus Orange County, the hardening issues go away there as flood plain comes in, unless you want us to have two or three different URD estimates for the certain flood plains that they're in and the company do all the work.

MR. TRAPP: I don't know. Because, again, going back to earlier conversations, I don't know that you can have a developer raise the elevation of the whole State of Florida where it's going to be flood proof in a storm surge situation. There may be other alternatives.

Hardening underground to me means waterproofing your conduits. That may -- I don't think that's developer cost. I mean, that's something you do. The developer has to pay for the impact on the differential. So I don't think you can slough all the requirements off to a developer on this. I think it's going to have some utility impact too. And all that has to be factored into your standard residential subdivision URD calculations in this rule. And then it has other effects on other rules too with respect to conversion cases in CIAC, I guess, CIAC underground.

MS. KUMMER: I would hate to make the underground tariffs any more complicated than they already are. But, you know, we maybe need to be looking at that. Off the top of my head I think it would be difficult to have regional URDs, but then again I agree that it doesn't really work -- kind of a weighted average isn't really fair to anybody either. That's probably something we need to think about and how this would play into what the tariffs look like today and what kind of information is in the tariffs and how we're going to reflect any cost differentials. Because ultimately that's where it's going is into the tariffs, and we need to keep those in the picture too to --

MR. TRAPP: Well, yeah. That's a good point. My point in this -- by making the proposed changes that we're making, we are preserving a cost causer responsibility. That's the point really I'm trying to make. We are not averaging this into base rates. We are requiring the effects of hardening costs to be reflected in the current subdivision specific, project specific, area specific URD CIAC calculations that you have today. To me the benefit of that approach is that it is a direct assignment of cost approach where we don't have huge costs being spread over ratepayers in mass. It goes to the subdivision and says, okay, you're in a hardened pole area, you're in a flood zone area, so these costs apply when we calculate your subdivision, your project, your extensions,

CIAC. Here's your calculation; it belongs to you. You get the pot right to the standards that the Commission has adopted in these rules, and the numbers fall out from there.

MR. PORTUONDO: This is Javier. Let me just clarify something you said. This is for -- this calculation here for the overhead/underground differential, are you saying that when we compare the cost of the hardened underground system that the customers wants or that we have to put in, that's going to be compared to the standard overhead system that we have in rates today?

MR. TRAPP: No. No. This rule, 25-6.078, applies only to new residential subdivisions. So that's all this rule applies to. The same provision ripples through other rules that have application in other areas, but right now we're talking about new residential subdivisions. In a new residential subdivision you are required now to do a comparable design cost estimate, but you may include O&M. You do an up-front capital cost estimate of overhead to serve, underground to serve. The Commission has established certain 210 lot high density and low density models for you to calculate that. If there's disputes, we go to a case-by-case type of basis. Gulf, I think, uses strictly a case-by-case comparison for URD differentials.

When you do those calculations, you're going to have to see where the subdivision is and you're going to see --

you're going to have to determine which wind zone it is in, because this is new, this is new construction. We said harden new facilities, both overhead and underground. So new subdivision, where is it, what construction standards apply? If it's in a coastal area with 140-mile-per-hour wind requirements according to the National Electric Safety Code, the overhead system you will design will have poles and facilities in it that will withstand 140-mile-per-hour winds. You cost that out. You will then take the underground system and say, ah-hah, I've got to harden because I'm in a coastal flooding area.

Now what does that mean? The previous rule said the company will provide standards for that. Let's just assume that Progress adopts that all the, it's all going to be conduited, it's all going to be concreted so it doesn't move and it's all going to be waterproof where no water can get into anything. There's a cost of that. That's what you use to estimate the underground cost of the subdivision. Take the difference between the two, that's the CIAC that the developer owes the company in that area of the state.

MR. PORTUONDO: Okay. Here's where I'm having some trouble. The URD, as I understood it, was attempting to capture the difference between the standard which is in base rates, which the customer is going to get billed through their normal billing process, and the, let's call them upgrades to

underground. If I take your approach and assume a higher cost level for overhead than is currently in base rates, I think that concept falls apart.

MR. TRAPP: No, sir, it doesn't. We've got a new standard.

MS. KUMMER: Yeah. The hardened overhead is the new standard.

MR. TRAPP: The new standard for new construction. Now what you want to talk about is cost recovery, to which I say file a rate case.

MR. BREMAN: The tension is also created because staff's rule is based on all new construction, be it overhead or underground, it has a new standard criteria. The utilities are basically focusing on targeted areas. So you all are going to have to figure out both those presentations, cost amount, and explain why one is better than the other when you answer our questions with respect to these rules.

MR. WRIGHT: Larry. Hello.

MR. HARRIS: Where are we?

MR. WRIGHT: I'm over here.

MR. TRAPP: Oh, Schef.

MR. HARRIS: You didn't wave.

MR. WRIGHT: I tried that earlier. It was not observed.

Schef Wright. You all probably know I represent the

Town of Palm Beach and the Town of Jupiter Island in connection with these matters. I just have a question at this point, fully understanding this is the new construction section of the rule, but it will apply equally when we get to 6.115.

Do y'all envision taking into account any consideration of additional storm restoration costs that are likely to be incurred with overhead that would not be with underground or at least the differential between them? And if so, in what language would you see that being rolled into this 25-6.078?

MR. TRAPP: If you can quantify it, we'll put it in. Right now it's basically reflected in the requirement for O&M differentials to be put in the estimate for this particular rule.

MR. WRIGHT: Okay. We'll quantify it. Thank you. That's fine. We'll quantify it.

MR. TRAPP: Any comments, questions? I guess we're to Page 21, conversion of existing overhead.

MR. HARRIS: I think we need to take a short break. It's not too long after lunch, so let's take ten minutes. Be back at 2:10.

(Recess taken.)

MR. HARRIS: I think we are ready to go ahead and get back on the record with 25-6.115. So we are finally on undergrounding. I wasn't too far off, just a couple of hours.

Who wants to lead this one?

MR. TRAPP: I guess I've got the duty.

