



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

2 CHAIRMAN CLARK: All right, Item No. 2, Ms.  
3 Mary Anne Helton is going to introduce the item for  
4 us.

5 MS. HELTON: Good morning, Mr. Chairman and  
6 Commissioners.

7 Item No. 2 is staff's recommendation for the  
8 Commission to amend six minimum filing requirement  
9 rules, as well as the rate case notice and public  
10 information rules that apply to the electric, gas,  
11 water and wastewater utilities.

12 These amendments update and clarify rule  
13 requirements. The amendments reduce the number of  
14 paper copies that utilities are required to provide  
15 the Commission and the public. The amendments  
16 require electronic filings and document access  
17 instead of requiring paper copies. As a result of  
18 the amendments, four MFR rules for water and  
19 wastewater utilities would be repealed as obsolete  
20 and unnecessary.

21 OPC and some utility representatives are on  
22 the phone and would like to address the Commission.  
23 And there are also some utility representatives  
24 available to answer questions. And staff is also  
25 on the phone and available to answer any questions

1           you might have.

2           CHAIRMAN CLARK: All right. Thank you very  
3 much, Ms. Helton.

4           Mr. Rehwinkel, are you on the line?

5           MR. REHWINKEL: I am, Mr. Chairman --

6           CHAIRMAN CLARK: You are recognized.

7           MR. REHWINKEL: -- and thank you.

8           CHAIRMAN CLARK: Yes, sir.

9           MR. REHWINKEL: Good morning, Commissioners.  
10 Charles Rehwinkel on behalf of the Public Counsel.

11           The OPC is supportive of staff's modernization  
12 of the MFR rules for all regulated industries. The  
13 minimum filing requirements are essential bedrock  
14 elements of rate-making in Florida. They are one  
15 of the key distinguishing features that separate a  
16 file and suspend tariff base rate case from other  
17 file and suspend tariffs and limited proceedings.  
18 They represent the core issues that must be  
19 resolved in a full blown rate case.

20           In taking our supportive position on these  
21 amendments, we rely on the staff's analysis  
22 statements on page three of the recommendation that  
23 state in part that, quote, all draft amended rules  
24 have been revised with non-substantive changes to  
25 improve clarity. We accept that.

1           When staff calls substantive changes on the  
2           same page with respect to the electric and gas  
3           utilities -- what staff calls substantive changes  
4           on the same page are with respect to the electric  
5           and gas utilities substantive only in terms of the  
6           formatting and media and quantity required, or the  
7           format allow. There are no substantive changes in  
8           the information requested as we understand these  
9           amendments, and we would request confirmation of  
10          this on the record.

11           With respect to certain bill analysis and  
12          revenue information for water and wastewater  
13          utilities, the staff has further proposed that a  
14          more limited set of information be provided through  
15          Schedule E-2, E-6 and E-14, and this is on pages  
16          eight and nine.

17           The OPC does not object to this streamlining  
18          measure as long as it is recognized that, to the  
19          extent circumstances warrant and it is relevant,  
20          the non-MFR billing and revenue information can be  
21          obtained by parties through discovery. In other  
22          words, the word minimum in minimum filing  
23          requirements does not imply that the information is  
24          the most that the utility must provide in the case  
25          overall.

1           To the extent that rules governing discovery  
2           support the production of relevant billing and  
3           revenue information no longer required in the MFRs,  
4           it should be allowed for and provided. We would  
5           accordingly request confirmation on the record that  
6           this amendment would not be the basis for denying  
7           lawful and relevant discovery.

8           And finally, Commissioners, on page nine, the  
9           staff proposes that related party transaction  
10          requirements can be relaxed or dropped for water  
11          and wastewater utilities because such information  
12          is provided in annual reports. The OPC concurs to  
13          a point. By the time a utility files a rate case,  
14          and given the lag of time between the related party  
15          transaction information in the annual report and  
16          the rate case, including the pro forma adjustment  
17          timeframes, the resulting time period may be  
18          significant.

