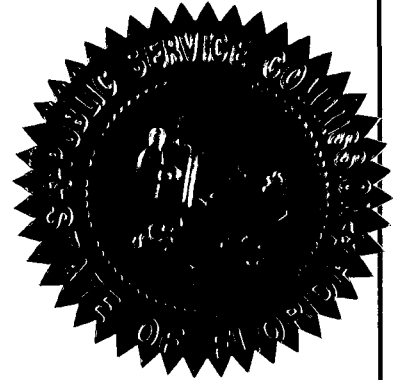


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070377-WU

In the Matter of:

REQUEST FOR APPROVAL OF CHANGE IN METER  
INSTALLATION CUSTOMER DEPOSITS TARIFF  
AND PROPOSED CHANGES IN MISCELLANEOUS  
SERVICE CHARGES IN MARION COUNTY BY  
WINDSTREAM UTILITIES COMPANY.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE  
A CONVENIENCE COPY ONLY AND ARE NOT  
THE OFFICIAL TRANSCRIPT OF THE HEARING,  
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS:                   AGENDA CONFERENCE  
ITEM NO. 13

BEFORE:                         CHAIRMAN LISA POLAK EDGAR  
COMMISSIONER MATTHEW M. CARTER, II  
COMMISSIONER KATRINA J. McMURRIAN  
COMMISSIONER NANCY ARGENZIANO  
COMMISSIONER NATHAN A. SKOP

DATE:                            Tuesday, July 31, 2007

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

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 06843 AUG-7 5

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 F. MARSHALL DETERDING, ESQUIRE, representing  
3 Windstream Utilities Company.

4 MICHAEL COOKE, GENERAL COUNSEL, RALPH JAEGER,  
5 ESQUIRE, SAMANTHA CIBULA, ESQUIRE, MARSHALL WILLIS and JARED  
6 DEASON, representing the Florida Public Service Commission  
7 Staff.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

1  
2 CHAIRMAN EDGAR: And we will be on Item 13, and we'll  
3 wait just a moment.

4 We're ready when you are.

5 MR. DEASON: Good morning. Jared Deason, Division of  
6 Economic Regulation. On Item Number 13 Windstream Utilities  
7 Company has requested changes in their tariff sheets,  
8 specifically Tariff Sheet Number 17.1, in which they want some  
9 changes to their miscellaneous service charges, and also to  
10 establish a premises visit fee as well as a delinquent payment  
11 charge. Staff recommends that these changes be approved, and  
12 we're here for your questions.

13 CHAIRMAN EDGAR: Thank you. Commissioners, are there  
14 questions on Item 13?

15 COMMISSIONER ARGENZIANO: Yes.

16 CHAIRMAN EDGAR: Commissioner Argenziano.

17 COMMISSIONER ARGENZIANO: Yes. I, I have a problem  
18 with the utility requesting a premise visit charge. And I  
19 understand under the statutes they have a right to a service  
20 charge, I guess. But basically -- so if a consumer calls out  
21 the utility and says, you know, there's a problem out here, I  
22 don't know what it is, then there's an automatic charge of \$20  
23 during the day and \$40 after hours; is that what we're doing,  
24 what you're recommending?

25 MR. RENDELL: Commissioners, consistent with the

1 Commission rule, it's if the utility goes out for a complaint  
2 resolution and it's determined that it's the customer's  
3 responsibility -- typically it's when there's a sewer line  
4 that's been clogged on the customer side. They're required by  
5 rule to maintain those service laterals. And if it's  
6 determined at that point that that customer is responsible,  
7 they are charged for that premise visit.

8           COMMISSIONER ARGENZIANO: Madam Chair. I have a  
9 problem with that because I think that's part of doing  
10 business. And, I mean, if it's something excessive, somebody  
11 is calling you out every day, every day, I can understand a  
12 service charge. But it seems to me a deterrent to have the  
13 consumer call the company when they really don't know what the  
14 origin of the problem is and it's not their fault. So I just  
15 have a problem with adding a tariff for a visit. I can  
16 understand maybe for an after-hours visit if it's not something  
17 that's urgent, but I have a problem with a charge for doing  
18 business.

19           CHAIRMAN EDGAR: So, Commissioner Argenziano, are you  
20 suggesting that if there were a certain number of calls  
21 requiring, requesting visits, that then a charge would be  
22 appropriate, but not up and to a certain time or not at all?  
23 I'm just not sure.

24           COMMISSIONER ARGENZIANO: Well, I think that if you  
25 had an habitual complainer, someone who's calling, you know,

1 and wants you there every day because they just see something  
2 is wrong and it really is found that there is no problem, then,  
3 yes. Okay, you want me to keep coming out, then I'm going to  
4 have to charge you. But as a part of doing business, if the  
5 consumer has no idea what the problem really is, I don't know  
6 that they should be charged for that because I see that as a  
7 deterrent; the consumer saying, well, heck, I'm not going to  
8 call them, let them figure out what's wrong. And I think more  
9 problems are going to stem from that. So I'm not -- I just  
10 think part of doing business is going out and checking out the  
11 equipment. And if it's after hours, maybe a different story,  
12 or excessive, I can understand that, but I just, just don't  
13 agree.

14 CHAIRMAN EDGAR: Commissioner Carter.

15 COMMISSIONER CARTER: Thank you, Madam Chair.

16 A question for staff, legal. Do you have a copy of  
17 that rule handy that you could --

18 MR. JAEGER: 25-30.460, and it's (1) and (d)  
19 addresses the premise visits charge. And it says, "(1) All  
20 water and wastewater utilities may apply for miscellaneous  
21 service charges. These charges shall be included in each  
22 company's tariffs and include rates for initial connections,  
23 normal reconnections, violation reconnections and premises  
24 visit charges." (D) says, "Premises visit charge is levied  
25 when a service representative visits a premises at the

1 customer's request for complaint resolution and the problem is  
2 found to be the customer's responsibility." And that's  
3 pursuant to our rule.

4 COMMISSIONER CARTER: If I could think aloud. What  
5 I'm having trouble reconciling is it doesn't say -- I don't  
6 remember you saying anything about the frequency or anything  
7 like that or the quantifiable \$20 for normal or \$40 for after.  
8 Did I miss --

9 MR. JAEGER: It is that cost base and it does not  
10 have a frequency at all. It's at the customer complaint  
11 resolution call of the customer and found to be the customer's  
12 problem.

13 COMMISSIONER CARTER: If I may.

14 MR. JAEGER: And it's based -- the \$20 is a cost base  
15 charge. They have to provide justification for that cost.

16 CHAIRMAN EDGAR: Commissioner Carter.

17 COMMISSIONER CARTER: Thank you, Madam Chair.

18 To follow up, so then the frequency or the normal  
19 hours, if we were to say after three times or any time after  
20 hours, what impact would that have on the rule, or is that,  
21 would that be consistent with the rule?

