

A P P E A R A N C E S

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MICHAEL SMALLRIDGE
J. R. KELLY
MARTY FRIEDMAN
DEBBIE SWAIN
JOHN HOY
JARED DEASON
TROY RENDELL
GARY WILLIAMS
DENISE VANDIVER
CHERYL BANKS
ANDREW MAUREY
ADAM HILL
DON ROME
MARTHA GOLDEN
ADRIA HARPER
SAMANTHA CIBULA

P R O C E E D I N G S

1
2 **MS. HARPER:** Hi. We're just starting. Who do
3 we have on the phone?

4 **MR. SMALLRIDGE:** Michael Smallridge.

5 **MS. HARPER:** Hello.

6 **MR. FRIEDMAN:** Marty Friedman.

7 **MS. HARPER:** Okay.

8 **MS. SWAIN:** Debbie Swain.

9 **MR. KELLY:** Good morning. This is J.R. Kelly
10 with Office of Public Counsel.

11 **MS. HARPER:** Good morning.

12 **MR. HOY:** John Hoy for Utilities, Inc., as
13 well.

14 **MS. HARPER:** Anybody else?

15 Okay. This is Adria Harper with the
16 Florida Public Service Commission. And we're going
17 to go around the table and I'll have everybody
18 introduce themselves and see who's participating
19 here with us today.

20 **MR. DEASON:** Jared Deason, Utilities, Inc.

21 **MR. RENDELL:** Troy Rendell with U.S. Water
22 Services.

23 **MR. WILLIAMS:** Gary Williams, Florida Rural
24 Water Association.

25 **MS. VANDIVER:** Denise Vandiver, Office of

1 Public Counsel.

2 **MS. BANKS:** Cheryl Banks, Commission staff.

3 **MR. MAUREY:** Andrew Maurey, Commission staff.

4 **MR. HILL:** Adam Hill, Commission staff.

5 **MR. ROME:** Don Rome, Commission staff.

6 **MS. GOLDEN:** Martha Golden, Commission staff.

7 **MS. HARPER:** Great. And at this time I'm
8 going to go ahead and read the notice. This is a notice
9 of -- we're here for a workshop today on two rules. The
10 notice of meeting and workshop hearing was published on
11 December 2nd, 2016, in Volume 42, Issue 233, of the
12 Florida Administrative Register. And we are here today
13 to talk about Rules 25-30.444, the Utility Reserve Fund,
14 and then its companion noticed rule, which is Rule
15 25-30.4445, notice of application for Utility Reserve
16 Fund.

17 And with that, I'm going to go ahead and
18 turn it over to Martha, and we're going to go --
19 just start with each section and see if people have
20 any comments. We're not going to dive into the rule
21 at -- you know, in detail. We just want to see
22 initially if people have comments because it's a
23 pretty lengthy rule. So we can start with
24 probably -- do you want to start with the notice
25 rule or do you want to go to the --

1 **MS. BANKS:** Yes.

2 **MS. HARPER:** The notice rule? Okay. So let's
3 start with the notice rule, which is the .4445 rule, and
4 see if anybody has any questions or comments about that
5 rule. And if you have -- I have provided copies of
6 that, but if you have our notice, then it's going to be
7 available in there as well for you to look at. It's on
8 page 6 of the notice, if you have that big packet.

9 Does anybody have any comments on this
10 one?

11 **MR. FRIEDMAN:** This is Marty Friedman.

12 **MS. HARPER:** Yes.

13 **MR. FRIEDMAN:** It seems like this is the same
14 rule that we have on any other rate case. Is that what
15 you patterned it after?

16 **MS. GOLDEN:** Yes.

17 **MS. HARPER:** Yes. Actually page 17. Sorry.

18 **MS. GOLDEN:** That's correct.

19 **MR. FRIEDMAN:** You know, my only comment, and
20 I had the same comment with the existing rule, is the
21 requirement to place a copy of the MFRs in the library.
22 I'm not -- you know, the -- all that stuff is online
23 these days, and I just don't think it's cost-effective
24 to put anything in the library anymore. I mean, I doubt
25 anybody physically goes and sits down in the library and

1 looks at these things in this day and age where
2 everything is online.

3 **MS. GOLDEN:** Actually, Marty -- this is
4 Martha.

5 **MR. FRIEDMAN:** I would rather have some
6 reference in here to the fact that the documents will be
7 available on the PSC's website in their docket to be
8 reviewed by anybody if they want to go look at them.

9 **MS. GOLDEN:** We might be able to do that. But
10 to go to your point that people don't go look at it, we
11 actually have had cases -- usually it's the
12 staff-assisted rate cases where we'll find that where
13 the utility doesn't have a utility office, and those are
14 the ones where it needs to be put in a library. And we
15 actually do have customers that go and -- because there
16 have been times when it wasn't there as quick as it
17 should have been, and we'll get a call from a customer
18 that they've gone and tried to find it. So it's not
19 frequent, I'll admit that, it's not a lot, but we do
20 actually still have people who want to go look at it in
21 the library. But we can --

22 **MR. FRIEDMAN:** They can go to the library and
23 every library has got a computer, so they could go to
24 the library. Even if they don't have a computer at
25 home, they could go to the library. And if we -- and if

1 the notice appropriately had reference, and I think that
2 notice, the standard notice that you send out does have
3 reference to the fact that, you know, all the documents
4 are on the PSC's website, if maybe you make that more
5 prominent, you know, even if they want to go -- if they
6 don't have a computer, they can go to the library and
7 pull it up. I just -- I'm just trying to drag us into
8 the 21st century. A lot of these -- a lot of the PSC
9 rules are outdated. And I think as we move forward with
10 amending the rule for whatever purpose, we ought to try
11 to update them as much as we can for current technology.

12 **MR. KELLY:** And this is J.R. I -- you know,
13 with respect to Marty's request, I certainly understand
14 where he's coming from. My only concern would be some
15 of the more senior customers that don't use the internet
16 but do want to look at it. If you're going to consider
17 not putting it -- if you're going to consider just
18 making it all available online, that if some consumer
19 says, "I don't use the internet," there needs to be some
20 accommodation for that particular customer. Because in
21 conjunction -- I'm sorry -- I didn't recognize the voice
22 of the staffer who just spoke -- but last week I
23 actually got a call from a customer wanting to know
24 where she could go look at an MFR. It was a SARC, I
25 don't remember the name, and I pulled it up and found

1 out, you know, to tell her to go to the library. And
2 she didn't indicate she could use the internet or not.
3 She wanted to go look at it physically.

4 So -- but it -- you know, to Marty's
5 point, if an accommodation could be made for
6 somebody who doesn't use a computer, if you're going
7 to go that direction, then that's what I would ask.

8 **MS. GOLDEN:** Okay. We'll look into that and
9 see if there might be something we could do that would
10 make that a little bit easier.

11 Other than that, though, your first point,
12 Marty, about the rule being like the other rules, it
13 is. And the reason that we needed this separate
14 rule is that what we're proposing is that a request
15 for a Utility Reserve Fund could be filed as a
16 standalone application or it could be filed in
17 conjunction with another rate application. And if
18 it's filed with a rate application such as a file
19 and suspend or a staff-assisted rate case or a
20 limited proceeding, we already have noticing rules
21 that cover that, and the reserve fund information
22 would just be included in the notices for those rate
23 applications.

24 But if the utility files it as a
25 standalone application, we don't actually have a

1 rule that applies to noticing, and so that's why we
2 needed the separate rule. And it's pretty much like
3 the other rules except for that we did add on -- let
4 me see if I can find it for you real quick. It's
5 going to be in paragraph (5)(a) of that rule, the
6 last sentence.

7 What we've specified in that case, because
8 there's an initial customer notice that has to be
9 sent out, if they request -- if they've requested
10 staff assistance, not as a staff-assisted rate case,
11 but we're saying that if they qualify for staff
12 assistance, they could request staff assistance with
13 the Utility Reserve Fund process. If they request
14 that staff assistance, we would defer that notice
15 until the customer meeting notice is sent. And so
16 that's one thing that's new. Actually this is a
17 process we already do, but it's not stated in the
18 other rules. And so we did make that little change
19 in here. But other than that, it's pretty much like
20 our normal noticing rules.

21 **MR. FRIEDMAN:** Okay. That's my only comment.

22 **MR. KELLY:** Is that Patti that's speaking?

23 **MS. GOLDEN:** No. This is Martha Golden.

24 **MR. KELLY:** I'm sorry, Martha. I apologize.

25 I'm on my phone and so I can't tell too many voices. I

1 apologize.

2 **MS. GOLDEN:** Oh, that's fine.

3 **MR. KELLY:** I did have one or two comments or
4 actually questions. Do you -- and I'm just asking the
5 question. Do you want to put in here that anybody that
6 files for the Utility Reserve Fund needs to copy us that
7 they're making the filing? And the only reason I ask
8 that, because under 350.0613, you guys have to -- the
9 Commission is supposed to give me notice of every filing
10 for any proceeding that's made with the Public Service
11 Commission. I'm just asking the question. Instead of
12 you guys having to turn around and notify me, did you
13 want to just say anybody that files for this needs to
14 provide a copy to our office or at least give me notice
15 that they're making the filing? So I just throw it out
16 there, that comment.

17 **MS. GOLDEN:** J.R., can I ask you how do you
18 get notified now for the other types of applications?
19 Say, if it was a staff-assisted rate case, do you get an
20 email from us or do you get some type of a notice
21 through our Case Management System? Because, see, these
22 applications -- if this was -- go ahead.

23 **MR. KELLY:** No. I apologize. Go ahead.

24 **MS. GOLDEN:** Well, what I'm thinking is
25 because these applications, even if it's filed as a

1 standalone application, it would be filed with the
2 Clerk's office and it would be docketed. And so I'm
3 thinking if you're already notified, if we've already
4 got a process to notify you any time an application is
5 filed that is docketed, then I think you would
6 automatically get the notice of this.

7 **MR. KELLY:** Well, I was chuckling because it's
8 on my to-do list to talk to Braulio because I'm not
9 getting notices of all filings right now, and I was
10 going to talk to him about having some kind of routine
11 way that we're noticed. And I agree with you, whatever
12 we come up with -- whatever Braulio decides he wants to
13 do, I agree, we need to -- it should be consistent for
14 everything. But we don't get notice now of a lot of
15 things, we find out about it after the fact, and that's
16 sort of why I was bringing it up now.

17 And I will -- I can discuss that with
18 Braulio, but I just -- I wanted to make you -- since
19 you're talking about a rule here, I just wanted to
20 simply mention it. And if you just want to make
21 note of it, you don't -- I'm not necessarily asking
22 that the rule be -- this rule be amended, but I do
23 need to discuss that with him because we're not
24 getting notice now. We sort of -- we have to go
25 hunt and find.

1 **MR. WILLIAMS:** Can I have a follow-up on that?
2 This is Gary Williams from Florida Rural Water. I kind
3 of had a question about that anyway.

4 On No. 2, starting on line 7, I guess I
5 have a question why the utility would be responsible
6 for contacting the chief executive office of every
7 municipality and county.

8 **MS. GOLDEN:** Well -- and it's not every one.
9 It's only the one where their service area is. So
10 it's -- if they're filing an application that they're
11 just in one county, they only have to notify the one
12 person in that county.

13 **MR. WILLIAMS:** Is that consistent with all the
14 rules now? They have to --

15 **MS. GOLDEN:** Yes.

16 **MR. WILLIAMS:** Why do they have to notify
17 every municipality? I could understand the county, but
18 I guess I don't get the municipalities.

19 **MS. GOLDEN:** They're only notifying one
20 person. It's not everybody. It's whoever is considered
21 the head person in that county.

22 **MR. WILLIAMS:** Okay. Then a follow-up to that
23 would be why would we make the utility responsible for
24 making contact with those folks? Why wouldn't the
25 gatekeeper be PSC? If the utility contacts you, you

1 could contact whoever is appropriate to be contacted or
2 make the information available for those folks. I just
3 wonder about small utilities; do they know who to
4 contact?

5 **MS. GOLDEN:** They usually do. They actually
6 usually have a better idea of who to contact than we do.

7 **MR. WILLIAMS:** Okay. I have the same -- you
8 know, it's not just the Public Service Commission but on
9 all the state agencies that push off the contact to
10 smaller utilities that don't even know who they're
11 contacting when the state agency could do the official
12 contact themselves. Okay. So I just would like you to
13 consider that if the utility reports to you, you report
14 to whoever is appropriate, including OPC.

15 **MS. GOLDEN:** Uh-huh. It's been this way a
16 long time. That doesn't mean that it has to stay that
17 way. But this is a procedure we've followed for a long
18 time. And I think it goes back to, you know, before we
19 had so much information available on the internet, that
20 usually the utilities did have a better idea of who they
21 needed to contact in their area. And it's just to make
22 them aware of it so if they get calls -- sometimes
23 customers aren't really sure who they need to call when
24 they have questions, and so the county might get calls,
25 and it's just to make them aware of what's going on.

1 **MR. WILLIAMS:** That's all I really had on this
2 one. I will have follow-up types of things I'll ask on
3 the other rule related to contact of counties and
4 municipalities.

5 **MS. GOLDEN:** But we could give it some more
6 thought. I mean, we actually -- we do have a list of
7 who -- if it was a certificate docket, we do have a list
8 of all the entities within each county that have to be
9 contacted for certificate matters, and so we probably do
10 have that information. But this is just -- this is
11 consistent with how we do it for other types of
12 applications.

13 **MR. SMALLRIDGE:** Hello. This is Michael
14 Smallridge.

15 **MS. GOLDEN:** Hey, Mike.

16 **MR. SMALLRIDGE:** Is it my turn?

17 **MS. GOLDEN:** Yes.

18 **MR. SMALLRIDGE:** Okay. I want to preface my
19 statement with saying that I was the original class --
20 representative of Class C utilities on the governor's
21 study commission (sic) appointed. And when I read this
22 whole package, I want everybody in the room to -- the
23 ones that were on the study committee with me will
24 remember this, but the ones that weren't, I'd like them
25 to know that the original discussion of the reserve fund

1 was intended to help the Class C utilities that had
2 emergency issues they needed to deal with to be able to
3 have a revenue source that they could go and withdraw
4 from and take care of the problem that they had. That
5 was the original discussion, and it since has morphed
6 into other things.

7 But getting back to my fellow Class C
8 utility owners, the comment I'm going to say here is
9 that you guys have made this way too complicated,
10 and my deathly fear is that my fellow Class C
11 members aren't going to take advantage of it because
12 it's too complicated. And that's what you've done
13 here, particularly the noticing requirements.

14 You know, I know Commission staff has a
15 lot more inside information on who does what, but
16 I'm just going to say that when I do an index or
17 pass-through adjustment, I don't have to have all
18 the different requirements, I don't have to send
19 some to the governing body, I don't have to put
20 stuff in the library, I don't have to run an ad in
21 the newspaper. These are the kinds of things that
22 I'm discussing.

23 The original study committee discussion
24 was we want to make it as easy as possible for
25 Class C utilities to get into this fund and to be

1 able to use it to make repairs so we don't have
2 problems, and that's what it was originally thought
3 about. Originally, if some people remember
4 correctly, we talked about setting this money up in
5 an escrow fund and then having the Public Service
6 Commission, through whatever process, give
7 permission for the utility to withdraw that money,
8 use it for a particular project.

9 But also we also set it up for, my term,
10 as a savings account or a rainy day fund, a little
11 bit of money in an account so if you have an unknown
12 emergency to come up, we could address it then
13 without Class C utilities having to go to a bank and
14 get a loan and maybe get rejected and then something
15 not being done causing problems.

16 So I would like staff to take a real hard
17 look at this and say, "What can we do to have the
18 Commission be in control but also make it where
19 Class C utilities can use this money?"

20 Another -- I have a couple of other
21 comments that I want to go through on the lines. Me
22 reading this, me not being an attorney, it
23 doesn't -- to me, it doesn't read very well. But on
24 page 18, starting at line 20, it says, "A statement
25 that written comments regarding utility service or

1 the proposed Utility Reserve Fund," and then it kind
2 of repeats itself back on line 24, "A statement that
3 complaints regarding service may be made to the
4 Commission's office." I don't know what customer
5 complaints have to do with a reserve fund and why
6 that's in there. It seems like to me somebody is
7 creating an avenue to cause some problems, and I
8 don't particularly think that's relevant.

9 The -- I'm just going to wrap it up and
10 say, you know, when a utility, especially a Class C
11 utility, does a rate increase, you have the -- you
12 have the rules and other requirements that range
13 from an index adjustment that are pretty easy and I
14 think most people can do up to, you know, a full
15 rate case that has all these other requirements.
16 And it seems like you've loaded this gun full, and
17 I'm just -- I know my fellow utility owners, and
18 they're just not going to do it because it's too
19 complicated. And that defeats the whole entire
20 purpose of this whole entire reserve fund. Thank
21 you.

22 **MS. GOLDEN:** Well, regarding the notice, let
23 me tell you, we view this as being different than an
24 index or pass-through because the way that we're
25 proposing this, this could include large expensive

1 projects and this could be a significant rate increase.
2 This is going to be much more than the amount that you
3 would have for a price index or a pass-through that has
4 lower noticing requirements. That's the reason that we
5 believe that this rises to the level of requiring all
6 the customer notice is because this is -- it's a
7 significant rate increase.

8 We've proposed, and I don't want to get
9 too far ahead, but we've proposed, you know, up to
10 30 percent before we would need to start looking
11 into possibly some other options. And so you know
12 yourself, we've had staff-assisted rate cases where
13 the increase may have only been 10 percent and it
14 still -- you know, we gave customers the opportunity
15 to provide comments.

16 And so that's the main reason for that.
17 We do believe it has the potential of being a
18 significant increase that does warrant giving
19 customers an opportunity to provide comments and
20 complaints. And because these are intended to
21 address infrastructure repairs and replacements,
22 which in some cases may be needed because it's
23 affecting the quality or the reliability of the
24 service, that's another reason that it's beneficial
25 for us to hear from the customers and find out if

1 they have complaints.

2 And to be honest, if they have a complaint
3 about a particular service issue and your project is
4 intended to address that, that just gives further
5 support for approving that project. So I don't
6 think this will be, you know, quite as bad as you
7 might think.

8 **MR. SMALLRIDGE:** Well, I want to make a
9 comment to that. The -- usually in Class C utilities,
10 if there's a customer issue going on, it's because the
11 utility owner hasn't done something. So we want to be
12 able to get proactive. That's the whole purpose of this
13 is getting it to be proactive so utility owners can
14 address these problems before the customer issues start
15 coming up, number one.

16 And, you know, I just -- I spend a lot of
17 time talking to people and I just -- you make it too
18 complicated and you can make all the rules you want,
19 but if nobody uses it, what good is it? So thank
20 you.

21 **MR. FRIEDMAN:** And I echo what Mike is saying.
22 I think more on -- once we get to the guts of the rule.
23 I agree with Mike wholeheartedly. There's way too much
24 bureaucracy in this process that small utilities will
25 probably not use it.

1 **MS. GOLDEN:** Well, and one of the problems,
2 and you've raised the issue of -- that you want this to
3 be for emergencies, and we did consider that. We looked
4 into that to see if there was any way that it could be
5 interpreted to allow that. We don't believe that the
6 statute, as it's written right now, allows it to be set
7 up that way. It specifically talks about having a
8 capital improvement plan and Commission approval for
9 disbursements from the fund. We don't believe right now
10 that it allows for that type of use, that this is
11 intended to be more to address future projects so that
12 you can avoid having those emergency type repairs.

13 **MR. SMALLRIDGE:** But see, Martha, that's my
14 problem with your argument. If I come to you and say,
15 "Hey, I know that I have to replace my hydro tank in the
16 next five years," then we can set up an escrow fund.
17 And over five years we can put that money in -- and I'm
18 just using a hypothetical situation -- whatever happens
19 down the road. But the purpose of -- the original
20 purpose of the fund was to set up something so when an
21 emergency comes along that we're not knowing we have to
22 address, how do we -- how do the Class C utilities that
23 may only have 100 customers or 99 customers, a small
24 company, how do they go to -- how -- and this is the
25 discussion the study committee originally had, what

1 avenue does a small utility have to be able to take care
2 of something that we're not -- that's not foreseen? You
3 know, lightning -- what happened to me,
4 lightning strikes a tank and the tank blows up. How do
5 we take care of that?