19          The dropping of this requirement should not be  
20          the basis for denying the production of relevant  
21          discovery regarding related party transactions that  
22          may not be reported in annual reports. Therefore,  
23          we would request confirmation on the record that  
24          predetermining relevant discovery is not the  
25          intention of the Commission and this amendment.

1           We would note for the record that in Order No.  
2           PSC-2020-0312-PAA-EI, the Commission approved a  
3           similar concept related to a variance in MFR  
4           requirements for FPL, where streamlined or limited  
5           filing requirements will not bar discovery that is  
6           otherwise permissible and relevant.

7           The OPC acknowledges and lauds the  
8           modernization of the MFR filing requirements  
9           without sacrificing the quality and substance of  
10          the information required to be filed. Accordingly,  
11          we ask that the staff, or you, confirm on the  
12          record the intent in the three areas we have  
13          discussed related to the information required to be  
14          filed in MFRs so that the Commission can move  
15          forward with adoption without the need for a  
16          hearing. And I would like to thank you for hearing  
17          me out on this.

18          I would also like to state for the record that  
19          even though it is not a requirement now, or in  
20          these amendments, the OPC would still like to  
21          receive one paper copy of the MFRs at the same time  
22          the MFR -- that the Commission receives its paper  
23          copies of the MFRs. We are not asking this be a  
24          part the rule. We are just stating for the record,  
25          and for information to the utilities, that we would

1           like to continue receiving a paper copy as a  
2           courtesy.

3           Thank you, Mr. Chairman. I am available to  
4           answer questions, and I believe Marshall Willis is  
5           also on the phone as well.

6           CHAIRMAN CLARK: Thank you, Mr. Rehwinkel.

7           I am going to ask Ms -- I guess Ms. Cibula, is  
8           that -- do we need to address --

9           MS. HELTON: Ms. Cowdery is the staff lawyer  
10          who worked on this.

11          CHAIRMAN CLARK: I am sorry. Ms. Cowdery,  
12          would you like to address the three specific points  
13          that Mr. Rehwinkel brought up?

14          MS. COWDERY: Yes, Commissioner.

15          This is Kathryn Cowdery, and staff can confirm  
16          that OPC's understanding of the rules are correct.  
17          There are no substantive changes to the actual  
18          information required for gas and electric utilities  
19          in the MFRs, and there is no intent to interfere  
20          with appropriate discovery in any case.

21          Thank you.

22          CHAIRMAN CLARK: All right.

23          MR. REHWINKEL: Thank you, Mr. Chairman. That  
24          satisfies us.

25          CHAIRMAN CLARK: Thank you, Mr. Rehwinkel.

1 I also got some nods on heads about your  
2 request for the paper filing as well. I think we  
3 will -- that's not a problem. That can be complied  
4 with easily.

5 All right. Next we have I believe Mr. Marty  
6 Friedman would like to address the Commission.

7 Mr. Friedman, are you on the line?

8 MR. FRIEDMAN: Yes, I am.

9 CHAIRMAN CLARK: You are recognized.

10 MR. FRIEDMAN: Mr. Chairman and Commissioners,  
11 Marty Friedman on behalf of Utilities Inc. of  
12 Florida and Pluris Wedgefield.

13 While we also laud the modernization of the  
14 minimum filing requirement rule, which includes,  
15 incidentally, filing the financial MFRs in Excel  
16 format with the formulas intact, I am hard-pressed  
17 to see why 10 paper copies of the MFRs, two copies  
18 of the engineering information -- and the  
19 engineering information can be very voluminous --  
20 and also two paper copies of the billing analysis  
21 still have to be filed.

22 I mean, most courts and agencies don't require  
23 paper copies of voluminous documents, and I just --  
24 while this is a nice baby step in the direction of  
25 modernizing and coming into the electronic age, it



1           just -- it's still a far cry from being paperless,  
2           which most courts and agencies have already gone  
3           to, and even me, at my age, and I am sure I am  
4           older than everybody -- all the staff people, I  
5           have learned to deal with the modernization that  
6           there is not going to be paper in the future. And  
7           if I can do it, I certainly would think that  
8           younger staff members would be able do it as well.