22 MR. JAEGER: I think right now we have a lot of  
23 utilities that have this charge, and we were discussing that  
24 this morning talking about the rule. And, let me see, I think  
25 unless you can state -- you know, we've let other utilities

1 have this \$20 charge and it's pursuant to rule, premises visit  
2 charge, then Section 120.68(72) of the Florida Statutes states  
3 that, "The court will set aside or remand the agency's action  
4 if the court finds that the agency action was inconsistent with  
5 agency rule." And I believe we might have a problem with  
6 arbitrary, capricious or abusive discretion if we try to change  
7 at this point.

8 I think what we're trying to say is premises visit  
9 charge is allowed by rule and it's supposed to be cost based.  
10 And if we can find a reason why this \$20 is not appropriate for  
11 this utility, then we might be able to deny it. But if you  
12 just say they're not entitled to a premises visit charge, we  
13 may run afoul of that section.

14 CHAIRMAN EDGAR: Commissioner Carter.

15 COMMISSIONER CARTER: Thank you, Madam Chair.

16 And again for legal, is there -- since this rule has  
17 been adopted and put into play, are there any cases where we've  
18 done -- is this consistent with what we've done or is this  
19 different in terms of -- when I say is this, I'm talking about  
20 the charge, the \$20 during normal and \$40 after hours, is this  
21 consistent or is this --

22 MR. RENDELL: Commissioners, I actually went back and  
23 looked at the last eight rate cases we just did for Utilities,  
24 Inc., which is the Sanlando, Alafaya, Lake Placid, and actually  
25 this charge is less. In those cases, and as well as Item

1 11 which was previously approved in today's agenda, the  
2 Commission approved a \$21 normal hours and a \$42 after hours.  
3 So this is a dollar less than the actual and \$2 on the after  
4 hours. So it is consistent with the last, say, ten or 12 rate  
5 cases that we brought before the Commission.

6 MR. JAEGER: I've also seen others besides Utilities,  
7 Inc., quite a few. The \$20 and \$40, \$21 and \$42 is quite, is  
8 basically what they're showing as a cost and what we've been  
9 approving.

10 CHAIRMAN EDGAR: Thank you.

11 Commissioner Argenziano.

12 COMMISSIONER ARGENZIANO: Madam Chair. And I mean  
13 this with all due respect, but I don't really care what anybody  
14 else is charging. That's not my point. My point is I think  
15 that -- and I guess being new here, your emphasis and your  
16 analysis and the Commissioners' emphasis is on past, what we've  
17 done. And I understand the importance of being consistent, but  
18 I look at your statutory authority and basically it only refers  
19 to that you have the right to, to -- let me get my glasses on  
20 because I'm getting old -- in the exercise of its jurisdiction,  
21 I mean, to prescribe fair and reasonable rates and charges.  
22 But under your statutory-specific authority I don't see  
23 anything specifically saying that, you know, there's a service  
24 charge that should be allowed specifically. I just think it's  
25 part of doing business. And I have a real problem with now



1 saying that, you know, you can just come out there and charge  
2 people. Maybe you don't want them calling you. I have a  
3 problem with that. And it has nothing to do with past  
4 performance or other companies, because I, quite frankly, I  
5 probably would have had a problem with that if I were here.  
6 But your citing of your specific authority does not  
7 specifically go to allowing a service charge for a company to  
8 come out when a consumer calls them.

9 MS. CIBULA: Commissioner, this is Samantha Cibula on  
10 behalf of Commission legal staff. We do have a rule that  
11 allows for a premise visit charge.

12 COMMISSIONER ARGENZIANO: I understand that, and I  
13 don't mean to cut you off. But rules -- you can promulgate  
14 rules only on statutory authority and I understand you're  
15 trying to make the connection there. But I'm going back to the  
16 statutory authority which says you don't have a rule to  
17 specifically do that. You have a rule that says you can  
18 promulgate rates and so on, and I guess at some point the  
19 Commission decided that that was part of a rule that they  
20 would, they would allow that to occur. I just have a  
21 philosophical problem with charging for a service call unless  
22 it's excessive or abusive. So I'm just expressing my concern  
23 over that.

24 And to me, and I don't mean this, I really don't mean  
25 this with disrespect, I don't care if it's been done in the

1 past or not. But I'm sitting here now and for me I have a  
2 problem with that.

3 MR. RENDELL: Commissioners, I believe the theory is  
4 that the cost causer should bear these costs. It's to protect  
5 the general body of ratepayers from their due diligence of  
6 maintaining their lines and making sure their sewer laterals  
7 aren't clogged or they don't run over a meter or they don't  
8 cause an interruption. Because, if not, these costs are going  
9 to be passed on to the general body of ratepayers and result in  
10 higher rates for the ones that do maintain their lines under  
11 our rules.

12 COMMISSIONER ARGENZIANO: And, Madam Chair, I  
13 understand that. But I also think if you have a consumer who's  
14 calling you with a problem and it's your business and your  
15 infrastructure, you know, you have a right to go out. That's  
16 just part of doing business.

17 CHAIRMAN EDGAR: I wish that was the case with the  
18 person I had to call last week to come and fix my dishwasher  
19 and also my air conditioner because, I'll tell you, those  
20 service charges were quite high.

21 In our discussion -- can I ask this? Are we using  
22 service charge and charge for premise visit interchangeably or  
23 are those two different things?

24 MR. RENDELL: Correct. The miscellaneous service  
25 charges are broken down in different categories. There's the

1 initial connection fee, the normal reconnection, the collection  
2 in lieu of disconnection when you go out to turn someone off  
3 and they pay you, as well as the premise visit. All of those  
4 are called miscellaneous service charges. Each one of them  
5 have a specific criteria and category that it covers. So  
6 they're interchangeable because the premise visit is a  
7 miscellaneous service charge.

8 CHAIRMAN EDGAR: Okay. Thank you for that  
9 clarification.

10 And I also think I understood, but please make sure  
11 that I am understanding correctly, that what we are looking at  
12 is cost based for the charge?

13 MR. RENDELL: Correct. Back in 1996 the Commission  
14 actually ordered or requested staff to look at these charges.  
15 These charges have been around since the '80s and they have not  
16 been corrected or indexed. And so the Commission in the last  
17 Florida Water case directed staff to look at these.

18 Recently in rate cases we have been looking at  
19 indexed costs so that they could keep up with the increase in  
20 cost of gas, labor, and so these recent charges of \$21 and  
21 \$42 are a result of our analysis of those cost-based rates in  
22 the recent rate cases before the Commission.

23 CHAIRMAN EDGAR: Thank you.

24 Commissioner Carter.

25 COMMISSIONER CARTER: Madam Chair. I just wanted to

1 say I -- in the abstract, I would say, yes, that this is a cost  
2 of doing business. But I'm reticent to put responsibilities on  
3 the total body of ratepayers for something that it may just  
4 very well be that one person that complains all the time. It  
5 may very well be that one person that chooses not to practice  
6 any maintenance of their system or anything like that. And I  
7 don't see, unless I'm missing something, I don't see anything  
8 so special about this case that would cause us to ignore the  
9 rule.