MR. HARRIS: All right.

MR. TRAPP: We spoke a little about new subdivisions, Rule 25-6.115 pertains to conversion cases where an applicant requests conversion of existing overhead to underground facilities. And I kind of got my way with Connie on the CIAC rule, but evidently I didn't get my own way with my own staff, because this is a word rule again. And my engineering background, I understand formulas better than I do words. So I asked Jim if he would translate the words in this rule into a formula, and this is what we came up with.

These are the components of costs that we understand, unless we have erred, that go into calculating the conversion case. So we want to talk about this formula a little bit, and then I also want to -- not much really has changed in this rule. We haven't proposed many changes in the rule. We are really looking for input on this particular one. The one change that we did make on the last page, Page 23 of Attachment 3, that first couple of lines there we again have included the capital costs associated with hardening from the standards of construction rule.

Schef, in anticipation of your earlier question, my understanding of this rule change is it really only addresses the capital costs and the CIAC calculation. We have not

addressed maintenance, storm damage recovery, those types of things. So now is your opportunity to tell us what you want added or subtracted or changed in that formula.

MR. WRIGHT: Well, I want differential O&M costs added, and I want differential storm restoration costs added, and that's consistent with the comments we have been providing in our petitions to intervene and notices of intent to participate and everything else we've said on this subject and comments we provided on January 23rd.

MR. TRAPP: One of the administrative difficulties that I foresee is that at least with regard to new residential subdivisions, there is a process here at the Commission in order for the companies to propose a model subdivision calculation, a generic average type of approach, as a fallback to case-by-case, if we need to go there, but, basically, it is kind of an average technique for new subdivisions. But with regard to conversion cases, they typically are unique. They are case-by-case type of situations. They require an independent estimate of each of these numbers.

One of the things that staff struggled with in whether to include an O&M delta or a storm restoration delta is how do you calculate that number on a case-by-case basis, how do you apply it on a case-by-case basis. Help us out.

MR. WRIGHT: O&M, I think you could perhaps do on an average system differential basis. Storm restoration, there

are a couple of different ways you could go. One way would be to use some kind of expected value calculation, another way would be to use an assumed value relative to having to go out and replace overhead. And, you know, when we get to whatever further proceedings in here, I think we are going to talk fairly extensively about differences in reliability because overhead doesn't get hit by debris. I'm sorry, underground doesn't get hit by flying debris in Category 3, 4, and 5 storms. Now, where you put that in the rule -- where you put the reliability delta in the rule, I'm not sure. But I think it ultimately informs the decision you make on everything else.

MR. TRAPP: At this juncture we have some planning dockets open. Utilities to submit some plans, some of those encompass collecting data on an ongoing basis with respect to performance characteristics for overhead and underground, but I don't have anything to put in the rule right now.

MR. WRIGHT: Well, I understand that, Bob. And it may be -- I've got two client cities, towns, right now who are poised to go forward more likely than not, depending on what the costs shake out to, but more likely than not within the next year or so, and they don't want to pay more than they should pay. They don't want to subsidize others. They are not looking for a free ride. And it may simply be that for those two towns, we have to have individual proceedings. We would rather see it taken care of in the rule, either as well or --

rather, we would really rather see it taken care of in the rule. But, if not, then we can conceive of having individual proceedings.

And there are other issues. There are other issues that we will want to see addressed in the rule that relate to the utilities charging us their corporate overheads when we do the work, which we have a real problem with, and things like that.

MR. TRAPP: Conceptually, I can see the possibility of a placeholder in the rule that speaks to a delta O&M and a delta storm restoration. Procedurally, calculating the number that you want to plug in there, though, gives me some pause for concern, particularly if I'm doing it on a case-by-case basis as opposed to some type of generic investigation. And I asked Jim just to look at the tax rolls in the counties up and down the east coast, and we picked some representative communities.

I think your two clients are Jupiter Island and Palm Beach, we're talking about million dollar homes. Hobe Sound, which is a lovely community I have been in that is just right across the Intercoastal waterway from Jupiter Island, have a medium household value of 142,000. Myself, Bob Trapp, says be very, very cautious how I pass on costs to an area that has million dollar homes such that it doesn't adversely impact the area right across the street that has $142,000 homes. So therein lies my quandary. How best to get that number, how to

apply it, and in what process. So, I mean, are you talking a generic proceeding to establish those numbers?

MR. WRIGHT: Well, Bob, I'm not 100 percent sure of that. If there is a generic proceeding, I think these two dockets are probably that generic proceeding taken together. It may be that we have to do this another way. But, you know, there will be -- I mean, estimates of avoided O&M costs are calculable, estimates of avoided storm restoration costs are calculable. And to the extent that -- at a rock-bottom minimum those are real potential costs that the rest of the -- of any utility, FPL's in the case of the communities we are talking about, that the rest of the utility's ratepayers will bear if a storm comes through there.

You know, where there is underground and the costs are a fraction, the restoration costs after a Wilma class storm or a stronger storm comes through, there are a lot fewer costs. And so the people who have paid for underground are effectively now paying for the restoration costs of overhead, whether it is Hobe Sound or anywhere else, and they have not gotten credit for having avoided that cost by paying for underground in the first place. And, in this instance, that's what we are talking about. Now, there are other issues relative to the overall reliability of any overhead versus underground that we'll take up.

MR. TRAPP: So you have a number, too?

MR. WRIGHT: I'm sorry? I didn't quite understand what you meant.

MR. TRAPP: Well, I asked Progress earlier, ah-ha, you have a number. They seemed to have an O&M number they think they can discuss.

MR. WRIGHT: Bob, I don't have that -- I will tell you straight up, Bob. We don't have that number yet. I have the contract from our consulting firm sitting on my desk pending a final sign-off. We intend to sign it and go forward and be ready for whatever further proceedings occur in this docket. That's where we stand.

MS. KUMMER: Schef, presumably what you are talking about is trying to somehow quantify the benefit to the general body of ratepayers of undergrounding these particular areas.

