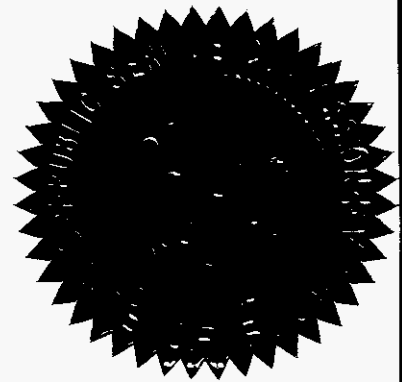


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of: DOCKET NO. UNDOCKETED

INITIATION OF RULEMAKING TO
ADOPT RULES 25-6.0431 AND
25-7.0391, F.A.C., RELATING
TO APPLICATION FOR LIMITED
PROCEEDINGS, AND TO AMEND RULE
25-22.0406, F.A.C., CONCERNING
NOTICE AND PUBLIC INFORMATION
REQUIREMENTS.



PROCEEDINGS: RULE DEVELOPMENT WORKSHOP

DATE: Wednesday, June 23, 2010

TIME: Commenced at 9:30 a.m.
Concluded at 11:11 a.m.

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

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

DOCUMENT NUMBER 05490
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P R O C E E D I N G S

1
2 **MS. COWDERY:** I think we're ready to go then.
3 Pursuant to notice, this time and place has been set for
4 an undocketed staff rule development workshop to take
5 interested people's comments on the adoption of Rule
6 25-6.0431 and 25-7.0391, relating to applications for
7 limited proceedings, and on amendment to Rule 25-22.0406
8 concerning public information and notice requirements.
9 I'm Kathryn Cowdery with the Office of General Counsel,
10 and also here on behalf of staff are Connie Kummer, John
11 Slemkewicz, Marshall Willis and Cheryl Bulecza-Banks.

12 There are sign-in sheets at the back of the
13 room, and we'd like you to sign in, if you would, so we
14 have a record of your attendance. All materials for
15 today's workshop are also at the back of the room.
16 There are two stacks; one that has the notice and agenda
17 and the draft rules, and then one -- the other stack has
18 the actual schedules which are to be incorporated by
19 reference in the draft rules.

20 The draft Rules 25-6.0431 and
21 25-7.0391 describe the information required for an
22 application for a limited proceeding for electric and
23 gas utilities. Section 366.076, *Florida Statutes*,
24 provides in part that upon petition, the Commission may
25 conduct a limited proceeding to consider and act upon

1 any matter within its jurisdiction, including any matter
2 the resolution of which requires a public utility to
3 adjust its rates.

4 Section 366.06(1) states in relevant part that
5 all applications or changes in rates shall be made to
6 the Commission in writing under rules and regulations
7 prescribed thereby.

8 This rulemaking was initiated in order to meet
9 the requirements of 366.06(1) by prescribing by rule the
10 application process for limited proceedings for electric
11 and gas utilities. Existing Rule 25-22.0406 concerning
12 notice and public information is being amended in order
13 to incorporate customer notice and information
14 requirements for the limited proceeding applications.

15 Ms. Kummer will lead the discussion of the
16 draft rules. Each time you speak, please identify
17 yourself for the benefit of the court reporter and the
18 other participants, and please come up to the mike if
19 you have any questions, again for the court reporter's
20 and everyone else's benefit.

21 Connie.

22 **MS. KUMMER:** Well, I think the easiest is
23 simply to walk through the rule paragraph by paragraph.
24 If you have any concerns, we'll take them up at that
25 time.

1 6.0431 and 7.0391 are essentially identical
2 with the exception of the reference to the MFR
3 schedules. So if we have gas folks here, we would
4 appreciate it if you would speak up as well as we go
5 through the individual sections. It'll save us a little
6 bit of time perhaps in having to go through the gas rule
7 which is the same thing.

8 Okay. We'll start out, paragraph (1) is just
9 basic background information, who filed it, the
10 utility -- the address where the application is
11 available, that kind of general stuff you have to file
12 with any petition. Anybody have any questions about
13 that?

14 Paragraph (2) is really the meat of it. It
15 tells you what used to be in the petition. There are
16 several subsections to that. We can take each
17 subsection, or if anyone has particular questions about
18 a subsection, we could go directly to that.

19 **MR. BUTLER:** Connie.

20 **MS. KUMMER:** Yes.

21 **MR. BUTLER:** John Butler for FPL. Just as an
22 overview, if you could help us understand Subsection
23 (2). It seems, although we're not completely sure, that
24 it is intended to set up filing requirements on sort of
25 a menu basis where depending on the nature of the

1 limited scope request that's being made, certain types
2 of information would be required or would not be
3 required depending on the elements that are addressed in
4 the request. Is that the intent of how you've
5 structured it?

6 **MS. KUMMER:** John can probably address the
7 specific details, but that's my understanding. Because
8 a limited proceeding could address a whole range of
9 things; whereas, a rate case has specific MFRs and those
10 are set forth in rule and look to be a much, I don't
11 want to say broader, but can cover a number of different
12 situations.

13 **MR. BUTLER:** And so if you only had certain
14 types of elements involved in your limited scope
15 request, you might file different information than if a,
16 you know, different and broader set of requests were
17 included within your petition; is that right?

18 **MS. KUMMER:** That's my understanding. John?

19 **MR. SLEMKEWICZ:** Yes. That would be --
20 especially, you know, if you're just looking to include
21 like a power plant, you know, that would just be one
22 thing. If you were looking at trying to include just
23 some kind of expenses, that would be, you know, a
24 different set of requirements. And if you're doing
25 both, you'd have to, you know, submit all schedules or

1 information that is being requested by the rule.

2 **MS. COWDERY:** And that's why we included a
3 special section if you're doing a revenue neutral rate
4 restructuring because we would need other information if
5 it's revenue neutral.

6 **MR. BUTLER:** So just indulge me here, if you
7 would, please. Let's use that example, a power plant.
8 Say that a utility wanted to come in, seek the revenue
9 requirement specifically associated with adding a new
10 power plant into service. I mean, it looks like that
11 the information required by Subsection (a) and by
12 Subsection (b) would clearly be relevant to that. Are
13 there other subsections then that would be, you know,
14 the information would be required for that type of
15 limited scope proceeding?

16 **MR. SLEMKEWICZ:** Well, I would assume if
17 you're going to be, you know, asking for recovery of O&M
18 expenses, that, you know, we'd want to see that detail
19 also.

20 **MS. KUMMER:** And also Section (i), if you're
21 changing, proposing to change rates, (i) and (j) would
22 be relevant. You would do the allocations and the
23 proposed rates. If you're not proposing to change
24 rates, then you wouldn't need that. But if you're
25 proposing a rate change, then we would need that

1 information as well.

2 **MR. BUTLER:** But a change in rates could
3 include something that's really just a proportionate
4 change to all of the rates under the existing sort of
5 rate allocation cost of service.

6 **MS. KUMMER:** It could, again, depending on the
7 request. But that would certainly be within the realm
8 of possibilities of things you would ask for.

9 **MR. BUTLER:** Well, it seems, if I'm
10 understanding this, then that this request for a limited
11 scope proceeding to add the power plant into, you know,
12 into rate base and the associated adjustments to base
13 rates would pretty much trigger the whole range of
14 Subsection (2) components, and therefore that there
15 would be an extremely broad filing of information
16 required for that request. Is that, is that how you
17 read it, or am I sort of going too far?

18 **MR. SLEMKEWICZ:** No. We would need all that
19 information because we would have to evaluate, you know,
20 the power plant costs, you know, the operating expenses
21 associated with it, and then the rate impacts.

22 **MS. KUMMER:** Limited proceedings, as we said
23 earlier, can cover a number of different things and
24 that's why the rule is broken out the way it is. If
25 you're only doing certain things, then you only need to

1 file information relevant to that. But the addition of
2 a power plant and an increase in rates associated with
3 that, you're going to have presumably not only plant,
4 you're going to have operating expenses and you're going
5 to have the rate impact as well, so you would need all
6 of it. Yes.

7 But you could do, for example, if you were
8 simply asking for a change in accounting treatment or
9 something or another that does not impact rates, does
10 not impact plant investment, then you would need to
11 provide that explanation.

12 **MR. BUTLER:** For that example, what would you
13 end up -- which of these subcategories would apply for a
14 change in accounting treatment?

15 **MR. SLEMKEWICZ:** It would, I guess it would
16 depend on, you know, what was involved. You know, if
17 it's just something that's going to impact the income
18 statement, you know, we would just need the, you know,
19 income statement data. But offhand I can't think of,
20 you know, an example.

21 **MR. BUTLER:** I'm not sure that I can either.
22 But, I mean, I guess if there, if it were simply an
23 accounting treatment change and you're not asking to put
24 some new plant, power plant or otherwise, just
25 plant-in-service, not looking to increase that, not

1 looking for additional revenues on rate base, not
2 looking to change your operating expenses, not looking
3 to change the rates that you're charging or the rate
4 structure in there, it's just an accounting change, it
5 seems like, but maybe I'm misreading this, it seems like
6 basically you'd certainly have to satisfy Subsection
7 (a), but it wouldn't seem like the others would apply.
8 But, again, I don't, I don't know what staff's intent
9 is.

10 **MR. SLEMKEWICZ:** Well, I guess if you, you
11 know, you were trying to establish some kind of
12 regulatory asset or something, you know, we'd want to
13 know what the impact of that is. And generally a lot of
14 times those affect, seem to affect O&M expenses or, you
15 know, operating expenses more than the rate base.

16 **MS. KUMMER:** The whole idea of a limited
17 proceeding is to address a specific circumstance. And
18 that's why we need -- you know, we would -- we're going
19 to have to take it on a case-by-case basis. The rules
20 are set out to be general and sort of all inclusive of
21 anything we could think of that you might perhaps want
22 to have handled through a limited proceeding. But,
23 again, it would depend, as John said, on what exactly
24 you're asking for.

25 **MR. BUTLER:** Well, speaking for FPL, I mean,

1 we are not opposed in principle to the idea of setting
2 out the categories of information that would be filed
3 for different types of limited scope proceedings. In
4 fact, done right I think it could be helpful for
5 everybody because you kind of know upfront what's going
6 to be required and the utility files that information
7 and it's at least presumptively complete. If it
8 doesn't, it's, you know, clearly not complete and
9 there's a, somewhat of a mutual understanding going in
10 of what the basic filing requirements are going to be.

11 But if the rule doesn't achieve that, if it's
12 just sort of laying out some things that could be
13 included but doesn't define what are the minimum
14 expected filing requirements, then we're not going to
15 find much comfort or value in it frankly because we're
16 still going to be at the same point of needing to have
17 some sort of discussion I guess upfront in each limited
18 scope proceeding as to, you know, what for that
19 particular proceeding is going to be required as a, as
20 an initial minimum filing requirement.