6 So the purpose of the reserve was to have
7 a little bit of money in a rainy day account, a
8 savings account so we had an avenue to go to,
9 because utilities with 100 customers normally can't
10 go to a bank and get a loan to fix this stuff.
11 That's the point.

12 **MR. MAUREY:** Michael, this is Andrew Maurey.

13 **MR. KELLY:** This is J.R. I mean, Mike -- and
14 I do recall those discussions at the water committee. A
15 little bit in the staff's defense here, unfortunately
16 that's just not how the statute was proposed by Senator
17 Hays and what was passed. And unfortunately I'm at home
18 in my home office today and I don't have the statute in
19 front of me. But I think Martha is right, the way the
20 statute is written, it doesn't -- you know, I'm not
21 saying your point may not be relevant, but that's
22 unfortunately not how the statute was written.

23 **MR. MAUREY:** This is Andrew Maurey.

24 J.R., that's what I was going to say.
25 That might have been the point at some point in

1 time, but that's not how the statute is written,
2 that's not how it can be interpreted.

3 But to your earlier point, Michael, that's
4 why we're here today. If we can -- and Marty, if we
5 can simplify this, we'd like to. So we're here
6 today to get your input on how to simplify it, how
7 to make it more user-friendly, if you will. But as
8 far as a rainy day fund, emergency fund, that's
9 simply not what the statute provided for.

10 **MR. RENDELL:** This is Troy Rendell with U.S.
11 Water. I actually had not planned on saying much today
12 because I thought the rule overall was well written,
13 considering this is a brand new avenue that the staff is
14 looking at.

15 But getting back to the notice rule, I did
16 have a couple of quick questions that just came up.
17 The sending to a municipality within the service
18 area, the majority, if not all, of, like, the small
19 SARCs or whatever, they're not really in a city. So
20 right now in a staff-assisted rate case we only send
21 them to the county because they're not in the city
22 limit. Does staff still envision that to be the
23 same since they're outside the city limits?

24 **MS. GOLDEN:** Yes, yes.

25 **MR. RENDELL:** Okay. The other -- the sending

1 the notice to the newspaper, I know we don't do it in a
2 staff-assisted rate case. So you might want to have
3 some consideration of that. We only do it in transfers.
4 But what type -- I know this is new, but what type of
5 notice? Would it just be a couple of sentences that we
6 file for an increase? I don't know exactly how that
7 notice to a newspaper is going to look that, you know,
8 just that you filed for something. I mean, those can be
9 expensive.

10 I guess, you know, getting back to the
11 overall rule, does staff envision rate case expense,
12 which would include all the noticing that's
13 required, traveling to the customer meetings, what
14 not, do they anticipate a rate case expense to be
15 recovered through the reserve fund as well?

16 **MS. GOLDEN:** Yes, we would take into account
17 rate case expense.

18 **MR. RENDELL:** Okay. Those are really all --

19 **MS. GOLDEN:** And as far as the notice to the
20 newspaper, we have sample notices that have been used in
21 other cases, and it usually is very small. It's just --
22 we could pull an example.

23 **MR. RENDELL:** So they're similar to, like, a
24 full rate case but not -- I mean, a staff-assisted rate
25 case, you don't have do it, so.

1 **MS. GOLDEN:** Yeah, yeah.

2 **MR. RENDELL:** Okay.

3 **MS. GOLDEN:** Not anything very lengthy, just
4 to let it be known that you filed for the application.

5 **MR. RENDELL:** Okay.

6 **MS. GOLDEN:** But we can take that into account
7 if maybe there's a reason not to do this. We felt like,
8 again, this is a rate increase and that it warrants the
9 same treatment as the other types of rate increase
10 applications.

11 **MR. RENDELL:** I think the unknown, because
12 even if sending the copy of the MFRs and -- I think the
13 unknown is, since it hasn't been done before, is we
14 don't know what the volume of the MFRs are going to be.
15 Is it going to be, you know, very small or is it going
16 to be very voluminous where copying and mailing and all
17 that is going to be expensive? So I think a lot of this
18 comes from we just don't know what the magnitude of the
19 filing requirements are going to be and how much, you
20 know, how much volume this is going to take up or how
21 many pages.

22 **MS. GOLDEN:** I really think it just depends on
23 the type of projects that the utility requests be
24 included in the Utility Reserve Fund. If it's only one
25 or two projects and it's straightforward and you have

1 bids for that, it could be just a very little bit of
2 information and then answering the questions that are in
3 the rule.

4 We did allow for the -- if a utility has
5 the -- and I apologize, I forget the name for it
6 right now -- it's the study that Florida Rural Water
7 Association does. If a utility has already had that
8 assessment, then they could file that in lieu of
9 creating a separate capital improvement plan. But
10 Mr. Williams shared a copy of that with us, and
11 those can be quite lengthy.

12 So to go to your point, it could be very
13 simple or it could be a lot of pages if somebody
14 chose to use that information for their capital
15 improvement plan. But I think for most it would
16 probably not be a lot of information.

17 And, again, we'll think about the
18 suggestion of maybe not requiring the MFRs. I don't
19 think these MFRs would be as voluminous as a file
20 and suspend rate case by any means. I think it
21 would be, if anything, comparable to a
22 staff-assisted rate case information.

23 **MR. RENDELL:** Or a limited proceeding
24 probably.

25 **MS. GOLDEN:** Right, yeah.

1 Are there any other questions or comments
2 on the noticing rule?

3 **MR. DEASON:** This is Jared with Utilities,
4 Inc. I may have missed seeing it here. Was there any
5 thought to giving a time frame in here as far as the
6 amount of time the PSC has to process an application for
7 a reserve fund? Because a lot of this stuff is very
8 critical for the small utilities. And, I mean, I've had
9 experience with limited proceedings that just drag on
10 and on and on, and that's probably -- I mean, I can get
11 away with it with my company. But for a small utility
12 that needs this resolved in a timely manner, I didn't
13 see anything in there that provides for that.

14 **MS. GOLDEN:** The statute didn't talk about a
15 time frame. You know, with the other types of cases we
16 do have statutory deadlines. The statute didn't provide
17 a deadline for this. I do think, unfortunately, it
18 could be like a limited proceeding depending on the
19 information. But we do always try to process cases as
20 quickly as possible, even if there's not a statutory
21 time frame, and a lot of it just depends on how much
22 information we get from the utility to be able to finish
23 that review. But, no, that's why there's not a time
24 frame for it is the statute didn't provide one.

25 **MR. MAUREY:** I agree with Martha's response.

1 This is Andrew. Now that's if -- and that's also if
2 it's filed as a standalone application. Now if it's
3 filed in conjunction with a rate case, those statutory
4 time frames would apply.

5 **MS. GOLDEN:** That's true.

6 **MR. MAUREY:** But there -- it would not be
7 open-ended in that event.

8 **MR. RENDELL:** Could the utility request --

9 **MR. FRIEDMAN:** Yeah, but you have -- you
10 certainly have the authority to establish for yourself a
11 deadline. What I'm concerned about, just like every
12 deadline, if you've got work on your desk that does not
13 have a deadline, it gets, you know, pushed and pushed
14 and pushed until, you know, until you get your deadline
15 work done. And that's why I think it's critical in all
16 of your proceedings, particularly your rate proceedings
17 where you have regulatory lag, to have a deadline to
18 complete an application.

19 And I didn't see anything in here, if
20 we're just talking generally, I didn't see anything
21 in here about how you're dealing -- it talks about
22 an official date of filing, but it doesn't say that,
23 you know, the staff is going to take 30 days to look
24 at it and, you know, the same kind of process you do
25 in other official data filing processes.

1 **MS. GOLDEN:** We envision --

2 **MR. FRIEDMAN:** There's nothing that requires
3 that the staff get back within 30 days of the filing to
4 tell you whether your application is deficient or not.

5 **MR. MAUREY:** Well, those deadlines are
6 prescribed by statute and we adopt them in the rule. We
7 can't put something in the rule that we're not empowered
8 by through the statute. But we will have --

9 **MR. FRIEDMAN:** Well, you may or may not. You
10 can't expand your authority beyond that granted by
11 statute, but if you wanted to self-impose deadlines,
12 sure you could. I don't think there's any prohibition
13 against that. And I've got some concerns about, you
14 know, exceeding your authority when we get further into
15 the rule itself. But I think as a general principle,
16 you can establish self-established deadlines.

17 **MR. MAUREY:** Well, and we --

18 **MR. FRIEDMAN:** You couldn't expand a deadline
19 that the statute said, but you could impose one
20 yourself.

21 **MR. MAUREY:** Well, we try to process all the
22 applications as quickly as we can, and we do meet
23 statutory deadlines. Now on some of these -- I know
24 there's a few examples out there where limited
25 proceedings have gone on, and I think you'd agree with

1 me that those have had some controversy surrounding
2 them. There's also examples of limited proceedings that
3 have been completely done under three months, far
4 quicker than a SARC or a file and suspend. So I think
5 there's examples of both depending on the controversy or
6 the challenges that each presents.

7 Now we've looked at it and, as Martha
8 replied earlier, we weren't -- didn't believe we
9 were empowered to put those types of timelines on
10 this matter. But as I said earlier, if it is filed
11 in conjunction with a case that does have timelines,
12 then it will fall under those timelines.

13 But we look forward to the comments that
14 you have on the rule. As I said earlier, that's why
15 we're here, is if we can make this -- we don't -- we
16 want this to be available to all the utilities that
17 can take advantage of it. And if there is -- if you
18 believe some of the language is limiting in nature
19 but it doesn't violate the statute, we're welcome
20 to -- or open to changing it to make it more
21 available to the industry.

22 **MR. KELLY:** Well, and, Andrew, a little bit to
23 your point, I mean, you know, this is new to everybody.
24 And I agree, I mean, from our standpoint, obviously we
25 want to protect the customers, but we're not -- I'm

1 certainly not in favor of being something -- you know,
2 making something more complicated than it needs to be.
3 But whatever rules you guys come up with, if we use it
4 for a year or two and if Mr. Smallridge's concerns do
5 come to fruition that, hey, nobody's using it because
6 it's too complicated, I'm assuming at that point you
7 guys would be open-minded to going back and looking at
8 revising the rule; correct?

9 **MS. HARPER:** Yes.

10 **MR. MAUREY:** Yes.

11 **MR. KELLY:** Okay. I mean, I -- okay.

12 **MS. GOLDEN:** Now we did --

13 **MR. HOY:** Hey, Andrew. This is John Hoy. I
14 wasn't sure -- I wasn't planning on saying much today.
15 But just on the overall principle of what the statute
16 says versus how you can apply the statute to the rules,
17 because I do have the concern, J.R., and I do understand
18 that you can fall back and change it, but why not try to
19 change it now so it's usable? I have the same concern
20 that Mike has. It is fairly complicated and fairly
21 targeted so that it's not going to meet its intended
22 purpose. And if I look at the statute, it's pretty
23 short, and it says, you know, the utility can use the
24 reserve fund to fund projects that are nearing the end
25 of their useful life or detrimental to water quality or

1 reliability of service. And then it goes on to say that
2 the Commission should create rules that take into
3 account things like a capital improvement or a capital
4 plan. It doesn't say you have to have one, but you take
5 that into account when you're setting up the rules.

6 So help me out a little bit with how you
7 interpret the statute and like the case for a
8 deadline, how you interpret the statute for things
9 you can and can't put in the rules. Because I think
10 we're fumbling right out of the gate with what this
11 is intended for and how it might be used.

12 **MS. GOLDEN:** Well, we were going to get into
13 that when we go back to the reserve fund rule. So let
14 me ask, does anybody have any other comments on the
15 noticing rule before we -- okay. We've got one question
16 in the room, so let's do that, and then I'll answer your
17 question when we get to the reserve fund rule.

18 **MR. WILLIAMS:** Before we leave the notice
19 thing, I made one point that, you know, related to the
20 contacting counties. But on the newspaper and all the
21 notice requirements, I have the same comment that if
22 there's a notice need by the utility, let them make it
23 to the Public Service Commission and the Public Service
24 Commission further make the notice to whoever is
25 required to receive it.

1 **MS. GOLDEN:** Part of the problem with the
2 newspaper notice is there -- sometimes there's a cost
3 involved with that, and that would mean the Commission
4 is taking on the cost of that. And then, again, it goes
5 back to the utilities are more familiar with their
6 service area, and so they usually have a better idea of
7 which newspaper they would need to put that notice with.
8 I'm sorry.

9 **MR. WILLIAMS:** You probably understand what
10 I'm saying --

11 **MS. GOLDEN:** I do.

12 **MR. WILLIAMS:** -- is from my standpoint, if
13 you think these things are important, do them yourself.
14 If they're not that important, then I wouldn't do them.

15 **MR. MAUREY:** Well, we didn't see a reason to
16 carve this application out from any other noticing
17 requirements that are present in the rules.

18 **MR. RENDELL:** Well, except for Class C's don't
19 have to notice newspapers. If they don't have the money
20 to do it -- I mean, that's the only difference here is
21 the Class C's. And the A's and B's, you know,
22 especially like Utilities, Inc., there's multiple cities
23 and counties. I mean, it's going to be a little bit
24 more expensive and time-consuming for them than it will
25 would be for a SARC. But a Class C, you know, they

1 don't have to do it now.

2 **MR. MAUREY:** All right. So are you
3 suggesting -- because this is open to all, A, B's, and
4 C's. So are you saying -- suggesting perhaps carving
5 out C's from the noticing requirement but leave A's and
6 B's as they are, all other noticing requirements
7 applicable to them in other applications? Is that what
8 you're suggesting?

9 **MR. RENDELL:** Well, yeah, because we've got
10 everyone covered. All the customers are going to
11 receive a notice, the county is going to receive a
12 notice, they're going to receive a notice. The majority
13 of people, either they don't get newspapers anymore or
14 they read online or they just don't read the legal
15 notices. I never look at a legal notice. But I think
16 we've covered everyone that can be possibly covered to
17 get notices. I don't know who's going to benefit from a
18 newspaper notice. And a lot of times there's not a
19 newspaper that directly is for that service area. It's
20 very difficult for these SARCs. I mean, they're out in
21 the middle of nowhere. So you have to find the closest
22 newspaper that's, like, two cities up. Like, for
23 instance, sometimes we use The Villages' newspaper
24 because, you know, it's generally circulated, it's near
25 the service area, and it's less costly, because you go

1 to a bigger newspaper, it's a lot more expensive. And
2 all that cost gets passed on to the customers.

3 **MR. MAUREY:** Well, we could consider that,
4 bifurcating the noticing requirement between A's and
5 B's versus C's and have the C's notification align with
6 what's in SARCs for C's. We could consider that. But
7 for the other --

8 **MR. KELLY:** Andrew, Public Counsel, we
9 wouldn't have any problems with that. We understand
10 that. And if you made it consistent with how you do
11 SARCs, the regular cases, rate cases, I would not object
12 to anything like that.

13 **MR. MAUREY:** Okay. Thank you. But as far as
14 the Commission notifying everybody, I think we're going
15 to leave that onus on the companies. I don't think the
16 Commission is prepared to take that on, that
17 responsibility on.

18 **MR. WILLIAMS:** Well, I just make that
19 comment -- I mean, I'm not asking for a multiparty
20 system of who does what. But, remember, whatever, and
21 it's kind of been mentioned already going to the next
22 part, is that you've got to write these things for the
23 lowest common denominator, you know, the person that's
24 the least, you know, able to understand these types of
25 things. So that's the reason I suggest the noticing

1 requirement, you know, be handled by the Public Service
2 Commission.

3 Yeah, I have no doubt that Utilities,
4 Incorporated, A's and B's can do this, but I have a
5 question whether some of the smallest systems that
6 really need this reserve fund are in a position to
7 do all the noticing effectively.

8 **MR. MAUREY:** Well, are you suggesting that
9 those that come in for SARCs aren't capable of noticing
10 for those applications?

11 **MR. WILLIAMS:** Yes.

12 **MS. GOLDEN:** Actually --

13 **MR. RENDELL:** The point is you don't want to
14 overburden utilities. One case in point, a recently
15 approved rule for transfers, and I voiced my opinion
16 then that, you know, we have to -- now we have to notify
17 every property owner in the service territory. We
18 bought one and it's a huge service territory. There's
19 55 customers. So we sent out thousands and thousands
20 and thousands of notices and it cost thousands of
21 dollars to do so with no way to recover it because you
22 can't recover those costs. It generated, like, probably
23 a hundred calls from these people saying, "What is this?
24 Does it affect me?" and I basically had to explain the
25 rule. So sometimes the noticing really gets overbearing

1 for these small companies.

2 **MS. GOLDEN:** One other thing about the
3 noticing, particularly with the Class C's, we typically
4 help them prepare the notice. We've got sample language
5 and we review it, and so we do offer assistance.
6 They're not just totally on their own to go figure out
7 what to do. And it would be the same with this, we
8 would help them with the wording. And, in fact, the
9 provision that we put that if it's a utility that
10 qualifies for staff assistance, that they can wait and
11 do the notice for the customer meeting, that was part of
12 our effort to try to reduce the requirements on them.
13 And we will help with that and we would be the ones
14 calculating the surcharge.

15 **MR. RENDELL:** Could you simplify it and just
16 say if they also qualify for staff assistance, they
17 follow the same notice requirements as a SARC? That way
18 it would eliminate the whole newspaper. It would be --
19 it would basically streamline this whole rule, I think.

20 **MS. BANKS:** That makes sense. We can think
21 about that. That seems to be -- make sense.

22 **MR. WILLIAMS:** And let me make one general
23 statement. You know, when I say that they're not
24 capable a lot of times of doing the notice requirements,
25 those that move forward, yes, do. But I'll have to tell

1 you, we work with a lot of systems that contact us
2 saying, "What do we do about this?" And you somewhat
3 explain to them what they need to do, and they choose to
4 do nothing as compared to something that is going to
5 likely improve water quality or service. And then you
6 have a failure later because they did nothing. So the
7 reserve fund was to try to encourage them to do
8 something to protect service and quality for the
9 customers.

10 So if we make it too complicated and we
11 make noticing requirements complicated, they're just
12 going to pull back and do nothing and wait for
13 failure again. And that's what we don't want to see
14 happen, I don't think, from our standpoint with
15 rural water related to service to the customers.

16 **MS. GOLDEN:** But would you agree that the
17 customers have a right to know that they might be
18 getting a rate increase? That's really what the purpose
19 of the notice is, is for the customers to know that the
20 company has requested to implement the surcharge which
21 will -- it will be an increase on the customer's bill.
22 There's -- as far as terminology, some people would
23 argue it's not a rate increase, but it will be an
24 increase on the customer's bill, and we believe they
25 have a right to know about that.

1 **MR. WILLIAMS:** I'm not arguing the right to
2 know. I'm arguing who can best provide that notice, you
3 know, if it's a requirement, if it's needed. I don't
4 want the rule, and it's been mentioned before by Mike,
5 the complication of it to not allow us to reach the
6 intended purpose. It's to have monies to provide a
7 better service to the customer and a product. And doing
8 nothing has been a failure of a lot of these systems.
9 Run it to failure and have it, you know, collapse. I
10 shouldn't say that because I'm supposed to represent
11 this industry positively, but, you know, we have a
12 run-to-failure, you know, mentality in the smaller
13 systems because of the complication.

14 **MR. MAUREY:** Well, I don't know what to say
15 about that. That's not responsible. I mean, there is a
16 minimum bar to run a system, and it comes with an
17 obligation to serve and a minimum level of
18 responsibility. So we will simplify the rule to the
19 extent we can. We want the rule to be applied. But --
20 and we -- and I suggested earlier we bifurcate the
21 noticing so that we can carve out SARCs and simplify it
22 from that standpoint for the really small ones. But
23 there -- the statute, I agree it's short, but it is
24 prescriptive to the extent that our ability to craft a
25 reserve fund has to be within the four corners of that

1 statute.

2 **MR. RENDELL:** So, similarly, you could say,
3 like, Class A's and B's follow this noticing, Class C's
4 follow this noticing.

5 **MR. MAUREY:** I believe that's workable.