MR. WRIGHT: Yeah. As far as this conversation is going, yes. Now, we also want to talk about differences in reliability and general public interest considerations, which we believe are quite substantial with regard to undergrounding. But for right now, yes, that's what I'm talking about.

MS. KUMMER: But when you are talking about calculation of CIAC --

MR. WRIGHT: O&M.

MS. KUMMER: -- you want to recognize that there can be a benefit to the general body of ratepayers. Have you given any thought to how you go about doing that calculation?

MR. WRIGHT: Yes.

MS. KUMMER: Would you like to share it with us?

MR. WRIGHT: Well, as far as I have gotten thinking about it, you know, there are -- you can calculate differences between overhead and underground O&M costs, and you can calculate estimated differences on some kind of expected value basis. Now, whether you use just a raw strict expected value number or whether you make some additional allowance is a separate issue, and we haven't made a final decision on that. But you can calculate something like what the expected value is of savings due to storm restoration costs.

For example, one of the witnesses in the current pending FPL storm case has testified in his prefiled testimony, Mr. Byerley on behalf of the Citizens has testified that at a bare minimum, rock-bottom conservative minimum, restoration of overhead facilities costs 4X standard overhead construction. My very rough, gross aggregate level calculations based on what FPL actually paid over the last two years to rebuild 2 to 3 percent of their transmission and distribution system seems to indicate that the multiplier is a lot more than 4X. Regardless, it's a big number. Now, not everybody is going to get hit.

And one way of looking at it is you could just assume X storms, and make some calculation of what the savings might be in that regard, or you can assume X storms, and say, because

underground is more reliable and is less likely to incur extensive storm restoration costs, we're going to take some differential, and we are going to add that in, part as recognition of reliability and part as a probabilistic protection factor or something like that. We are not fully there yet. You know, we have discussed this -- I've discussed this with the consultants we intend to hire, and we are geared -- like I said, we're geared up and ready to go. Those are the concepts that we are working with.

MS. KUMMER: Okay. But you would agree that you are going to somehow have to apportion any benefits, whether it's storm restoration, or O&M, or reliability between the direct beneficiaries, i.e., underground and the general body of ratepayers. There is some sharing there because the --

MR. WRIGHT: Most likely. I mean, ultimately it depends on what the potential cost savings are from underground.

MS. KUMMER: Okay.

MR. WRIGHT: I mean, it is possible that either when you look at the cost savings, assuming making some extreme assumptions about frequency and intensity of hurricanes over, say, a five-year period, it is entirely possible that you could make the decision that you just want to underground. You may also make the decision, given what everybody was saying this morning, with which I concur and with which our consultants

concur, that when you get up into a Category 4 storm situation, it doesn't matter if you harden the system to withstand 180-mile-an-hour gusts, because when the gusts are up in the 130, 140 range, the debris flying is going to be causing all manner of havoc anyway.

MS. KUMMER: Sorry, Bob.

MR. BREMAN: Schef, were there two items you wanted to add or were there three? Because I wasn't sure whether or not you were bringing up externalities, what I would call externalities, social benefits that are not currently embedded in base rates or rates of any kind.

MR. WRIGHT: Jim, for purposes of the formula there were two things. In the further proceedings we intend to raise the social benefits in terms of the value saved and preserved to Floridians from not having their power go out.

MR. BREMAN: That's three items. Okay.

MR. WRIGHT: But I don't think that number necessarily goes into -- it may or may not. I don't think that number goes into that formula.

MR. BREMAN: And you will be able to value these numbers or at least provide a formula for calculating these numbers within how long, two weeks, three weeks?

MR. WRIGHT: No.

MR. BREMAN: Time frame?

MR. WRIGHT: Four months, five months. I mean, it's

kind of getting ahead to the end of it, but I have been talking about five months with the consultants as the time for them to complete their work. I can probably twist their arms and get them to do it in four. So probably results in August and maybe further proceedings in September, something like that.

MS. KUMMER: When you say proceedings, are you talking about specific to your client or something else?

MR. WRIGHT: Potentially either, Connie. I was thinking in terms that there would likely be a hearing on the proposed rules in these two dockets, which I gather will be consolidated for procedural purposes. You know, and that may be how it turns out. It may be that. It may be client-specific proceedings or it may be both. The main line expectation that I had coming in here today was that there would be a proposed rule at some point, and that there would be a rule hearing at some point. And that is what I was thinking of.

MS. KUMMER: Okay. Do you intend to propose language in the comments following this workshop?

MR. WRIGHT: Yes.

MR. TRAPP: Here is the trouble I'm still having, though, Schef. Rulemaking is one thing, calculating the dollars is another thing. And it seems to me that, you know, you can put some words in a rule, but unless they have dollars associated with them, you don't know how to apply the rule.

So it sounds to me like we have got two proceedings here. One is a rulemaking proceeding to establish the policy of thou shalt or not include these two or three extra components to the formula. Then you have got to have another proceeding to implement the rule to plug in the number. And that's where I'm struggling with. I mean, would it be best for us to press forward with the generic rulemaking language and establish these numerical discussions in parallel, or in sequence, or how?

MR. WRIGHT: Well, that's a good question, Bob, because depending on what the outcome of the more generic consideration docket is, it might conceivably obviate the need for specific proceedings for, say, the town of Palm Beach. On the other hand, it may not. It may be that we go through the rule proceeding and incorporate whatever concepts need to be incorporated, and make whatever policy decisions the Commissioners decide to make relative to overall reliability and social benefit concerns, and then we have got a rule, and then we have an implementation proceeding on an area-by-area, project-by-project basis. That is certainly possible. And, you know, we'll just have to see how it works out.

I would say I would rather see these things go forward more in parallel than in sequence, and my clients would rather see them go forward more in parallel than in sequence. And I understand from a side conversation I had with Chairman

Harris that you all are on a faster track that I had understood, that I had personally conceived would be the case. And given that you are on that relatively faster track, I don't see any real problem getting things done in a timely way.