10 And, I mean, you know, I think that when you start  
11 putting costs on the general body of ratepayers for a few  
12 people, then that causes the entire process in terms of rates  
13 for all of the ratepayers to go up. And that would take us way  
14 beyond where we want to be.

15 Maybe we should look at costs and those things, but  
16 in this docket here, in particular in this case it seems to me  
17 that there's nothing extraordinary that would require us to  
18 defer from the rule on this in this matter.

19 CHAIRMAN EDGAR: Thank you.

20 Commissioner McMurrin.

21 COMMISSIONER McMURRIAN: Thank you. Commissioner  
22 Argenziano, I have some of the same concerns that Commissioner  
23 Carter does. But I am willing to think about it differently,  
24 and I guess it's similar to the, to the last item, is that  
25 perhaps we are, we have been thinking about it a certain way

1 for a long time and it, and it bears rethinking.

2 I think for this case, for me I'm probably  
3 uncomfortable moving away from the rule, but I also think maybe  
4 it's something we need to give more thought to. I'm not  
5 necessarily suggesting rulemaking, but at least start the  
6 discussions with us about exactly how this came to be and what  
7 was the thinking behind it. And maybe there's some kind of  
8 requirement, some kind of outward limits we put on it that if  
9 it is a customer that's done it so many times, then a charge  
10 would apply, but maybe not one time in a year or something like  
11 that, that maybe there's some other way to go about doing this  
12 that's fair and sort of find some middle ground there so that  
13 maybe the ratepayers don't pick up the cost of every single  
14 service call that may or may not be a legitimate one.

15 But the one question I did want to ask is if we  
16 didn't allow the premise visit charge in the tariff in this  
17 manner, would the utility be able to recover those costs in  
18 another way? And I'm thinking the answer is yes, but --

19 MR. RENDELL: They would be booked as part of their  
20 O&M expenses and built into the revenue requirement. If they  
21 came in for a rate case, it would be built into their service  
22 rates.

23 CHAIRMAN EDGAR: Commissioner Argenziano.

24 COMMISSIONER ARGENZIANO: But this is an increase, so  
25 they would still have their \$10 charge.

1 MR. RENDELL: Correct. Well, the \$10, I believe, was  
2 for the initial connection, the reconnection. This is a new  
3 establishment of a new charge is the premise visit. So this is  
4 a brand new charge.

5 COMMISSIONER ARGENZIANO: To that point --

6 CHAIRMAN EDGAR: Yes, Commissioner.

7 COMMISSIONER ARGENZIANO: -- how long have they been  
8 going out for service calls without the charge, or have they  
9 been charging before?

10 MR. RENDELL: I believe Mr. Deterding is here  
11 representing the utility. You know, I personally don't know if  
12 there's been costs in the past. I know that Windstream has not  
13 come in for a general rate case for quite some time, so it  
14 hasn't been addressed up to this point in time.

15 CHAIRMAN EDGAR: Mr. Deterding, can you speak on  
16 behalf of Windstream?

17 MR. DETERDING: I don't believe -- yes. The utility  
18 has not ever had the charge, so they have not been assessing  
19 it. And they've never had a general rate increase. Their  
20 rates were set in their initial filing with this Commission.

21 COMMISSIONER ARGENZIANO: Madam Chair.

22 CHAIRMAN EDGAR: Commissioner Argenziano.

23 COMMISSIONER ARGENZIANO: Can you provide me with  
24 some information of how many service calls you get in a year?

25 MR. DETERDING: I don't know that number off the top

1 of my head, Commissioner.

2 COMMISSIONER ARGENZIANO: I'd love to have that  
3 number.

4 CHAIRMAN EDGAR: Is that something that you can  
5 provide to the Commissioner's office?

6 MR. DETERDING: Certainly.

7 CHAIRMAN EDGAR: And our -- actually what I would ask  
8 is that you get that information to our staff and they will  
9 distribute it to everybody. Thank you.

10 Commissioner Carter.

11 COMMISSIONER CARTER: Thank you, Madam Chair.

12 I think that Commissioner McMurrin's wisdom comes  
13 through on this matter. I think this may be an issue for us to  
14 discuss in terms of the premise visits and all, but I don't  
15 think this is the case to make a stand on. I think that this  
16 case -- I think that's a separate issue. We probably need to  
17 look at that as a separate issue versus this case here.  
18 Because when you consider, when you're making a change like  
19 that, I believe there should be something, Commissioner  
20 Argenziano, in the record that shows the frequency of the  
21 contacts. I mean, you know, there are certain people out there  
22 that abuse the system. And I think when you abuse the system,  
23 you should pay for that.

24 But I think that to put this on the general body of  
25 ratepayers at this point in time in this case is probably not

1 wise for the Commission. So I would say that, one, is that we  
2 deal with this case, but also maybe we can direct staff to  
3 maybe get us some information. We could probably do it either  
4 in a workshop form or internal affairs or something like that  
5 where we actually look at this whole process of premise visit  
6 charges, because it's probably going to come up again. And if  
7 we can deal with it in that context, then we can say, okay, we  
8 index it to inflation or we index it to X or index it to  
9 frequency or index it to the bad actors or whatever the case  
10 may be. But this case before us doesn't give us the foundation  
11 for that.

12 CHAIRMAN EDGAR: Commissioner Argenziano.

13 COMMISSIONER ARGENZIANO: And while I can appreciate  
14 that, because you've been here, I haven't, this is the case  
15 that's before me now. And I look at it as this is put upon the  
16 ratepayers because any one of those ratepayers who calls for a  
17 service call is going to have to now pay \$20 where they haven't  
18 before. And I'd just love to have a business, I think, that I  
19 didn't have to pay for anything as a part of doing business.  
20 And that's just my train of thought. And I just think that you  
21 are putting this on the ratepayers. And with all due respect,  
22 I understand your concern because you've been through these  
23 before and it's an inconsistency from what's in the past. So  
24 for me today I cannot approve of that part of this. I have no  
25 problem with the other provisions of this, of the issues that



1 are in this before us. But that's just my position.

2 CHAIRMAN EDGAR: All right. And, Commissioner  
3 Argenziano, if I may respond just briefly.

4 My discomfort is not because it may be a change. As  
5 long as it's well thought out and we give some clarity to those  
6 that need to come before us and to the businesses that we  
7 regulate and the customers that depend on us for fair and good  
8 policy decisions, there are times when we need to change our  
9 policy. And we have done that over the last few years, and I'm  
10 sure as a, as a group we will again on a number of points  
11 probably. So that is not my concern.