9                        So I would just ask that you ask the staff to  
10           revisit as to the water and sewer MFR requirements,  
11           whether they really still need 10 paper copies of  
12           the MFRs, still need two copies of the engineering  
13           information, because that's also voluminous, as I  
14           say, and it's also easier to deal with if that were  
15           in a PDF format separated by system and by type of  
16           information that's requested, and also whether  
17           there is -- whether they really need two copies of  
18           the billing analysis.

19                      I just -- I am afraid that once we have this  
20           rule, that it's going to be another decade before  
21           we do another change, and I just think that's too  
22           long to wait to get into the real world. And as I  
23           say, I would ask that you ask the staff to go back  
24           and revisit whether they really need paper copies  
25           of these, and if they do, whether they need that

1 many.

2 Thank you very much.

3 CHAIRMAN CLARK: Thank you, Mr. Friedman.

4 Ms. Cowdery.

5 MS. COWDERY: This is Kathryn Cowdery, and I  
6 am going to defer over to Ms. Bulecza-Banks who I  
7 think is in a better position to respond to that  
8 question.

9 CHAIRMAN CLARK: Okay. Ms. Banks.

10 MS. BULECZA-BANKS: Good morning. Cheryl  
11 Bulecza-Banks on behalf of Commission staff.

12 The staff did discuss the need for the filing  
13 of paper copies, and concluded that a reduction  
14 from the current requirements to 10 paper copies  
15 provided a reasonable first step as the Commission  
16 transitions toward a paperless process.

17 Staff determined that 10 copies would be a  
18 reasonable number by determining that by assigning  
19 one paper copy to each Commission office and one  
20 for technical division and one for the Office of  
21 General Counsel.

22 Part of this, when the Commission first  
23 established protocols and requirements for  
24 electronic filings, the paper copy filing  
25 requirement for rate case was maintained, and one

1 of the reasons is because of the volume of data  
2 that on the schedules is so large, that when you  
3 try to expand to be able to see the data, it  
4 distorts the numbers and staff has difficulty  
5 seeing that.

6 In addition, when you are doing analyses, you  
7 want to have a single view. And with the multiple  
8 of rows and columns on a schedule, it's very  
9 difficult to just see a snapshot on your commuter  
10 screen. So staff, the technical staff believes  
11 that's necessary to have an efficient analysis and  
12 review process.

13 So staff believes that -- we still believe  
14 that 10 paper copies is reasonable and will reduce  
15 the cost significantly from where it is today.

16 CHAIRMAN CLARK: All right. Thank you very  
17 much.

18 Anything else, Ms. Cowdery? All right, were  
19 there --

20 MS. COWDERY: No, sir, there is nothing else.

21 CHAIRMAN CLARK: All right. Were there any of  
22 the other parties that wish to address the  
23 Commission?

24 All right. Commissioners, any comments or  
25 questions?

1 Start with Commissioner Brown.

2 COMMISSIONER BROWN: Thank you, Mr. Chairman.

3 And just to start out the questions, I have  
4 just a few minor clarification questions, but I do  
5 want to see if staff looked at an estimate of how  
6 much these amendments will save customers in rate  
7 case expense. Anyone?

8 CHAIRMAN CLARK: I'm sorry. Commissioner  
9 Brown, who would you like to address that question  
10 to?

11 COMMISSIONER BROWN: The staff that --

12 CHAIRMAN CLARK: Staff. Mr. Futrell, do you  
13 want to --

14 COMMISSIONER BROWN: -- is making the  
15 recommendations.

16 MS. BULECZA-BANKS: This is Cheryl  
17 Bulecza-Banks, and this is one of the questions  
18 that was asked in the SERC process, and maybe Ms.  
19 Guffey could add to what we already know is a  
20 reduction.