6 **MS. GOLDEN:** Well, that's the way the noticing
7 rule for the file and suspend rate cases and the and
8 staff-assisted rate cases, it actually is split where
9 there's the list of requirements for the file and
10 suspends and then it's a little bit different for the
11 Class C's. And I thought we had done that here by
12 adding that other sentence, but we'll take a look again
13 about the newspaper requirements and we can adjust that
14 wording.

15 **MR. SMALLRIDGE:** This is Mike Smallridge. If
16 I could just add a comment, please. To get back to what
17 I said earlier, when I do an index adjustment or
18 pass-through adjustment, it's a rate increase and I mail
19 a letter to the customers. We don't have to have a
20 customer hearing, we don't have to put it in the
21 newspaper, but we're still doing a rate increase. So,
22 again, I agree with everybody else. We don't need to
23 make this any more complicated, because we're trying to
24 be proactive to get people to use it. That's the
25 purpose, to use it.

1 And the only other comment I had is that
2 anything that goes into the Utility Reserve Fund
3 you're offsetting by CIAC an equal amount. So this
4 is the cheapest way that the customers are ever
5 going to get anything done, and, you know, that, to
6 me, is a big plus for the customers. I would think
7 that the Commission would, that being the case, it's
8 the cheapest way the Commission -- the customers are
9 going to get stuff done, I think the Commission
10 would be very willful to help this process along and
11 make it as easy as possible so people can use it
12 because at the end of the day it's still the best
13 deal for the customers. Thank you.

14 **MS. GOLDEN:** I think -- this is Martha. The
15 problem with trying to treat this like it's a
16 pass-through is that the pass-through rule is very
17 specific. There's a limited number of certain types of
18 expenses that can be included in that, and it generally
19 is a small incremental increase. And so, again, with
20 the price index and the pass-through, you're not
21 typically looking at a large increase, and it is for
22 very specific things that the statute allows. The
23 difference between that and the reserve fund is that the
24 reserve fund is going to be specific to each utility.
25 It could include a wide variety of projects and a lot of

1 different prices. It's just not as straightforward as a
2 pass-through. And that's why I don't see this being
3 something that we could drop it down to the minimum
4 level of noticing that we use for our pass-through just
5 because you have the potential of a greater impact on
6 the customers. But we will look at it again and see if
7 there's anything we can do to make it a little bit more
8 simple. I just don't think it's going to be as simple
9 as a pass-through, though.

10 Are y'all ready to go to the reserve fund
11 rule? Okay. Subsection (1) deals with project
12 eligibility. This subsection includes the types of
13 projects that are eligible to be included in the
14 Utility Reserve Fund as well as projects that are
15 not eligible, and it also includes additional
16 factors that should be considered in determining
17 whether or not a Utility Reserve Fund is the best
18 option to address the utility's infrastructure
19 repair and replacement projects.

20 Now going to the question of how we
21 decided what we should include, the statute actually
22 says, and we had to give this a lot of
23 consideration, the statute actually says that, "The
24 Utility Reserve Fund is for infrastructure repair
25 and replacement for a utility for existing

1 distribution and collection infrastructure that is
2 nearing the end of its useful life or is detrimental
3 to water quality or reliability of service." And we
4 debated whether to take that very literally, that it
5 was truly just transmission/distribution system and
6 collection system, or could it go beyond that. And
7 what we are proposing is to go a little bit broader
8 than that and also allow it to include treatment
9 plant items. Because we believe for this to be
10 beneficial, that utilities should have the option of
11 trying to include projects that, again, it's due to
12 aging or because it has a detrimental impact on the
13 service.

14 What we have excluded are the accounts that
15 are general plant accounts that the utility generally
16 has other financing options for. The legislative budget
17 analysis put a lot of emphasis on that this was intended
18 to help utilities that were having trouble getting
19 financing or either reasonably cost financing to do
20 these projects. Things like office furniture,
21 computers, even trucks, usually the utility would have
22 some other financing options for that. And so that's
23 why we've excluded those general plant type accounts but
24 we've included everything pretty much that's part of the
25 physical assets of the utility.

1 Now as far as land, again, a big point of what
2 we're leaving out is anything that's related to growth.
3 If any of this work is being done to address future
4 customers, customer growth, then that's -- that doesn't
5 really go with what the statute said it's for, and so
6 those type projects would be excluded. We did make an
7 allowance. If there's a project that part of it is to
8 deal with repair and replacement of aging infrastructure
9 or part of it is for growth, if you can separate out the
10 part that's for the aging infrastructure, then that part
11 could still be considered.

12 So we've tried to make it as broad as we can
13 to be flexible to work with the utilities to include the
14 types of projects that they do need to do to keep the
15 utility running properly. And so I'll stop there and
16 see if you have any questions or concerns.

17 **MS. VANDIVER:** I think --

18 **MR. KELLY:** This is J.R. Along those lines, I
19 appreciate your comments. I think you need to define
20 what y'all are -- you know, more than just listing
21 account numbers, I think you need a definition in your
22 rule as to what you are considering distribution and
23 collection plant is. I understand you want to take
24 literal and make it go beyond. I have concerns about
25 what JAPC is going to allow you to do there. The

1 statute is pretty clear, and I think it is pretty clear.
2 But I think you need a definition there of everything
3 that you guys are going to consider to be distribution
4 and collection plant.

5 **MS. GOLDEN:** Well, and actually what we're --
6 the way we're proposing it is that it goes beyond what
7 we would technically call transmission and distribution
8 plant to include all the physical assets. We've
9 discussed this. We believe that we can interpret it
10 that way. We did try to do a definition and, to be
11 honest, it created a little more confusion among the
12 staff, and that was why we took it out. We could look
13 at that again.

14 Now the other reason that we listed it by
15 NARUC account numbers is because there's so many
16 types of parts that are included in those different
17 accounts that it was easier to just list the account
18 numbers, and then utilities and staff can go back
19 and reference the NARUC Uniform System of Accounts
20 to see. If they request a project to replace a
21 certain part, we can see does it fall into one of
22 those accounts. That was the reason that we stayed
23 away from listing specific parts of the plant.

24 **MS. VANDIVER:** But let me point out, you
25 really listed every NARUC account for plant basically

1 that's not general or land or organization; isn't that
2 correct?

3 **MS. GOLDEN:** That's correct.

4 **MS. VANDIVER:** So why would you need to list
5 them? I guess I don't understand what -- the point of
6 putting the numbers in.

7 **MS. GOLDEN:** So you're suggesting we would not
8 use the account numbers and then we would just specify
9 the things that, basically that we're not allowing, like
10 the land and organization franchise fees and --

11 **MS. VANDIVER:** Well, I think that's what --
12 you know, going back to J.R.'s comment, you need to
13 describe what you're -- why you're -- what you're
14 including. The account numbers don't necessarily do
15 that because you've included every account number.

16 **MS. GOLDEN:** Okay. Now do you think it would
17 be okay if it was broad, though, that if it was --

18 **MS. VANDIVER:** We still don't necessarily
19 agree that it should include treatment. I'm not
20 conceding that.

21 **MS. GOLDEN:** Okay.

22 **MS. VANDIVER:** I don't know how you can
23 interpret the statute that way. But other than that, I
24 don't know that the account numbers, the way it's set up
25 now, really help the rule any.

1 **MS. GOLDEN:** Okay.

2 **MR. SMALLRIDGE:** This is Michael Smallridge.
3 Can I make some comments?

4 **MS. GOLDEN:** Yes.

5 **MR. SMALLRIDGE:** Okay. I actually don't mind
6 the account books and I actually like the way this is
7 written. I think it makes it easy for my fellow Class C
8 owners to be able to go to a book and look it up. And
9 sometimes the little pamphlet books I have are not,
10 sometimes are not too detailed, but I usually just call
11 NARUC and ask them and they'll send you all the stuff.

12 And there are some account numbers that
13 are applicable to Class A and B utilities but are
14 not applicable to Class C utilities. I think this
15 makes it easy. I don't have a problem with it.

16 The only thing I wanted to mention about
17 this section was I'm looking at page 11, starting at
18 line 23.

19 **MR. HILL:** I'm sorry. Can you tell us which
20 item that is because our page numbers are different?

21 **MR. RENDELL:** He's going off the notice, I
22 think.

23 **MR. HILL:** Right. We don't have it printed in
24 front of us.

25 **MR. SMALLRIDGE:** I'm sorry. It starts talking

1 about when the money -- when the utility fund is
2 established, what do we do with the money? And you guys
3 have got this out as an interest bearing escrow account
4 or an irrevocable letter of credit. And then it goes
5 on, you know, about how the monies will be done, this,
6 that, and the other. I'd like to see it more set up
7 like an escrow account where the clerk -- where you send
8 in statements to the Clerk and the Clerk is the signer,
9 and then you guys can direct the Clerk to sign off on
10 this stuff. It's a lot easier.

11 **MS. GOLDEN:** That's exactly --

12 **MR. SMALLRIDGE:** And, you know, again, a
13 Class C utility who has 100 customers is probably going
14 to have some issues going to the bank. So how do we get
15 around that? You know, yeah, an interest bearing
16 account, escrow account would be good. That's probably
17 about the only avenue that a Class C utility would have.

18 But I'd like for staff to look at this,
19 the rest of that stuff, the rest of what you've got
20 here. And, for example, where it says, I'm looking
21 at page 12, line 20, that says, "(a)," it starts
22 with, "The utility shall file a report with the
23 Commission Clerk no later than the 20th of every
24 month," you know, and the money deposited, da, da,
25 da. You know, I just -- I'm afraid to look -- I'm

1 afraid all that is going to result in a failure if
2 we don't find another avenue to be able to do it.
3 So maybe you can add it is -- we can set it up with
4 the Clerk, maybe we can't, but we need to make it,
5 you know, as easy as possible. And there's -- and I
6 think there's -- I think there's a way to be
7 accountable. I think there's a way for the utility
8 to be accountable.

9 And the last thing I had was the next
10 paragraph says, "At least once every quarter, the
11 utility shall report the status of eligible
12 projects." Well, if you're on a -- if it's going to
13 take you, I don't know, two years to save up enough
14 money to do an eligible project, making quarterly
15 reports is, you know -- I don't know why you can't
16 make a report, put something and attach it to the
17 annual report, and that way it's signed off on, you
18 know, if there's no activity. So I would just like
19 to see this section simplified a little bit and not
20 be a deterrent to somebody who wants to use it.

21 **MS. GOLDEN:** We did look at different time
22 frames for the reports, and this was what we ended up
23 with that staff was comfortable with and is consistent
24 with the way we handle other types of things.

25 To talk about -- to let you know about the

1 escrow account, we didn't include all of that detail
2 in the rule. But the way that we envisioned this
3 would work is very similar to the escrow account we
4 do if a utility gets interim rates in a rate case or
5 if the case is protested and they implement --
6 pardon me -- they implement the rates on a temporary
7 basis subject to refund. And I don't -- you've
8 probably noticed in the recommendations we will
9 usually have an issue that talks about temporary
10 rates, and it includes all the specifications of in
11 the event that it's protested and the company
12 implements those rates. If they establish an escrow
13 account, there's a list of conditions that apply to
14 the escrow account. And one of those, what you
15 mentioned, that the Commission Clerk is a signatory
16 on that account, and then that means that the
17 Commission Clerk has to give authorization for any
18 money to come back out of that account.

19 And then also for the letter of credit, it
20 would be an irrevocable letter of credit and there
21 are certain conditions that would apply. But what
22 we envision is that we would follow the same process
23 that we follow right now if rates are implemented on
24 a temporary basis.

25 We had been --

1 **MR. FRIEDMAN:** Martha, this is Marty Friedman.
2 I -- you know, there's a big difference between interim
3 rates and what this escrow fund is intended to do. You
4 know, interim rates are usually in effect for five or
5 six months. This process will be for years, and I think
6 monthly reporting is just way too much. I don't think
7 it -- I don't think you need anything on a monthly basis
8 because you're not going to have any expenditure of
9 those funds or any true-up of those funds in the near
10 future. These are projects that are going to go for
11 years, and I would suggest at very, at very most
12 quarterly. I think semiannual reports would be the
13 best, if not annual, but certainly not monthly. That's
14 way too much for the purpose for which this escrow is
15 being used. And I wish y'all would think about --

16 **MR. KELLY:** What about this idea, sort of
17 along, you know, trying to -- and I'm just throwing it
18 out, that depending on the length of the project
19 determines the reporting requirement? For example, if
20 Marty is correct and it's a two-year or three-year
21 project, maybe quarterly or semiannual is good enough.
22 If it's a six-month project, you might want monthly or
23 bi-monthly or something like that. And that may be too
24 complicated for the Commission staff to have to follow,
25 but, I mean, I'm just -- you know, this is a workshop to

1 brainstorm, so I'm just, I'm throwing it out there.
2 Because I can see that if it's a three-year project and
3 you're doing monthly, that is going to be a lot of work
4 for certainly your smaller utilities. But, anyway, I
5 just -- I throw it out for thought.

6 **MR. RENDELL:** Can I make comments going back
7 to the beginning of the rule?

8 **MS. GOLDEN:** Uh-huh.

9 **MR. RENDELL:** I agree with Mike that, you
10 know, I like the way it's written now. But also, you
11 know, the largest expenditures now because of the aging
12 infrastructure obviously is the, you know, necessary
13 replacement of the lines that are old and leaking. We
14 have a couple of those now. Hydro tanks, we have hydro
15 tanks built in 1966. You know, they're old and they've
16 got to be replaced.

17 But one of the other big expenditures,
18 getting back to Denise's comment about treatment,
19 one of the big expenditures now is treatment because
20 of secondary standards, water quality. And that's
21 specifically because of the statutes that were
22 written by the legislature recently that we have to
23 address water quality, where secondary water quality
24 used to not be in the forefront, you know, taste,
25 smell. We're working on two projects now. One is

1 with the customers to put in forced draft aeration
2 for hydrogen sulfide. It's in Highlands County.
3 But those are going to be expensive and they're
4 going to -- we're going to have to come in for a
5 SARC. But this is ideal for that.

6 If you could use this to plan, preplan for
7 a project like hydrogen sulfide removal through
8 forced draft aeration or whatever, whatever the --
9 you know, if you have radium removal, and you work
10 with the customers, this does benefit them because
11 the CIAC, they're not going to pay a return on it,
12 and it does benefit them. So I think that you
13 should leave treatment in here because of those
14 specific requirements now of the statute on water
15 quality.

16 **MS. GOLDEN:** One of our thoughts in expanding
17 it to include treatment was that because of the
18 conditions that the utility has to meet with being able
19 to show that there is a need for it and that it's due to
20 the aging infrastructure or because of the quality of
21 service and they have to be able to demonstrate the cost
22 and so forth, that there really is no harm in allowing a
23 utility to request those type of projects because the
24 ultimate goal is that you want to have quality and
25 reliability of service being provided to the customers.

1 And so if allowing those other types of projects to be
2 included in the reserve fund helps the utility to meet
3 that goal, we believe that in the long run this rule
4 would be more beneficial if we can expand it to include
5 those items.

6 **MR. MAUREY:** Yeah, just a couple of comments
7 there. And, J.R., we did talk about that. I mean, a
8 strict reading of it, distribution and collection
9 infrastructure, we thought that that was very limiting,
10 as certain members of the industry have mentioned. And
11 it may be refused by JAPC. And if it is, then it would
12 go back to the legislature and they would have to change
13 the statute to expand it. And at that time maybe they
14 will put in an emergency fund, but there's no emergency
15 fund in there now. But we believe for it to be useful
16 to the industry, it would -- to meet detrimental water
17 quality or reliability of service, it would have to
18 involve treatment, but we may be wrong on that point.

19 Now moving on to the other comments about
20 reporting, it's important to realize that this money
21 is being collected from customers before any asset
22 is used and useful. There has to be an accounting
23 of those collections. So -- and we -- and while a
24 lot of utilities that have escrow accounts set up
25 for these types of projects currently, most of them

1 make those deposits. Not all of them do. And so if
2 you're collecting monies in advance for projects to
3 be done in the future from current customers and
4 then those deposits aren't being made into those
5 funds, that's problematic.

6 And so I'm well -- we will look at that,
7 your suggestion, J.R., about gauging the timing of
8 reporting to the length of the project. That sounds
9 reasonable and we'll certainly consider that. But
10 there has to be some reporting on a regular basis so
11 that there can be a checks and balances that this
12 money is being collected for the intended purpose
13 because it is being collected from current customers
14 for projects that won't be used and useful until
15 sometime in the future.

16 **MR. SMALLRIDGE:** And the answer to that is --
17 and I don't disagree with that. The answer to that is
18 we send it to the Clerk. We send it to the Clerk, and
19 then the Clerk has to be able to sign off on any
20 distributions -- disbursements, I'm sorry, of those
21 funds. So you're going to know. That is the reporting.
22 That is the -- the Clerk is being notified.

23 I currently have a rate case going now
24 where there's an escrow account set up, and we send
25 copies of the bank statements every month to the

1 Clerk. And I know that whenever it's time to use
2 that money for the project going down the road that
3 I have to be able to, you know, to get the Clerk to
4 sign off on that. So you guys are going to know
5 because I'm going to ask you to -- you know, I'm
6 going to ask the Clerk to be able to sign that
7 check. Thank you.

8 **MS. GOLDEN:** That's exactly what we're asking
9 you to do here. And if it's not clear, then maybe we
10 need to word that differently. Because when we're
11 asking for the monthly report, all we're asking for is
12 that same information that you're already filing with
13 the Clerk if you have an escrow account in a rate case.
14 We're not asking for it to be anything more complicated
15 than that.

16 **MR. SMALLRIDGE:** But we're talking about two
17 different things. That's the money being deposited in
18 the bank. What I'm talking about is the paragraph where
19 it says to update you guys on the status of the project.
20 And that's what I'm getting back to is it may be two or
21 three years. If I've got to file that report every
22 month, I'm going to file a report that says, "There's no
23 update. We're just collecting money." I mean, that's
24 overburdensome. That's the point. Thank you.

25 **MS. GOLDEN:** Okay. We'll look at that. We

1 didn't really see that that would be overly burdensome
2 if the answer was just "We haven't started the project
3 yet." But I guess I could see your point that you're
4 having to keep up with actually filing that by a certain
5 date every quarter, so we'll look at that.

6 **MR. RENDELL:** Can I ask, on page 1 of the
7 rule, line 21, what does it mean, "Repair projects that
8 may be expensed rather than capitalized?" Does staff
9 envision there would be repair projects that would be
10 eligible under this reserve fund that on a normal basis
11 would be expensed by the utility?

12 **MS. GOLDEN:** Yeah. There's a -- you know, in
13 a rate case sometimes there will be a repair project
14 that we'll end up expensing it and amortizing it over
15 five years, and we just wanted to give the utility the
16 option that if they felt like it was more that type of a
17 project as opposed to a capital project, that it could
18 still be considered in the Utility Reserve Fund.

19 **MR. RENDELL:** Okay. But I guess it would have
20 to book to plant because the reserve monies are booked
21 to CIAC so you wouldn't have a mismatch there.

22 **MS. GOLDEN:** What we envisioned is in that
23 case, if it was an expense, that the reserve fund money
24 would actually just be paying off that expense. And so
25 once the project is completed and that money was used

1 for it, that it would be considered done.

2 **MR. RENDELL:** Okay.

3 **MS. GOLDEN:** That would not be treated as
4 CIAC.

5 **MR. RENDELL:** So there might be a portion of
6 the reserve funds that's CIAC and a portion that's not
7 CIAC?

8 **MS. GOLDEN:** Yes.

9 **MR. RENDELL:** Okay.

10 **MS. VANDIVER:** I have a question on that
11 section too. It says something about if the utility can
12 demonstrate that the repair expense is not already
13 included. I mean, for a small company --

14 **MR. KELLY:** Denise, I can't hear you very
15 well. Can you speak up or --

16 **MS. VANDIVER:** Okay. I'll try to talk louder
17 too. I have a question on the same thing on the repair,
18 and I was curious how staff thinks a company would be
19 able to demonstrate that it's not already included in
20 expenses. I understand for a small company it wouldn't
21 be as difficult. But if you've got a larger company
22 that has quite a bit in miscellaneous expense and
23 materials and supplies, which is probably where that
24 would be included, how would a utility go about proving
25 that?