21 **MS. KUMMER:** If I understand what you said
22 correctly, you are looking for a specific set of
23 requirements for each specific type of request. And
24 that's -- I don't think it would be feasible to do in a
25 rule.

1 What we have tried to do in this is to cover
2 all eventualities. And you would file your petition,
3 and if you thought certain portions of the rule weren't
4 relevant, you would state that in your petition. And,
5 you know, if we or the Commission disagreed, then we
6 would talk about it at that point.

7 But I don't think we can say that if you
8 request an accounting treatment for this, you do this.
9 If you're going to have a plant, you're going to have to
10 do this. If you're doing something else, you have to
11 do -- we can't develop a laundry list of situations and
12 develop requirements for them. That simply isn't
13 feasible because you're always going to miss something.
14 There's going to be -- this case isn't quite the same as
15 the last case and it's just, it's just not feasible for
16 rules. What we tried to do with this is cover all
17 possible situations, and it's almost like a menu. If
18 you're doing this, then this is what's required.

19 **MR. BUTLER:** I agree, and I think that's what
20 it should be. But it doesn't seem like it's a very
21 complete menu. For example, on the accounting treatment
22 we were just discussing, it doesn't seem that really
23 anything in here addresses what you would or wouldn't
24 have to be filing.

25 **MS. KUMMER:** In what respect? Give me an

1 example. I'm struggling with what you're missing.

2 **MR. BUTLER:** Well, if I understood my exchange
3 with John, you know, you've got something -- we asked
4 for an accounting treatment to be approved. It's not
5 going to be changing our base rates. We're not asking,
6 you know, for recovery through some change to rates for
7 particular expenses or particular levels of investment,
8 whatever. You're not, it seems, triggering some of
9 these particular subsections. But I don't know based on
10 the exchange so far what it is that I would be expected
11 to file for that accounting change because it sounded
12 like the response was we might need some schedules about
13 certain types of costs and what their impacts would be,
14 et cetera, but I'm not seeing them be defined by this
15 rule as to what that type of information would be.

16 And, you know, I, at one level I agree that I
17 don't think it can or should try to cover everything
18 that a limited scope proceeding might be, you know,
19 requested to cover because it's so open-ended a statute
20 that there are always going to be some exceptions and
21 probably has to be kind of a catchall exception in the
22 rule.

23 But it does seem that some of the major
24 categories of limited scope proceedings, and certainly
25 those would include something that was looking for

1 adding a particular power plant or maybe make it more
2 general, you know, some major plant addition, whatever
3 sort of plant addition it would be, is a category. You
4 could have something for discrete changes in operating
5 expenses if you've got some big, new regulatory
6 requirement and it's basically an expense item that has
7 substantially changed the company's business; the issues
8 of accounting, accounting treatment changes we've just
9 been discussing; rate structure changes that are not,
10 you know, changing the overall revenues that the utility
11 is seeking, and I'm sure there are others. But, you
12 know, there could be some -- I bet you you could define
13 categories that would cover maybe three-quarters or more
14 of the likely types of limited scope proceedings that
15 might, might be filed and then have the rule providing a
16 common understanding going in as to what the filing
17 requirements would be for those sorts of, those sorts of
18 proceedings.

19 And if we achieve that, I think it would be,
20 you know, speaking for FPL, that that might be a pretty
21 useful thing to, to accomplish. But if it's not
22 achieving that, if it's sort of just setting out here
23 are some things to file but no comfort that that is
24 complete or covers some of the major categories of the
25 types of filings that might be made, then it doesn't,

1 from our perspective doesn't accomplish as much. Does
2 anybody else, utilities have views on that subject?

3 **MR. SLEMKEWICZ:** I'd like to just say one
4 thing first. To me it seems like an accounting change
5 would be covered by (2)(a), and which is simply a
6 detailed statement of the reasons why the limited
7 proceeding has been requested. And if it doesn't impact
8 any of these other things, that's all you would file in
9 a limited proceeding. Certainly there would probably be
10 some, you know, discovery. I mean, even if you filed
11 everything, there's probably, there's going to be
12 discovery.

13 **MR. BUTLER:** Absolutely. No. I understand.
14 I don't think that the rule could or should limit all
15 the information that would be provided in the
16 proceeding. It ought to be addressing what's the
17 upfront expectation, you know, that if the utility
18 includes X, Y and Z for a particular type of proceeding,
19 then it has provided the initial filing requirements
20 kind of like the MFRs for general rate cases so that
21 people know that the company has or hasn't met its basic
22 obligation of providing the information to get the ball
23 rolling.

24 **MS. KUMMER:** Okay. John, if we go back to
25 your example of a power plant, a power plant is a change

1 in plant-in-service; right? It would change your rate
2 base. So that's covered by (b). There are probably
3 operating expenses; that's covered by (d).

4 **MR. BUTLER:** By the way, you skipped over (c).
5 What is (c) supposed to be?

6 **MR. SLEMKEWICZ:** Well, if you're going to be
7 asking for a change in rates, we're trying to evaluate
8 what your current cost of capital is.

9 **MR. BUTLER:** But the triggering phrase, "If
10 recovery is being requested for any costs," I don't --
11 you've got (b), as Connie pointed out, is directed to an
12 increase in plant-in-service and (d) is related to
13 operating expenses. I'm just wondering what is --
14 what's (c) that's kind of in between those two?

15 **MR. SLEMKEWICZ:** Well, I think (c) is really
16 related to (b), that, you know, we're going to have to
17 calculate revenue requirements based on a cost of
18 capital if you're going to put in something in rate
19 base. So we're going to need that calculation if you're
20 going to be changing, requesting a change in rates. In
21 other words, if you're not requesting a change in rates,
22 then (c) would not apply because the key there is if
23 recovery is being requested.

24 **MR. BUTLER:** Okay.

25 **MR. REHWINKEL:** Well, John, would that be true

1 if you put a power plant in and then you were going to
2 monitor for -- and there was maybe based on an earnings
3 test no change in rates, but then you would have an
4 earnings surveillance program and you would want to look
5 at how that plant went in. Would -- wouldn't you still
6 need to do this?

7 **MR. SLEMKEWICZ:** No. That would just fall out
8 in the earnings surveillance report whether or not, you
9 know, they're overearning or not. Because they're not
10 putting any -- they're not changing rates, they're not
11 putting anything in as a cost of capital. There's no
12 revenue requirement associated with putting that power
13 plant in that's going to be recovered from the ratepayer
14 until there's a change in rates. So looking at the cost
15 of capital, looking at the cost of capital is a nice
16 exercise, but it isn't relevant to just allowing a power
17 plant in the rate base.

18 **MR. REHWINKEL:** Well, might it impact on
19 whether you met the threshold of being inside or outside
20 your range? I mean, I could see your return on equity
21 would be the last authorized, but you would -- wouldn't
22 you -- your, your debt cost would be current; correct?

23 **MR. SLEMKEWICZ:** That's correct. Yeah.
24 Everything is current except for -- and that's the way
25 it is in the surveillance program. Everything is

1 current except for the authorized return on equity,
2 which is what was last authorized.

3 **MR. REHWINKEL:** I guess I was trying to figure
4 out if, if you're going to put a rate base item in,
5 there would be, you would want to look at the impact,
6 you know, before and after.

7 **MR. SLEMKEWICZ:** If you put a rate base item
8 in and you don't give a revenue requirement or there's
9 no increase in base rates, presumably rate of return
10 will go down. I mean, that's just kind of a given.

11 **MS. KUMMER:** But that would be caught through
12 the surveillance reports.

13 **MR. REHWINKEL:** I guess what I'm trying to
14 figure out is there's a test that's set out in the rule
15 about whether, whether you're inside or outside your
16 range in order to be eligible.

17 **MR. SLEMKEWICZ:** That's when you're looking at
18 changing rates.

19 **MR. REHWINKEL:** Yeah.

20 **MR. SLEMKEWICZ:** If they just built a power
21 plant, they don't have to come in for a limited
22 proceeding.

23 **MR. WILLIS:** Yeah.

24 **MR. SLEMKEWICZ:** The power plant just goes in
25 the rate base and becomes a part of the surveillance.

1 So the only reason they would come in presumably with a
2 power plant is to change rates. Otherwise, there's
3 nothing -- they don't have to do anything to put a power
4 plant --

5 **MR. REHWINKEL:** I understand. I'm just kind
6 of getting to John's point about, you know, laying out
7 every scenario. I don't really know -- I think what
8 you're putting forward here is a rule maybe in
9 anticipation that power plant additions will be
10 something that you'll see in the next few years on a
11 limited basis. And I -- my understanding is that's not
12 something that's historically been done. They're
13 usually like step increases or there's just a general
14 rate case wrapped around a large power plant. And I
15 don't know, maybe I'm totally wrong about it.

16 **MS. KUMMER:** Well, there are -- we tried to
17 place some limitations. If you look on page 7,
18 paragraph (4)(b), things that are not appropriate for
19 limited proceedings or if the requested rate increase
20 exceeds 5 percent of the utility's jurisdictional rate
21 base revenue. It doesn't go exactly to what you're
22 talking to, but we can talk about limitations when we
23 get there. But there was some attempt to try to limit
24 the types of things that would go through a limited
25 proceeding.

1 **MR. REHWINKEL:** Okay. So just -- and John
2 raised a question about the phrase that recovery is
3 being requested. You definitely mean recovery through a
4 change in rates. That's what you mean?

5 **MR. SLEMKEWICZ:** That's correct.

6 **MR. REHWINKEL:** Okay. Because recovery can
7 occur through maybe a depreciation offset or -- I mean,
8 there's other ways to recover. But you're talking
9 specifically about the impact on a customer's bill.

10 **MR. SLEMKEWICZ:** That's correct.

11 **MR. REHWINKEL:** Okay. That was confusing me
12 too. Because I mean I can foresee that there would be
13 scenarios where you might come in for a limited
14 proceeding with some sort of accounting treatment that,
15 that may not have a, an immediate impact on customers'
16 rates but nevertheless would be designed to be binding
17 for something else that would hit rates, you know, in a
18 future period.

19 **MR. SLEMKEWICZ:** Yeah. Anything that, you
20 know, the Commission does, if the company comes in for
21 some kind of rate change in the future, that all gets
22 rolled in together and has to be, you know, evaluated
23 then.

24 **MR. REHWINKEL:** Yeah.

25 **MR. BUTLER:** Excuse me. Just a procedural

1 question. Is there a number where one can call in and
2 hear this exchange? Some of the people that are back in
3 our offices were looking to do so, if they could.