The thing we wanted to avoid was having the rule hearing next January, and then being put off until sometime in the latter half of next year for our case-specific hearings if they had to be held. But from everything I have been given to understand today, we are going to be going faster with the fundamental conceptual rule on a much faster track that should permit us to handle whatever the community-specific issues we have in a way that is timely for my clients.

MR. TRAPP: Power and Light, any comment, input?

MR. MIRANDA: Bob, we have, you know, a few customers who are requesting to underground their facilities, and Schef represents a couple of these customers in our service territory. And when we look at, you know, encouraging underground conversions, it is really clear that cost is a major barrier to getting those conversions done. And back in 2003, we introduced a mechanism for governmental recovery of undergrounding fees. Basically, a new rate -- a new tariff to try to encourage communities to underground. And as of this date we have had zero takers on that tariff.

Following the 2004 and 2005 hurricane seasons, it is evident that the underground facilities for the type of storms

that we have been experiencing, which are the wind type storms, that undergrounds do provide some level of mitigation concerning the storm restoration. And we proposed a 25 percent investment for government-sponsored projects to really encourage community-wide conversions. And this was really determined by talking to community leaders that really thought that cost was really the main issue that they had to address.

As a result, we believe that the 25 percent amount really strikes this balance between a sufficient incentive for the communities to convert while minimizing the potential impact to all customers from future storms, which is the issue about how to figure out how to calculate that number on storms. Ultimately, whatever is decided by the Commission, yourselves, will be the number that we will follow as far as, you know, recovery purposes. We'll adopt that investment level approved by the FPSC regardless if it is higher or lower.

Part of the problem that we are facing, of course, is we don't have a lot of the information and historical data to calculate what that exact number is. So that's why we have offered the 25 percent investment number.

MR. TRAPP: What is the science behind the 25 percent?

MR. MIRANDA: It was just listening and talking to community leaders and trying to figure out a percentage amount that would move some of these communities to go forward with

undergrounding.

MR. TRAPP: What is the impact on rates?

MR. BUTLER: I think that some of that is going to be wrapped up in this question of what, if anything, there is in the way of savings on the other costs associated, or saved, avoided by undergrounding versus continuing the overhead service. But the specific proposal contemplates that the 25 percent that FPL would be providing or investing would end up going into plant-in-service; and, therefore, immediately there would be no impact. But at the point where there would be base rate proceedings that would consider plant-in-service as one of the elements, that would be an amount invested that would be considered for ratemaking purposes.

MR. TRAPP: But I'm hearing you have no status on the science of any of the numbers.

MR. BUTLER: Well, as Manny was saying, I think it is more a matter of kind of value driven or moving the customer, than it is at this point based on the cost differentials that exist. And that is really the principal motivation. I mean, if that is a direction that the Commission doesn't want to go or, as he said, if there is a different number that makes better sense, either because more is needed to move customers or the opposite end of the spectrum less can be justified from a cost perspective, then we would certainly defer to the Commission on what the appropriate percentage would be.

MS. KUMMER: We have talked about O&M and the quantification of O&M differences a little bit earlier, but if you were going to quantify the storm restoration differential -- now, I understand you don't have that information today, but what kind of information would the company be looking for to try to quantify that?

MR. MIRANDA: I think, Connie, those are the type of things that we are looking at, of course, is the amount of storms that would impact the service territory, the intensity of those storms, the facilities, the overhead facilities versus the underground, trying to capture some of the restoration costs in our estimates. Of course, the O&M piece, as you referred to earlier, we will have to look at what normal O&M that you apply to an overhead system and to an underground system. So I think that would be a little bit -- you know, more straightforward, still very difficult to quantify. And then overlap the storm impact on these formulas.

MR. BUTLER: And something that is clear with the storm restoration piece of it is that there aren't going to be as many data points, and it's going to be just necessarily somewhat more a matter of projecting something reasonable off of past experience and some reasonable estimate of future experience that will have a measure of uncertainty involved in it. But it is something that seems like that it is clearly there, and that customers recognize it as being there. And

that, you know, there is a value in trying to grapple with quantifying and taking it into account.

You know, exactly how that happens is really going to depend on how much can be teased out of the data that the companies have collected from the most recent storm seasons. And, you know, I hope we don't have more data points, but who knows, by the time that we finish this process there may be additional data points to provide information.

MR. BREMAN: Is there overlap between the 25 percent and the targeted concept that the company is pursuing, Manny?

MR. MIRANDA: Say it one more time.

MR. BREMAN: I'm confused a little bit about the 25 percent and the company's targeted project. Is there overlap, is there interaction, interplay between those two concepts or are they two separate events?

MR. BUTLER: I think they are pretty much two separate events. I mean, the 25 percent investment is something that is pretty much offered to areas where, you know, the local governmental entity is sponsoring the conversion. It applies to a large enough area or project that it makes sense to be doing it, that you get some bang for the buck of actually having a sort of coordinated consecutive series of electrical facilities that would be benefitted by the undergrounding. But it's kind of customer driven. People who want it, it is something that -- and their local governments want it, would be

pursued. In contrast, I think the targeting is more something that is company driven, you know, where it sees areas that there are particular opportunities to make storm hardening improvements because of the vulnerability of the system.

MR. TRAPP: I'm still struggling with the math and with the science of this, and with the chicken and the egg approach to this. If you underground, you know, six blocks on the east coast, what benefit has that done to mitigate any storm damage anywhere? If you do it statewide, can we afford it? The rates, can everybody afford it? Those are some of the issues that I haven't heard any concrete answers to.

MS. KUMMER: That's what I was struggling with, too, Bob, and where I was going to go. It should be at least intuitively fairly simple to quantify the benefits to the community that has the undergrounding. They are either not going to be out of service or they are going to be out of service for a shorter time period, whatever. But what I'm struggling with, and what I really can't get my hands around is how you are going to determine the benefit to the general body of ratepayers of undergrounding of, as Bob said, you know, a six-mile stretch of coast line. And that is what I think you are going to have to do when you start talking about charging off any percentage to the general body of ratepayers.