1 **MS. GOLDEN:** Right. It would be more
2 difficult for the large ones. For the small utilities,
3 we are able to look at it and see what types of projects
4 and the amount of money that was -- that's already been
5 allowed in the rates for that expense.

6 **MS. VANDIVER:** Yeah.

7 **MS. GOLDEN:** I think for the larger ones,
8 though, it would be up to them to show that this is not
9 something that was included in that -- in their
10 expenses.

11 **MS. VANDIVER:** Okay.

12 **MS. GOLDEN:** For the Class C's, of course, we
13 could look at the information and help like we do with a
14 staff-assisted rate case.

15 **MS. VANDIVER:** Oh, I agree. I think it's much
16 easier for --

17 **MS. GOLDEN:** Yeah. It's -- this will not be
18 easy to do, but we wanted that option to be in there in
19 case it was needed and it could be shown that it was not
20 already in the rates.

21 **MR. RENDELL:** The capitalization level is
22 really low anyway for C's. It's, like, 250, and I think
23 it's 400 for B's. So we're talking about really small
24 dollar amounts here.

25 **MR. KELLY:** I can't hear the comment. I'm

1 sorry. Whoever was speaking.

2 **MR. RENDELL:** J.R., this is Troy. I was just
3 saying the capitalization levels in NARUC's system of
4 accounts are very low anyway. For C's it's like \$250.
5 I think B is \$400. So, you know, we're talking about
6 really small dollars here that -- for repair projects
7 that would be expensed rather than capitalized.

8 **MR. KELLY:** I got you. I hear you. Thanks.

9 **MS. GOLDEN:** Yes.

10 **MR. HOY:** And this is John Hoy again.

11 Related to that, it seems like the capital
12 projects are, in all the rules, intended for those
13 that can be preapproved, pre-identified, preapproved
14 and then funded and then approved after they're done
15 for disbursement to the escrow fund.

16 On the repair stuff, is that something
17 that also would have to be part of a plan and
18 identified before the reserve fund was created, or
19 could the reserve fund be used for something -- some
20 unknown expenditure that came up? I'm thinking
21 about, like, a storm fund like the electrics have.
22 Could something unanticipated like that, would that
23 be something that the repair part of this fund could
24 be used for?

25 **MS. GOLDEN:** No. The way we're proposing

1 this, it would not be. The first thing you said is
2 correct. This anticipates that it's a planned project.

3 **MR. RENDELL:** So it's not something that's
4 already incurred. It's something that you think is
5 going to -- I got you.

6 **MS. GOLDEN:** Right. It's a project that you
7 know that you need to do at some point in the future and
8 that you would like to be able to collect the money
9 through the Utility Reserve Fund for that.

10 **MR. MAUREY:** This is Andrew. Now later in the
11 rule you'll find that there's a chapter where once a
12 reserve fund is set up for a defined project, if the
13 scope of the project were to change or additional
14 projects are identified, the applicant can come back in
15 to have the Reserve Fund amended to roll that project
16 in. But it's always going to be prospective. It's for
17 a prospective project.

18 **MR. RENDELL:** So it can continue for other
19 projects.

20 **MR. MAUREY:** It can. I mean, as we've
21 contemplated it now. I mean, it --

22 **MR. HOY:** Yeah. I'm just trying to think what
23 type of repair would you pre-fund and plan for two or
24 three years, four years out?

25 **MS. GOLDEN:** There are repairs that -- well,

1 things likes tanks, like doing tank repairs. If you
2 know that there's a certain type of repair. Repainting
3 the inside of a tank, we typically treat that as an
4 expense and it's amortized over the number of years in
5 between tank paintings. That would be something that
6 could be considered as an expense. There really
7 probably aren't that many because, as Troy mentioned,
8 most of these are going to be projects that would need
9 to be capitalized. But that's an example of one.

10 **MR. RENDELL:** Or, John, it could be, you know,
11 a wastewater plant. Your tanks, you know it's leaking
12 and cracked, you need to seal it or something like that
13 too probably. But, again, those dollar amounts can be
14 large, so those would be capitalized anyway.

15 **MR. HOY:** And those are generally not ones you
16 can wait a couple of years to pre-fund. That's more
17 emergency repairs, which is what Mike was initially
18 talking about.

19 I've got one other question on the -- I just
20 have a question. At the top of page 8, number -- I
21 think it's (c)3, "Whether contributions-in-aid-
22 of-construction that will result from the Utility
23 Reserve Fund will cause the utility to exceed the
24 service availability policy guidelines." Help me
25 understand what that's -- what that is.

1 **MS. GOLDEN:** Okay. The Commission's
2 guidelines on service availability are that the maximum
3 should not be more than 75 percent of the value of the
4 plant. The reason that we have that -- and you may
5 already know this, and I apologize if I'm telling you
6 things you already know -- but the reason for those
7 guidelines is that we want the -- by allowing customers
8 to pay service availability charges, that helps to keep
9 rate base lower and in turn keeps the rates lower. But
10 we do want the owners to have some investment in their
11 plant, and that's why we have a maximum. And the goal
12 is that it not be more than 75 percent, which means that
13 the utility owners would retain at least a minimum of
14 25 percent of the ownership of the utility, value of the
15 utility. Because -- the way this would be handled, that
16 the customer surcharge payments are going to be used for
17 these repairs, and the infrastructure replacements,
18 we're going to offset that with CIAC, you have the
19 potential at some point -- if you have a utility that
20 already has a very high level of CIAC, perhaps they're
21 already over that 75 percent threshold, and this could
22 at some point push them a little bit higher. We don't
23 think it really will because there's going to be a lot
24 of offsetting that goes on, but if it does, then all
25 we're saying is that we should take a look at that and

1 see whether or not this really is the best option.

2 We don't want it to get to the point that
3 the utility owners don't have a stake in the
4 utility. There should still be some -- they should
5 have some ownership of the utility. We wouldn't
6 want to get over 100 percent CIAC.

7 **MR. RENDELL:** Can I make a comment on that?

8 **MS. GOLDEN:** Uh-huh.

9 **MR. RENDELL:** I mean, I agree with the
10 ownership thing. But there are utilities -- actually
11 there's a lot of utilities that have little to no rate
12 base.

13 **MS. GOLDEN:** Right.

14 **MR. RENDELL:** They're almost fully
15 depreciated. So instead of saying automatically, "No,
16 it's not eligible," maybe you would say, "We'll allow
17 you to collect 75 percent of the project." That way
18 there is an ownership and there's some -- but the
19 majority of them out there, they're almost fully
20 depreciated now.

21 **MS. GOLDEN:** That's true. And we have some
22 that have negative rate base, there's no --

23 **MR. RENDELL:** Yes. Maybe think about a
24 provision that it won't automatically -- I mean, I know
25 it's just a consideration, but it won't automatically

1 kick the project out.

2 **MS. GOLDEN:** Right, yeah. And that's --

3 **MR. HILL:** I'm not sure that the way it's
4 written actually automatically disallows under this.

5 **MR. RENDELL:** No.

6 **MR. HILL:** It's just something that we'd
7 consider.

8 **MR. RENDELL:** Okay. So they can come in and
9 propose maybe 75 percent recovery or something.

10 **MR. HILL:** Right. (C) says, "The following
11 additional factors should be considered," and they will
12 be.

13 **MR. RENDELL:** Okay.

14 **MS. GOLDEN:** And that's really what we had in
15 mind. We didn't want to be that specific in the rule
16 that we tie everybody's hands with exactly how we would
17 address that situation. But we felt that it warrants
18 taking another look at it if we see that this is going
19 to push a utility over those maximums. But, no, it is
20 not intended to disqualify a project. It's just we
21 would possibly look at something like a cost-sharing
22 that maybe the utility might could get a loan for part
23 of it and then we would fund part of it through the
24 reserve fund. But, no, it's not intended to eliminate
25 the project.

1 **MR. WILLIAMS:** Can I mention something?

2 **MS. GOLDEN:** Uh-huh.

3 **MR. WILLIAMS:** Okay. First of all, I want to
4 thank staff for putting this together and proposing
5 this. It can't be easy when some of you weren't
6 involved in the discussions, you know, related to this
7 from start to finish. Unfortunately, I've been
8 involved, you know, related to the study committee, the
9 legislation, you know, and some of that type of stuff.
10 So I want to commend you for the job that you did.
11 Thank you.

12 I think there's probably going to be a
13 difference in interpretations of the statute related
14 to what you've mentioned. I mean, you're reading in
15 some of the specifics when, you know, it looks like
16 to me some of it is examples, and it doesn't prevent
17 you, I don't think, from creating this emergency
18 reserve that everybody is talking about. So I think
19 there's probably going to be interpretation
20 differences.

21 I think your interpretation of, you know,
22 treatment was intended along with distribution and
23 collection is probably correct in the sense that
24 this whole reserve was initially discussed and put
25 forth based upon what was going to be in the best

1 interest of the customer and protection of service
2 and reliability. And so I think, you know, if you
3 don't address treatment, you're not protecting their
4 service and the reliability of the system.

5 But I really don't think that this
6 prevents you from expanding it beyond this capital
7 improvement standpoint to the reserve stuff, of an
8 emergency reserve. And that was the original
9 discussion of the study committee. You know, the
10 intent was to try to protect the customer so that if
11 there was a component, a critical component that
12 failed, that it wasn't a situation where the owner
13 had to go to the bank, get a loan to replace that.
14 That takes 60 days, and that critical component is
15 out of service and the people don't have water or
16 service.

17 So it was really intended to be a reserve
18 fund so that there were monies there to fix a
19 critical component that failed so that you would
20 return service to the customers as soon as possible.

21 So I think without doing the emergency
22 part, we are really doing a disservice to the
23 customers of saying everything has to be preplanned.
24 Anything that fails that wasn't planned for is still
25 a loss of service. So I really think that you need

1 to take a look at the situation of making sure that
2 critical component failure, emergency failures,
3 weather, acts of God, you know, those types of
4 things are addressed in the utilization of this
5 reserve fund that's set up.

6 And to tell you the truth, I don't have a
7 problem, as I mentioned before, the noticing
8 requirements to the customers. I think they should
9 know that this reserve is being set up for that
10 particular reason so that there's a protection of
11 their service going forward if some act beyond the
12 utility's control occurs that affects their service.

13 **MR. HILL:** And, Gary, this is Adam Hill. I
14 just want to -- since this conversation is going there,
15 Section 5 deals with modifying the reserve fund, and it
16 essentially tries to make up for the fact that we don't
17 have an emergency fund. And if you read it, it has a
18 provision for applying for a new project that would, in
19 essence, use the funds already collected.

20 And so if, say, you know, you've got this
21 thing, you're -- in five years you know you're going
22 to have to replace this tank, so you've got this
23 fund building up for the tank, but then tomorrow
24 your main breaks and you've got to replace the main,
25 well, this you could submit and say we have a new

1 project we would like to use the already collected
2 funds for. This says, you know, go back and look at
3 Sections 2(e), (f), (g), (h), and (i) to submit that
4 information, which is essentially just what is the
5 scope of this project that you've got to do this
6 repair for? And you'll need that to do the repair
7 anyways, so collecting that information isn't really
8 burdensome. This would allow already collected
9 funds to be used for that emergency in the way
10 that's described here. So that -- if --

11 **MR. WILLIAMS:** Well, and I understand that.
12 But to me it's kind of a backhanded way of trying to get
13 at the intent of having a reserve fund. I would more
14 suggest that in the first part of project eligibility
15 there be an acknowledgment that this is an emergency
16 reserve fund and can be used for those failures or those
17 things that happen.

18 And when I talk about failures, I'm
19 talking about lightning hitting a hydropneumatic
20 tank, lightning hitting a well. And those are the
21 types of things that put people out of service, and
22 if the owner doesn't have money, they've got to go
23 get the money somewhere to fix that component, the
24 people are out of water. And we have those
25 situations that occur now.

1 I realize there's probably stuff that
2 happens because of lack of operation and
3 maintenance. You may be able to plan for that. But
4 you can't plan for a catastrophic failure of
5 something beyond your control, and that was one of
6 the intents of this reserve fund was to protect
7 those customers' interests if that happened. And I
8 think we're really selling the customer short if we
9 don't address that with this fund.

10 **MR. KELLY:** Gary, the statute doesn't allow
11 it.

12 **MR. WILLIAMS:** I don't see that it doesn't
13 allow it. It says, "Example, capital improvement
14 project." It doesn't necessarily say you can't do a
15 reserve fund, an emergency reserve fund. That's why I
16 say I think there's going to be a statute interpretation
17 difference.

18 And, J.R., you were involved on the study
19 committee. You know the intent was to have this
20 emergency fund for component failure beyond control
21 of the utility. It protects your customers.

22 **MR. KELLY:** And I understand and we don't have
23 to hash it out here. But you got to go back and look at
24 the final report of the study committee and the
25 parameters that were voted on with respect to the fund.

1 I mean -- but, anyway, that's another discussion for
2 another day.

3 **MS. GOLDEN:** But going to your point about
4 that these were just examples, that's not the way we
5 read it. Because the way it's worded, it says, "The
6 Commission shall adopt rules to govern the
7 implementation, management, and use of the fund,
8 including, but not limited to, rules related to expenses
9 for which the fund may be used, segregation of reserve
10 account funds, requirements for a capital improvement
11 plan, and requirements for Commission authorization
12 before disbursements are made from the fund." And so
13 the way we take that is because of the "including," and
14 then it lists all those, that we are expected to
15 actually include all those things in the rules. And
16 that's the way we've interpreted it, that that was not a
17 suggestion or an option, that it was a requirement that
18 we had to do that.

19 **MR. WILLIAMS:** Right. And I'm not arguing the
20 fact that what you have here does not meet that intent.
21 What I'm saying is I don't see that it prevents you from
22 doing an emergency reserve fund for a failure of
23 critical components to protect the customers. I mean,
24 you -- I'm not saying take any of this away and replace
25 it with just that feature. I'm saying add that feature

1 to this.

2 **MS. HARPER:** He's saying expand the list to
3 include that.

4 **MS. GOLDEN:** Uh-huh. You're saying now should
5 that be limited to that it's the unexpected things, like
6 the lightning strikes and so forth, that it's not going
7 to be due to lack of planning, lack of maintenance?
8 Because some of these failures, it will be because of
9 lack of maintenance, and the -- it seems that the goal
10 should be more you want to get them to plan and --

11 **MR. WILLIAMS:** I do want to get them to plan,
12 but I don't want the customer to suffer in any situation
13 that occurs. I don't want the customer without service.

14 **MS. HARPER:** I believe you said, catastrophic
15 failure, an act beyond the utility's control, quote;
16 right?

17 **MR. RENDELL:** I don't know how this fund would
18 be used for that. Because we just had a well collapse
19 and we had to fix it. I mean, we had to get service
20 back in. You know, it was like \$90,000, and we had to
21 file a staff-assisted rate case, which we have filed
22 now. But unless you already -- that's not something we
23 planned for. I don't know how this fund -- you'd
24 already have to have it in place for some other project
25 that you foresaw and then say, "Oops, now I need it for

1 this," which you probably don't have enough money to pay
2 for it anyway.

3 But I just don't know how this fund would
4 work for those emergencies where you have to get
5 that well back in service. We had to, you know, we
6 had to drill a new well. So I just don't know how
7 this would work.

8 **MR. WILLIAMS:** Well, on the emergency side,
9 how I envision that it would work is you're going to put
10 a line item on the bill. You're going to tell the
11 customer that you're collecting this money for an
12 emergency fund if it has to be tapped for replacement of
13 a critical component so service can continue.

14 And I was looking at it from the
15 standpoint you would be restricting that. Yes, if
16 that happened, they would contact you and utilize
17 that money out of that account based upon approval,
18 but it sat there for the benefit of the customer.

19 **MS. GOLDEN:** When we were researching this
20 when we first started trying to figure out how to do
21 this rule, what we did find is that -- and you see this
22 more commonly with municipalities, that they will have a
23 reserve fund. And it's just a percentage of their
24 revenue every year is set aside sort of like a savings
25 account like you're talking about. Those typically,

1 what I saw, were not more than 5 percent.

2 So if you were going to do something like
3 that, I think it would need to be small. We would
4 not be looking at this potentially 20, 30 percent
5 type surcharge that you could get with these, you
6 know, advance -- you know, these future projects.

7 **MR. RENDELL:** The cities and counties have the
8 R&R fund, which is repair and replacement, or they call
9 it different things. But it is -- you know, I've seen
10 it up as high as 10, you know, 5 to 10 percent. But a
11 lot of reason is because they don't take depreciation
12 either. They don't have a depreciation expense. But it
13 does give them a fund to go out and make repairs and
14 replacements and whatever, but that's built into the
15 rates. But you are correct on that, they do have a
16 contingency fund there.

17 **MR. SMALLRIDGE:** This is Mike Smallridge. My
18 comment to that is that if you are a Class C utility
19 with 100 customers, are you collecting enough
20 depreciation expense every year to be able to replace
21 that well that just got struck by lightning that you
22 can't go get a bank loan for? That's kind of the point.
23 Thank you.

24 **MR. RENDELL:** Yeah, absolutely not. I mean,
25 that was, you know, almost depreciated, so you're right

1 on that. You're not -- you don't have those funds
2 there.

3 **MR. WILLIAMS:** There's also always been a
4 realization, at least from my standpoint, that it's
5 going to take quite a few years of collecting this small
6 reserve fund in a surcharge to build up the fund to be
7 large enough to handle some of these types of things.
8 But if we don't start now, we continue to be in the same
9 mode of something failed and nobody has the money to fix
10 it.

11 **MS. HARPER:** I still don't understand how --
12 what Adam was saying about how No. 5 -- other than you
13 wanting No. 5 to be more prominent in the first section,
14 how does the availability of No. 5 allowing for a
15 modification prevent you from doing that with the
16 lightning strike or what have you? I mean, it's there
17 in the rule. You just want it in multiple places.

18 **MR. WILLIAMS:** Well, what I see in five I
19 understand, but what you're going to have to do is
20 you're going to have to show that you have some project
21 based upon capital improvement or whatever that is
22 legitimate to start collecting the money to put in the
23 reserve fund. And then if something more critical comes
24 up, you could ask for that money to be used. If you
25 don't have that capital improvement or you don't have

1 the planning that went on, you don't have the reason to
2 start collecting the money and having the fund there for
3 the emergency.

4 **MS. HARPER:** Okay.

5 **MR. WILLIAMS:** So I understand it if you go
6 forward with --

7 **MS. HARPER:** If you already have one. But if
8 you didn't have one in place --

9 **MR. WILLIAMS:** If you didn't have one, you
10 don't have it there to fund.

11 **MR. HILL:** Well, those utilities would have to
12 file for the emergency fund as well. So they would have
13 to have the forethought regardless in order to be
14 collecting for long enough for it to be worthwhile.

15 This way of getting to that end has a
16 couple of advantages that I see. One is that every
17 dollar that they collect from customers has a
18 purpose. So, you know, if no emergencies happen in
19 the next ten years, you know what this money is
20 going to be going to. It's going to be going to
21 replacing that, you know, cracking pipe, okay, that
22 we planned for ten years ago. So that's a benefit.
23 The customers have the -- you know, they know that
24 their money -- that they're paying more now than
25 they used to not pay this surcharge or whatever it

1 ends up being, that money is going towards something
2 and they're not just giving money to a company and
3 saying, "We trust you. You know, whatever comes up,
4 use it." That's one advantage.

5 The other advantage is it does have
6 companies -- it incentivizes them to make these
7 capital improvement plans, which you know they
8 should start thinking about it so that we don't have
9 as many -- not lightning strikes, but the sort of
10 negligent breakdowns.

11 So this -- if you want an emergency fund rule,
12 through this you can kind of get at that, but you have
13 to plan for your aging infrastructure as a way of
14 getting to it.

15 **MR. WILLIAMS:** And I understand that
16 100 percent, and that's where I want to get to is the
17 planning. But some of these people have to walk before
18 they can run, and they have to have the funds to protect
19 the service before they can plan for protecting the
20 service.

21 **MR. HILL:** Yeah. That's a whole different --
22 you'd have to rewrite this rule, I think, to have that
23 in mind. And if that's what the legislature would want
24 us to do as a first step -- you know, that's why we're
25 looking at the Florida statute to say what does the

1 legislature want us to create? And this is what we came
2 up with to aim at that.