12 My concern is, is that I think cost-based is a  
13 reasonable approach. And my understanding is that is what is  
14 set out before us in our statutory authority and our rules.  
15 And the, you know, potential of putting additional costs into  
16 the potential rate base and, as has been described probably  
17 more clearly than I am right now, across the general body of  
18 ratepayers, that is a concern to me. And adding additional  
19 costs to the general body of ratepayers who will not benefit  
20 from those services is a concern that I have whenever we look  
21 at these types of issues both in water and in electric.

22 Commissioners, other thoughts?

23 Commissioner Skop.

24 COMMISSIONER SKOP: Thank you, Madam Chair.

25 And, again, when I was reviewing this matter with

1 staff and reviewing staff's recommendation, I had similar  
2 concerns expressed by Commissioner Argenziano to the extent  
3 that the overall magnitude of the increase seems to be  
4 substantial. And I'm not saying that it's right or wrong.  
5 There is additional cost of doing business; fuel has gone up,  
6 everything in life has gone up.

7 But, again, respecting precedent and recognizing that  
8 staff, I think, is trying to treat all of the entities equal in  
9 terms of setting these rates, there seems to be some consistent  
10 policy, and deviating from this would represent a substantial  
11 departure in terms of what staff has communicated to me on  
12 other issues where similar requests have already been granted  
13 or put in place.

14 So, again, I'm not sure whether precedent should be  
15 respected and we should have a consistent policy or we should  
16 readdress that policy. But, again, the magnitudes, the order  
17 of magnitude associated with these increases were of great  
18 concern to me because, again, those are costs that the consumer  
19 has to bear.

20 And, you know, going from one example where it went,  
21 excuse me, I'm reading over my shoulder, but it went up to \$40,  
22 and that's a substantial increase. Whether it be right or  
23 wrong, that may be open for discussion.

24 But, again, I think it's important to hear the  
25 precedent, but I'm not saying that maybe we shouldn't

1 reconsider what the appropriate after-hours service charges  
2 should be in the context of perhaps a different discussion.

3 CHAIRMAN EDGAR: Commissioner McMurrin.

4 COMMISSIONER McMURRIAN: I'm not really sure who to  
5 direct this to, but along the lines of the comments I made  
6 earlier, I seem to remember, and I think it's 411, for  
7 instance, that you get a certain number of freebies before you  
8 start charging, before you start being assessed a charge for  
9 calling information or something. That's what I'm envisioning,  
10 is somehow that a certain number of service calls, especially  
11 given -- and maybe I should ask this too, how likely is it that  
12 a customer knows whose, whose fault the problem is anyway? I  
13 mean, is it that they should call a plumber first and pay a  
14 plumber a charge to come out and see about, see about what  
15 their problem is before they call the utility because they know  
16 the utility is going to charge them that if it might not, if it  
17 might be on their end? I guess, I guess I'm having some  
18 concerns about that too.

19 So it seems like maybe for habitual callers we  
20 definitely wouldn't want those kind of costs passed on to the  
21 general body of ratepayers. But perhaps if all ratepayers were  
22 allowed the availability to get at least one or two freebie  
23 calls where they, where they came out at least during normal  
24 hours. I think after hours is somewhat different. And I guess  
25 I'm just thinking out loud. It seems like maybe there are

1 other models for that in some of the other industries and  
2 perhaps even in this one, that there might be some kind of new  
3 way of thinking about it.

4 I'm not sure exactly what to do about it here since  
5 we haven't thought through kind of options for making a  
6 decision here. But I guess I'm saying that I'm willing to look  
7 at it maybe a different way, and perhaps there is some  
8 reasonable amount that a utility just provides that service  
9 without charging that individual customer and that it's  
10 recovered somehow through, through the general rates. Anyway,  
11 for what it's worth, that's what I'm thinking.

12 CHAIRMAN EDGAR: Commissioner Carter.

13 COMMISSIONER CARTER: Madam Chairman, I think that --  
14 and I'll be prepared to make a motion after I make my comment.  
15 I think that if it's fair for us not to levy a premise visit  
16 charge for this utility, it's fair for us to do it for all  
17 utilities. And that's why I say that we should deal with this  
18 case as it exists and then look at the process of how we  
19 determine a premise visit charge. But to, to give this utility  
20 preferential treatment would seem to put us in a posture at  
21 odds with precedent, at odds with the rules. And these rules  
22 as we went through, there was a hearing, there was testimony,  
23 public testimony, there was business, the Commission as well as  
24 other folks. So I think that when you're talking about  
25 changing that parameter, we need to have a separate docket

1 altogether to deal with that. And but I just don't see us  
2 being -- you know, if we're going to do it for one company,  
3 that water company, we need to do it for all of them.

4 So at this point in time, Madam Chairman, here's what  
5 my motion would be. Here's my motion. We would move staff in  
6 this, move staff in this case, with the understanding that  
7 staff would bring back to this Commission a recommendation and  
8 an opportunity for us to deal with this entire panoply of  
9 issues around the premise visit charge.

10 COMMISSIONER ARGENZIANO: Madam Chair.

11 CHAIRMAN EDGAR: Commissioner Argenziano.

12 COMMISSIONER ARGENZIANO: Can I ask a question? Was  
13 there a cost justification part of this? Is there a cost  
14 justification by the utility?

15 MR. RENDELL: I believe in, I believe in this one  
16 they relied on the most recent cases that were approved by the  
17 Commission. I don't, I don't believe there was an actual  
18 breakdown.

19 COMMISSIONER ARGENZIANO: Madam Chair, according to  
20 the statute, I believe it says that --

21 COMMISSIONER CARTER: I can't hear you.

22 COMMISSIONER ARGENZIANO: I'm sorry. I'll move this  
23 over because I can't see that far away.

24 Let's see. Under 367.091(5), I believe, and please  
25 correct me if I'm wrong because I'm trying to read this quickly

1 as we go along, I'm sorry, under (6), "An application to  
2 establish, increase or change a rate or charge other than the  
3 monthly rates for service pursuant to 367.081 or service  
4 availability charges pursuant to 367.101 must be accompanied by  
5 a cost justification." And I'd like to see that, if that's the  
6 truth, if I'm correct.

7 MR. RENDELL: Like I said, they relied on the most  
8 recent Commission approvals. They did not, they did not  
9 provide a breakdown.

10 COMMISSIONER ARGENZIANO: I don't think that's a cost  
11 justification.

12 CHAIRMAN EDGAR: Mr. Deterding, can you speak to  
13 that?

14 MR. DETERDING: Commissioner, we did not provide a  
15 separate cost justification in this case, as I believe the  
16 great majority of the people who have a similar charge have  
17 not. They have relied on the fact that the Commission has  
18 received evidence in several proceedings about these charges  
19 and has established what they believe is a reasonable cost for  
20 undertaking these services.