MR. BUTLER: Well, as far as this short distance is concerned, I mean, at some point the distance gets short enough

that there really aren't any benefits, and we agree. And one of the things that we would be looking at is defining a project to which this concept would apply, large enough and sort of in a coherent and coordinated enough way that you are actually -- if you put all of that underground, then you wouldn't be needing to deal with the sort of overhead restoration type issues in an area that was all served by the same power facilities.

But my impression, at least, is that that doesn't necessarily have to be a huge area. And, you know, once you have those benefits, if you are spending X dollars less in storm restoration costs because you have not had to restore overhead facilities to that area, and the normal expectation is not that that community pays for the restoration costs in that area, but, rather, the general body of customers would be paying for it, that you, you know, you have got a benefit.

Now, the quantifying of that, obviously, is going to be a challenge because of the uncertainties, the limited data points, et cetera, but that is on the storm restoration side essentially what's driving it, that just routinely, you know, communities are not now being charged specifically for their little community all of the costs incurred to restore it, but rather that the entire system is picking up a share of those costs. And to the extent that FPL or any utility were able to reduce the costs for that area, you end up benefitting the

general body of customers by doing so.

MR. TRAPP: That's why I'm real interested in seeing the data from Gulf Power, because there is a coastal system that was adversely affected by a major hurricane that was predominately underground. How are those costs -- how are those restoration costs going to be credited back to the customers that paid to subsidize to put them underground?

MR. BUTLER: That is a significant issue. I mean, it's obvious that there is a bigger benefit of undergrounding facilities in high land that is subject to high winds than there is to low land that is protected from winds if there were such extremes, because the one is going to be very vulnerable for overhead and the other is going to be somewhat more vulnerable with the underground service. And those are things that all of us will have to grapple with. And I agree that to the extent that some areas would be, you know, have higher costs of undergrounding, that will have to be taken into account.

MR. TRAPP: So one may very well find that coastal communities should be served by overhead because they can be restored faster and cheaper.

MR. BUTLER: It's possible. But I think that there is an awful lot of other factors beyond just the simplicity of sort of storm surge versus high wind that would have to be taken into account looking at it. But, yes, I mean, there are

different factors that will affect different areas in different locations, I would expect.

MR. TRAPP: Gulf, would you like to join in?

MR. HARRIS: I had a question, Bob. You mentioned the two communities that we know Mr. Wright is representing. Can you give me an idea of what other communities we are looking at? Others throughout the 35-county territory of FPL? Are they all clustered in Palm Beach County?

MR. MIRANDA: We are starting to get them surfacing throughout our service territory. Many of them are just coming forward with just general estimates. The ones that are kind of moving a little bit closer, is we have some projects in the city of Hollywood. We are starting to get some projects down in Miami Beach now, some of the islands, in those areas. So more and more folks are starting to move towards undergrounding, you know, in light of some of these severe storms that we have had the last couple of years.

MR. HARRIS: Are these requests mainly coming from the coastal communities?

MR. MIRANDA: No, I wouldn't say so. I think they are coming from throughout our service territory, at least the general -- the requests for the general estimate. As far as binding estimates, we have only had a couple of communities move forward with those.

MR. BREMAN: Manny, excuse me. When you said not

coastal, for example, could you give me an example?

MR. MIRANDA: I didn't bring my list, but --

MR. SPOOR: I was just asking -- when Manny was answering that response before, asking another gentleman with FPL that's here with us now. And, I guess, over the last two years we have had about 115 requests that have come in, some in various stages, I think, to Manny's point, too, that have gone all the way to a binding estimate, but certainly several that are more interested in the last two years. That level of activity I don't think we would have seen prior to the '04 season.

MR. BREMAN: I'm just struggling with the concept of what is not coastal in FPL's service area. I know Arcadia is probably not considered coastal. Belle Glade might not be considered coastal, but --

MR. MIRANDA: Right. I guess it depends on how you define coastal.

MR. BREMAN: Right.

MR. MIRANDA: But I guess everything inland for us would not be considered coastal. You know, it's like ten miles inland, we do get communities requesting that.

MR. BREMAN: Okay. Thanks.

MR. HARRIS: I guess my question was are you getting requests from, you know, Nassau County in the north and Okeechobee inland, or are you just getting them from Palm Beach

and Miami-Dade?

MR. MIRANDA: It is throughout our service territory.

MR. BADDERS: Russell Badders on behalf of Gulf Power. Very briefly, we do not support a subsidy, 25 percent or 10 percent or otherwise. We believe that the cost causer should bear the costs. We don't believe that there has been a showing of any benefits to the other ratepayers or to the general body of ratepayers such that they would bear some of this cost.

Our personal experience, I guess, with Pensacola Beach and Navarre really brings into question whether or not you want to underground areas that are subject to storm surge. It is a significant effort to locate the facilities after a storm. It's a very significant effort to restore and repair them. So I don't think we have done an exhaustive study on that, but I think just intuitively if they were strung along pole lines, you would still have to go back and find the old facilities and remove them, but it would not be the same effort to go back and put in new poles and get in some new lines.

So in some areas it may not be that underground will give you any benefit whatsoever with regard to restoration. And, in fact, it may cost a lot more. It may be that you rebuild the entire system again. And I don't think at this point that there is any -- I guess any reason or benefit to the other ratepayers to pay for that, repeatedly, even if you only

have a storm every five years or ten years.

If you go to a plan where everything is underground, even in a concrete duct bank on certain islands, certain barrier islands and certain locations, you are still going to have significant damage. So we do not support the subsidy, nor do we think that mandatory underground or even promoting underground in some areas may be the right thing to do. We still don't have all the information, but that is just based on what we have experienced thus far.

MS. KUMMER: Would you refuse -- if someone requested underground, would you refuse on an operational basis?

MR. BADDERS: At this point, again, I don't think we have enough information to really justify that. I think it would be a hard thing to come to the Commission and say, empirically, this is the wrong thing to do. We have had discussions with Pensacola Beach and other entities with regard to this, basically, just tried to show them the pros and cons as best we know, and let them make their decision. And right now if they are paying, I guess they are allowed to do that. I mean, I think that is fully within their prerogative.