4 **MS. COWDERY:** No. This room doesn't have that
5 capability. It is being recorded so that I believe a
6 digital, I mean, audio will be available at some point.

7 **MR. BUTLER:** Okay.

8 **MS. KUMMER:** We were originally scheduled for
9 148 and got bumped, and this room just does not have the
10 facilities.

11 **MR. BUTLER:** Okay. Thank you.

12 **MR. WILLIS:** The Governor seems to have that
13 power.

14 **MR. BUTLER:** I think you're right.

15 (Laughter.)

16 **MR. SLEMKEWICZ:** And I guess as a recent
17 example we've had the Bartow case and that was basically
18 a limited proceeding to include a power plant.

19 **MR. REHWINKEL:** Yeah. I'm aware of that.
20 (Laughter.) And I want to address some of that later,
21 but I know you're kind of going through the rule.

22 **MS. KUMMER:** Again, what we were trying to
23 do -- I'm sorry, Kathryn.

24 **MS. COWDERY:** I was just going to say that
25 this is the type of information in the post-workshop

1 written comments that would be very helpful. If you see
2 in particular a subtype, a type of limited proceeding
3 that you anticipate that doesn't seem to be covered
4 here, you know, let us know and set out what you think
5 the minimum filing requirements should be. You know,
6 also we might consider, you know, restructuring the rule
7 a little bit. Right now we've just got one subsection,
8 (2). Maybe we want to break it down into several
9 things. I don't know. Maybe we want to beef up
10 Subsection (2)(a) to just not only have reasons but add
11 something about support and make that the subsection
12 that sort of covers, you know, the catchall in addition
13 to anything specific we set out. So that would be very
14 helpful if you see anything like that.

15 **MR. BUTLER:** You know, we, we do plan to file
16 some post-workshop comments and we'll address those
17 points.

18 **MS. KUMMER:** We can go through the individual
19 subparts of paragraph 2, if you would like to. Does
20 anyone else have any other comments on that?

21 **MR. BUTLER:** I do on subsections (g) and (h).
22 You know, I don't want to rush ahead if anybody has
23 comments before those.

24 **MS. KUMMER:** I don't see anybody jumping up.
25 Go ahead.

1 **MR. BUTLER:** Okay. These subsections are
2 envisioning filing information it seems on a historic
3 basis, and something that is concerning to us about that
4 approach, again, kind of not entirely sure how it would
5 be used, but take, for example, the addition of a new
6 power plant as a limited scope proceeding. If the
7 intent here is that there's a required element for
8 proceeding with a, for having a limited scope proceeding
9 for adding a new power plant is historic data about the
10 company's, you know, earnings or its financial position
11 with the power plant included in the historic data, then
12 this will result in probably a minimum of a three- to
13 six-month delay after the power plant goes into service
14 before we could even file the proceeding and would
15 substantially, you know, reduce the effectiveness or the
16 benefit of the limited scope proceeding to add the new
17 power plant.

18 Because just as a practical matter, you know,
19 once the construction is complete, the power plant goes
20 into service, there is a several month period before one
21 can get historic data on the, you know, the actual cost
22 of the investment and the expenses that are being
23 incurred associated with it and then fold those into a
24 filing that would be, you know, preparation of schedules
25 that would be using that historic data. And that's a

1 big concern to FPL because certainly by no means the
2 only, but one of the categories of limited scope
3 proceeding that we could envision ourselves some day
4 wanting to use this, use the statute to pursue would be
5 if we're adding a new power plant. And a three- to
6 six-month delay before you're really even out of the box
7 on a proceeding once the power plant has been added is
8 a, is a major delay and we think an unnecessary and
9 un contemplated restriction on how the statute would be
10 used.

11 **MR. SLEMKEWICZ:** Well, I would envision that,
12 you know, what we want is, you know, a current snapshot
13 of where you're earning, and I would envision that you
14 would be putting in a pro forma to show what the effect
15 of adding the power plant would be on that period, you
16 know, given, you know -- you know, if you came in before
17 it was in service, you know, actually it's going to
18 occur in the future. But we're trying to, you know,
19 deal more with historical data without having to get
20 into all the projections about, you know, if you project
21 the first full year of, you know, what your operations
22 are going to be with that power plant in there, that
23 just gets -- we may as well have a rate case.

24 **MR. BUTLER:** So you're envisioning then it
25 would be kind of a hybrid in which you would end up

1 presenting the last 12 months of historical performance
2 modified by this pro forma adjustment that would be
3 specifically adding in the anticipated final costs for
4 the plant and the associated operating expense changes
5 that would occur once the plant is up and operational;
6 is that --

7 **MR. SLEMKEWICZ:** Right. That's correct.

8 **MR. BUTLER:** Okay. I -- that might work. I
9 don't think that's at least how we interpreted the rule
10 that it makes that very clear at this point. If that is
11 the direction that is what staff is looking for, we'll,
12 we'll address that in our post-workshop comments. But
13 clearly for that category of using the statute there
14 would have to be some sort of pro forma mechanism like
15 that or else we would really be behind the eightball by
16 quite a long time before we could even get to the point
17 of starting to use the proceeding.

18 **MR. REHWINKEL:** John, isn't that what, how
19 Bartow was handled? My recollection is that's what
20 Progress did. There, the only artificiality compared to
21 this is they had, they had the 10 percent number. But
22 they pro formaed the plant in against their --

23 **MR. SLEMKEWICZ:** Right.

24 **MR. REHWINKEL:** Well, I guess they did have a
25 projected. I mean, we don't particularly see a problem

1 with the way you described it. I think that's how we
2 contemplated this is that the only pro forma would be to
3 plant, not other things that the company would want to
4 pro forma in there. But specifically the historical
5 snapshot with the projected rate base and expense items
6 associated with the plant.

7 **MR. SLEMKEWICZ:** That's correct. Yeah. Not
8 changing, you know, everything else. And I guess one
9 thing though, you know, we would have to look at though
10 is, is the difference in the time periods. I mean, if
11 you came in like two years early to try and do this,
12 that, you know, that doesn't work.

13 **MR. BUTLER:** And I don't think -- I wouldn't
14 want to take it off the table, but I understand your
15 point and I don't think that's normally what we would be
16 looking to do. But we would be wanting to, you know,
17 wanting to file at a point where we were hopefully able
18 to get the proceeding at a point where rates could be
19 going into effect roughly coincident with when the plant
20 is going into service. And so, you know, probably
21 something well short of two years. It might be a good
22 part of a year, but it would certainly not be that far
23 in advance.

24 **MR. SLEMKEWICZ:** Right. I understand and
25 appreciate that.

1 **MS. TRIPLETT:** Dianne Triplett on behalf of
2 Progress Energy Florida. I echo John's concerns, and I
3 think it's just the way that it's written. It reads as
4 a threshold like we can't get in the door because we
5 have to show that over the last 12 months that we've
6 fallen below the rate of return. And if it's, the
7 language is tweaked to show, to clarify that, it's just
8 you want a historical snapshot that then going forward
9 you can show that with the addition of the plant that we
10 would fall below and I think that would address our
11 concerns.

12 **MR. SLEMKEWICZ:** Right. And, you know, a pro
13 forma adjustment would accomplish that.

14 **MS. KUMMER:** And, again, if you have
15 clarifying language, that's what we would be looking for
16 in your comments. Because we, we all tossed this around
17 a lot and you're trying to get your hands around a lot
18 of different concepts. And we knew what we meant, but
19 we don't always -- it doesn't always come through to
20 y'all. And, John, you said you had a problem with (h)
21 as well or a question on (h)?

22 **MR. BUTLER:** It was really just wrapping into
23 that same comment about historic information. And I
24 think that what we've just discussed is at least a way
25 to address it. We'll have to go back and think whether

1 that works for all of our purposes, but the pro forma
2 adjustment is certainly a way of addressing the concern
3 that we had.

4 **MS. KUMMER:** All right.

5 **MR. BEASLEY:** I have a question on (g). Jim
6 Beasley for Tampa Electric Company.

7 On Subsection (g) at line 19 there on page 5,
8 if you had offsetting rate changes that were revenue
9 neutral and had no affect on total revenues, would that
10 come into play or would you -- I mean, would this be
11 necessary?

12 **MR. WILLIS:** I wouldn't even think you would
13 file on it. I mean, it's just like John was talking
14 about a while ago, if you're not going to have a revenue
15 change whatsoever, why would you even make a filing?
16 You would be able to absorb the plant coming online if
17 you had offsetting changes.

18 **MR. BEASLEY:** This would be, this would be
19 changes in the rates though, so they would need to be --

20 **MS. KUMMER:** That's what I understood you to
21 say. If you're going to be changing rates, then we
22 would need some sort of support for that, even if they
23 were offsetting. Because, again, that's an application
24 issue. And that's, that's actually addressed more under
25 (i) and (j).

1 **MR. BEASLEY:** So would you need to comply with
2 Subsection (g) then if you did (i) and (j)?

3 **MS. BANKS:** (Inaudible.)

4 **MS. KUMMER:** Yeah. I agree with Cheryl, it
5 seems like that information would sort of be a fallout
6 because you would have to show your cost of service and
7 that by default would give you your rate of return.

8 **MR. BEASLEY:** Uh-huh.

9 **MR. BUTLER:** Connie, one other thing on (g), I
10 do want to return to it for a moment. I mean
11 conceptually the discussion we've been having, you know,
12 the pro forma adjustments may be something that works.
13 We do have a concern about the reference to the interim
14 statute, to 366.071, and I just want to make it clear
15 that we don't envision, certainly would not support a
16 rule that would purport to limit the limited scope
17 proceedings under 366.076 by the standards that are
18 applicable in 366.071. I mean, if it's informational,
19 it's something that you feel that you need to have to
20 evaluate the appropriateness of a request, then that may
21 be something that is acceptable. But to suggest if it
22 does that, basically this is just another way of filing
23 an interim rate increase that was, you know, going to be
24 guided by and limited to the principles in
25 366.071 wouldn't be something that we would be

1 supportive of, and I think frankly it might be a little
2 inconsistent with the purpose of 366.076, which
3 presumably is providing a different mechanism than
4 what's set out in 071.

5 **MR. SLEMKEWICZ:** I guess it relates more to
6 the, you know, the calculation. We could be more artful
7 and just, you know, take what we need from that rule and
8 put it in writing here rather than just referencing, I
9 mean, the statute and --

10 **MR. BUTLER:** So your point is you're sort of
11 referencing it because it is a shorthand way of talking
12 about the elements of the --

13 **MR. SLEMKEWICZ:** Right. The calculation.