3 And if they come back with a revised one
4 that puts more emphasis on that, then that is what
5 we'll put our efforts towards. Right now this is
6 what we've --

7 **MR. WILLIAMS:** I guess what I'm saying is I
8 think this is good. I don't have a problem. You're
9 saying it meets the statute and it's what they said.
10 I'm just saying that I don't think that they prevented
11 you from dealing with the emergency reserve side too,
12 and I see that as a critical component related to
13 protecting the customer.

14 **MR. HILL:** I think we could have another
15 discussion about whether that's something we should work
16 on moving forward. And, you know, I'd like to talk
17 about, you know, this rule. And if we can streamline
18 this and make it as good a first step as we can, I think
19 that's a good goal for today.

20 **MR. WILLIAMS:** And I just entered into it here
21 because I wanted to add it in the definitions at the
22 first part of the document to show the importance of it.
23 And so I have other, you know, comments that would
24 probably support what you're talking about and may
25 clarify what I'm talking about.

1 **MR. RENDELL:** First of all, I think it's a
2 good rule too. I want to commend you. But I want to
3 talk about the semantics of it. How does staff envision
4 the collection? Say, for instance, I was just thinking
5 if you have a project over 12 -- I'm going to keep it
6 simple -- over 12 months, like \$100,000 or whatever, are
7 you envisioning saying, "Well, I'm going to let you
8 collect 1/12th of that from the customers through, like,
9 a base charge or whatever"? I don't know the mechanics
10 right now.

11 But what comes to mind is if you're
12 collecting 1/12th but you start the project and a
13 third of the cost is in the first couple of months,
14 the vendors aren't going to wait to be paid and the
15 funds aren't going to be there to pay them. So can
16 you collect it for a period of time before beginning
17 the project to build up some funds to pay the
18 vendors? I guess that's -- I'm just kind of -- like
19 the semantics of it.

20 **MS. GOLDEN:** Yes, yes. In fact --

21 **MR. WILLIAMS:** I think that's the intent of
22 this.

23 **MS. GOLDEN:** Yeah.

24 **MR. WILLIAMS:** I'm just saying if you didn't
25 build any up --

1 **MS. GOLDEN:** Right. Yeah, that's --

2 **MR. RENDELL:** So basically you'd have to plan
3 it but don't start it until you have some funds to pay
4 whoever, XYZ Company.

5 **MS. GOLDEN:** Right, right. And we've included
6 a provision that the utility could request partial
7 disbursement. So if it's a project, like you say,
8 that's being done in phases, you could request that
9 amount of money be withdrawn from the fund to pay --

10 **MR. RENDELL:** If the funds were there.

11 **MS. GOLDEN:** If the funds were there. And I
12 do -- what you said, it's -- yeah, you don't have to
13 start the project. In fact, that's what we envision is
14 this would be more long-term, that you want to plan the
15 project so that you've got time to collect that money
16 before you would need to pay for the project. That's
17 one of the considerations. We have these list of other
18 factors we should consider and that's one of them is
19 whether or not there is enough time for you to actually
20 collect enough money. Now that's not to say that you
21 couldn't do it. If the utility had some other source of
22 money to help meet that gap until you could get enough
23 money, once the project is finished, what we envisioned
24 is the surcharge could still continue long enough that
25 it finished collecting the amount of money that would

1 pay for that project. That doesn't necessarily help you
2 if you can't get the money to pay that full cost. If
3 you could get a short-term loan or something and then
4 still be able to withdraw the money once enough is
5 collected.

6 **MR. RENDELL:** But if you do that, then you
7 have to consider the cost of the loan in the reserve to
8 be collected. So, I mean, you almost have to wait until
9 all the funds are almost collected before you can begin
10 the project.

11 **MS. GOLDEN:** Right. Now one of the other
12 things that we've listed as a -- something to consider
13 is if this is requested in conjunction with a rate case,
14 is to look at whether or not this falls under our pro
15 forma guidelines, that if it's going to be within the
16 24 months of when the application is filed, it may be
17 more appropriate just to address this as a pro forma
18 project in the case instead of doing a reserve fund for
19 it. So that's another option. That doesn't
20 necessarily, you know, help with the financing issue,
21 but it would help with being able to just go ahead and
22 get that in the rates a little bit quicker once the
23 project is completed.

24 So I think it's intended more to be for --
25 if it's a very expensive project, the idea, I think,

1 is that you would need to allow enough time that you
2 could collect most, if not all, of that money before
3 you do the project.

4 **MR. RENDELL:** The problem with putting it in
5 pro forma as a depreciation expense is, say, if it's 30
6 years or 20 years, you're actually not going to have
7 that money for 30 years to do the project to begin with
8 unless you have the money to do it up-front. So this --

9 **MS. GOLDEN:** Right.

10 **MR. RENDELL:** It doesn't really -- you can't
11 necessarily say, "Well, it's not eligible for the fund
12 because you're getting a SARC." Well, the company can
13 come back and say, "Well, I don't have the money. I
14 can't get the money. The bank won't give me the money."
15 So I think staff needs to think about that.

16 **MS. GOLDEN:** Okay.

17 **MR. KELLY:** And I've got some questions sort
18 of along the lines because Troy's first question was a
19 good one. How are you going to calculate the monthly
20 payment, and how far out are you going to -- in other
21 words, in his example, he said it's a \$100,000 project.
22 He anticipates it's going to -- I think you said, Troy,
23 12 months to complete it. So are you going to look at
24 12 months of payments? Are you going to look at three
25 years? How are you -- and I've got a bunch of smaller

1 questions back to that, but how are you going to decide
2 the amount of payment and how long -- for how long
3 they're going to be imposed?

4 **MS. GOLDEN:** Ideally what -- and what we
5 envision is this is going to be a separate surcharge,
6 that there will actually be a separate tariff page is
7 what our Division of Economics has proposed. That way
8 it's easier to track. And then once -- you know, years
9 down the road when everything's been finished, if the
10 utility doesn't need the reserve fund anymore and it's
11 canceled, it would be easier to cancel that surcharge if
12 it's separate instead of embedded into the rates. But
13 we believe it would be a flat charge. This is what
14 we're looking at. Of course, we haven't calculated one,
15 so the company may come up with something different to
16 propose when they actually have projects that they want
17 to ask for.

18 What we've looked at ideally, if you could
19 match the term to how long the project is going to
20 take and then take the amount of the project and we
21 would divide it over that number of years that it's
22 going to take to do that project and then divide
23 that out over the customers, it could be that
24 simple, or it --

25 **MR. KELLY:** So in -- okay. So in Troy's

1 example, he was correct, you would say it's a 12-month
2 project, it's going to cost \$100,000 -- I'm going to ask
3 a question in a minute about the 30 percent. But for
4 simplicity here, you would take the \$100,000 -- let's
5 make it \$120,000 so we can make it even easier, and it's
6 a 12-month project, so you take the 120, you divide it
7 by 12, and you say, "Okay, it's going to be a
8 \$10,000-a-month surcharge imposed on the customers of
9 that particular system." Is that what you're
10 contemplating?

11 **MS. GOLDEN:** Yes, except if -- when you
12 actually see what -- how much of a rate increase that
13 is, then there may need to be some adjustment to that.
14 If that results in --

15 **MR. KELLY:** And that's what I'm saying, which
16 brings me to the next question of the 30 percent. Is it
17 the rule's intent that a surcharge can never -- you're
18 limiting it to 30 percent of the annual revenue
19 requirement that's been approved for a particular
20 utility? In other words, if I'm Kelly Utility and I --
21 my annual revenues right now or my revenue requirement
22 is a million dollars, I come in with this project and I
23 do all of the proper noticing and the filing and
24 whatever and it's a, whatever, \$2 million project, it's
25 going to take a year to complete, that you're going to

1 limit -- all things else being considered, is the way
2 that you're looking at the 30 percent, okay, you say,
3 "All right, Mr. Kelly. Your revenues are a million
4 dollars for the year; therefore, your surcharge is going
5 to be limited to \$300,000 per year," and then you would
6 look at how many years it would take to collect the \$300
7 million -- excuse me -- to collect the \$2 million at
8 \$300,000 a year? Is that what the rule is
9 contemplating?

10 **MS. GOLDEN:** That's one way that that could
11 work. Now we don't intend for the 30 percent to be an
12 absolute cap. What we're saying is that once you reach
13 that level, then we may need to start looking at some
14 other options, like what you mentioned.

15 And just to tell you, there's nothing
16 magical about the 30 percent. It's consistent with
17 the limited proceeding rule. We do believe there
18 needs to be some type of a threshold that once you
19 reach a certain level, that maybe this might be too
20 much of an increase for customers and we need to
21 look at other options. But that's where it came
22 from. And if you have a suggestion on a different
23 percentage or a different way to handle that, we'd
24 like to hear it.

25 **MR. KELLY:** Okay. And I don't today. I

1 just -- that's why I wanted to ask a clarifying question
2 because I agree, my concern would be the rate shock of a
3 30 percent hit, especially if you've got a utility that
4 just came in, let's say, a year ago or a year and a half
5 ago and got a 50 or 60 percent rate hike and then the
6 utility comes in and asks for something like this and it
7 would be a 30 percent rate hike on top of that. I
8 agree, I think that would be unbearable.

9 The other question I have about the
10 30 percent, is that -- are you looking at 30 percent per
11 project or 30 percent of all projects? And my -- to
12 give an example, again, let's say I'm Kelly Utilities
13 and I come in with a five-year capital improvement plan
14 and say, "Okay, I need to replace my treatment plant,"
15 and that's -- you know, the cost of that would be more
16 than -- you know, would be 20 percent of my annual
17 revenue requirement. And then also in that capital
18 improvement plan I've got to replace all my distribution
19 lines, and that by itself would be 25 percent of my
20 revenues for the year, which, if you add those up, would
21 be 45 percent. Are those together going to be limited
22 to 30 percent, or are you going to say, "No, it's
23 30 percent per project"? Because if that's the case, I
24 can tell you I would have major concerns about
25 tremendous rate shock because I could see customers

1 paying upwards of 70, 80 percent in surcharges.

2 **MR. RENDELL:** J.R., I've got two points I want
3 to make before I bust at the seams. The first one, let
4 me flip that on you. And I don't have the answer.
5 That's why it's for discussion. That might work for a
6 large Class A or even a fairly large B. For a Class C
7 where the revenues are \$100,000 a year and replacement
8 of mains may be \$200,000 a year, you're already
9 200 percent of your revenue.

10 So I don't know -- I don't have an answer
11 for the small Class C's, 30 percent. That may take
12 ten years to get enough reserve. It's better to
13 just go ahead and do it. I don't have the answer,
14 but I've not really thought that through. I don't
15 know if the 30 percent is going to work. But,
16 again, you can't increase the rates 200 percent
17 either.

18 Getting back to the recovery, if you -- in
19 your example, in our example, I guess, now, over 12
20 months and you assume an even collection, well, if
21 you're purchasing a tank or purchasing a forced
22 draft aeration, the majority of that cost is
23 ordering the part to begin with. And so if 50
24 percent of your cost or 40 percent of your cost is
25 in the first two months, the vendors aren't going to

1 wait 12 months to get paid. They're going to say,
2 "Sorry. Either I'm not going to make it for you or,
3 you know, you're past due."

4 **MR. KELLY:** Right.

5 **MR. RENDELL:** So I don't know if -- maybe in
6 the project -- and since no one has filed these, I mean,
7 I guess we could look at it, is like maybe a timeline.
8 I need X dollars in the first few months and then lower
9 the surcharge later so that you have -- over the period
10 of time you collect the same amount of money, but you
11 collect more in the beginning and then it just decreases
12 over the months. The same is true but the reverse could
13 be true.

14 I think St. George Island did something
15 like this, similar, that they recovered -- you know,
16 they know what the recovery is and say, "I can
17 recover a little bit in the beginning, and then the
18 majority of my cost is going to be at the very end."
19 I guess you've got to plan where your project is and
20 where the costs are going to fall. Maybe you can
21 propose that --

22 **MR. KELLY:** Sure. And I don't disagree with
23 your thoughts. I mean, I'm just -- that's why I'm
24 trying to learn how this is going to work and obviously
25 because of the rate impact it could have. And I don't

1 disagree that -- with your comments there about you have
2 to buy the tank up-front. You can't buy it in pieces if
3 you're going to need to replace it or, you know,
4 whatever, you know, the equipment.

5 **MR. RENDELL:** Yeah. I just -- I don't think
6 it has to be a set amount every month. It could be,
7 like, X dollars in the first three months, X dollars the
8 next three months, and, like, you know, it might be
9 declining or inclining, depending on what the project is
10 and what you're going to do. I mean, main replacements
11 you could probably do in 90 days if it's a small system,
12 but you're going to have that loss within 90 days.
13 You're just not going to get the funds in time for that.

14 **MR. KELLY:** And I do appreciate where you're
15 coming from. But there again it's the rate shock, you
16 know. You've got a low income area and all of the
17 sudden you're telling them, "Well, for the next three
18 months you've got -- your bill is going to be double,"
19 you know.

20 **MR. RENDELL:** Sure. Maybe in those instances
21 you have you say, "I want to collect it for three years
22 and then I'll begin the project." And if OPC agrees,
23 you know, to minimize it and --

24 **MR. KELLY:** Sure. Yeah. I mean, I was
25 listening to your comments earlier about -- and I think

1 maybe that's what the senator had in mind about a
2 requirement for a capital improvement plan, that if you
3 can -- you know, you've got to come up and show what
4 your plans are for the next five years. You're right.
5 Then if you start planning a little bit in advance --
6 and I agree with what Andrew said earlier. I mean, I
7 don't want to overburden the smaller systems, but at the
8 same time it's their system and they've got to assume
9 some responsibility here and not just, you know, shirk
10 their duties to their company and to their ratepayers.

11 But I hear you about collecting it in
12 advance and then building up enough to say, "Okay. I
13 now have enough to go out and purchase the
14 engineering or the parts or whatever."

15 **MR. RENDELL:** Well, I hate to -- yeah, I hate
16 to throw another wrench in this, but you've also got to
17 take the time value of money. I mean, today's prices
18 aren't going to be the same as three years from now.
19 You can get as many proposals as you want, but the same
20 concrete tank today may cost a lot more in three years
21 or it may cost less. But, you know, prices don't go
22 down. They always go up.

23 **MR. KELLY:** But that's -- I hear you, but that
24 could be part of the modification or whatever. Doesn't
25 the rule contemplate -- I apologize, I don't have the --

1 doesn't it contemplate changes occurring in the project
2 or the amount?

3 **MS. GOLDEN:** Yes. And what -- and it would be
4 something like that. If there's -- something
5 significant changes about the project, if it actually
6 warrants an increase in the surcharge, then that would
7 be something we'd have to go back to agenda to do. But
8 we wanted the utility to be able to request those type
9 changes without having to file a whole new application.

10 **MR. KELLY:** Sure. I understand.

11 **MS. GOLDEN:** To answer your question about the
12 30 percent, we envisioned it being the whole fund, not
13 per project; that we would look at whatever projects are
14 being requested to be included in the fund at that time
15 and that the surcharge, if it was going to be more than
16 a 30 percent increase, then we would need to look at
17 some other options possibly. Not to say that we would
18 not recommend approving one that was higher than
19 30 percent, but we would certainly look at it a little
20 bit closer.

21 **MR. MAUREY:** This is Andrew.

22 **MR. KELLY:** And I appreciate that because I
23 went and looked at some of the -- Denise and I looked at
24 some of the DSIC statutes or DISC, whatever you call
25 them, in some of the other states, and I know that

1 they -- whatever percentage limitation their statutes or
2 rules impose, it was always in the aggregate. So I
3 appreciate that. Thank you.

4 **MR. RENDELL:** But, J.R., the difference in
5 those, just to -- those only recover depreciation and
6 rate of return. That's not a full recovery of the cost
7 of project. So the DSIC information, because I
8 helped -- I tried to get the one done here in Florida,
9 that's only the rate of return in depreciation and it's
10 not CIAC.

11 **MR. KELLY:** Right. No, and I appreciate that.
12 But on the flip side of that, I know they usually have a
13 limit of 5 to 10 percent; whereas, this is contemplating
14 more of a 30 percent.

15 **MR. RENDELL:** Sure, sure.

16 **MR. KELLY:** So I think there's a give-and-take
17 there.

18 **MS. GOLDEN:** Well, one of the other
19 differences is that for a lot of those others that have
20 the distribution system improvement charge is that
21 those, they allow increases throughout the year. Some
22 it might be as much as two increases per year that they
23 can go in and update that surcharge.

24 We were looking at this more as a you said
25 it and this is what's it's going to be unless there

1 is a change to the fund, like a project, new project
2 needs to be added or you have a significant
3 modification to a project. So that's another -- and
4 because in this case it's not just the depreciation
5 and taxes and so forth. This is actually collecting
6 the money that would be used to buy those plant
7 parts, and so that's why we believe that it warrants
8 a higher percentage. I believe Andrew had a comment
9 he wanted to make. Could we let him do that?

10 **MR. KELLY:** We don't want to listen to Andrew.
11 You're doing fine.

12 (Laughter.)

13 **MR. MAUREY:** Well, we -- that aside, we do
14 want -- we are concerned about rate shock, but there's
15 another consideration that we have that is related --
16 because this will be CIAC, and we discuss it on page
17 3 in Item 3. We don't want these utilities to contract
18 and shrink over time because if they did nothing but use
19 the reserve fund for any future investment over time
20 through depreciation, they're going to have no rate base
21 and that's problematic long-term.

22 **MR. KELLY:** Sure.

23 **MR. MAUREY:** So we want this to be useful to
24 the utilities for specific projects, but at the same
25 time we want to encourage the utilities to continue to

1 make investment in their system so they continue to have
2 a positive rate base.

3 **MR. KELLY:** And, Andrew, I think that my
4 last -- well, I'm not going to say last question. My
5 next question along this line was -- is how this might
6 work if you have a utility that comes in and asks for
7 the surcharge, they get it, and then -- and let's say
8 the surcharge is going to go for three years or
9 something like that. And then a year and a half later
10 the utility comes in for a rate case, whether it's a
11 SARC or a PAA, is the idea that the surcharge will just
12 continue separately and won't be considered as part of
13 that rate case? Will it be rolled into that particular
14 rate case, which I know, before Troy says it, that's a
15 concern to him. Because then if it's a long-term, say,
16 treatment plan or something it's getting, then now
17 you're going to have a long-term payout for the
18 depreciation over the years instead of a quick -- a
19 quicker collection of the monies to pay for that. Have
20 y'all thought that, about that?

21 **MS. GOLDEN:** Yes. What we -- what we're
22 planning is that whenever the utility comes in for
23 another rate case after they set up a Utility Reserve
24 Fund, we would take a look at it. Now that doesn't
25 necessarily mean we would go back in and recalculate

1 everything and start making changes. The utility would
2 have the option of requesting changes at that time. If
3 they came in for the rate case and they realized by then
4 that they now need to make changes to it or they need to
5 add another project, we would address that in the rate
6 case. We would not make them file a separate filing to
7 do that. But if there were no changes that were needed,
8 then again it could just be as simple as that we've
9 looked at it, the utility is not requesting changes, we
10 would say we believe it's still an appropriate surcharge
11 and then let it continue.

12 **MR. KELLY:** Okay. All right.

13 **MS. GOLDEN:** The other thing is -- let me say
14 one other thing. The other thing is we would believe
15 that the rates, the rate base, capital structure, so
16 forth, would all be trued up in a rate case for any
17 projects that have already been completed. So once a
18 project is completed, the next time the utility comes
19 in, the normal ratemaking adjustments would be made to
20 then reflect those, the plant replacements or repairs in
21 plant. And say, for example, if it was a project that
22 the utility did finance part of it and then used the
23 surcharge for part of it, there would be an adjustment
24 to capital structure. So we do anticipate making those
25 type of adjustments in rate cases.