MR. TRAPP: In terms of -- I guess you wouldn't mind going to a proceeding where we could nail down some of the size and determine whether or not there was benefit or costs, but let me ask you that. And, secondly, if you would, in terms of rulemaking, if one were to go to a generic proceeding, and one

were to identify benefits associated with undergrounding and overhead, in order to avoid recycling back through a rulemaking, does it make any sense to put a placeholder in the rulemaking?

MR. BADDERS: I really haven't thought of -- I guess as far as rulemaking, I mean, you can always open a rule in the future if you come up with better science or better information. I guess sitting here today, I can't think of all the information that you would have to have to make this decision. I'm sure we can. I guess if there was good science showing some benefit, clearly -- I mean, that's something that would have to be explored. I don't know if opening a docket today will get us there. I just don't know what information is there.

I mean, we have had, I would not say considerable experience, but we have had some good experience the last couple of years. And I don't think we have walked away with a whole lot of really concrete answers, just more questions and some more things that we are willing to try. So I don't know if we know enough right now to really maybe open a docket and explore it in this type of a setting. I think as utilities, we have to go back and continue our efforts, what we have done over the last, you know, 40 years or more to improve our system. And if this is something that is something that we are going to be faced with more often as the naysayers say -- I

mean, as the weather people say, then we have to focus on this. I don't really think we have all the information we need. I guess that is the bottom line.

MS. KUMMER: When the coastal facilities are placed underground, the customer pays CIAC, correct?

MR. BADDERS: In general, yes.

MS. KUMMER: And when after a storm, you have to go back and repair those, and sometimes it looks like you are going have to rebuild a great deal of them, is that just a general cost to all ratepayers or is that cost assessed to the customer?

MR. BADDERS: I'm not sure that it is 100 percent one way or the other. I believe there have been instances where we have waived it. Basically, they have not paid, and we have just gone ahead and rebuilt it. I think at this point that is something we are looking at internally very closely as to when we go back and rebuild things, what do we put in the contract, as far as what will we do in the future. Who will pay, make it rock-solid so there are no questions. So nobody can come back ten years from now and say, well, I thought you would just rebuild it. Make it clear and that may, in fact, change their decision one way or the other. At least they will recognize the true cost.

MR. TRAPP: Progress.

MR. BURNETT: Bob, there's been a lot -- John

Burnett, Progress Energy. There has been a lot of questions floating around. Which one particular did you have for me right now?

MR. TRAPP: I think we started out the discussion with do we need to add anything to this formula. And there was a suggestion that -- at least two things, a delta O&M and a delta storm restoration cost be included into the formula. So I guess I'm asking your opinion on the inclusion of those two factors.

MR. BURNETT: To that one I don't see how you could do it now, based on all the questions that staff has raised, nor do I see that you would probably want to have a placeholder in there until we did have something a little bit more developed. So I guess from Progress' perspective, it would be go forward with the rule as you have proposed it in this draft. And if anything comes up in those questions that you have posed and other staff members have posed solidify, the you could take up then to make a change, if need it be. But it would seem a bit premature to try to put anything in at this point from what I've heard today. And the placeholders I'm not sure make a lot of sense, again, until you would have those questions answered to your satisfaction.

MR. BADDERS: I have one question. I got a little sidetracked on a couple of the other questions. But one thing, I'm not -- I believe that cost of removal would be a part of

this equation, and I'm not really sure where that fits. It may be subsumed in one of those, but --

MR. BREMAN: It is. Net salvage.

MR. BADDERS: Okay. So you are including cost removal and all of that in net salvage?

MR. BREMAN: Yes, sir.

MR. TRAPP: TECO, I guess.

MR. H. BRYANT: Howard Bryant with Tampa Electric. I think there are two questions that you have. One, do we need to add things to that? From our perspective, we would suggest no.

And then the second question, or at least the second discussion was on the idea of some amount of CIAC becoming perhaps a part of rate base. And our struggle there would be the subsidizing question on the other ratepayers, is that an appropriate thing to do. And we are not at the point to where we would be able to say, yes, that is the right thing to do and it is appropriate and we can quantify why. We would think that that is not the right thing to do at this point in time.

MR. TRAPP: John, did you want to have a shot at the second part of the question that he raised, because I didn't raise it.

MR. BURNETT: John Burnett, again. I think similarly, Bob, we are thinking about a lot of the questions that have been raised by staff, and I don't think we have a

position one way or another for or against what Power and Light has put on the table. But, again, we are thinking about some of the issues that come to mind, and that is one of the ones that TECO just mentioned that we are sort of struggling and thinking about with, too. So we are sort of observing and thinking at this point, as well.

MR. TRAPP: Okay. FPUC, did you want to comment on this?

MR. CUTSHAW: Mark Cutshaw (phonetic) with Florida Public Utilities. Unfortunately, in one area we don't have a lot of underground, and in the other area where we do have a considerable amount of underground is all in these coastal areas that will be impacted by the storm surge. So we are very concerned about this manner, the formula. We have been contacted by the city and the county in one area about undergrounding, and, you know, we have communicated to them there are some changes coming down the road. So there is a lot of uncertainty. And like I mentioned earlier, we're sitting back waiting on these proceedings to see how to proceed. But we don't have any major issues with this kind of thing. But as far as calculating the other impacts to this, we do have some concern over that, but don't have an answer to that at this point.

MS. KUMMER: I know your Fernandina area is growing quickly over there. Are most of the new facilities going

underground?

MR. CUTSHAW: Probably 80 to 90 percent are going underground initially.

MR. TRAPP: Do we have any more input on this proposed rule?

Schef.

MR. WRIGHT: Bob, I just have a question. I want to understand what you mean when you are using the term putting a placeholder in there. Are you talking about like putting the concepts that I, for example, articulated about differential O&M and storm restoration costs into the rule as something that could be considered? Is that what you are talking about when you say placeholder, or are you talking about something procedural?