14 **MR. BUTLER:** -- the cost of capital
15 calculation. Okay. We'll take it into account and
16 maybe have some comments on that. That, that may not,
17 may not be a problem, certainly not as much of a problem
18 as if it is purporting to be sort of incorporating by
19 reference the, you know, all of the baggage that goes
20 with an interim rate request. Because that's obviously
21 a different mechanism than what we're talking about
22 here.

23 **MR. SLEMKEWICZ:** Right. And maybe if we just
24 refer to a couple of specific sections rather than the
25 whole statute, then that, that might suffice.

1 **MS. KUMMER:** Right. Because the language is
2 "will earn below its authorized in accordance with."
3 And I think what we were trying to say is using the
4 criteria to determine whether or not you're below your
5 authorized that's set forth in that statute. So as John
6 said, simply spelling that out rather than using a
7 statutory reference might, might take care of the issue.

8 **MS. TRIPLETT:** Connie, sorry, Dianne Triplett
9 with Progress. Can I ask a question about Subsection
10 (k)? I'm actually going to give the mike over to Nancy
11 Holstein because I think she can ask it more eloquently.

12 **MS. HOLSTEIN:** Nancy Holstein for Progress
13 Energy. I would like to just see if I could get some
14 clarification around the term "rate structure" because
15 the paragraph is referring to both rate structure and
16 customer class, cost allocation, and I see those as two
17 separate things. And for instance, if we're just doing
18 a rate restructuring, I'm not sure we would be required
19 to do a jurisdictional cost of service study if we're
20 only restructuring within the retail classes.

21 **MS. KUMMER:** I would agree that if you're just
22 restructuring within retail, you would not need a
23 jurisdictional study because you're taking whatever your
24 revenues are and moving them around various customer
25 classes. So, yes, I would agree that you wouldn't need

1 a jurisdictional study for that.

2 **MS. HOLSTEIN:** Okay. And then I guess (h), I
3 mean, I'm sorry, (k) has the similar language to what's
4 in (i) and just talking about the allocation of customer
5 classes. Is there intended to be different or --

6 **MS. KUMMER:** Well, (k) is prefaced by saying
7 "If the limited proceeding is requested solely to change
8 the current rate structure." (I) and (j) apply if
9 you're doing things other than changing rate structure
10 which result in rate changes.

11 **MS. HOLSTEIN:** Okay. And you referred earlier
12 to a revenue neutral rate structure. Is that what the
13 intent of this (k) --

14 **MS. KUMMER:** That would, that would fall under
15 this category. And, for example, we have done it with
16 several gas companies where we went from a residential
17 commercial type structure to a term based structure.
18 We did several revenue neutral restructurings along that
19 line. That's the best example I can think of. I don't
20 know -- I suppose in electric if you were to eliminate a
21 class or something of that variety, although that might
22 be questionable depending on what exactly you were
23 doing, but the best example again is the rate
24 restructuring did in the gas utilities to change the
25 number from, description of the classes of customers.

1 **MS. HOLSTEIN:** Okay. Is, is it your intent
2 that this (k) be for revenue neutral only type rate
3 structurings or something that might also not be revenue
4 neutral?

5 **MS. KUMMER:** (K) is only if it's revenue
6 neutral, solely to change current rate structure. If
7 you're changing revenue requirements, it would fall in
8 the other category. That's why you have (i) and (j) up
9 there to deal with the rates if you're changing things
10 other than just revenue neutral.

11 **MS. HOLSTEIN:** Okay. It might just be helpful
12 to have that wording.

13 **MS. KUMMER:** Okay. I, I thought we were
14 clear. But if we weren't, please suggest additional
15 language.

16 All right. That gets us down to (3),
17 paragraph (3), which is on the bottom of page 6. That's
18 just our housekeeping to help us follow what you're
19 doing, how many copies you have to file, the sort of
20 housekeeping type things.

21 Kathryn pointed out the schedules that we have
22 referenced, the MFR schedules that we have referenced in
23 the rules are also available on the website. If you
24 haven't, please take a look at those and see if you have
25 any problems with the schedules that we've asked for.

1 Or if you think we need other schedules, please tell us
2 that in your post-workshop comments.

3 **MR. REHWINKEL:** I would like to ask about the,
4 these kind of what you call housekeeping traditions
5 here. Is there any contemplation on the, on the
6 Commission or the staff's part about the timing of the
7 filing relative to, say, let's take a power plant, for
8 example, the in-service date of the power plant? Is
9 there an intent that, that there be a filing, a hearing
10 and an order prior to the time that rates would be going
11 into effect?

12 **MS. KUMMER:** I, I guess --

13 **MR. REHWINKEL:** And specifically for like a
14 large power plant addition.

15 **MS. KUMMER:** I would think that it would be
16 handled -- again, this is more Kathryn's area than
17 mine -- but I would think that these would be, be a
18 proposed agency action type of -- I think that's how we
19 normally do limited proceedings, and then if it's
20 protested, we would have a hearing.

21 **MR. REHWINKEL:** Well, again, going back
22 historically, and I know John mentioned the Bartow plant
23 that Progress filed, it was, I consider it to be a very
24 unique situation. It had a stipulation that was in its
25 last year that a trigger of 10 percent in order to be

1 able to come and ask for limited relief. They also had
2 a pending rate case that the limited proceeding request
3 was also embedded in as, as, as the overall request.

4 There was an issue raised by the Office of
5 Public Counsel because they used, in addition to the
6 limited proceeding, used the file and suspend law to
7 basically raise rates on basically a 60-day notice
8 scenario, give or take a few weeks.

9 Our concern is that if you can plan a, a large
10 power plant addition, that you know your costs, you know
11 kind of what your, your costs are going to be, your
12 in-service date, you ought to be able to have a hearing
13 before rates are raised instead of using the PAA, the
14 file and suspend law to increase rates prior to having a
15 hearing.

16 **MS. KUMMER:** If it's a PAA and it's protested,
17 then the rates can't go into effect is my understanding.
18 Kathryn, is that correct?

19 **MS. COWDERY:** I don't know this proceeding
20 with power plants and how it works with limited
21 proceedings, but we'll look into that.

22 **MR. REHWINKEL:** Yeah. This is, this is kind
23 of a big concern of ours because I think that
24 traditionally limited proceedings have not been used to
25 put in large electric power plants with across the board

1 base rate increases as a result. Limited proceedings
2 have been relatively narrow in the past. Bartow was
3 again a unique situation. That's in the past, it's
4 fully resolved and all the orders on it are final. I'm
5 not here to complain about it, but it does cause us
6 concern or reason to pause as to how the file and
7 suspend law, the PAA process and a large base rate
8 adjustment for a large power plant will be handled in
9 the context of this rule.

10 So I'm not looking for answers here today,
11 just kind of raising the issue and putting folks on
12 notice that that's a concern that the Office of Public
13 Counsel has. And we will endeavor to address that more
14 fully in our post-workshop comments.

15 **MS. KUMMER:** To be quite honest, I don't think
16 we got that far in our discussions.

17 **MR. REHWINKEL:** Okay.

18 **MS. KUMMER:** But these are some things we
19 definitely need to think about, I agree.

20 **MR. REHWINKEL:** Okay.

21 **MR. WILLIS:** Charles, what you bring up is
22 obviously on a lot of people's minds after the last
23 year. I know where you're coming from. But speaking as
24 a staff member, I think you have to be fair to all
25 parties. I would think that any company wanting to put

1 a plant item in would file far enough in advance that
2 when the PAA came out, it would come out in advance of
3 the power plant going in. Now a company can't perceive
4 that that's going to be protested. But if there's a
5 protest, I personally don't see why a company couldn't
6 petition the Commission to put the PAA rates into effect
7 subject to refund pending a hearing on the subject.
8 Everyone is protected at that point. Is that a problem
9 to you?

10 **MR. REHWINKEL:** Well, here's the, here's the
11 concern that we have. And I think that the Public
12 Service Commission needs to really think long and hard
13 and deep about this issue because going into this arena
14 you're basically taking what might be a mega rate case
15 and just maybe cutting it up into a large chunk that's
16 still a big rate case no matter how you look at it. And
17 traditionally -- I know what, how the statutes read, I
18 know how these *Wilson* cases read as far as how the file
19 and suspend law is supposed to work, I know all that,
20 but the public expectation is that this Commission holds
21 rate case hearings for rate case size rate increases for
22 electric companies. You can read the statute in a very
23 dry way and say you can do this.

24 But if, if there's going to be a change in the
25 way business is done and large chunks of what would

1 otherwise be big rate cases are done as limited
2 proceedings through the PAA process, that's different.
3 Because there is a statute that allows that PAA
4 mechanism for small electric and gas companies and --
5 for all gas companies and small electric companies to be
6 used where you have the PAA issued. If there's a
7 protest, rates can go into effect for up to the full
8 amount of the request. But normally when there's a rate
9 case, the interim is just that increment that puts you
10 below the bottom of your last authorized, not the entire
11 request that the company has. So that's where there's a
12 difference is, is -- you know, I know Mr. Butler
13 referenced the interim statute, and I can understand, is
14 if you have the file and suspend law and you have the
15 ability to put the entire request into effect subject to
16 refund rather than an increment or deficiency calculated
17 on the interim statute, you wouldn't want to be so
18 limited, and I understand that.

19 But by the same token, when rates could go
20 into effect entirely on an interim basis, that's
21 different than the way rate cases have traditionally
22 been handled. And some of these power plant additions
23 are the size of rate cases. So I'll, I'll try to
24 address this more in my post-hearing comments, but I
25 wanted everybody to think about that because that's

1 going to be a concern, and I think that's something you
2 have to work through if you're going to kind of go down
3 this path.

4 **MR. WILLIS:** Well, Charles, maybe that's
5 addressed, could be addressed partially in Part 4. This
6 talks about --

7 **MS. KUMMER:** That's what I said, it's a great
8 segue into paragraph 4.

9 **MR. REHWINKEL:** Yeah. Yeah. That's what --

10 **MR. WILLIS:** If you think a 5 percent increase
11 is far too much to put in a limited proceeding, you
12 know, maybe that, maybe -- you know, we took that as a
13 shot in the dark. We discussed what the limitations
14 ought to be and we just, we finally I think among all of
15 us agreed 5 percent was probably a good shot at what
16 everybody could live with as far as a limited
17 proceeding, and maybe the parties will think that's
18 probably too much.