21 COMMISSIONER ARGENZIANO: Madam Chair.

22 CHAIRMAN EDGAR: Yes.

23 COMMISSIONER ARGENZIANO: And I understand that. But  
24 if what I'm reading is correct, the statute overrules any rule,  
25 supersedes any rule. And in my opinion then you'd need a cost

1 justification.

2 I'm not penalizing your company, just I'm saying I'm  
3 sitting here, this is the first one I'm having to deal with.  
4 And what I'm reading, it sounds like you need a cost  
5 justification to better enable me to either approve or not  
6 approve. So to me it has nothing to do with what's done in the  
7 past. And I'm not saying it was wrong in the past, I'm just  
8 saying that to me it's just -- I would like a cost  
9 justification. That's part of the question I asked you before  
10 about how many service calls and why you felt it was needed.  
11 And according to the statutes, and I'll read that more  
12 thoroughly when we're done, that should be part of what's here  
13 today.

14 COMMISSIONER CARTER: Madam Chairman.

15 CHAIRMAN EDGAR: Commissioner Carter.

16 COMMISSIONER CARTER: Commissioner, and this is why I  
17 made the motion in the manner that I have is that instead of  
18 relying on precedent and procedure, we can get in there and say  
19 from this point forward, going-forward point of perspective all  
20 companies will be required, in the process of determining  
21 whether or not there's a premise visit charge all companies  
22 will be required to provide documentary evidence in the record  
23 for that. But I just think that we put ourselves at risk in  
24 making a stand on a subpart of this case for something  
25 that's -- put this company in a different light than all of the

1 other companies. And I think when you're doing something like  
2 that, you have to have something on the record to show that.

3 And we don't have that here, we really don't.

4 COMMISSIONER ARGENZIANO: Madam Chair.

5 CHAIRMAN EDGAR: Commissioner Argenziano.

6 COMMISSIONER ARGENZIANO: I guess coming from the  
7 legislative branch my emphasis is on the statutory, which you  
8 all have, we all have to abide by no matter what we've done in  
9 the past. If you found that the statute said that you should  
10 have had a cost -- and I could be wrong, and I think it  
11 warrants further discussion because to me you can't go and do  
12 something that you don't -- or diverse, divert from the  
13 statutes just because it may have been done in the past. So  
14 that, to me, is not a valid argument.

15 CHAIRMAN EDGAR: Commissioner Carter.

16 COMMISSIONER CARTER: Thank you, Madam Chairman.

17 Commissioner, it's not so much to where we defer or  
18 deny the legislative authority. The process of rulemaking, the  
19 Legislature gave us the authority to do that. And the  
20 provision would say -- and to give the Commission the authority  
21 to make rules pursuant to the statute. And in the process of  
22 doing that, the hearing, the statute was presented to the, to  
23 the parties that be, the statute was presented, the comment was  
24 taken, legislative intent was reviewed and then the rule was  
25 determined and, and upheld. So I would say that I don't see



1 that it's been inconsistent. I think the rule was passed  
2 consistent with the legislative grant of authority.

3 I do think that where we are now, we're talking about  
4 the minutia, which is one of the reasons that I asked staff to  
5 read the text. Remember when we started off, I asked him to  
6 read the text of the rule. And it seems to me that -- I don't  
7 think that the Administrative Procedures Act, nor the parties  
8 involved in this, nor would the Commission have -- would, would  
9 even -- the court would not have even upheld a rule being made  
10 that doesn't have its authority in statute. So I beg to differ  
11 with you on that.

12 COMMISSIONER ARGENZIANO: Madam Chair.

13 CHAIRMAN EDGAR: Commissioner Argenziano.

14 MR. WILLIS: Commissioners, if I could just add  
15 something on the cost-based. Staff in the past has looked at  
16 these miscellaneous service charges, including the premises  
17 visit charge, as a generic issue. We have developed what we  
18 would consider a cost-based rate in past cases, which we have  
19 allowed utilities over time to file for because those original  
20 rates were cost based. We've done that to keep the cost of  
21 regulation in water and wastewater down.

22 COMMISSIONER ARGENZIANO: Madam Chairman, that's not  
23 what I'm talking about here. What I'm talking about now is,  
24 and I beg to differ with Commissioner Carter, is I know what  
25 you're talking about as far as promulgating rules. You have

1 the authority to promulgate rules. But the statutes say that  
2 for any, and I read it, read it to you, they must be  
3 accompanied by a cost justification. And you cannot deny what  
4 the statutes say.

5           And I guess I need counsel here, because I've learned  
6 all my legislative career that just because you promulgated a  
7 rule and adhered to that -- and I'm not saying that's wrong.  
8 You have rulemaking authority. But now what I'm saying is that  
9 it should be accompanied by, according to this, a cost  
10 justification. And if you haven't been doing it, well, then  
11 that's a different story. But that doesn't mean that you  
12 shouldn't do it today, because the statutes say you should and  
13 your rule does not supersede the statute. So if you had a rule  
14 that says you don't have to, we decided you don't have to have  
15 a cost justification, you don't have authority to do that  
16 according to the statutes. I don't mean to make it  
17 complicated, but that's the way I think. I'm coming from the  
18 legislative branch and working on APA and Maptech (phonetic).  
19 If you don't have -- if you're in direct conflict with the  
20 statutes, I don't care what your rules say.

21           CHAIRMAN EDGAR: Commissioner Argenziano, I think  
22 what I was hearing staff say, and, you know, almost every issue  
23 that we discuss up at the bench is very complicated, so, but I  
24 think that what I was hearing staff say to us is that through a  
25 generic proceeding we have interpreted a cost justification as

1 looking across the board at a variety of factors and that that  
2 has been done in order to reduce the cost to primarily the very  
3 small water and wastewater utilities that often come before us,  
4 often with limited means, and with the desire of this  
5 Commission to not have our regulatory processes provide  
6 additional costs such that service to consumers could perhaps  
7 be impacted negatively.

8 Mr. Cooke, I think that you were going to maybe jump  
9 in regarding the rule or whatever it is that you want to.

10 MR. COOKE: I think the question is regarding the  
11 statute, and obviously we have to comply with the statute. But  
12 what I'm hearing -- and I haven't got all the history on this  
13 either. It sounds to me, however, that staff in the past has  
14 looked at the cost of this type of service in some type of  
15 proceeding and collected information, data, et cetera, and  
16 developed an estimate of what those costs should be. And I  
17 don't offhand necessarily read the statute as saying that each  
18 company has to do a case-specific cost justification versus  
19 being able to rely on what staff has done in that regard. At  
20 least that's a possible reading of that.

21 COMMISSIONER ARGENZIANO: Madam Chair.

22 CHAIRMAN EDGAR: Commissioner Argenziano.

23 COMMISSIONER ARGENZIANO: I don't agree with that.  
24 According to the statute, it doesn't, doesn't say that. It  
25 says, and I'll read it again, "An application to establish,

1 increase or change a rate or charge other than the monthly  
2 rates for service pursuant to 367.081 or service availability  
3 charges pursuant to 367.101 must be accompanied by a cost  
4 justification." And I asked if there was one and there wasn't.  
5 That's just what I'm saying. I'm not making things  
6 complicated, I'm just trying to go by the book.