MR. TRAPP: Yes, I think so. I mean, it occurs to me there are two things we can do. We can put a hard and fast thou shalt, you know, this number, or we could use a thou shalt or a may consider O&M differentials and storm restoration.

MR. WRIGHT: I just wanted to make sure I understood. Sometimes placeholder gets used in a procedural sense for like a spin-off docket to address Palm Beach's specific situation. I thought you meant the formula, and that's what I wanted to make sure of. Thanks.

MR. TRAPP: What I was talking about was adding your two elements to the formula, knowing that the input to those

two elements could be anything from zero -- well, actually they could be anything from negative to positive with zero in between.

MR. WRIGHT: Okay. Thanks.

MR. TRAPP: But we would have to -- to me, go to some other procedure in order to determine what number to put into that. And that's why we were exploring -- I mean, you have been talking about your individual clients bringing a procedure. We are talking about a generic procedure. I'm just trying to figure out if it can all be done in a rulemaking procedure. I have my doubts on that. But the placeholder, at least, puts a formula out there for someone to plug in through another procedure.

MR. WRIGHT: Thanks. That's what I understood. I just wanted to make sure we are communicating effectively. Thanks.

MR. TRAPP: That's what I was attempting to explore.

MR. WRIGHT: Thanks.

MR. TRAPP: Thank you.

Larry, I think we are through with the rules.

MR. HARRIS: Does anyone have any more comments on 6.115? That being the last rule that we had set for today, at least staff had proposed.

MR. TRAPP: Do we go now to Attachment 5 of --

MR. HARRIS: Did you have something?

MR. WILLIS: Were you going to go further with the other parts of your agenda?

MR. TRAPP: Yes.

MR. HARRIS: The next thing we have is Attachment 4.

MR. TRAPP: Five.

MR. HARRIS: Five, I'm sorry. I thought it was 4.

MR. TRAPP: We covered 4.

MR. HARRIS: Did we resolve that?

MR. TRAPP: Yeah. They were all forms.

MR. HARRIS: I mean, are there any questions about the remaining pages in the packet, the forms, starting on Page 24? I think those are the forms that are already out there that you have all seen before.

MR. BREMAN: Just to be clear, staff is not proposing any changes to the URD forms used for subdivisions. Thank you.

MS. KUMMER: They were just there for your information, so you had everything together.

MR. TRAPP: Well, let me try to explain that, because there has been lot of confusion among staff about what rules to include in this package and what not to. We have attempted to include every rule that is touched on in these subject matters, because we don't want to get in a procedural situation where somebody wants to raise a change somewhere that we haven't made a change in, such as the safety rule, and not be able to procedurally because we didn't notice it. So we tried to put

everything in this package we could think of, much of which we did not change. But it is out there for discussion if you think you need to do something to it.

MR. HARRIS: Good. I think now we are through the package. So I guess it is time to sort of say do we anything -- does anybody have any other rules or any other comments they want to sort of throw out there that we need to be thinking about or looking at?

Attachment 5 is in the package on Page 42, and this is a -- essentially, it's a staff data request. Staff needs some information, and this is what we propose to ask for. And there is probably a lot of information there that we are requesting.

MR. TRAPP: Let's talk about times and dates, future activity.

MR. HARRIS: Yeah. I feel very strongly that we need to move this along. The Commission has for several months been commenting on, you know, our approaching deadline for the 2006 storm season. It is my personal feeling that this needs to be something that staff moves very quickly on. With that intent, it would be my intention that we try to get this to -- a proposed rule to the Commission in June. There are two agendas in June, probably the second one, the middle one, June 20th.

That being the case, we need to get written comments from you all and have some time to do something with them. My

suggestion would be that we request written comments from you by May 1st, which is two weeks from today. That's a lot of comments to do and not a lot of time to do it, but I think it is relatively important. I anticipate that you all will have a got of good comments that staff will need to carefully consider that we are going to need to include in these rules that we will ultimately recommend that the Commission propose. So that's a lot of work.

MR. WRIGHT: Larry.

MR. HARRIS: Yes.

MR. WRIGHT: Schef over here. Sorry. Some of us, including the people who are sitting close to me, have a lot of other stuff that it looks like we are going to have to be doing up until April the 27th as things stand today. I was wondering if you could cut us a little bit of slack on the May 1st thing. What day of the week is that? Is that a Monday?

MR. TRAPP: It's a Monday.

MR. WRIGHT: Could you maybe push it to the end of that week or maybe to the following Monday? Maybe even the end of that week would help me a lot, I'll tell you.

MR. TRAPP: Here is the deal. I think we have also been discussing, and particularly in light of the comments that we have received today and anticipate, because I think there were a lot of good ideas that came out today, word changes, phrase changes, concepts, we need to digest and work out. We

were contemplating having a second rulemaking workshop. So now we have got -- it's not just your comments and us going to agenda, it has got to -- we've got to come and have this again, and then get to agenda. So the date for that was --

MR. WRIGHT: The date would be May 19th, which is an open date on the Commission's calendar at this point.

MR. TRAPP: That's two weeks?

MR. WRIGHT: Two weeks.

MR. HARRIS: And that's sort of how it broke down. I understand this is a very busy week.

MR. WRIGHT: How about Wednesday, May 3rd?

MR. HARRIS: I don't have a problem with Wednesday.

MR. TRAPP: If everybody commits to make such brilliant, brief, and to the point comments that they can either be yes or no just like that by Staff, I agree.

MS. KUMMER: And we are looking for rule language changes. Philosophy is nice, but if you want to translate it into rule language, type and strike is much appreciated.

MR. TRAPP: And, again, it has got to be accompanied by cost data. Because part of the yes and part of the no is going to be driven in large part by our perception of how much burdensome cost we are imposing on the system.

MR. WRIGHT: I think I have been very clear about this, not to create any unreal expectations, we ain't gonna have cost information in two weeks. We're not going to have

cost information in two months. We're just not. I mean, we are talking with -- our consultants have extensive experience with this stuff, but realistically we're not going to have that kind of information in that time period, Bob.