19 **MR. REHWINKEL:** I think that's, that's fair.
20 I was just trying to start with what your expectations
21 were as far as the timing back on the housekeeping
22 piece, and that does dovetail into that piece of it.
23 And I think that, you know, looking at the water and
24 wastewater limited proceeding rule, it's looked at more
25 as a guide than a strict, you know, this is how you

1 shall do it. So I would assume there would be a similar
2 interpretation of this is it's not -- not only is this
3 not prescriptive and you either make the test or you
4 don't, but I would also assume that the intent is it's
5 not a safe harbor, is that if you follow this rule, then
6 no party can come in and say, hey, I know you want to
7 bring that large cost addition into rates, but there's
8 this other offset, maybe there's a tax law or a tax rate
9 change or something else going back to the '80s where
10 you might have an offset. Someone says, hey, yes, they
11 want that thing to go up, but there's this thing that
12 goes down, so there ought to be an offset or something
13 added into it. And I think the statute allows that. We
14 would not want the rule to be seen as a safe harbor: If
15 you do this, then there's no way that anyone else can
16 bring something else into the proceeding.

17 **MS. KUMMER:** But that's sort of the idea at
18 least in my mind about what a limited proceeding is
19 because if we're going to start looking at everything,
20 you've got a rate case.

21 **MR. REHWINKEL:** Sure.

22 **MS. KUMMER:** And that's why, at least in my
23 knowledge of the electric industry, why it has never
24 really worked in the electric industry because we have
25 never been able to isolate a particular impact. They

1 use it fairly frequently, I believe, in water and
2 wastewater and have used it at some point for the gas
3 utilities.

4 But the purpose of this rule is to take a very
5 narrow picture. Because if you're going to start
6 looking at, you know, offsets here and there and the
7 other thing, you're going to do a rate case.

8 **MR. REHWINKEL:** I understand that.

9 **MS. KUMMER:** And this really isn't appropriate
10 for that.

11 **MR. REHWINKEL:** I think in the late '80s there
12 were some wars over ROE and tax rate changes where you
13 had, you know, pluses and minuses and so there were some
14 debates about that. And, again, like you can't list
15 everything out, there may be scenarios where you have an
16 offset. And I think the Commission would be
17 hard-pressed to ignore if there was a major change in
18 the cost of capital but somebody wanted an increment in
19 rates. It might not necessarily spill into a full-blown
20 rate case, but the statute definitely does contemplate
21 that the Commission can expand the proceeding if there's
22 reason to.

23 **MS. KUMMER:** Well, again, I defer to Kathryn
24 on this. It may not be something that we thought about.
25 But at the time the request for a limited proceeding is

1 filed, other parties could come in and file a protest or
2 whatever you want, some, whatever the appropriate legal
3 term is, to say that, no, this is not appropriate for a
4 limited proceeding. I'm not sure exactly legally how
5 that would work, but I would think there would be some
6 point of entry upfront to say, no, this isn't
7 appropriate.

8 **MR. REHWINKEL:** I just, I want to say that the
9 Public Counsel's Office is not saying that the limited
10 proceedings can't work or are inappropriate because I
11 think definitely there are times when, when there would
12 be a good reason to have -- you know, if we didn't have
13 all the baggage associated with the rate case -- that
14 Bartow filing that Progress made was a very, I think a
15 very beneficial thing because it did have -- they did it
16 in a very surgical way and I think that's a good example
17 of what can be done because there was, yes, a cost
18 increase, but there were a lot of savings associated
19 with fuel that they were able to demonstrate and I think
20 that was a good thing. And you wouldn't necessarily
21 want to have a whole rate case about something that you
22 could look at in a limited way.

23 **MS. KUMMER:** And the savings just -- I'm glad
24 you brought up that point. If you look at paragraph
25 (e), the calculations for all items or actions that will

1 create cost savings, we specifically put that in to try
2 to better define so that we're not looking at just one
3 side of the picture, just the cost, if there are savings
4 as well.

5 **MR. WILLIS:** Maybe, maybe it would be
6 beneficial to have another paragraph in there that says
7 something on the same terms that says a utility should
8 be able to provide a statement saying that there are no
9 other material offsets out there that will be occurring
10 at the same time that would offset this increase, and
11 maybe that would give you some comfort.

12 **MR. REHWINKEL:** That's something to consider.

13 **MR. SLEMKEWICZ:** And I don't think -- the rule
14 does not contemplate, you know, whatever limitation we
15 come up with like the 5 percent, it doesn't mean that if
16 you have a power plant and it's going to be 10 percent,
17 you just come in and ask for five. I think we're
18 looking at, you know, what the total overall impact
19 would be. So it's not a ceiling where you just come in
20 and say, okay, we'll just take up to the 5 percent.

21 **MS. KUMMER:** And what Marshall was talking
22 about, I think, is covered in, at least the intent in
23 (4)(a), we would look at whether or not the utility has
24 the discretion or -- to postpone or phase in costs
25 rather than just simply an outright -- that would be

1 something that we would look at and see whether or not
2 the limited proceeding is appropriate. So that sort of
3 gets to what you're talking about. But, again, (4) was
4 staff's attempt to try to place some limitations around
5 it. If you have, you know, additional language or
6 modifications, we would certainly like to see it.

7 **MR. WILLIS:** I imagine that a company has the
8 ability to look at one of these limited proceedings if
9 they were going to put a power plant in and decide if a
10 PAA is a problem, they could petition the Commission and
11 hold a hearing to file that part in advance. It means
12 they would have to file something nine months in advance
13 so it would be able to go into effect rather than six
14 months in advance. So the company would have the
15 ability to do the timing on that. And I guess if the
16 companies thought the PAA was going to be a problem,
17 they'd be forced in to filing for a hearing through the
18 Commission. But it wouldn't be a rate case hearing, it
19 would be a limited proceeding hearing and it would be a
20 hearing on those aspects of it. It's still expensive.
21 The idea of a limited proceeding is to cut the costs.

22 **MR. REHWINKEL:** I understand that. I think my
23 only caution to the, to the, to the Commission staff and
24 the Commission and other parties is, is to be careful
25 about going too boldly into this area when there's an

1 expectation by the public that you have hearings on, you
2 know, what's essentially a rate case size request. We
3 don't necessarily concede that the cases that are
4 construed in the, in the *Wilson* series of cases are
5 intended by the Supreme Court to address a broad,
6 across-the-board base rate type rate increase. Those
7 were decided on very narrow tariff changes that hit
8 really only a slice of the customer base. I'm not
9 saying that they would not ultimately apply, but they
10 can be construed -- the way they were construed in the
11 Bartow scenario is to allow a company to come in
12 essentially 60 days before a plant item is going to go
13 into effect, file a tariff with their petition or their
14 application, whatever, whatever you call it in here, and
15 legally be entitled, you know, give or take a few days,
16 within 60 days to raise the rates for the entire amount
17 of the request. And I don't know that that's
18 necessarily what's contemplated by the staff or that the
19 Commissioners would -- or Legislature.

20 **MS. KUMMER:** I'm not sure, I'm not sure I
21 follow your logic there because the restriction is, in
22 the statute is that if the company files tariffs, we
23 have to take them down to the Commission to approve,
24 deny or suspend within 60 days.

25 In a case like this, I would certainly

1 envision us suspending them at least until we get a
2 recommendation down to the Commission. At that point
3 then we'll, then we'll have to think about what happens
4 then. But I, I don't think we ever contemplated that
5 rates would automatically go into effect after a certain
6 time period.

7 **MR. REHWINKEL:** They're legally entitled to do
8 it there subject to refund. The only thing the court
9 has said is you have to give an effective party a
10 hearing. But you cannot prevent them from putting their
11 rates into effect.

12 **MR. BUTLER:** May I respond?

13 **MS. KUMMER:** Sure.

14 **MR. BUTLER:** First of all, that's not how I
15 understand the file and suspend. I understand it more
16 as Connie is explaining it. If for some reason the
17 Commission doesn't suspend and they go into effect, but
18 the Commission has the authority to suspend and
19 certainly we would expect in this kind of PAA scenario
20 that we've been discussing that there would be a
21 substantial review by the staff and probably some input
22 from parties prior to any PAA decision that would
23 approve the rates. Once that has occurred, you know,
24 putting them into effect subject to refund seems like an
25 entirely reasonable compromise that protects customers.

1 If it turns out there is a protest and there's
2 a hearing and there's some decision based on it that
3 cuts or eliminates the rate increase that was granted,
4 the customers are going to get all of their money back.
5 But it facilitates a process that is much more flexible,
6 much more responsive to, you know, the needs that a
7 utility has with various applications. But the power
8 plant is a real good illustration of it where there is
9 this sudden and immediate step change to its revenue
10 requirements that happens that hits the books through
11 unavoidably and intellectually at that particular point
12 in time, and this provides a mechanism that seems to
13 protect the utility against having to suffer a
14 substantial reduction in its earnings because of, you
15 know, bringing this new power plant into service, while
16 at the same time giving protection to, you know, any
17 other party that has a concern about what's happening.
18 You know, protections at several levels.

19 There can be objections upfront, and I'll get
20 to it in a minute, but I think it would be a good idea
21 to have a point at which there's sort of preliminary
22 protests to the idea of the limited scope proceeding
23 and/or suggestions of other issues that ought to be
24 considered so that parties know if that's going to be in
25 the play and mix or not. There's the opportunity for

1 discovery. There's typically an opportunity to speak at
2 agenda conferences where PAA items are being considered
3 if somebody doesn't think it's appropriate. And then
4 ultimately if, if a party still feels strongly that the
5 Commission is headed in the wrong direction in a way
6 that a hearing would help to, you know, eliminate, then
7 they can request a hearing and customers are fully
8 protected by, you know, having any revenues that are
9 collected be subject to refund. That seems like a very
10 fair compromise. It's certainly what FPL believes ought
11 to happen in that sort of limited scope proceeding.

12 If you want, I'll comment on Subsection (4) as
13 well. I don't know if you are there or if we just got
14 drawn to it.

15 **MS. KUMMER:** No. We're there. Go right
16 ahead.

17 **MR. BUTLER:** We're there? Okay. One thing
18 that concerns us about the way you've worded Subsection
19 (4), and I do understand and maybe understand better
20 after your comments what you're trying to achieve of
21 giving some guidance, but it's striking that the
22 corresponding language in the water and sewer rule on
23 limited scope proceedings talks about considerations or
24 factors that the Commission will consider in determining
25 whether a proceeding is appropriate for a limited scope

1 proceeding or a topic is appropriate for that sort of
2 proceeding. And here it can be read, and we are
3 concerned that it would be read as an absolute
4 prohibition on limited scope proceedings if they didn't,
5 you know, meet these tests or they failed these two
6 tests that are set out. We'd have a real concern with
7 that. We don't think the limited scope statute
8 envisions establishing upfront categorically absolute
9 prohibitions on the use of the statute.

10 And beyond that, we think that the limits that
11 are proposed here are pretty tight compared to the
12 corresponding provisions in the water and sewer rule,
13 even though those provisions are being, you know,
14 identified on kind of an illustrative, to-be-considered
15 basis instead of an absolute prohibition basis. And we
16 can comment on that further in our written comments.
17 But I just wanted to be sure that that's out there and
18 it's one of the things that we are particularly
19 concerned about in the rule.