7 CHAIRMAN EDGAR: Well, often -- I'm sorry, Mr. Cooke.  
8 Go right ahead.

9 MR. COOKE: I was just -- the only nuance I'd put on  
10 that is I don't see, I don't know whether this company, what  
11 they filed in terms of the tariff. So that's a factual  
12 question. But I don't read the statute as -- offhand -- at  
13 least a possible reading of it is that they could file their  
14 cost justification relying upon what staff has done in the past  
15 to say through these proceedings these are what are justified  
16 for these types of charges as opposed to necessarily doing an  
17 analysis on a case-by-case basis for their service territory.  
18 That's a possible reading of that at least.

19 CHAIRMAN EDGAR: Commissioner Argenziano.

20 COMMISSIONER ARGENZIANO: Wouldn't it also mean that  
21 they have to give a cost justification for their needing the  
22 increase for their specific -- I mean, you're going to say,  
23 well, the company last year had a cost justification because we  
24 thought such and such. Now that applies to them. I don't  
25 think so. Just my take on the statutes.

1           CHAIRMAN EDGAR: In, in keeping with your legislative  
2 background, I'm hopeful that you will agree with this  
3 statement.

4           In my experience in state government, often more in  
5 the role of trying to implement statutes that the Legislature  
6 has passed, often there can be well-intentioned disagreement as  
7 to how to implement the clear language of the statute. And  
8 when we have that here, we try to work through it and ask our  
9 staff to bring back additional information.

10           We do have a motion before us. And, Commissioner  
11 Carter, it is your motion, so I want to make sure that I get  
12 this correct. But my understanding of that motion is to adopt  
13 the staff recommendation on the specific item that is before  
14 us, with direction to our staff to look at these issues in more  
15 detail. I would encourage, as always, the participation of OPC  
16 and others who help us try to bring forward good information  
17 about potential business and customer impacts as to policy  
18 decisions that we make. And did I summarize that?

19           COMMISSIONER CARTER: Yes.

20           CHAIRMAN EDGAR: Okay. Commissioners, is there a  
21 second, is there further question, is there further discussion?

22           COMMISSIONER SKOP: Madam Chair, can I just briefly

23 --

24           CHAIRMAN EDGAR: Commissioner Skop.

25           COMMISSIONER SKOP: Thank you, Madam Chair.

1           Can you briefly just re -- I was having trouble  
2 hearing part of what you stated in the motion, so could you  
3 please just paraphrase, please?

4           CHAIRMAN EDGAR: Oh, I'm sorry. I'm sorry. Well, I  
5 was paraphrasing, so I will be glad to restate my paraphrase.  
6 But probably for more clarity and to avoid the telephone game  
7 that we have all played, I'll look to Commissioner Carter.

8           COMMISSIONER CARTER: Thank you, Madam Chairman.

9           My motion was such that we would adopt the staff's  
10 recommendation in this case, with the direction to staff to  
11 bring back to this Commission for further study and revisiting  
12 this particular issue of premise visit charge. And to bring  
13 that back to the Commission in a form where we can discuss it,  
14 in a form where we can look at the rules, we can look at the  
15 statute, and we can look at this in a manner to where we can  
16 see whether or not this charge is justified and, if so, is it  
17 based upon the factors of the multiple persons making comments  
18 or the bad actors in the case, those kinds of situations.

19           CHAIRMAN EDGAR: Commissioner Skop.

20           COMMISSIONER SKOP: Thank you.

21           CHAIRMAN EDGAR: Okay. Commissioner McMurrrian.

22           COMMISSIONER McMURRIAN: I have -- I guess it's  
23 clarification of where I'm at now because this has gotten more  
24 confusing to me.

25           Commissioner Carter, I think I was with you until we

1 started having the discussion about whether or not the company  
2 had justified the \$20 and the \$40. And I guess I'm concerned  
3 now after having heard about the statute that perhaps they do  
4 have an obligation to file. I realize that staff has been  
5 allowing the utilities to do that, that they've sort of  
6 determined the cost as \$20 and \$40 or close to that in other  
7 cases, but I'm not convinced as I sit here right now whether or  
8 not it would have actually been the utility's duty to put forth  
9 that cost information.

10           With regard though to going -- if we had that cost  
11 information, perhaps for this utility their cost would  
12 be \$10 during normal hours and \$20 during after hours. If we  
13 had that, then I would definitely be willing to go ahead and  
14 say consistent with how we've done it in other cases, and then  
15 going forward and looking at it in a broader manner. I'm  
16 definitely with you there.

17           But I guess the concern I have is that perhaps we  
18 don't have enough information to say whether or not the \$20 and  
19 the \$40 is reasonable for this company. And having heard the  
20 reasoning behind it, I understand that we were trying to make  
21 the cost of regulation less. But I'm just not sure, and I  
22 don't have the statute in front of me either, although we've  
23 heard it a few times, I'm not sure how I, how I interpret that  
24 statute to be whether or not the company needs to file it.

25           CHAIRMAN EDGAR: Okay. Commissioner Carter and then

1 Commissioner Skop.

2 COMMISSIONER CARTER: Madam Chair, I withdraw my  
3 motion.

4 CHAIRMAN EDGAR: Commissioner Skop.

5 COMMISSIONER SKOP: Thank you, Madam Chair.

6 Just echoing Commissioner Carter's motion, I would  
7 have supported that fully; however, I do think that  
8 Commissioner Argenziano raised an issue within the statute that  
9 provides a, I'm trying to think of the correct way to frame it,  
10 but basically a procedural hurdle that could be used in the  
11 manner in which she suggested to the extent that they have not  
12 provided something that arguably either way, depending upon  
13 whether you take Mr. Cooke's assessment or Commissioner  
14 Argenziano's interpretation of the statute. So, again, I think  
15 I would have to concur with Commissioner McMurrin's position.  
16 However, in light of that, I would have supported Commissioner  
17 Carter's motion.

18 CHAIRMAN EDGAR: Commissioner McMurrin.

19 COMMISSIONER McMURRIAN: I just wanted to clarify too  
20 that I believe that question came after Commissioner Carter's  
21 original motion. So I think it got more complicated after the  
22 motion was on the table. And I wasn't, again, I wasn't  
23 expecting that issue to arise. That's the first time I've  
24 heard that. Maybe it's appropriate, if it's appropriate,  
25 Chairman, to ask the utility can they provide cost-based



1 information for their premise visit charge? And if so, perhaps  
2 what we do is deal with the rest of the rec and then see what  
3 information they put forward. I realize that even after that  
4 point there may still be a difference of opinion as to whether  
5 we put in the cost-based information that the utility provides  
6 or not. But I would be comfortable, I think, going forward if  
7 we had cost-based information from the utility. But if it's  
8 appropriate, can I ask the utility if they can?