MR. TRAPP: I understand the difficulties, Schef. But I will tell you up front, as a conscientious state employee, I will not make a recommendation without knowing the impact.

MR. WRIGHT: And I'm on board with that, Bob. I mean, I cut my teeth writing EISs back in the early '80s working in the research division here. I'm just telling you the realities of our being able to give you the cost information that we're going to give as soon as possible, but it is not going to be in that time frame.

MR. TRAPP: I understand.

MS. KUMMER: We understand that this isn't going to be real detailed precise information, but we need to have something. The statute requires a statement of estimated regulatory cost that has to accompany every rule change. So we have got to have some numbers if we are going to move forward on this, and the Commission is going to make very sure that we move forward on this on an expedited basis.

MR. HARRIS: With that, I'm willing to say May 3rd for the written comments and also this Attachment 5, this data request that we have, which is a lot of numbers. Mr. Trapp has

about 30 times today asked you all to be able to back things up with numbers. And I know it is a big task. And zero is a number. I don't know -- probably isn't a number unless it is followed with and this is why. And there are some interesting, you know, factors in there that we can consider.

And at this point we will be looking for a -- probably a May 19th second workshop, which puts the staff -- I'm sharing that with you so you can feel our pain. We are not just asking you to do a lot of work. That is going to be tight for the staff to actually get these comments, do something with them, come up with a new rule package and get it out to you all in time for you to have a chance to look at it and be able to comment intelligently on it by May 19th. We have a lot of stuff going on starting with about the 11th or so. So it will be tight for us, too. So I guess we are all in this together.

Jim, did you have something you wanted to suggest?

MR. BREMAN: The questionnaire also applies to the munies and co-ops regarding the construction rule.

MR. HARRIS: I guess that is for them if they are listening by phone, which I anticipate that they are.

Is there anything else, Bob?

Do you have anything, Connie?

Does anybody out there have something?

MR. WILLIS: Larry, under the category of other issues that you listed in your agenda, I wanted to indicate to

you that we believe -- my name is Lee Willis with Tampa Electric Company, representing Tampa Electric Company. There are a number of safety and reliability issues that you have recognized both in your staff recommendations and in the order on pole inspections with respect to pole attachments. And that in any proceeding or rulemaking where we are considering hardening of our facilities and preparing for storms and reviewing of the overloading of our facilities, that the rule should address those things.

Now, there are a couple of types of issues with respect to pole attachments. There are issues of access which deal with safety, capacity, and engineering. We believe that you have very ample jurisdiction over that in your grid bill jurisdiction. There are other issues of contracts, such as rates, terms and conditions that you would not have jurisdiction over. Perhaps, if you -- unless you were certified. But in our written comments and in the further workshops we want to address those issues, and I feel that it should be a part of this.

MR. HARRIS: That would be fantastic. I would suggest the -- I know Bob wants to say something. I would suggest that this first set of written comments have proposed language that you would like to see included in the rules. That would be, I think, most helpful to us if you wanted to get it in there. Bob.

MR. TRAPP: Lee, is this new rule language or is it appended to existing rule language? And if appended, have we got your rule noticed and covered?

MR. WILLIS: I think that you have ample opportunity to include in your notices of it, because you are having another workshop, you have other proceedings that might go forward on this to cover it.

MR. TRAPP: So it is new language?

MR. WILLIS: It would be new language. I don't know whether we would put it in the existing rules to add to it or suggest that it be separate. We are still looking at that.

MR. TRAPP: Since you are the lawyer, if you will talk to our lawyer and make sure that we keep clean. I want to make sure we are noticed properly in order to discuss all of these things.

MR. WILLIS: I understand.

MR. TRAPP: So that when the time comes, we can act and don't get hung up by some procedural problem.

MR. WILLIS: And we will do that, yes.

MR. TRAPP: Thank you.

MR. HARRIS: Anyone else have anything?

MR. BUTLER: On behalf of FPL, John Butler. I would just like to echo Lee's comments about the attachment issues. One that I want to mention, we will certainly provide written comments on this, as well, but just of particular concern to

us, and that's pole top attachments, something that can have a particularly significant impact on things like wind load determinations for poles. Also, significant issues with respect to safety of working on the poles in normal conditions, and impacts on the ability to restore the poles -- electric service and the poles promptly after storms. And we are very concerned about the potential for -- particularly people in the wireless communications industry wanting to use pole tops for their equipment in ways that could cause real concerns on all three of those fronts. That's something -- my feeling is that it can be fit within the .034 or .0345 rules that you have raised for consideration here.

One other subject that may not, and I'm not sure what staff's thoughts are on coordinating this. But, of course, FPL, and I'm sure other utilities to different extents, but we rely on poles of others, primarily telecommunications poles. I guess, there may be a few that don't fit that category. But a lot of these hardening issues if they are not addressed for all of the poles that are out there, you get kind of differential impacts and lose some of the bang for the buck of improving one set of them, and maybe a couple of poles down you have ones that haven't been built to the same standard. And I'm not sure what staff's intention -- I guess to some extent I've got a question on that here, whether that's something that you intend to consider on a coordinated basis or how that will work.

MR. HARRIS: And the answer is I don't know. But, hopefully, we will be able to talk about that and decide. At this point, you know, I don't know. Hopefully, we will get an answer, so I'm glad you brought that up.

MR. BUTLER: Thank you.

MS. MOORE: Larry, let me point out that the notice for the May 19th workshop will need to be filed next Tuesday, the 25th.

MR. HARRIS: So if you have new rule language and want it included, if the notice has to be filed by a week from Wednesday --

MS. MOORE: If it is a different rule than we have already.

MR. HARRIS: Anything else? No? Great.

Thank you all for your attendance today. I really appreciate it, and I'm looking forward to your comments. Have a good day.

MR. BUTLER: Thank you for putting together a good workshop. It was very helpful.

(The workshop concluded at 3:18 p.m.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTERS
COUNTY OF LEON)

WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR, Official Commission Reporters, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 1st day of May, 2006.

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