20 **MS. KUMMER:** We did start with the water and
21 wastewater rule as a guideline. However, water and
22 wastewater companies this utility -- this Commission
23 regulates are significantly different than the electric
24 and gas companies that we regulate in terms of scope, in
25 terms of revenue stability. If they get hit with a

1 major requirement from DEP to install a new plant, you
2 know, it may double their rates and they have no choice
3 in the matter. So we try to be a little more general.
4 And, again, we struggled -- we used the word
5 inappropriate rather than prohibited because we were
6 struggling with the fact that a company should be
7 allowed to come in and make a case as to why, even if it
8 did not meet these criteria or -- I don't know
9 exactly -- they're not really criteria, they're
10 guidelines, but why even if it was something other than
11 this that it still may be appropriate for a limited
12 proceeding.

13 **MR. BUTLER:** We'll suggest some alternative
14 language. I think we feel that it's inappropriate,
15 doesn't sound like it's offering much of an option to
16 come in and convince the Commission otherwise, but
17 we'll, we'll suggest some changes.

18 **MS. KUMMER:** Again, our staff struggled with
19 this and we were simply trying to put some kind of
20 parameters on it so it did have some limitations as --
21 you know, I share Charles' concern that you don't want
22 major, major things going through an expedited process.
23 That's not what it's for. But any help you can give us,
24 we would certainly appreciate.

25 **MR. WILLIS:** There is a real reason for these

1 limited proceeding rules to be different. It's like
2 Connie said, one of the biggest is the rate impact on
3 these little water and wastewater companies and small
4 gas companies are tremendous per customer; whereas, the
5 larger investor-owned electrics and large gas companies,
6 it's not that material. And that's why you're going to
7 see a lot of major differences. It's a huge incentive
8 by the Commission to get water and wastewater companies
9 and small gas companies to use procedures which hold
10 down rate case expense. There's a real necessity for
11 that and that's one of the big reasons there's a
12 difference.

13 **MR. BUTLER:** I can understand there being
14 differences. We, we did note how you had used the, you
15 know, water and sewer industry rule as a template, noted
16 the distinction here, and probably the same standards
17 don't necessarily work. But we definitely would be much
18 more inclined to support something that provided some
19 illustrations of areas the Commission would consider as
20 potential reasons not to pursue a limited scope
21 proceeding in certain circumstances as opposed to
22 something that looks like it's a prohibition on it. As
23 it reads, frankly, it sounds like a prohibition and, you
24 know, we don't think that would be consistent with the
25 limited scope proceeding statute.

1 **MR. REHWINKEL:** Connie, I think that from the
2 Public Counsel's standpoint, I don't know that this
3 exact wording is appropriate, but we do think that the
4 way the statute is worded is that the Commission has the
5 discretion, they have -- the statute is intentionally
6 drawn to give the Commission discretion to entertain a
7 limited proceeding or not. So I think the Commission
8 gets to say to the utilities this is what we want to
9 see. And if it's not this, then we don't want to see it
10 as a limited proceeding, file a rate case. Because I
11 think, as, as Marshall said, the leverage of rate case
12 expense is great in the water and wastewater and small
13 gas industry. It is not in the electric industry. So I
14 think the statute does give the Commission the authority
15 to say this is what we'd like to see and this is what
16 we'd not like to see.

17 So and just, you know, one other thing that
18 kind of reinforced the point that I was making about the
19 timing, and I think that there's some nuts and bolts and
20 procedural aspects that could be fleshed out in this
21 rule as far as the timing of the filing for a large
22 plant addition, but those don't fall out of the sky on
23 to the utility. They, they plan these years in advance
24 and they know when they're coming in. So it's not an
25 emergency that falls upon them. It's, it's something

1 that they can orderly plan for.

2 And, again, the Bartow situation, I don't
3 think that people should look at too much for an example
4 because there was, the company was really squeezed
5 between the timing of the plant coming in and the
6 expiration of a, of a, of a settlement agreement and the
7 filing of a rate case. So that timing, we complained
8 about it, but I don't think it should be looked at as a
9 guide.

10 **MS. KAUFMAN:** I'm Vicki Kaufman on behalf of
11 the Florida Industrial Power Users Group. I guess I've
12 got two comments and then a question about (4)(b).

13 My comments are that FIPUG echos the Public
14 Counsel's concern about these large items going into
15 rate base on a PAA basis without having a hearing. And
16 though, Marshall, I understand the idea that ratepayers
17 are protected by the subject to refund, I will say that
18 my clients at least are concerned about, you know, some
19 cash flow situation and they're in some of those
20 situations now paying rates subject to refund for a long
21 period of time. And, you know, that is a concern. And
22 when you have a huge asset, a lot of dollars going into
23 rate base, I think that, you know, it behooves the
24 Commission to have an evidentiary hearing. And I think,
25 as Charles just said, these are not just things that

1 come up overnight. There's a lot of planning.

2 We understand the tension between the interim
3 statute and a limited proceeding and we appreciate what
4 you're trying to do because I think getting this
5 information upfront a lot of times is helpful and makes
6 the proceeding go more quickly. But we are concerned
7 about how the limited proceedings are used.

8 And my question on (b) is I don't understand
9 what the last sentence means. In the beginning you say,
10 of (b), it's inappropriate to use if there are two or
11 more separate proposals. And I guess you're saying, you
12 know, if there was a plant addition and/or, say, two
13 plant additions, it would be inappropriate. What does
14 the second sentence about corresponding adjustments
15 mean?

16 **MR. SLEMKEWICZ:** Yeah. I'm really not sure at
17 this point.

18 **MS. KAUFMAN:** Okay.

19 **MR. SLEMKEWICZ:** When we were going over the
20 section, I started looking at that. And I'm not -- I
21 think that came from the water and wastewater rule, I
22 believe. And I'm not --

23 **MS. KUMMER:** I think what we, what we talked,
24 at least the best of my memory and, believe me, I'm not
25 an accountant, but --

1 **MS. KAUFMAN:** Me either.

2 **MS. KUMMER:** But I thought what we were trying
3 to avoid or trying to address in this is if you have a
4 plant addition, it affects a lot of different things in
5 your accounting. And those separate accounting changes
6 would not count as one of the two projects.

7 **MR. WILLIS:** And that's exactly right. If I
8 could just add in here, I can talk to you about what the
9 corresponding adjustments are. If you were to add a
10 plant item, obviously there's depreciated expense that
11 has to go with that. Those are the corresponding
12 adjustments that you have to look at. Those would be
13 considered as a separate item that you're requesting in
14 a limited proceeding. There are things that have to go
15 along, that normally go along with the addition of a
16 plant. Maintenance expense that will go along with
17 that, other normal expenses, property taxes that would
18 have to be paid on that plant, those are your normal
19 corresponding adjustments that would have to be -- you
20 normally see associated with a plant coming online.

21 **MS. KAUFMAN:** That makes sense.

22 **MR. WILLIS:** That's not considered as a
23 separate request for something.

24 **MS. KAUFMAN:** The way you explained it makes
25 sense, and so maybe this is another wordsmithing.

1 Because when I read that without being an accountant or
2 whatever, I --

3 **MR. WILLIS:** It made sense to me, it made
4 sense to me but maybe not anybody else.

5 **MS. KUMMER:** It's just a fallout thing.

6 **MR. WILLIS:** Yeah.

7 **MS. KAUFMAN:** Thank you.

8 **MR. BUTLER:** So, Marshall, help me then.

9 Using the example, just continuing with the power plant
10 example, you know, you would end up obviously having
11 various adjustments to depreciation as a result of the
12 new plant going in service?

13 **MR. WILLIS:** Right.

14 **MR. BUTLER:** So those adjustments, how would
15 they be considered or not considered in applying the
16 5 percent threshold that is proposed here?

17 **MR. WILLIS:** It's your total revenue
18 requirement for the plant. That's the 5 percent
19 threshold. Now what's going to be the return on plant,
20 the expenses associated with it? If it's 4.5 percent, a
21 limited proceeding. If it's more than 5 percent, you
22 have to go to a full-blown rate case.

23 **MR. BUTLER:** Okay. And the corresponding
24 adjustments such as, you know, to depreciation would be
25 taken into account in deciding whether you are or aren't

1 over whatever that threshold may be.

2 **MR. WILLIS:** Exactly. That's what would be
3 considered as your total revenue requirement for the,
4 for the amount you're requesting.

5 **MR. BUTLER:** Okay.

6 **MR. WILLIS:** If you're filing to add a plant
7 item, the revenue requirement associated with that is
8 everything inclusive to the corresponding adjustments,
9 depreciation, expenses, the whole works, added in to
10 come up with what that revenue requirement would be.

11 **MR. BUTLER:** Okay. It's not often I have the
12 pleasure of agreeing with Ms. Kaufman on things, but in
13 this instance --

14 **MS. KAUFMAN:** Wait a minute.

15 (Laughter.)

16 **MR. BUTLER:** In this instance I would agree.
17 As worded, this sentence could be read as sort of the
18 exact opposite of what you just said, and I think we
19 probably will want to clarify.

20 **MR. WILLIS:** Well, we need to correct that
21 then.

22 (Laughter.)

23 **MR. REHWINKEL:** Can I ask one other question?
24 Mr. Butler mentioned the contrast to the water and
25 wastewater rule to this proposal, and in the water and

1 wastewater rule there's a specific sentence in there
2 that says that the company shall not file tariffs.
3 That's not in this.

4 Is there an intent that when they file, that
5 they file by tariff? That kind of is going to get to
6 the issue that I have already addressed, and I'll, I'll
7 save anymore talking about that. But I just was curious
8 as to thinking as to why that was not included in this
9 rule proposal.

10 **MS. KUMMER:** The water and wastewater tariffs
11 are handled a bit differently than we do the electric
12 tariffs. I frankly don't care if they want -- if they
13 do file tariffs, we will take them down and suspend
14 them. If they don't file tariffs and wait until the end
15 of the proceeding until everything is said and done and
16 then file their tariffs, that's fine too. I don't
17 really care. But if they file tariffs upfront, we will
18 take them down and suspend them.

19 And that's -- just to go back to what John --
20 or, yeah, John Butler said, we have 60 days to approve,
21 suspend or deny, and then we have eight months before
22 they can put them into effect under a rate case order.
23 So if the Commission has not issued a final order in
24 eight months, they could put them into effect, not after
25 the original suspend order.

1 **MR. REHWINKEL:** Okay. Well, it may --

2 **MS. KUMMER:** Just to clarify that point.