9 CHAIRMAN EDGAR: Commissioner McMurrin, you may ask  
10 any question that you would like.

11 COMMISSIONER McMURRIAN: Mr. Deterding?

12 MR. DETERDING: I'm sure they could put something  
13 together. It's probably a charge that they would assess about  
14 five times a year, and, therefore, I would assume that the cost  
15 of putting something together is going to be more expensive  
16 than they would recover in five or ten years. So I'll  
17 certainly ask them if they want to do that.

18 CHAIRMAN EDGAR: Commissioner Carter. Commissioner  
19 Carter.

20 COMMISSIONER CARTER: Thank you, Madam Chair.

21 I would just caution the Commissioners that we've got  
22 a tremendous number of water cases coming up. So that was the  
23 reason I made the motion so that going forward we would have a  
24 consistent -- and we could provide notice to all of the  
25 companies that are up. There's a significant number of water

1 cases on the horizon coming up, Commissioners, and I don't  
2 think we should be -- I think that we should be clear about the  
3 directions, we should be clear about our rules, we should be  
4 clear about the law so that we don't put people in a posture to  
5 where we -- because the bottom line is the bottom line. Is  
6 that if we start to reconfigure things and costs go up, the  
7 cost is going to be borne by the ratepayers. No matter how you  
8 slice it and dice it, the costs are going to be borne by the  
9 ratepayers. So what we need to do -- that's why I said, look,  
10 let's deal with this case, let's set a nonadversarial docket  
11 open in the context of a workshop so that we can revisit this  
12 issue. But I'm telling you, there are a tremendous number of  
13 water cases on the horizon out there. And I would think that  
14 we would want to let people know what the rules of the game are  
15 prior to them entering into it. So we need to really -- so  
16 that was the perspective on my motion. But I'm willing to go  
17 with the will of the Commission. And I just wanted to make  
18 sure that we were cognizant of those facts, Madam Chairman.  
19 Thank you.

20 CHAIRMAN EDGAR: Thank you, Commissioner. That seems  
21 sensible to me.

22 Commissioner Argenziano.

23 COMMISSIONER ARGENZIANO: And my final comment on the  
24 matter is that if you have a statutory obligation to have a  
25 cost report, then you have to follow that statutory obligation.

1 Unfortunately, this company happens to be the one that's before  
2 me now, and I apologize for that. I'm not singling you out for  
3 any reason. But if the statutes say that this is what you're  
4 supposed to have, then that's what you're supposed to have.  
5 And that is then what we should be focusing on if that's the  
6 case or not for those future cases that come before us.  
7 Otherwise, we're not following our statutory obligations.  
8 Thank you.

9 CHAIRMAN EDGAR: Commissioner Skop.

10 COMMISSIONER SKOP: Thank you, Madam Chairman. I'll  
11 make this brief.

12 Again, I think Commissioner Argenziano, now that I've  
13 had a moment to collect my thoughts, raises a procedural  
14 technicality, but it is a valid one. And, again,  
15 notwithstanding that, I think Commissioner Carter's points are  
16 well-taken to the extent that had there not been the procedural  
17 technicality and failure to provide something which would have  
18 allowed the decision to go forward, as Commissioner Carter  
19 suggests. Again, I think it's a valid point that Commissioner  
20 Argenziano raises, even though it's a technicality, but it is a  
21 statutory requirement. But, again, Commissioner Carter, as  
22 he's astutely put it, there are a lot of water cases. We need  
23 consistency, we need to be uniform in our approach to all of  
24 the regulated entities. And so, again, because of the  
25 procedural technicality, again, I think I support Commissioner

1 McMurrin in terms of what she said, notwithstanding what  
2 Commissioner Carter's underlying intent is in terms of being  
3 consistent, and I think there is the need for that. Thank you.

4 CHAIRMAN EDGAR: Commissioner McMurrin.

5 COMMISSIONER McMURRIAN: Thank you. I certainly  
6 don't want it to look like I'm in an argument with Commissioner  
7 Carter, because I do, I do agree with what he's saying about  
8 putting everyone on notice and, and having everyone come to the  
9 table and explain, you know, what their thinking is behind the  
10 premise visit charge and whether or not we're consistent with  
11 the statute and how we've been applying it, whether or not,  
12 whether or not we need to look at the rule. It didn't sound  
13 that convincing to me that the rule necessarily kept us from  
14 doing something a little different in a different case. But I  
15 do think the rule laid out the theory behind a premise visit  
16 charge, and I think the theory probably, if we go back and look  
17 at how it originated, was to make sure the cost causer pays,  
18 and that is something that I'm very concerned about. And so I  
19 think that to the extent we change it, I think we don't take it  
20 lightly, and I think that you would have to get input from more  
21 than just one utility.

22 But, again, after that other issue was raised about  
23 whether or not the cost information was provided, I'm just not  
24 sure, and, again, I don't have the statute up in front of me  
25 now, but it sounds like there's at least some concern that it

1 may be that the utility needs to put that information before  
2 us.

3           So I guess what I would say, I think your point is  
4 well-taken. We've got a lot of other water cases before us. I  
5 don't see why, if the utility is going to provide the  
6 information, they can't provide it in time for the next agenda  
7 for us to be able to deal with the premise visit charge. And  
8 perhaps I should ask, but it seems like it wouldn't take very  
9 long to find out whether or not they can do it and if they are  
10 willing to do it and whether or not they want to proceed with  
11 the premise visit charge on the table.

12           MR. RENDELL: I do want to point out there is a  
13 statutory time frame of 60 days, which would be August the 4th.  
14 But what we could do is suspend it. You can either approve,  
15 deny or suspend the tariffs. You could actually suspend the  
16 tariffs and allow the utility that time to bring forth the cost  
17 justification, and then we could bring it back at a later,  
18 later date, the entire tariff request.

19           COMMISSIONER McMURRIAN: Is it possible to piece part  
20 it? Is it -- does it have to be as filed and whole?

21           MR. JAEGER: In the past the Commission has  
22 interpreted it as either you approve or deny or suspend. And  
23 I'm not -- I haven't researched that part, but I don't see that  
24 exactly in the statute that you can't piecemeal it. But it's  
25 been the Commission's interpretation in the past not to

1 piecemeal it.

2 MR. RENDELL: However, when they do deny it, the  
3 Commission in the past has said they deny the tariff as filed;  
4 however, an appropriate charge would be X. And if the utility  
5 was to file a tariff consistent with that decision, staff would  
6 have administrative authority to approve it. So they do  
7 give -- they don't just say deny it flat out. They would give  
8 an alternative to the utility that they could provide a tariff  
9 consistent with the Commission decision.