1 **MR. WILLIAMS:** This is Gary. One of the
2 things I wanted to mention is, you know, I see this as
3 putting another tool in the toolbox for the utility
4 owner. And it may not mean that they're going to be
5 able to fund some project directly without outside
6 financing. So they still may have to go secure
7 financing for replacement of a component either on an
8 emergency basis or on a planned basis, but it's going to
9 be a lot easier for them to get approval at the bank if
10 they have the revenue to cover that. It's when they go
11 in and they have no assurance of how they're going to
12 pay it. So I don't see it as possibly taking away all
13 of the utility's need to go borrow money to pay for the
14 component of the time instead of up-front.

15 **MS. GOLDEN:** And I think one of the points
16 that was made in the legislative budget analysis, that
17 it may be that by having this additional money in the
18 fund, that it might enable a utility to get a lower cost
19 loan because they wouldn't need to get as much and again
20 they have this other source of money.

21 **MR. RENDELL:** Because the banks are going to
22 ask for the revenue stream. They're going to ask, "How
23 are you going to pay it back?" So if there's a stream
24 there, they can say --

25 **MR. WILLIAMS:** Or anybody, SRF, any of the,

1 you know, programs that, you know, are going to have
2 lower interest are going to ask for the same thing.

3 **MR. MAUREY:** I'd like to just pull away.
4 We've been going at this for two hours. If we think
5 we're going to go for a while longer, I'd like to take a
6 short break for the court reporter's benefit. But if we
7 think we're going to wrap it up in 15 minutes, maybe
8 we'll soldier on. What -- can I get a --

9 **MR. SMALLRIDGE:** This is Mike Smallridge. I
10 have a couple of comments and then I'm pretty much --

11 **MR. MAUREY:** I don't want to cut anybody off.

12 **MR. WILLIAMS:** I think it's going to take more
13 than 15 minutes.

14 **MR. MAUREY:** Okay. Good. Well, why don't we
15 consider a short break. People can stay on the line,
16 just go mute, and come back at a quarter till 12:00. Is
17 that good?

18 (Recess taken.)

19 **MS. HARPER:** Okay. I think we're going to go
20 ahead and resume. I think we're looking at, what,
21 another 30 minutes maybe or so of discussion, and then
22 --

23 **MR. FRIEDMAN:** Let me make sure I understand
24 what that last -- when we ended that last discussion
25 about, I guess, the criteria for -- that the Commission

1 is going to consider in whether to do a fund, and those,
2 including the percentage increase, are just things to
3 consider. So, like, the one that says, "Seven years
4 since the utility's last rate case," that's not a
5 defined bright-line that if it's more than seven, you're
6 not going to get one.

7 **MS. GOLDEN:** That's correct. We would just --

8 **MR. FRIEDMAN:** It's just something to
9 consider.

10 **MS. GOLDEN:** It was something we would
11 consider. And I'll give you an example. Suppose if it
12 has been more than seven years but they only need one or
13 two projects and it's not going to be a large surcharge
14 increase, maybe that would warrant going ahead and going
15 through with that as a separate application and not
16 require them to come in for a rate case. But if it was
17 --

18 **MR. FRIEDMAN:** I just wanted to make sure
19 those weren't bright-line criteria.

20 **MS. GOLDEN:** No. These were all intended just
21 to be things that we would take into consideration.

22 **MR. WILLIAMS:** That was going to be a question
23 of mine too, so I appreciate you covering that.

24 **MS. GOLDEN:** Were there any other questions,
25 comments, suggestions related to Subsection (1)?

1 **MR. SMALLRIDGE:** This is Mike Smallridge. I
2 have a couple.

3 **MS. GOLDEN:** Okay.

4 **MR. SMALLRIDGE:** I'll do the hard one first.
5 As a guy that's been appointed the court-ordered
6 receiver of a utility multiple times, I have -- I'm
7 looking at page 15, line 24. It starts off, "In the
8 event that the utility is abandoned."

9 **MR. HILL:** I'm sorry. Can we go back to
10 Subsection (1), as Martha asked, if that's not too much
11 trouble?

12 **MS. GOLDEN:** Well, we were trying to go
13 through the subsections in order, but we've kind of
14 strayed already. So it's all right. In the --

15 **MR. SMALLRIDGE:** I can wait.

16 **MR. HILL:** Well, you just asked for it, so I
17 figured we might as well see if anybody has things going
18 through it.

19 **MS. GOLDEN:** Yeah, does anybody else have
20 anything on Subsection (1)?

21 **MR. WILLIAMS:** That takes us to page 8, right,
22 or the next section is Utility Reserve Fund Filing --

23 **MS. GOLDEN:** The filing requirements, yes.

24 **MR. WILLIAMS:** It's anything before that?

25 **MS. GOLDEN:** Yes. Yeah, anything before that.

1 **MR. WILLIAMS:** I don't have anything.

2 **MS. GOLDEN:** Okay. Well, let's just real
3 quick try to go through the subsections and maybe we can
4 knock some of these out.

5 Subsection (2) are the filing
6 requirements, and this is just all the information
7 that we're asking a utility to file if they want to
8 request to create a Utility Reserve Fund. And, you
9 know, I know it looks like a lot, but there's some
10 of these that the answer would probably be "no" or
11 "not applicable," but they're just things that we
12 would want to know in order to evaluate the
13 projects, whether or not these are projects that
14 should be included in the Utility Reserve Fund. And
15 also to determine what the surcharge is, we would
16 need to know an estimate of the cost and so forth.

17 **MR. SMALLRIDGE:** I just assumed that you're
18 going to put an application on the website like the SARC
19 application and all that kind of stuff that would
20 essentially be developed.

21 **MS. GOLDEN:** We actually had worked on that.
22 We started it. Adam had started one. We were not able
23 to finish doing the application and try to get all of
24 this nailed down. So at some point we could create one.
25 I'm not sure that we're going to get it done before we

1 need to propose this rule, but at some point it could be
2 a separate application. We will continue looking at
3 that and we'll do it if we can. But basically what --

4 **MR. FRIEDMAN:** And if it's a staff-assisted,
5 they just do what? Just send a letter to say "Give us
6 staff -- we want staff assistance to set one of these
7 up," and then the staff comes in and does their thing to
8 answer all these questions?

9 **MS. GOLDEN:** Well, we would still want the
10 utility to answer as much as they can because they have
11 to tell us what projects they want. And we -- even
12 though it's staff assistance, we would still expect the
13 utility to go try to determine the cost and get
14 estimates on what the cost is going to be. Because
15 that's consistent with what we do in a staff-assisted
16 rate case. You know, we help with the calculations.
17 But as far as being able to go determine what projects
18 need to be done and estimate the cost, we would still
19 expect the utility to do that. So they would need to
20 pull as much of this together as they could. But if
21 they had trouble with figuring out how they needed to
22 file this information, we'll work with them on that, and
23 then also on calculating the surcharge.

24 **MR. RENDELL:** And, again, you're answering to
25 the best of your ability. Like, for instance, the date

1 that the asset was originally placed in service, if you
2 purchased the utility and have no clue, just put "Don't
3 know," put "Unknown."

4 **MS. GOLDEN:** Right. And that's why we also
5 included in that same one -- where we're looking at is
6 on page 9, it starts on line 10, where it asks for the
7 date that the asset was originally placed into service.
8 We've also added "or an estimate of the age of the plant
9 assets as reflected in the utility's depreciation
10 records if the original service date is unknown." So at
11 least to try to estimate what that is if you don't know,
12 because we do recognize that these utilities get bought
13 and sold and the records are not always retained. So
14 we've tried. I know it doesn't look like we did, but
15 we've tried to make it as easy as we can in some places.
16 We don't want to lock somebody in to the point that we
17 say, "Oh, we can't allow this because you don't know the
18 original service date." We will work with you on trying
19 to determine what it is.

20 **MS. VANDIVER:** I have a question on the
21 capital improvement plan that's in Subsection (e).

22 **MS. GOLDEN:** Yes.

23 **MS. VANDIVER:** And it may just be a wording
24 issue, but it kind of says, "A capital improvement plan
25 that includes the following for the projects," but it

1 doesn't really define what you want in a capital
2 improvement plan overall. Do you see what I'm saying?

3 **MS. GOLDEN:** Well, yeah. Maybe we can word
4 that better. What we mean is that this is the capital
5 improvement plan. This -- here's --

6 **MS. VANDIVER:** Could it include more than
7 this, though, or --

8 **MS. GOLDEN:** It could.

9 **MS. VANDIVER:** Should it? And I guess if you
10 defined what a capital improvement plan was and said it
11 has to have at least -- you know, it has to include this
12 and more or -- I don't know what you want it to be, so.

13 **MS. GOLDEN:** Well, and, again, we were trying
14 to limit it just to the information we have to have to
15 be able to evaluate what should be in the Utility
16 Reserve Fund. It would not be a bad idea for a utility
17 to have a more comprehensive plan, even the things that
18 they're not going to ask for in the reserve fund. But
19 just to be able to say what should be included in the
20 reserve fund and calculate the surcharge, we've limited
21 it to that information that we believe that we really
22 have to have to do that.

23 **MR. KELLY:** And I would echo, well, what you
24 just said. I really do think it's important for the
25 utility, you know, and it doesn't have to be written in

1 cement, you know, set in stone, so to speak, but I do
2 believe it's important for the utility to identify what
3 their plan is, you know. There's no -- I don't know if
4 there's something that says here for the next, you know,
5 five years or whatever. Because I know going back to
6 what was contemplated and discussed in the water study
7 committee was the utility providing, I don't know, it
8 looks like a five-year or seven-year plan of what they
9 see is on the horizon and what they're going to need to
10 do. They may not ask for a reserve fund for each of
11 those items, but I think it would be important for
12 the -- both the customers and the PSC to know, okay,
13 here's our plan. And, again, everything is always
14 subject to change because of what Gary brought up
15 earlier, acts of God, things that you can't plan for.
16 But I don't know. I think it's important to have that
17 rather than just say, "All my plan is, I need to replace
18 this equipment, this pump," and that's it.

19 Because, you know, if the idea is to get
20 them to thinking about the future and make, you
21 know, and seeing what is going to need to be done to
22 keep their utility running reliably and providing
23 good quality, I think it's important for even some
24 of the small folks to start thinking about planning
25 for the future, which would mean more than just the

1 one project they're asking for the reserve fund for.
2 So, anyway, I just commend those comments to you for
3 your consideration.

4 **MS. GOLDEN:** Okay. It would not be hard to
5 add that as additional information to require.

6 Let me ask Troy and Jared, would that --
7 do you think, would that be too much of a burden for
8 the utilities to take on that additional extra work?
9 Not just what they're asking for, but just to say,
10 "Here's our general long-term plan of what we're
11 going to need to do, but here's the things that we
12 need in the reserve fund"? Is that something that
13 --

14 **MR. FRIEDMAN:** I think -- this is Marty. I
15 think that's beyond, I mean, you know, beyond what a lot
16 of these smaller utilities are going to be able to do.

17 **MR. RENDELL:** Yeah, and I don't know what the
18 relevance --

19 **MR. FRIEDMAN:** Troy could handle it because
20 Troy could do that for his companies, but I think the
21 general small utility, I think that's too much to
22 require from them. It might be good information to
23 have, but I think it's too much to require.

24 **MR. KELLY:** Well, if they don't know, they can
25 say they don't know. They can say we're not

1 sophisticated enough to know.

2 **MR. RENDELL:** I don't know what --

3 **MR. FRIEDMAN:** But don't make it a requirement
4 that they have to have one.

5 **MR. RENDELL:** I don't know what the relevance
6 is.

7 **MR. FRIEDMAN:** So if you do have one, tell us,
8 then that's fine, but not to require.

9 **MS. GOLDEN:** J.R., I don't --

10 **MR. KELLY:** Okay. But if you don't require a
11 plan, I mean, to me saying the capital improvement plan
12 just includes the projects in the utility, that's not a
13 plan. That's just simply saying, "I need to make -- I
14 need to replace this treatment plant, so, therefore,
15 boom, that's what I want." That's not a plan. That's
16 just simply saying, "I need to replace this one item. I
17 want to set up a fund." To me, that's not a plan, and I
18 tell you that's not what was contemplated by the water
19 study committee when we had our discussions.

20 **MR. RENDELL:** J.R., I just don't know what the
21 relevance is to the fund. I don't know what -- I really
22 don't know how they coincide with each other.

23 **MS. GOLDEN:** I guess --

24 **MR. KELLY:** Well, when we discussed this back
25 in the -- and I think this is the reason the senator

1 included it in the statute that says you've got to
2 have -- approve a plan is to get -- this goes back to
3 what Gary was saying earlier, you've got to get people
4 thinking about beyond just yesterday. They have to
5 start -- you know, if they're going to take care of
6 their system, and this fund, this legislation was set up
7 to try to help them get money in advance, as we
8 discussed a little while ago about setting up the fund
9 and letting them collect money in advance to build up
10 this fund so they can use it to keep their system --
11 (phone ringing). Excuse me. I'm sorry.

12 **MR. RENDELL:** Can I ask what the statute says?

13 **MR. KELLY:** To continue to -- I'm sorry?

14 **MR. RENDELL:** Can I ask what the statute
15 specifically says?

16 **MS. VANDIVER:** "Requirements for a capital
17 improvement plan."

18 **MR. KELLY:** I don't have it in front of me. I
19 do apologize.

20 **MR. HILL:** This is Adam Hill.

21 **MR. RENDELL:** I don't have it.

22 **MR. HILL:** This is Adam Hill. "The Commission
23 shall adopt rules to govern the implementation,
24 management, and use of the fund, including, but not
25 limited to, rules related to expenses," blah, blah,

1 blah, "requirements for a capital improvement plan,"
2 and then it continues about other requirements. So it
3 literally only mentions the capital improvement plan by
4 name and not by content in any way.

5 **MR. KELLY:** And I -- thank you. I mean, I
6 thought it was in there. But to me, a plan is what you
7 expect to do for some period of time with your business.
8 And obviously capital improvements is what improvements
9 do you expect are going to be necessary, you expect to
10 make? Again, it does not have to be written in stone.
11 It's like a ten-year site plan for an electric utility.
12 It doesn't have to -- I'm not talking about going into
13 that kind of detail. But to me, a plan is what you
14 intend to do, not simply "I have plans to replace this
15 one project and I want a reserve fund set up." To me,
16 that's just a request for a project. That's not a plan.

17 **MR. FRIEDMAN:** Well, I disagree. I disagree
18 with your interpretation of that language.

19 **MR. KELLY:** That's fine.

20 **MR. HILL:** I can appreciate the -- this is
21 Adam. I can appreciate the problem that J.R. is
22 attempting to preempt, and that is that if customers see
23 this 30 percent increase for some sort of plan and then
24 the quality of service does not increase because the
25 utility is being mismanaged in other ways, and, you

1 know, they're looking at this big item that's ten years
2 down the road and they don't notice these other ten
3 repairs they need to do in the meantime, and that makes
4 sense. And I think we understand now the suggestion,
5 and we might be able to take that into consideration
6 before our next workshop, if that's all right.

7 **MS. GOLDEN:** And let me --

8 **MR. KELLY:** That's all I'm asking for, just
9 consider it. And I appreciate it.

10 **MS. GOLDEN:** Let me ask this. Let me throw
11 this out as a sort of compromise between the two sides
12 of this, between a full-blown long-term plan and only
13 these projects, is if we added an additional requirement
14 that the utility just tell us whether or not they have
15 any other projects planned that they're not going to ask
16 for in the fund, do they envision any -- this is not
17 exactly how I'd word this, but just simply to say rather
18 than saying give us a long, detailed plan, it's are
19 there any other projects that the utility anticipates
20 they'll need to undertake in the future but that they're
21 not proposing at this time? And that kind of gets you
22 to are they looking at what else they need to do?
23 Would -- do you think that that might be an option
24 that -- because you were saying it's like if they don't
25 know, they don't know. And so that would kind of get

1 you to that issue of are there other things out there?
2 Do we know that maybe five, ten years down the road that
3 we're going to be looking at some other projects that we
4 don't need to look at right now?

5 **MR. WILLIAMS:** That's kind of what I was --

6 **MR. KELLY:** And -- I'm sorry. Go ahead. I
7 apologize.

8 **MR. WILLIAMS:** I don't want to see it -- this
9 prevent planning, you know, or to not encourage
10 planning. But I do go back to the statement I made
11 before, I still think we have to address the emergency
12 situations that occur. And I think if you do that,
13 along with promoting the planning, it leaves some
14 options for them to address things as they occur. So
15 it -- kind of along with what you're saying, you know,
16 tell us what plans you have and what other future plans
17 you have. I want to promote that, but I wanted to make
18 sure that they understand that things may come up that
19 are high priority. And so, again, it kind of goes back
20 to --

21 **MR. KELLY:** Sure.

22 **MR. WILLIAMS:** -- it goes back to the fact --
23 I think we've got it in here in this section, do
24 something related to emergency reserve and availability
25 for emergency use. And also I think we have to do

1 something related to cost disbursement for pre-events
2 and post-events. I mean, we're trying to promote having
3 the money here so you have the money to deal with things
4 pre, but you've also got to have the ability to deal
5 with post-events if you're going to do an emergency
6 reserve for emergency events, and that may include a
7 number of different things. Like, for example, on your
8 description of external funding sources used, you
9 probably would have to explain whether that's a
10 reimbursement or the use of the fund.

11 **MS. GOLDEN:** What was intended by that is more
12 of a cost-sharing thing. If the utility, if they
13 already -- if they have money to invest, they can pay
14 for part of the project, or if they're going to get a
15 loan for part of the project. That's what we mean by
16 the external sources. Maybe we can find a better way to
17 word that, but that's what that is. It's for the
18 payment of the project as it's happening.

19 If they're going to be able to pay for
20 part of it but they can't pay for all of it, then we
21 would take that into account. But the surcharge
22 would just be for the part that they don't have
23 money for.

24 **MR. WILLIAMS:** And I will state further that,
25 you know, we do want planning to occur. That's, you

1 know, primary on this, so I agree with that. And
2 typically capital improvement plans, as we see, have
3 varying time lengths and varying detail, and that's kind
4 of what you want to do is you just want them to take a
5 look at have you done any planning and submitted any --
6 you know, given any thought? And that's kind of where
7 it crossed over here in the discussion of asset
8 management programs. They are really designed to look
9 at the component age, the criticality, you know, the
10 useful life, a number of different options that are
11 probably -- go into the capital improvement plan,
12 because it sets priorities and decides what needs to be
13 addressed first.

14 But I will say that that's a pretty
15 doggone complicated process and beyond a lot of the
16 Class C utilities, at least to start. So you want
17 to promote planning and you want to get them to the
18 point where they have asset management plans and
19 develop CIPs.

20 **MS. GOLDEN:** I know the asset management plan
21 that you let me look at was quite detailed, so, yeah.

22 **MR. WILLIAMS:** Yeah. I mean, they're
23 900 pages long because they take pictures of every
24 asset, you know.

25 **MS. GOLDEN:** Uh-huh. And that --

1 **MR. RENDELL:** One thing I just wanted to throw
2 out there again as a comment is when you're doing your
3 form as -- you know, to include somewhere in there
4 recovery of loan cost, if you have loan cost, and also
5 rate case expense. So it's not just limited to the
6 capital.

7 **MS. GOLDEN:** Okay. J.R., a little while ago
8 you were trying to say something else. Did you have
9 another comment?

10 **MR. KELLY:** No, no. I, again, I mean, I
11 was -- along the lines of what Gary said, I want to
12 encourage planning. I'm not trying to -- I don't even
13 know what an asset management plan is, so I don't --
14 I've looked at it, but I don't -- I'm not trying to make
15 it overly complicated, but I just believe even for
16 the -- and I respectfully disagree with Marty. I mean,
17 even for the smallest guy that may only have 50 or
18 75 customers, he or she needs to think about more than
19 just simply how to operate for the next 24 hours. And
20 it could be nothing -- and probably that's going to be a
21 SARC. You know, I mean, most likely that's going to be
22 a SARC. And I just think staff, when you're helping
23 them, should ask the question, you know, "Mr. Jones,
24 what do you see for the next five years, you know, are
25 going to need to be repaired in your system? What's

1 wearing out? What equipment is 50 years old?" I mean,
2 I think it can be done pretty simply. I'm not talking
3 about them getting an engineer to come up with a, you
4 know, certified plan that's got to be stamped and
5 approved, you know, by a PE. I just -- but I do believe
6 you've got to start people thinking at least for the
7 next five years what they contemplate are going to be
8 necessary to run their system competently. I'm beating
9 a dead horse.