3 **MR. REHWINKEL:** That may be a way to address
4 this issue and see whether really and truly folks want
5 to use the file and suspend tariff in conjunction with
6 this, but we'll address that.

7 **MS. KUMMER:** Right. In my mind, although
8 we've never even talked about it, that's the way I
9 assumed it would work. I mean, if you file a tariff and
10 we're not going to get a final decision on it in
11 60 days, we will take it down and suspend it.

12 **MS. TRIPLETT:** Can I ask a question about
13 (4)(a)? What were you intending with "discretion"?
14 Because maybe it's just because I'm a lawyer and I can
15 read things 95 different ways, but I have a lot of
16 interpretations of discretion. So I -- first I think I
17 would just like to see what y'all were thinking.

18 **MS. KUMMER:** That's a pretty loose word, I
19 agree, and it would be open to, you know, debate. And I
20 expect that this is something the Public Counsel perhaps
21 would do discovery on. I'm not sure that we want to
22 define it any more closely than that, but it is just the
23 concept of, you know, is it absolutely necessary or is
24 there some other way to mitigate rate impact.

25 **MR. BUTLER:** I would recommend if it's going

1 to be that broad, because we certainly have a major
2 concern with that language as well, that it may be
3 something if you feel that it's appropriate to have the
4 utility address that topic, to move it up as part of the
5 information that has to be filed in support of the
6 filing of the request as opposed to being, you know, set
7 out here as an apparent threshold. Because it's, it's
8 so broad and loose that as a threshold we've got serious
9 problems about, you know, whether it is a proper way of
10 purporting to limit the use of the limited scope
11 proceedings.

12 **MS. KUMMER:** That's certainly another way to
13 address it is make that something that you have to file
14 in your petition or in your initial filing that you
15 would justify that there are no other alternatives to
16 the rate increase at this time. That's certainly a
17 possibility. I don't think that we would have a problem
18 with moving it.

19 Anything else on (4)?

20 **MR. WILLIS:** I would point out too that
21 limited proceeding rules have been around for a while in
22 the water and wastewater industry, and it's no more
23 subtle there than it is right here. We have one right
24 now that may very well get protested that's going the
25 PAA route.

1 If you look back over the history, there
2 haven't been that many limited proceedings filed just
3 for the very fact that a lot of companies believe
4 they'll end up with a rate case anyway. It's a give or
5 take. You know what I mean?

6 **MS. KUMMER:** And, again, that's something that
7 I would envision happening upfront as we talked earlier,
8 that if when the petition is filed for a limited
9 proceeding, there would be some opportunity at that
10 point for someone to object and say, no, this is not
11 appropriate for a limited proceeding. I'm not sure
12 legally how that works, but that's something that we can
13 work out before our next workshop perhaps if we're going
14 to have another workshop.

15 **MR. BUTLER:** We would definitely support going
16 down that path. I mean, one of the things that if
17 you're going to have a rule setting forth requirements,
18 something we'd like to see is -- some of this is kind of
19 quid pro quo I guess -- is some sort of description of a
20 timetable and process for deciding whether to proceed
21 down that right, down that route or not so that the
22 money and time isn't spent, you know, going down a route
23 and then it sort of falls apart after five or six months
24 because there's a slow accretion of issues and concerns
25 to the process and eventually it sinks under its own

1 weight, which is, I think, fundamentally the big concern
2 everybody has about trying to use the process. And
3 something that can kind of get that debate, you know,
4 front-end loaded would be, I think really would be
5 beneficial to everybody because I don't think it's in
6 anybody's interest to go a long ways in one of these and
7 have the utility or whoever filed it pull the plug
8 because it's just not, you know, not going to be
9 productive.

10 **MS. KUMMER:** Right. I agree. I think that's
11 something we need to get decided upfront before we do
12 discovery or get very far down discovery because we
13 could all waste a lot of time if we're going to have to
14 go back to a different type of proceeding. So we'll
15 definitely look at that. Perhaps have some time limit
16 on protesting the limited proceeding some way, again, a
17 time frame for dealing with these issues. I think
18 that's a good point.

19 All right. Anything else on the technical
20 rule, 5-6 and 5-7?

21 We didn't hear from any gas folks and I don't
22 really recognize any gas folks in the audience. But if
23 y'all have comments -- there's Beth. I'm sorry. But,
24 you know, if y'all have any comments, please, Kathryn
25 will talk about post-workshop scheduling. And, again,

1 the rules are identical. I think maybe there's one
2 phrase that's in one that's not in the other and clearly
3 there's a difference in them as far as schedules. But
4 other than that, we tried to go down the same path.

5 Okay. Are we ready to tackle the notice of
6 public information rule? Starting on page -- this
7 starts on page 12 of your package. And we did some
8 cleaning up. The first paragraph was expanded to
9 reference the two rules that we just discussed because
10 the noticing requirements do apply to both. We've
11 restructured some of the, just for clarity, some of the
12 paragraphs.

13 You might look especially at (2)(b) on page
14 12. Everything is going electronic, and we just think
15 that it would be beneficial to have a link on the
16 utility's website where customers can get this
17 information. That link may simply be a link to the PSC
18 docket file. That would be acceptable. You don't have
19 to duplicate everything that we have.

20 **MR. BUTLER:** Yeah. We'd like that because it
21 would be both easier and I think more timely. I mean,
22 if we end up having to load stuff into our website,
23 there's inevitably going to be a delay, you know, while
24 that happens manually. So if it's okay to have it, that
25 would be definitely better.

1 **MS. KUMMER:** I think that would be helpful. A
2 lot of folks either don't know of the PSC website or
3 some folks like me sometimes have trouble navigating the
4 external website. So I think if they could go to your
5 company website where you have a clearly identified link
6 to information on the rate case or the, whatever the
7 proceeding is would be helpful.

8 **MR. BUTLER:** We may not need to decide this
9 right now, but just think about it. Would you want the
10 link to your website to be to the docket or to the
11 sublink that is actually to the documents? Because the
12 latter would get somebody more immediately to whatever
13 the filings have been. The former would give them a
14 little bit more of a menu of, you know, what is
15 available on that particular docket. So something to
16 consider.

17 **MS. KUMMER:** I would think it would go
18 directly to the documents, the list, the documents
19 index. But, again, that's something we can think about.

20 **MR. BUTLER:** That would be kind of our thought
21 as well.

22 And on (1), on Subsection (1), one thing that
23 is unclear and we'd like to see clarified, if we could,
24 there is a reference there to, you know, this rule
25 applying to general rate increases and then limited

1 scope proceedings, and then you basically have two broad
2 Subsections, (2) and (3). (2) being what sets up how --
3 the notice requirements for the general rate increases,
4 and (3) being the corresponding provisions for limited
5 scope proceedings.

6 But in (3), in the sort of introduction to
7 (3), it says that it's applicable to limited scope
8 proceedings which would result in a change to customer
9 rates. That phrase doesn't appear in (1). And our view
10 is that, that it should, that there really isn't a
11 reason to be having, you know, this broad range of
12 notice applicable to a limited proceeding that doesn't
13 result in a change to rates. But it isn't clear right
14 now and we're not sure, frankly, what you intend with
15 respect to notice on proceedings that don't, limited
16 proceedings that don't involve a change to rates.

17 **MS. KUMMER:** Well, that's why we put the
18 language in here that says shall apply to a limited
19 proceeding filing which would result in customer rates.
20 Customers don't care if you establish a regulatory
21 asset. They don't see that on their bills. And that's
22 what we're saying; unless you're going to change
23 something that the customer sees on his bill, there
24 probably isn't the need to go through the extensive
25 customer noticing because, one, they probably wouldn't

1 understand it and/or they wouldn't care unless it
2 affects what they're paying.

3 **MR. BUTLER:** I agree. That's our view as
4 well. What we'd like to see is for Subsection (1) to
5 incorporate that phrase because it doesn't.

6 **MS. KUMMER:** It says for "general rate
7 increases."

8 **MR. BUTLER:** Right. But then "and to all
9 limited proceedings filed pursuant to Rules" --

10 **MS. KUMMER:** Okay. I'm sorry. I didn't
11 follow what you were saying. All right. You just want
12 that --

13 **MR. BUTLER:** That phrase about which results
14 in a rate increase isn't in (1) and it is in (3). Just
15 to make it parallel.

16 **MS. KUMMER:** I'm sorry. I didn't follow where
17 you were going. We -- that's certainly not a problem.

18 **MR. BUTLER:** Thanks.

19 **MS. KUMMER:** Now we're through (2)(b).
20 (2)(c), the location of the MFRs. We changed to a
21 location approved by Commission staff. That uses local
22 offices, which most of you don't have anymore, so we had
23 to change that language. You will -- when you file your
24 MFRs, you'll tell us where else you're going to put them
25 and the Commission will say yeah or nay to where you're

1 proposing to put them. We wanted to get rid of that
2 business office since most of you don't have those out
3 in your service territory anymore.

4 2 again is a nod to the electronic world that
5 we live in. You will now be responsible for paying
6 attention to when the case schedule has been posted to
7 the PSC website. It will no longer be mailed out to
8 you. So you will need to monitor your docket file to
9 see when that notice has been posted and that will drive
10 your time frames.

11 **MR. BUTLER:** Two comments on that. And I
12 think there's a corresponding provision with respect to
13 the limited scope proceeding, so it would apply there as
14 well.

15 This is a pretty tight timetable. We probably
16 can live with it, but there's two things that would make
17 it a lot easier to live with it. One is that it would
18 be very useful if we got some sort of notification, just
19 e-mail notification when the time schedule has been
20 posted because that is something that sometimes it isn't
21 all that obvious even if you're going to the website
22 pretty regularly. You have to note that, you know, when
23 that's occurred. So that would be good if we could get,
24 you know, some sort of affirmative e-mail notification
25 when that happens.

1 And the other is that if we're going to be
2 doing this within 15 days, we have to get approval for
3 the notice by the, by the Commission and by the -- I'm
4 sorry, by the Commission staff. We'd like to see the
5 clock start once that has happened.

6 **MS. KUMMER:** What clock are you talking about?

7 **MR. BUTLER:** The 15-day -- the time period for
8 providing the, excuse me, for providing notice.

9 **MS. TRIPLETT:** I think he's talking about the
10 time after you approve, after the location is approved.

11 **MS. KUMMER:** Are you talking about (c)1 or
12 (c)2?

13 **MR. BUTLER:** I think it would probably apply
14 to, to both. You know, you've got these approvals for
15 the locations. I just want to be sure that we're not
16 put in a time bind by there being a, you know, a delay
17 in the approval of the locations that would be consuming
18 some of that 15-day time period we have to, to post it.