10 CHAIRMAN EDGAR: Commissioner Carter.

11 COMMISSIONER CARTER: Thank you, Madam Chairman.

12 I'm going to direct my comments to Commissioner  
13 Argenziano. I said to you the first day that you were on the  
14 bench that you bring a unique perspective to this, and you do.  
15 It's real, it's a blessing for us to have a former legislator  
16 here that goes through the process --

17 COMMISSIONER ARGENZIANO: Is there a but in all of  
18 this?

19 COMMISSIONER CARTER: No, there's no but. I'm saying  
20 that I said it the first day and I mean it even -- I see it was  
21 providential that I said that on that day because now it's  
22 abundantly clear the flavor and the perspective that you bring  
23 to this process causes us to go a little deeper. And I think  
24 that's appropriate, I think that's -- and I've really enjoyed  
25 the discourse that we've had this morning, particularly with

1 your unique perspective that you bring to it, and that causes  
2 us to make better decisions. I said it to you the first day, I  
3 say it to you now. I know -- I was hoping I was right before.  
4 Now it's confirmed to me. And I sincerely appreciate that.  
5 And I wanted to say to you personally on the record and before  
6 my colleagues as well as before staff and everyone that's  
7 listening, including my Aunt Geneva down in Pompano Beach, is  
8 that I really appreciate your passion for the respect of the  
9 law and the will of the Legislature. We are a legislative  
10 agency, and as such our perspective comes down through statute.  
11 And this is not -- I mean, as a lawyer I look at it from the  
12 standpoint of precedent, I look at it from the standpoint of  
13 rules and statute and all like that. But I do say -- and I'm  
14 so, so happy that the Governor appointed you because you bring  
15 to us a unique flavor that we did not have, and I think that  
16 we're going to make better decisions because of that. Thank  
17 you for your input and thank you for your questions this  
18 morning.

19 Thank you, Madam Chair.

20 CHAIRMAN EDGAR: Thank you.

21 Commissioners. Commissioner McMurrian.

22 COMMISSIONER McMURRIAN: I guess with staff's  
23 clarification -- and thanks for pointing that out, Mr. Rendell,  
24 about the, about the critical date that I had missed. I guess  
25 the recommendation -- the motion would be to suspend the

1 tariff, with the understanding that Windstream would go back  
2 and discuss amongst itself what exactly they want to propose as  
3 their tariff, whether or not they continue to argue for the  
4 premise visit charge based on cost-based information that we  
5 hope they'd be able to provide, or whether they decide to, to  
6 hold off. Of course, that decision would be up to the utility.  
7 But I guess the motion would be to suspend the tariff at this  
8 time and hope that we can bring this back with all due haste in  
9 whatever form the company decides to bring it back in.

10 MR. DETERDING: May I ask a clarification question?

11 CHAIRMAN EDGAR: Mr. Deterding.

12 MR. DETERDING: Is that suggesting that we would also  
13 bring back cost justification for the other premises visit  
14 charges, I mean, the other miscellaneous service charges?

15 COMMISSIONER McMURRIAN: I guess my answer to that  
16 would be it depends on whether or not the statute suggests that  
17 the other charges have to be cost based.

18 I do know that on Page 3 on the delinquent payment  
19 charge there is a breakdown for the \$6 late fee, and it looks  
20 as if the company there has broken it out into exactly the  
21 cost. And I guess that's what I'm envisioning with respect to  
22 the \$20 and \$40 or whatever those cost-based charges happen to  
23 be.

24 CHAIRMAN EDGAR: Commissioner McMurrian, would you  
25 restate your motion for my benefit?



1           COMMISSIONER McMURRIAN: The simpler statement of the  
2 motion would be to suspend the tariff before us in Issue 1. I  
3 guess in Issue 2, would the docket need to be closed, I guess  
4 I'm looking to our attorneys there on Issue 2.

5           MR. JAEGER: The docket would remain open pending the  
6 decision of the utility which way it wants to go.

7           MR. COOKE: And, Commissioner, if I may, I think a  
8 statement of the reason for suspension would be needed here  
9 under the statute as well. And the reason being, what I heard  
10 was the need to clarify and get cost justification information  
11 as part of what has been articulated under the statute.

12           COMMISSIONER McMURRIAN: That's my understanding. If  
13 that's --

14           MR. COOKE: And not to throw a monkey wrench in, but  
15 if you did want to do this in part, the statute does read that  
16 it can be suspended in whole or any portion thereof.

17           CHAIRMAN EDGAR: Commissioner McMurrrian.

18           COMMISSIONER McMURRIAN: Perhaps it's best, given,  
19 given the lack of clarity with respect to the statutes and what  
20 they require with each of these separate sections on premise  
21 visit charge, delinquent payment charge, perhaps it's best to  
22 suspend the tariff in whole, although I personally do not have  
23 any problems with the delinquent payment charge. But perhaps  
24 it's better for the utility to go back and look and see whether  
25 or not they believe they have met the requirements under the

1 statute. And it also, frankly, gives us some time to review  
2 the statutes and see what should be required in these types of  
3 tariff filings. But maybe I should ask it this way: What is  
4 staff's recommendation about doing it in whole or in part?

5 MR. COOKE: My sense is that it might be better to do  
6 it in whole since all of these may interrelate. And this  
7 general question about cost justification may apply to more  
8 portions, so it's consistent to perhaps look at the -- it's  
9 probably safer or more conservative to suspend the whole thing  
10 to look at the cost justification issue in case there are  
11 interrelated questions. But I guess I'd like to hear staff as  
12 to whether there are things that could be carved out  
13 separately.

14 MR. RENDELL: We agree that the tariff in its  
15 entirety should be suspended so we could look at the cost  
16 justification. I believe it would be too difficult to identify  
17 portions of a tariff to put into place that would be in effect  
18 and other portions that are suspended. So we would recommend  
19 suspension and bringing it back to the Commission as soon as  
20 possible.

21 COMMISSIONER McMURRIAN: Okay. So I move that we  
22 suspend the tariff in whole, and the reasoning that has been  
23 laid out by our General Counsel for doing that, because I am  
24 reminded that we do need to provide reason for suspending the  
25 tariff just like when we do when staff needs more review. So

1 with that understanding, on Issue 1 I would move to suspend the  
2 tariff in its entirety, and in Issue 2 keep the docket open.

3 COMMISSIONER CARTER: Second.

4 CHAIRMAN EDGAR: Commissioners, we have a motion and  
5 a second. Is there any further discussion? Seeing none, all  
6 in favor, say aye.

7 (Unanimous affirmative vote.)

8 Opposed? Show it adopted.

9 (Agenda Item 13 concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

3  
 4  
 5  
 6  
 7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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

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

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

DATED THIS 7<sup>th</sup> day of August, 2007.

Linda Boles  
 LINDA BOLES, RPR, CRR  
 FPSC Official Commission Reporter  
 (850) 413-6734