10 **MS. GOLDEN:** Well, and I guess part of it, I
11 guess we don't all look at it the same way. I envision
12 this as being more for long-term projects, so you're
13 talking five years. I can see utilities coming in here
14 for something that they're not going to do until the
15 next four or five years, and so that's why I think we
16 sort of felt like that this was enough information for
17 us.

18 But we can probably work out a way to add
19 that, to ask that question and get the additional
20 information without it being detailed and, as you
21 said, a full-blown engineering analysis and so
22 forth. So we'll work on that.

23 **MR. KELLY:** And I appreciate you taking my
24 comments into consideration. That's all I'm asking.

25 **MS. GOLDEN:** Are there any other questions or

1 comments on the filing requirements?

2 And let me go back to the question about
3 the rate, like how it would be calculated. We
4 really haven't worked up examples of how we think
5 it's going to be. We've talked about how we think
6 that could work out.

7 Certainly when you ask for a reserve fund, if
8 you want to propose the rate a certain way, that would
9 be something we'd be open to look at. We think the rule
10 is, you know, it's flexible enough that we could
11 possibly look at a different way of doing that. But it
12 wouldn't necessarily have to just be the same amount the
13 whole way through, although we did sort of envision the
14 simplest approach would be if you could take the amount
15 and divide it over the years and the customers and just
16 let that be your surcharge for a while.

17 **MR. RENDELL:** I think it's flexible. I just
18 want to make sure it stays flexible, that we can request
19 different things. Because I just thought again, like
20 rate case expense, there's a statute on four-year
21 recovery. But this may only be recovered over two
22 years, so I don't know how you'd do that either.

23 **MS. GOLDEN:** Now one thing about this is that
24 there's no filing fee. The statute didn't authorize us
25 to -- didn't specify a filing fee for this. So if it's

1 filed as -- you know, in conjunction with a rate case,
2 it's just part of the rate case covered through that
3 filing fee. If it's filed as a standalone application,
4 there's no filing fee for it. So as far as the rate
5 case expense, it would be limited to, as you said, the
6 noticing and perhaps travel to agenda, yeah.

7 Anything else on Subsection (2)?

8 If not, I'll go to (3).

9 **MR. WILLIAMS:** The only thing on (3) I would
10 state are things that have already been discussed, is if
11 you could look at less burdensome methods on utilities.

12 **MS. GOLDEN:** Yeah. Okay.

13 **MR. WILLIAMS:** Such as not monthly, maybe
14 quarterly, semiannually, annually, whatever.

15 **MS. GOLDEN:** Uh-huh. Okay. We'll discuss it
16 again. We had -- we already had and this is what we --
17 there were people on staff who felt strongly that we
18 should do the monthly report at least on the money
19 collections. But we'll take it into consideration and
20 look at it again and see if there's a little bit of a
21 way to make that easier. We really were trying not to
22 make that be a burden on everybody to have to do it.
23 But because, as Andrew had mentioned before, we're
24 collecting money from customers in advance, and so we do
25 have an obligation to make sure that the money is being

1 secured properly. And the statute actually does require
2 that it has to be secured through an escrow account or a
3 letter of credit. That's not just us doing it. The
4 statute actually does require that.

5 Any other comments on the reports, reporting
6 requirements?

7 Okay. Subsection (4) deals with the
8 disbursement of funds, and this is just simply that when
9 the time comes that the project is done or again if it's
10 a project that's done in phases and the utility needs to
11 be able to get money to pay for partial work, that they
12 can request that. And this just spells out the
13 information that we need, and basically it's just we
14 need documentation that shows the project was done and
15 what the cost was of the -- that the utility is asking
16 for the disbursement for.

17 **MS. VANDIVER:** I just had a quick --

18 **MR. FRIEDMAN:** Does this allow -- does
19 paragraph (a) allow for construction draws?

20 **MS. GOLDEN:** I believe so, because if it's --
21 if you can show -- if it's being done in phases and you
22 have documentation to show that that work is being done,
23 and I'm not sure how far in advance that would be, but
24 it's -- you know, typically those big projects will have
25 documentation, the construction documents that show that

1 this part of the work is already completed.

2 **MR. HILL:** This is Adam. And if you look at
3 (c), it says what we need, documentation, and the first
4 one on there is invoices. So if you've got an invoice,
5 that's, I think, the smallest requirement for
6 disbursement -- the easiest, I should say.

7 **MR. FRIEDMAN:** So just a typical draw that you
8 would get in any construction project would be
9 contemplated by this?

10 **MR. HILL:** Right. And if (a) says, "Or
11 completed phase of a project," and if that phase is some
12 sort of planning phase, you know, that's -- we've got
13 the flexibility to go there.

14 **MS. BANKS:** I'm thinking that we may need
15 to --

16 **MR. FRIEDMAN:** It's just the word "phase" has
17 a different connotation to me than draws for the
18 construction of that phase.

19 **MS. BANKS:** I agree. I think that that may
20 need to be changed to accommodate those. And that --
21 Troy, you had mentioned earlier that, you know, you may
22 need to pay the contract. He's not going to wait to get
23 paid until the end of the project. So we may need to
24 choose a different word other than "phase."

25 **MS. GOLDEN:** Well, one of the types of

1 documentation that we've said would be acceptable is
2 contractor application and request for payment forms.
3 So I'm not sure if that addresses the concern that you
4 would have one of those at that point where you would
5 need to make the construction draw, or would you need
6 the money before you would even have something like
7 that?

8 **MS. BANKS:** And a lot of times --

9 **MR. FRIEDMAN:** No. Your contractor is going
10 to give a typical draw schedule and make a standard
11 draw, you know, usually less than 10 percent reserve,
12 and I just want to make sure that's contemplated here.
13 Because it keeps talking about showing completed work,
14 and I'm concerned that projects may take longer than the
15 contractor is going to provide one payment bill for.

16 **MS. BANKS:** We can work on that to get some
17 kind of wording. Because with this, it would have to be
18 a completed phase before disbursement. I think we need
19 to be able to handle something a little differently. We
20 can work on that.

21 **MR. FRIEDMAN:** I couldn't hear that.

22 **MS. GOLDEN:** That was Cheryl, and she said
23 that we would work on the wording for that, that we
24 agree that we do need to include something that would
25 allow for that in that type of situation.

1 **MR. FRIEDMAN:** Okay. Thank you.

2 **MR. RENDELL:** So it would cover, like, the
3 purchase of a tank or something like that?

4 **MS. BANKS:** Right. I think that's important.
5 I think we need to be able to find some way to word
6 that.

7 **MR. RENDELL:** This doesn't really apply to us,
8 but did staff consider, like, capitalized labor costs if
9 they do anything in-house?

10 **MS. BANKS:** I don't remember discussing that.

11 **MS. GOLDEN:** Well, we -- in the -- up in
12 Subsection (2) where we have the requirements for the
13 cost estimates, we included something in there that if
14 the work was going to be done by utility personnel, that
15 as long as that work is not -- you can document that
16 that's not part of their normal job duties, then that
17 cost could be included. But -- so, yeah, you can
18 include -- once it's all done, you could show what the
19 actual cost was because we --

20 **MR. RENDELL:** By, like, time sheets or
21 something?

22 **MS. GOLDEN:** Yeah. Because we do envision
23 that that would be part of your calculation of the
24 estimated cost on the front end when you request the
25 fund. Yeah.

1 **MR. RENDELL:** Okay. Thank you.

2 **MS. GOLDEN:** But that's the thing, just to
3 make sure that it's not something that they're already
4 paid, are being paid for.

5 But it's -- I was going to try to tell you
6 real quick where that is. If you go to page 10, and
7 it actually kind of start towards the end of line 1,
8 you know, one of the options was -- because we
9 recognized that there will be times when the utility
10 does the work themselves and they would just be
11 buying the parts and then they would have utility
12 personnel doing the work. So we did give that
13 option that your cost estimate could include the
14 information where you checked with a vendor to see
15 what those components are going to cost, and then
16 also the estimate of either a utility employee or a
17 contractual service provider that you're going to
18 have to pay to do that work, that it's not part of
19 their normal duties, then that could be included.

20 **MR. WILLIAMS:** My comment on this section
21 would be kind of related back to the whole thing I've
22 been mentioning, emergency reserve. If that would be
23 able to be included, there would need to be emergency
24 drawdown provisions of the fund. And the other thing
25 that may need to be included related to that would be

1 reimbursement because there are scenarios where you have
2 an emergency, you obviously have to restore service as
3 soon as possible, but you may qualify for reimbursement
4 under some federal declaration or, you know, agency.
5 And if that money came in, it probably should be used to
6 reimburse the reserve account. So if you're able to
7 accommodate the reserve, emergency reserve thing I
8 continue to talk about.

9 **MS. GOLDEN:** Okay. Okay. And so are you
10 thinking that would be money, like, say, if it was an
11 emergency, say, a hurricane, and they were able to
12 somehow get federal assistance for damage, that that
13 money should be used to reimburse the fund?

14 **MR. WILLIAMS:** I would say, yeah. Because
15 essentially what happens is that's one of the things --
16 when Troy talked about governmental entities having a
17 reserve, it's because they realize, even if they qualify
18 for FEMA funds, it's going to be three years. You can't
19 wait three years to restore service. So they restore
20 service out of the emergency fund and then reimburse it
21 when the reimbursement comes back.

22 **MS. GOLDEN:** Okay. Okay. We'll keep that in
23 mind if we're able to do it, if we work it out where we
24 can do an emergency fund.

25 Are there any other questions or

1 suggestions related to how we're proposing to handle
2 the disbursement?

3 I do want to point out we -- if it's an
4 escrow account, of course, the Commission Clerk is
5 the signatory on that, and so we would actually have
6 to do something official to approve releasing the
7 money from the escrow account. If it's secured
8 through the irrevocable letter of credit,
9 technically the utility is holding that money
10 themselves; we're not a signatory on anything. But
11 we do believe that, again, because this is
12 customers, customers are paying this money in
13 advance for these repairs, that it would be
14 appropriate to still go through that same type of
15 review process where we would see the documentation
16 that the work is done and then authorize the utility
17 to use the money.

18 Okay. No questions on Section (4)?

19 Subsection (5) deals with the Utility
20 Reserve Fund modifications, and we'd already talked
21 about that. This is basically just so we don't want
22 a utility to have to file a whole new application if
23 they need to change something about the project
24 that's already in the reserve fund or if a new
25 project comes up.

1 And we've --

2 **MR. KELLY:** If a new project comes up, is
3 there any customer notice required?

4 **MS. GOLDEN:** If the surcharge changes. Now we
5 didn't really envision that -- because we gave the
6 option -- it could be that the utility just maybe wants
7 to let us know and just wants acknowledgment that the
8 fund -- that they need to change something about the
9 fund. But if it doesn't rise to the level of needing to
10 change the surcharge, then I don't envision that they
11 would have to notify the customers about that. But if
12 we actually change the surcharge, I think they would
13 need to do a notice.

14 **MR. KELLY:** Okay. And would -- do you
15 include -- let's say the amount doesn't change but you
16 extend it two years. I would consider that changing the
17 surcharge. Do y'all agree or is that -- do you not
18 consider that a change?

19 **MS. GOLDEN:** Well, I don't think we had really
20 intended to necessarily put an ending date, a definite
21 ending date on the surcharge because things fluctuate.
22 Even though we set the surcharge, the utility may not
23 collect that exact amount of money every time its
24 customer numbers fluctuate and so forth. So we really
25 were leaving that a little more open-ended that it would

1 continue until all the projects are completed or until
2 it's collected enough money that the utility has been
3 reimbursed for those projects. Say, if they have to do
4 the project before there's actually enough money in the
5 fund.

6 So we really -- even though it would be
7 calculated to calculate it over a certain time
8 period, I don't -- we were not going to have it have
9 a specific end date. So, no, I think --

10 **MR. KELLY:** Okay. But I reckon I -- you know,
11 I'll think of a fictitious example. Let's say a utility
12 has got a reserve fund and they're just about ready to
13 collect all the money for the project and file for
14 another project, and they call it a modification and
15 it's another expensive project that's going to require
16 the fund to be increased another three, four years. Are
17 you not considering that to be a change in the surcharge
18 if the amount stayed the same?

19 **MS. GOLDEN:** I think if they're adding --

20 **MR. MAUREY:** Well, J.R., this is Andrew.
21 That's a fair question.

22 In our earlier deliberations on this, if
23 we weren't changing the amount, we weren't
24 considering that a change even if the duration got
25 extended. But it's something we can still talk

1 about.

2 We were thinking that once this -- because
3 of this provision in paragraph (5), that once it was
4 established and additional projects became -- the
5 utility made the Commission aware of these projects
6 and they were added. Because we would have to bring
7 it back before the Commission to add new projects to
8 it.

9 Well, let me take that back. I don't know
10 that we contemplated taking it back before the
11 Commission if we just add a new project.

12 **MS. GOLDEN:** If the surcharge doesn't change
13 --

14 **MR. MAUREY:** If the surcharge didn't change,
15 we weren't. But you're thinking that if the duration of
16 the charge changes, that that would be a change. We
17 weren't considering an end date. We were obviously
18 contemplating a time frame for collection, but we
19 weren't considering a hard end date when we did that.

20 **MS. GOLDEN:** But I think -- I think the
21 difference, though, is that --

22 **MR. KELLY:** And I --

23 **MS. GOLDEN:** Go ahead.

24 **MR. KELLY:** I'm sorry. And I agree. I
25 understand the flexibility of not setting up a hard

1 ending date. But to me, if you start adding new
2 projects, there's got to be at least some point of entry
3 for at least my office or customers to say, "Wait a
4 minute," you know, to say, "This project is not
5 necessary," you know, whatever. You've got to be able
6 to be reviewed; otherwise, a utility could start out
7 with a small project and then just keep adding projects
8 for the next 20 years and there never -- there would
9 never be a review or something.

10 So I don't have a problem if they're
11 modifying an ongoing project or, you know, it may be
12 something very minor. But if it's a whole new
13 project that's going to contemplate, I don't know, a
14 surcharge being extended two to five years or
15 something even though the amount is the same,
16 there's got to be some point that at least we have
17 an opportunity to review the project and make
18 objections if we were to have any.

19 **MR. MAUREY:** That's a valid point. We do --
20 we thought there were some checks and balances as the
21 seven-year requirement that a rate case be held isn't an
22 absolute. But as we get further and further from the
23 last rate case, there will be -- like we do in limited
24 proceedings, if you get too far removed from the last
25 rate case, a limited proceeding really isn't the most

1 practical. Sometimes you need to go look under the
2 hood, look at the whole company, and I think that might
3 be the case here.

4 Now the extreme example, as you said, gets
5 back to the point we made earlier about CIAC. You
6 don't want the utility to become 100 percent
7 contributed. So that's somewhat --

8 **MR. KELLY:** Sure.

9 **MR. MAUREY:** But on the margin, that's a valid
10 question. At what point would you want to re -- here's
11 the other concern. We couldn't -- we didn't want to
12 continuously bring this back to the Commission.

13 **MR. KELLY:** Sure.

14 **MR. MAUREY:** But at the same point, you're
15 correct, the intervenors, not just OPC, but others,
16 deserve a point of entry in this process. We've got to
17 think this through.

18 **MR. KELLY:** And I do understand. I wasn't
19 looking for an absolute answer today. Again, I think
20 today has been a very good workshop, albeit longer than
21 we probably anticipated. But everybody brought up very
22 good points that we've all got to take back and sort of
23 chew on a little bit.

24 **MS. GOLDEN:** Let me say one thing real quick.
25 I think as far as -- I mean, I understand the example

1 that you're giving, but the way I think what would more
2 likely happen is if they've already got the fund in
3 place and they're still collecting it for projects that
4 aren't finished yet and then partway through they
5 realize they need to do a new project and they come in
6 and add that, I don't see any way for us not to increase
7 the surcharge. And I understand your example, but to
8 do -- to have the exact same amount what you would have
9 to have is everything is already finished and now you're
10 adding a new one just to keep it going until the -- I
11 guess we should consider under that type of example, you
12 know, would that be something we would need to go back
13 to the Commission with?

14 But I think, though, realistically if they
15 add another project while they're still collecting
16 the surcharge for things that aren't finished yet,
17 it's going to trigger an increase. And at that
18 point, we would go to agenda to get the
19 Commissioners to approve the increase. So at that
20 point, you would be able to get involved in it.

21 **MR. RENDELL:** So it would be docketed. I
22 think his concern is if it's not docketed and extended,
23 he gets no notice that they filed something, then they
24 don't have a point of entry. Maybe you could provide
25 noticing that if there's a modification, OPC has to be

1 notified or something.

2 **MS. GOLDEN:** I think this would be docketed,
3 though. When it comes in, it'll be docketed. And I
4 believe we're going to have to keep the dockets open and
5 keep it in monitor status while we're -- for the years
6 while this goes on.

7 **MR. RENDELL:** Yeah. So if it's open, any
8 filing would be in the docket.

9 **MS. GOLDEN:** It would go in that docket.
10 Yeah, yeah. So the filing to request the modification
11 would go into that docket file. And then whatever staff
12 determines needs to be done, if it's simply to
13 acknowledge that there's been a change that does not
14 affect the surcharge, then that would also go in the
15 docket file. Yes.

16 **MR. WILLIAMS:** My comment is kind of related
17 to this modification but bleeds into the next section of
18 final, you know, deposition of the utility fund.

19 If, again, the emergency fund I'm talking
20 about, you know, is a possibility, I think that this
21 reserve fund should continue and not end because you
22 would need that emergency fund available going
23 forward. So it wouldn't be tied to a project
24 necessarily. It'd be tied to some activity that you
25 can't anticipate.

1 Also I'll just tell you from an emergency
2 reserve fund that most water systems have, typically
3 what they're doing is they're funding a certain
4 portion each year to get to some goal. So there may
5 have to be a fully funded goal or level that would
6 be established that then they would -- the surcharge
7 would end and they wouldn't continue to fund into
8 that for use until they drew some down and needed
9 to, you know, start funding it again.

10 So I don't know what that amount would be,
11 but that would be the kind of thing. I don't think
12 you would want to end the fund, especially if it
13 there's for emergency, and distribute because then
14 you don't have the fund. But you don't want to fund
15 it for, you know, more value than the total asset of
16 the utility, you know, that type of thing. So it
17 would be some goal that you would achieve and then
18 reach the end.

19 **MS. GOLDEN:** Okay.

20 **MR. WILLIAMS:** I know that complicates it, but
21 I wanted to point it out in the modification and the --
22 if you're not going to dispose of it totally at the end.

23 **MS. GOLDEN:** Uh-huh. Because the way it's
24 written --

25 **MR. KELLY:** And not to further complicate it,

1 but I'm just thinking off the top of my head, I haven't
2 thought this through, if you add any new project or
3 modify a project that's going to increase the cost, does
4 that mean if someone is using an irrevocable letter of
5 credit, that letter of credit has to be increased? I'm
6 not asking for an answer. I'm just throwing it out
7 there, just thoughts in my head.

8 **MS. GOLDEN:** I can give you an answer, yeah.

9 If something changes that the surcharge
10 increases, we would expect them to go get an updated
11 letter of credit.

12 **MR. KELLY:** Okay. Fair enough. Thank you.

13 **MS. GOLDEN:** Well, then going on to
14 Subsection (6) for the final disposition. I know, Mike,
15 you were talking about this with abandonment, so do you
16 want to go ahead and make your comment about that?

17 **MR. SMALLRIDGE:** Yes, ma'am. Thank you. I'm
18 looking at the abandonment receivership thing. And I
19 can't exactly place my finger on it, but I can tell you
20 that those that have been previously appointed receivers
21 of utilities, I would feel a lot better as a guy taking
22 on this project that if there was an escrow account with
23 a balance in it, that it'd be noticed to the court so it
24 could -- in the receivership order just to let everybody
25 know it's there. And the court would have, you know,

1 some notice and control over it because, you know, it
2 may, at the end of the day, be a criminal thing, and I,
3 as a receiver, going in wouldn't want to have that extra
4 burden. So I don't know if we can add some language
5 there that says that the Clerk can notify the court or
6 something like that, but it would make me feel a lot
7 better if it was something more than what's here and
8 that the court was involved and was part of the
9 receivership order.