19 **MS. KUMMER:** Well, I would think you would
20 request the locations at the time you make your filing.
21 It would be included at the time you make your filing.
22 So I'm not sure how this would come into play. I
23 understand your concern. You don't want the -- okay. I
24 see what you're saying. I'm not sure quite how we'll
25 address it but I see what you're saying.

1 **MR. BUTLER:** It's more of a concern when we
2 get to it later in, I think it's (3)(a) where there's
3 the notice that has to be sent and it has to be approved
4 by the staff as to the wording of it. But in sort of
5 both instances if we're going to have, you know,
6 timetables for these things that are subject to
7 Commission staff approval, we'd like to see the clock
8 for those start to run once we get the approval.

9 **MS. KUMMER:** Okay. I don't think -- I can't
10 envision that there would be a problem or there would
11 normally not be a problem, but I can see where there
12 might be and we probably need to look at that language.

13 **MR. BUTLER:** Okay. Thanks.

14 **MR. WILLIS:** I think if we were to do it that
15 way, we'd probably have to have a time frame set for
16 when the company filed an actual copy for us to review.

17 **MS. KUMMER:** Right.

18 **MR. BUTLER:** That's true. That's fair enough.
19 I mean, if we're, if we're looking for prompt review of
20 it, we need to provide it promptly for review. I agree.

21 **MS. KUMMER:** Because I could envision possibly
22 if we disagree with where you plan to put them, that
23 might entail more time than if we don't have an issue.

24 **MR. BUTLER:** Right.

25 **MS. KUMMER:** So that's probably something we

1 need to think about.

2 Okay. Anything else on page 12? And 3 again
3 is just sort of housekeeping. I don't think that's
4 anything new or different other than we added the
5 language it's available through a link on the utility's
6 website. And, again, that can be through the PSC's
7 website. Your link simply takes them to the PSC
8 website. You don't need to maintain it all on your own.

9 (D)1 is the same thing for the rate case
10 synopsis that we did with the MFRs. We tied the
11 timeframe 15 days to the posting on the Commission
12 website. And I assume, John, that you would have the
13 same thing with the notification posting, that you would
14 like to see something on that?

15 **MR. BUTLER:** Yes.

16 **MS. KUMMER:** Okay. And (d)1a, that's -- y'all
17 are doing this now. It says "proposed rates for major
18 services." When you file MFRs, you file all rates and
19 charges. I don't really think that's any change. It's
20 just a clarification of that language.

21 If you go down to the bottom of page 13,
22 again, posted to the Commission's website notification.
23 Again, the notice to your customers will also include
24 the information on the link, electronic link.

25 And 5, 6 and 7, the new, starting on page 14,

1 line 9, this is just basic information that we think
2 would be helpful to customers. There's nothing drastic
3 or unusual about it: The docket number, when customers
4 write in, they can reference a docket number; where they
5 send letters or concerns; a reference to Ed Mills and
6 the safety folks if they have service complaints. So
7 that's -- that language was also added to the limited
8 proceeding. But these are just kind of extra things
9 that we think should be in the customer notice. I don't
10 think there's anything terribly onerous about that. It
11 might make your customer notice a little bit longer, but
12 I don't think it's anything serious.

13 Paragraph (3) starts with, on page 14, line
14 17, it's the noticing for the limited proceeding. And
15 basically it mirrors the, you know, rate case
16 requirements except for the references to the MFRs and
17 the rate case synopsis. Everything has the same
18 requirements. And again, John, the same concerns you
19 would have with the notification that there would be,
20 otherwise requirements should be, be the same.

21 **MR. BUTLER:** There's one other concern that I
22 can't find its counterpart, if it has one. Subparagraph
23 (5) on page 15, starting on line 17, I think that may be
24 distinct to the limited scope proceeding. But if it
25 isn't, my apologies for not finding it.

1 **MS. KUMMER:** No. You're right. And I've got
2 a note on that.

3 **MR. BUTLER:** We've got a problem with the
4 timetable on it is the biggest concern. Because of the
5 way it's got both a minimum and a maximum time period
6 within which the notice can be given, that is roughly
7 two weeks, I guess, it's actually 15 days, but what that
8 amounts to is it would preclude us from using our normal
9 approach of providing this information in a, part of the
10 bill insert because that takes 30 days to implement and
11 you'd be, you know, outside either the minimum or the
12 maximum with part of that 30-day cycle. And this would
13 be actually somewhere on the order of a million dollar
14 item to FPL because it's looking at about 25 cents per
15 postcard to provide some sort of separate mailing. And
16 we've got over 4 million customers, so a pretty big
17 item. I don't know if that was your intent to
18 effectively preclude the use of the normal cycle billing
19 inserts to accomplish this notice, but we would
20 certainly be concerned about it if it were. Because it
21 just seems like it costs out of proportion to any
22 advantage that would come.

23 **MR. BEASLEY:** We have a similar concern. And
24 we have 21 billing cycles and that would preclude us
25 from using the bill stuffer. And we've been able to

1 save customers a lot of postage by using the bill
2 stuffer methodology.

3 **MS. KUMMER:** This language, I believe, was
4 lifted from the water and wastewater rule. I think at
5 least the concern in the water and wastewater industry,
6 and I don't know if we have similar -- I can see that we
7 would have similar concerns, is that people get the
8 notice and the customer meeting is not until two or
9 three months. They forget. I think that's the reason
10 that we needed more timely notice in terms of --

11 **MR. BUTLER:** You want it to be relatively
12 close to the hearing but not so close that they don't
13 have time to make arrangements to go. Understood.

14 But basically what we'd like is 60 days, you
15 know, sort of the, you know, no more than 60 days prior,
16 no less than 14 days, something that would accommodate,
17 you know, using the 30-day cycle. Realistically that
18 does not seem excessive in our mind, certainly not worth
19 a million dollars to accomplish a marginal improvement
20 on the sort of window within which customers get notice
21 of these service hearings.

22 **MS. KUMMER:** That's something -- I understand
23 your concerns. We'll have to go back and think about
24 it. But, again, I do understand using billing cycles to
25 provide notices and that does create some obstacles for

1 y'all to meet a shorter time frame. So we'll -- we
2 can -- if you have other -- would your suggestion be to
3 delete that paragraph or would you have some
4 alternative?

5 **MR. BUTLER:** No. I'm just saying if you just
6 change the "no more than 30 days" to "no more than
7 60 days," then it gives us the time we need to do it
8 because now you have a period that's basically 45 days
9 between when it has to start and when it has to finish.
10 That gives us enough time with a little bit of a cushion
11 to be able to do it on a cycle billing basis.

12 **MS. KUMMER:** Do you have the capability to
13 tailor the notices to the customers in that area? If
14 you're going to have a customer meeting in Daytona, can
15 you just send them to Daytona and surrounding counties,
16 or would that be --

17 **MR. BUTLER:** I don't think so. I don't
18 think -- if that's what you're envisioning --

19 **MS. KUMMER:** I'm not saying that's what we
20 meant. That was just a question on my part. Does your
21 system accommodate that?

22 **MR. BUTLER:** That might even up the million
23 dollars. I don't know. I think that what we have
24 always done on notices of this sort, what we expected
25 would happen here, be it by postcard or be it by bill

1 insert, is that there would be a list of all of the
2 locations and the, you know, dates and times that they
3 were going to occur.

4 And honestly, you know, I think there is some
5 merit to that from the customers' perspective as well as
6 being a lot easier for us to implement. Because, for
7 example, FPL ended up having service hearings in its
8 last general rate case that were located at places where
9 people might well choose one that was a little bit
10 farther away because it fit their schedule better than
11 the one that was closer but it was a night they couldn't
12 attend.

13 **MS. KUMMER:** It gives them more options.

14 **MR. BUTLER:** So it gives them more options.

15 Yeah. Uh-huh.

16 **MS. KUMMER:** Okay. Well, we'll take a look at
17 that. And that's basically it. As I said, we added the
18 same language on what's to be included in the customer
19 notice.

20 So does anybody have anything else they want
21 to talk about on these rules before we, before I turn it
22 back to Kathryn for time frames?

23 **MS. COWDERY:** All right. Okay. We believe
24 the transcript of this workshop should be ready by
25 July 6th and posted on our website. So we figure about

1 three weeks after that would be around Tuesday,
2 July 28th, proposed written comments. Does that work
3 with people's schedules by July 28th to have the written
4 comments to us? All right.

5 Okay. Any other questions?

6 **MS. KUMMER:** I'd just like, maybe just like to
7 add, depending on what kind of comments we get back, we
8 might want to schedule another workshop. Do any of you
9 have a feel right now as to whether or not you might,
10 you might want to see this again before we take it to
11 the Commission or --

12 **MR. BUTLER:** We definitely would, speaking for
13 FPL.

14 **MR. REHWINKEL:** Yeah.

15 **MR. BUTLER:** I think given the range of
16 comments that we've had here, it's clear that there's
17 going to be, you know, directions that either are going
18 to be addressed and result therefore in a considerably
19 different rule or, if they're not, we're probably going
20 to want to talk some more about why they aren't. And
21 it's a pretty broad range from where I sit to where
22 Mr. Rehwinkel sits and --

23 **MS. KUMMER:** Okay. Then we'll just build in
24 another workshop.

25 **MR. REHWINKEL:** Make us sit in the middle.

1 **MR. BEASLEY:** That would be dangerous.

2 (Laughter.)

3 **MS. KUMMER:** That was just my, my question for
4 purposes of, you know, setting a schedule. And if we
5 think we're going to need another workshop, we'll go
6 ahead and try and be looking for a date.

7 **MR. REHWINKEL:** We concur in that.

8 **MR. BEASLEY:** That works.

9 **MS. COWDERY:** Also, if you have enough
10 comments that a type and strike format can be done, that
11 would be helpful also.

12 **MR. BUTLER:** Can we save or I guess accept the
13 changes, would that be more useful, to create a clean
14 rule and then do changes to that? Can we all agree that
15 that makes sense? Because I think it gets really
16 confusing.

17 **MS. KUMMER:** I think you're probably right.
18 Just start with the rule as staff has with our first
19 draft of it and make your changes to that rather than
20 try to go back to the original rule. Because you're
21 right, type and strike is totally untenable if you do
22 that.

23 **MR. BUTLER:** Would it be possible for you to
24 send us a clean version?

25 **MS. KUMMER:** Certainly.

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MR. BUTLER: Okay. That would be helpful.

MS. COWDERY: Anything else we need to talk about today? Okay. Thank y'all for coming. We look forward to your comments.

MR. BUTLER: Thank you.

MS. TRIPLETT: Thank you.

(Workshop concluded at 11:11 a.m.)

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

3

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

8

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

14

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

20

21 DATED THIS 6th day of July,
 22 2010.

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Linda Boles
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