10 And the only other question I had was
11 would the amount in the escrow account or -- would
12 that be subject to regulatory assessment fees? And
13 if it is on a yearly basis, can it be pled through
14 this rule that utilities can mark it up for
15 regulatory assessment fees?

16 **MS. GOLDEN:** The decision that was made is
17 that, no, it is not subject to regulatory assessment
18 fees, that this does not count as revenue, and that it
19 would be booked as it's holding cash. And I may have to
20 defer to an accountant for this, but it would be a
21 liability on the utility's books as opposed to revenue.
22 Because we did initially consider that the surcharge
23 would include an allowance for regulatory assessment
24 fees, but the decision was that this is not subject to
25 regulatory assessment fees, so that would not be part of

1 the surcharge calculation.

2 **MR. SMALLRIDGE:** Would that include the
3 interest that was accumulated in this account, say, over
4 five years in an interest bearing account? Would that
5 include the interest?

6 **MS. GOLDEN:** I believe so. That would not be
7 subject to regulatory assessment fees.

8 **MR. MAUREY:** Now if someone has a difference
9 of opinion on that, we like to hear that.

10 **MS. GOLDEN:** Yeah.

11 **MR. MAUREY:** Because we went back and forth on
12 it because if it is something to RAF, then we'll have to
13 gross up the surcharge for RAFs. But talking about it
14 amongst our staff, it was decided that -- as a liability
15 on the balance sheet as opposed to revenue and not incur
16 RAFs. So, but we're open to --

17 **MR. RENDELL:** You know, eventually it's going
18 to hit CIAC and not your balance -- not your profit and
19 loss.

20 **MR. MAUREY:** That's where we end it.
21 Eventually it's going to be CIAC. Now if someone has a
22 different accounting opinion on that, we're certainly
23 open to entertain it. But that's where we landed in our
24 internal discussions.

25 **MR. RENDELL:** It really should never hit your

1 P&L on an annual basis.

2 **MR. WILLIAMS:** I have a comment on this
3 section that you're going to hate me for saying it and
4 it's going to complicate things --

5 **MS. GOLDEN:** Never.

6 **MR. WILLIAMS:** -- but I'll go ahead and
7 mention it.

8 First of all, I think that whatever monies
9 are collected from the customers needs to go with
10 the customers, and I think that's what you've laid
11 out here.

12 **MS. GOLDEN:** Uh-huh.

13 **MR. WILLIAMS:** I have a concern on the
14 transfer part, and the reason I have that is if the
15 utility and the account is transferred to a governmental
16 entity, you lose all control of making sure that this
17 stays with the customers for its intended purpose.

18 **MS. GOLDEN:** Uh-huh, that's correct.

19 **MR. WILLIAMS:** And I'm just really concerned
20 about that from a standpoint of governmental entities
21 are notorious for transferring money out of the
22 enterprise funds to unassociated, you know, programs.
23 And if the money is collected from the customer for the
24 water and wastewater system, it needs to stay there.
25 Now once it transfers, you probably don't have any

1 control over it.

2 **MS. GOLDEN:** That's right.

3 **MR. WILLIAMS:** So what do you do before it
4 transfers to maintain control over that?

5 **MS. GOLDEN:** The only option we would have is
6 if we required a refund before the sale.

7 **MR. WILLIAMS:** And that's what I'm thinking is
8 it may require a refund to protect the customers'
9 interests if it's going to a governmental entity.

10 **MS. GOLDEN:** Yes.

11 **MR. WILLIAMS:** Now the other thing is, is that
12 if you put that in, it also satisfies my second concern.
13 If this reserve fund becomes large enough, I don't want
14 it to be a golden egg for somebody to consider that's
15 why they want to acquire that utility, the governmental
16 entity type of standpoint. It's, "Oh, I'll get ahold of
17 that reserve fund and use it for whatever I want." And
18 so if you require it to go back to the customers in a
19 refund before that happened, at least you're not making
20 it so appealing that it increases the takeover part for
21 an entity.

22 **MS. GOLDEN:** We had actually considered
23 including some language in here to say that we would get
24 the government entity to say did they want to take over
25 the fund or did they want it refunded to the customers.

1 But why we ended up with this language is exactly what
2 you just said. We don't have any control over what the
3 government does once they take over the system, and the
4 transfer to a government is approved as a matter of
5 right. There's very limited work that we do on that to
6 finalize that transfer.

7 **MR. WILLIAMS:** But let me ask you, before that
8 transfer occurred, could you make the requirement that
9 the fund is returned to the customer? I mean, before
10 that matter of right.

11 **MS. GOLDEN:** I suppose we --

12 **MR. RENDELL:** It's really after the fact.

13 **MS. GOLDEN:** Yeah. Usually it is, it's
14 usually already happened and --

15 **MR. WILLIAMS:** I told you you were going to
16 hate me for bringing it up. I'm trying to protect the
17 investment for what it was made and the customer, not
18 that it goes to buy police cars.

19 **MS. HARPER:** So what would be the trigger in
20 that scenario that you're proposing? When would we step
21 in to do the refund, at what point, before the matter of
22 right takes over?

23 **MR. HILL:** I guess make it an additional
24 requirement when you set up the fund that you report to
25 the Commission if you intend to sell to a government

1 authority.

2 **MR. WILLIAMS:** So then it's refunded before
3 it's transferred.

4 **MR. HILL:** And this is, you know, this is
5 definitely a complicated situation, so I'm just putting
6 out the first thing that came to my mind is that
7 this -- you know, the customers have a recourse if the
8 government is not providing good quality of service and
9 that, you know --

10 **MR. WILLIAMS:** But they don't have -- they
11 have an after fact recourse of transferring of the
12 enterprise fund when it goes over, so there's no
13 protection of their interests. It's bye-bye, gone, and
14 then you say, "What happened to my reserve fund?"

15 **MR. HILL:** Well, the reserve fund was meant to
16 protect their quality of service and now the government
17 is on the hook for any, you know, any poor quality of
18 service. So if the government can provide -- usually
19 transfers to government happen because the utility
20 cannot provide a good quality of service and the
21 government will then expend however much money required
22 to interconnect and to provide good quality of service.

23 **MR. WILLIAMS:** I understand in principle, but
24 unfortunately in practicality monies that are
25 transferred are monies that could have been used to

1 reinvest back into the utility to make it a better
2 sustainable entity. And you never regain that by
3 saying, "Okay, we've had a failure and we'll go get
4 money elsewhere to address it."

5 **MR. HILL:** I just don't see the government
6 coming in and not changing anything about a failing
7 utility.

8 **MR. RENDELL:** Unfortunately the Commission
9 just has no statutory authority.

10 **MR. WILLIAMS:** I know. I told you you weren't
11 going to like it. I prefaced it, you know, saying it.
12 I don't -- I just want to see it protected before it's
13 allowed to not be used for its intended purpose and the
14 customer loses their investment.

15 **MS. GOLDEN:** Well, one of the things that we
16 require when they do that transfer is that the utility
17 has to provide -- there's certain information the
18 utility has to provide to the government entity, and it
19 includes things like if they have customer deposits on
20 hold and that money goes with the utility. And so this
21 is sort of similar that it's being --

22 **MR. WILLIAMS:** Restrict that too.

23 **MS. GOLDEN:** Yeah, this is -- it's similar.
24 But that's the problem we have is that those transfers
25 are approved as a matter of right. We can't say, "Well,

1 no, this government, you know, this city or county can't
2 take it over." If they take it over, they can have it.

3 **MR. WILLIAMS:** I just thought that --

4 **MS. GOLDEN:** So that would be our only option
5 is if we, as you said, if we required a utility to let
6 us know before they finalized a sale and then we just
7 require that refund. But if you have a government
8 entity that was going to use the money for what it was
9 intended for, then it seems -- I don't know. Maybe it's
10 not in the customer's best interest that you just refund
11 the money and then that's not there to help.

12 **MR. RENDELL:** The problem with noticing, I
13 think that, you know, there's -- a lot of times there's
14 confidentiality agreements that they can't break, and so
15 I can see a utility suing the Commission for interfering
16 with the sale of a utility or something.

17 **MR. KELLY:** Yeah. I sort of agree with Troy.
18 I don't know what your statutory authority would be to
19 require the government or a utility to notify the
20 Commission that, "Hey, we're negotiating the sale of our
21 company." I don't know that you have that statutory
22 authority. But now I haven't looked all at Chapter
23 367 either, but --

24 **MR. WILLIAMS:** It may be a discussion to have
25 with the Commission.

1 **MR. KELLY:** And I'll also throw this in, that
2 the times that -- when I have seen at least recently
3 where the governmental entity takes over a system that
4 is old, dilapidated, needs help, whatever is done, the
5 customers turn around and get billed for that additional
6 stuff because the counties and the cities are not
7 wanting to have all their other customers subsidize
8 those repairs that are necessary. So I can see
9 instances where if a utility really wants to sell and a
10 governmental entity wants to buy, they may look at that
11 fund and say, you know, "We will buy this system, but
12 we're going to buy it because we've got this extra money
13 here we're going to get to pay for the repairs."
14 Otherwise, we're going to make the customers pay for
15 them anyway. I don't know. That's a complicated
16 question.

17 **MR. WILLIAMS:** I didn't say it was easy. Like
18 I said, it may be something you want the Commission to
19 talk about specifically because it's talking about
20 extending Public Service Commission authority over what
21 you have now. It's complicated.

22 **MS. GOLDEN:** And at one point we actually did
23 have something in the draft rule about that, but then we
24 ended up taking that out. We don't reference the
25 transfer to the government anymore for that reason

1 because we really don't have any control over it.

2 **MR. WILLIAMS:** I just bring it up.

3 **MS. GOLDEN:** I mean, we can think about it
4 some more, but my first thought is that I don't think
5 we're going to be able to do anything about that.

6 **MR. MAUREY:** Well, no, we appreciate you
7 bringing it up. We also would encourage, and we're
8 going to do it a little later when we near the end, but
9 we're going to ask for written comments about --
10 obviously this is being transcribed, but we're going to
11 ask for written comments from everyone by a date
12 certain, which we'll explain in a moment. But this
13 would be a point where we would like some feedback on a
14 fix. If -- so in all the -- we've had a lot of good
15 questions, a lot of good discussion. That's very
16 positive. We want you to go just that next step and
17 propose a fix. And so we will -- we'll take that into
18 account, and we're going to put out a new rule -- or a
19 revised rule based on today's conversation, but also
20 based on the written feedback we get.

21 **MR. KELLY:** So you said you were going to do
22 this near the end. Are we not near the end?

23 **MR. MAUREY:** I'm ready for it to be near the
24 end.

25 **MS. GOLDEN:** We're very close to the end.

1 I'll just mention that the last paragraph
2 in that rule in Subsection (6) is just sort of like
3 a worst-case scenario. If the fund is set up and we
4 have a utility that's not following through and
5 doing what they're supposed to do with the fund,
6 then the Commission will initiate a review of it and
7 then possibly discontinue the fund. So we felt
8 like, you know, just in case something goes really
9 wrong.

10 **MR. KELLY:** Sure.

11 **MS. HARPER:** So as Andrew mentioned, we do
12 encourage everybody to do written comments.
13 Specifically if you could include any draft rule
14 language that would address any of your concerns that
15 you're putting forth in the comments, that would be
16 great and helpful. We're under a statutory deadline
17 with this rule, so we've got -- you know, the more
18 specific help you could provide would help us expedite
19 this process, and we are under a deadline. So we're
20 looking at maybe requiring you guys to give us written
21 comments by Friday, January 6th. We've got to get this
22 rule proposed by the March agenda, which means a
23 February recommendation. And if we're going to have
24 another workshop, if we decide to have another workshop,
25 you know, it's going to be end of January or early

1 February. I mean, we just -- not even February if we
2 have the rec due at the end of February. So we're under
3 a strict deadline here. That's why -- I know it's the
4 holidays, so it's kind of crazy, but --

5 **MR. KELLY:** Adria?

6 **MS. HARPER:** Yeah.

7 **MR. KELLY:** I'm going to tell y'all for the
8 Office of Public Counsel, we're not going to be able to
9 meet that. We have testimony due in the Gulf Power case
10 the 13th. We have -- the whole week of the 9th we have
11 the Utilities, Inc. -- four days we're going to be on
12 the road with four hearings. So I'm just going to tell
13 you we won't be able to provide --

14 **MS. HARPER:** So what's the earliest date you
15 think you could provide comments?

16 **MR. KELLY:** We were going to ask for at least
17 February 1 because we just -- I mean, Denise is working
18 on this. She's also working on the Gulf Power case.
19 And we had some shortened discovery times in there, and
20 we're -- we're diligently working over the holidays on
21 discovery and for preparation of our testimony, and so
22 I -- we're going to ask at least until February 1st
23 because we just don't see where we're going to have time
24 to work on them. And I do appreciate the -- your
25 request to not only say, "Hey, here's a problem, here's

1 a concern," but try to come up with some language that
2 would alleviate or address that concern for you guys to
3 consider. And that's what we would like to do, but we
4 just -- we're just going to need time to do it. And
5 it's unfortunate that all of this is just -- and I know
6 that doesn't concern everybody else, but it's just where
7 our office is right now. And I'm also an attorney down
8 because of Danielle moving over to the House of
9 Representatives. So I'm -- it's just -- it is what it
10 is. I'm sorry.

11 **MR. MAUREY:** Well, J.R., yeah, this is Andrew
12 again. And I hear you because we have all of those same
13 events plus Bocilla, KW, hedging. So we understand the
14 burden and the time. But as Adria said, we have to file
15 this in late February. If you take till February 1 to
16 file, we probably will not have time to do another
17 workshop. That -- something has got to give on our end.
18 So we're trying to -- and we'll -- I mean, we -- I know
19 we can't compel anyone to file by a date certain in this
20 matter, but we --

21 **MR. KELLY:** No. I -- and I would say this,
22 and I'll sort of ask this question to Denise just out
23 loud. I think it may be -- we would like maybe more
24 time to file written comments than maybe have another
25 workshop, at least from our standpoint. Because I think

1 today obviously we've spent three hours plus and a lot
2 of good -- I've tried to take notes of the things Marty
3 and Gary and Troy and Jared had brought up. And at
4 least from my standpoint, I would rather have more time
5 to present written comments than do another workshop.
6 Denise, do you agree, or do you think it would be better
7 to do the workshop?

8 **MS. VANDIVER:** I could go either way. I
9 don't -- yeah.

10 **MS. GOLDEN:** Let me ask if this would help
11 any. I know Adria has asked -- we would like, you know,
12 very specific changes if you have specific changes. But
13 if you don't have time for that but you could just give
14 us your general suggestions, would that help you any as
15 far as the time?

16 Now I'll tell you the kind of things that
17 are specific that would help us. For example, if
18 you disagree with the 30 percent threshold and you
19 have a specific number in mind, then tell us that.
20 A general comment that "We just don't like it," that
21 doesn't help me. But if you can tell me what number
22 you think it should be, then that would help.

23 Here's the problem that we run into, and
24 you know how our -- how things work over here, but
25 the problem is that the rule has to be voted on by

1 the Commission and proposed by April 1st. And in
2 order to do that, we have to go to the March agenda,
3 which is kind of early in March. I don't remember
4 the exact date. And so backing it up from there,
5 our recommendation gets filed about two weeks ahead
6 of that. Well, before that it's got to be written
7 and go through a lot of review process. So if you
8 wait till February 1st, it's going to be very
9 difficult for us to incorporate changes based on
10 your comments.

11 **MS. HARPER:** Another approach we do is if we
12 do try to revise the rule based on our discussions
13 today, even though we haven't had any specific
14 suggestions as to rule language, we could do our best
15 attempt, get it out to you, to everyone, and then you
16 guys just make comments at that point. And we'll try to
17 get those incorporated again if any -- as best as we
18 can.

19 But, I mean, February, it's just not possible.
20 I mean, I know these other things are important, but the
21 legislature is requiring we get this done by April 1st.
22 So it's kind of taking a precedent for us on getting it
23 done. We don't want to get in trouble there.

24 So, I mean, if we got out the revised version
25 like mid-January, the second week of January, something

1 like that, that'll give us a little wiggle room towards
2 the end of January to communicate with all the parties
3 here and hopefully incorporate any suggestions or
4 compromises that we have and get something out early
5 February because we have to get our rec filed by then.
6 I don't know any other way to try to expedite it.

7 **MR. KELLY:** I understand. Well, we'll just --
8 we'll get you what we can by the 6th. But I -- and I
9 will take -- I think that was Martha saying we just
10 won't provide any specific language. But I do agree
11 that -- I don't want to provide a comment that just
12 says, "We don't like X," if we don't at least
13 propose Y and explain it. So we'll just do it along
14 those lines. And we're -- I'll just tell you now, we're
15 not going to worry about specific language because I
16 just -- we just won't have time. So we'll do our best
17 to get it to you by the 6th. If we can't, we can't.
18 But I understand you've got to go on and do what you've
19 got to do. We will get it to you as fast as we can.

20 **MR. WILLIAMS:** And I'd like to put in a
21 thought about having another workshop. I think it's
22 important to have another workshop. I'd like to have us
23 somewhat in agreement of what's being proposed to the
24 Commission before it goes to the Commission and you have
25 a bunch of discussion there and us arguing back and

1 forth.

2 **MS. GOLDEN:** I agree. That's a good goal to
3 have.

4 **MS. HARPER:** If we're looking at another
5 workshop, it would probably be towards the end of
6 January. So if we could get out another revised version
7 of this rule the second week of January and we could
8 still work -- we could all email, cc everybody so nobody
9 is left out of the conversation, we could work together
10 that way. And if there's still another -- if we need to
11 hash it out in person with a workshop, we can do it late
12 January if we have -- if we could find a way to do that.

13 **MR. MAUREY:** There's not going to be any ideal
14 time. Like, January are the Gulf service hearings.
15 Early February are additional UIF service hearings.
16 Wherever we go in the first six months of next year is
17 going to have something on it, and so we're finding that
18 with our staff that we just have to spread it thin.
19 So -- but this is, as you said, we have no choice. We
20 have to bring this forward on these dates, so we're --

21 **MS. HARPER:** So if we have to communicate via
22 email, you know --

23 **MR. RENDELL:** It would be helpful if we can
24 get copies of other people's comments. But I know it's
25 undocketed, so how is that -- is it going to be docketed

1 and then --

2 **MS. CIBULA:** We'll open a docket.

3 **MR. RENDELL:** And then all the comments would
4 be there for everyone else?

5 **MS. CIBULA:** Yeah. Just file your comments
6 with the Clerk's office. Then we'll get a docket opened
7 and move them all into that docket.

8 **MR. RENDELL:** And then we can just be a party
9 to the -- interested person --

10 **MS. VANDIVER:** Could you open the docket
11 before we file comments?

12 **MS. CIBULA:** We could do that.

13 **MS. VANDIVER:** That would be best.

14 **MR. RENDELL:** Could y'all let us know when
15 it's docketed so we could become interested persons? I
16 don't always watch the website.

17 **MS. CIBULA:** Okay. We'll probably list you as
18 interested persons because we'll have the sign-up sheet.
19 So we'll have your name listed.

20 **MR. RENDELL:** Okay. Good. Okay.

21 **MS. HARPER:** Okay. So that means we're going
22 to shoot for comments by the 6th. If you can't do it by
23 the 6th, you can just submit whatever you can when you
24 can. And then we'll get -- we'll communicate again
25 after that when we get our revised version of the rule

1 and then see if we need to shoot for another workshop.

2 So that's the plan? Okay. All right.

3 Thank you. Any other last comments on that?

4 **MR. KELLY:** Just thank you, Andrew, for this
5 short meeting.

6 **MR. MAUREY:** We did our best.

7 **MS. GOLDEN:** Thank you for hanging in the
8 whole time.

9 **MS. HARPER:** Yeah, thank you.

10 **MS. GOLDEN:** We appreciate y'all all taking
11 the time to meet with us and especially on a Friday.
12 I'm sorry we had to do it on a Friday, but we really do
13 appreciate all your comments and the time that you've
14 put into this.

15 (Proceeding concluded at 12:58 p.m.)

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

3
4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 22nd day of December, 2016.

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