21 COMMISSIONER BROWN: Sounds good.  
22 Ms. Guffey?

23 CHAIRMAN CLARK: Who did she -- I'm sorry, I  
24 am having a little bit of a hard time  
25 understanding. Ms. Banks, who did you refer this

1 question to?

2 MS. BULECZA-BANKS: Sevini Guffey.

3 CHAIRMAN CLARK: Okay. Ms. Guffey, are you on  
4 the line?

5 MR. COSTON: Commissioners, this is Tripp  
6 Coston with the economic staff for the SERC. I  
7 will just quickly try to address Commissioner  
8 Brown's question.

9 We did receive some information from the  
10 company concerning that specifically Florida Power  
11 & Light spoke about the voluminous nature of the  
12 number of copies and documents that are provide the  
13 in their MFR filing and the significant reduction.  
14 I don't have the specific number, so I apologize,  
15 but they recognize that it's just a significant  
16 number reducing the current number of copies from  
17 the current rule to what the proposed rule would be  
18 would create a significant reduction in cost  
19 because of just the voluminous nature of each of  
20 the MFR filings in relation to how many pages would  
21 need to be created for each of those numbers, and  
22 so they acknowledged it would be a significant  
23 reduction.

24 COMMISSIONER BROWN: Thank you.

25 MR. COSTON: They recognize it would reduce

1 the cost.

2 COMMISSIONER BROWN: Thank you, Tripp.

3 And, you know, I kind of had similar concerns  
4 to Mr. Friedman, quite frankly, my office, we do  
5 everything on-line other than the witness  
6 testimonies, which we like to have paper copies of  
7 the prefiled testimony. I think, you know, we are  
8 trying to modernize this rule, and by modernizing  
9 the rule, we will be, thereby, the more we get to a  
10 point, we are going to help reduce the checkbooks  
11 of the customers at the end of the day, and I  
12 think -- I was wondering how they got to 10 as  
13 well. I thought that was a somewhat arbitrary  
14 number, and was trying to figure that out with my  
15 own staff, and I would be -- I would be open to  
16 even reducing it further, but will wait for the  
17 other Commissioners' comments on it.

18 I do have just two more minor clarification  
19 questions on the rule regarding noticing. Under  
20 the 25-22.0406, and comparing that to 25-22.0407,  
21 so noticing to the governing bodies of  
22 municipalities and the county, the language is  
23 different for each of them. In fact, the water and  
24 wastewater has much clearer language about  
25 providing the notice of -- that the fact that the

1 utility is petitioning for a generate increase, and  
2 also given that notice with the location of the  
3 Commission's website. Whereas, the electric and  
4 gas is really, it's kind of vague. It doesn't even  
5 look like the utilities have to send them an actual  
6 notice, other than they have to establish a clearly  
7 identifiable link on their website.

8 I think I would like to be consistent, and I  
9 think the clarification on the water and wastewater  
10 side is much clearer than what staff did on the  
11 electric, and would love to hear why they are  
12 recommending two different types of languages.

13 CHAIRMAN CLARK: Ms. Cowdery?

14 MS. COWDERY: Yes, Commissioner. This is  
15 Kathryn Cowdery. I am looking at the language.

16 I think -- from my perspective, I think  
17 perhaps the difference started from working with  
18 what we had to begin with, and the language was  
19 different to begin with, and the history of trying  
20 to be much more clear with water and wastewater  
21 utilities in general in our rule-making, we tended  
22 to have more specificity, because with the small  
23 water and wastewater, we felt that they generally  
24 needed a lot more direction than the gas and  
25 electrics, which I think that probably was the

1 basis for some of the change.

2 COMMISSIONER BROWN: I mean, I understand that  
3 the whole intent of the recommendations are to  
4 obviate the need to mail a copy --

5 MS. COWDERY: Right.

6 COMMISSIONER BROWN: -- I guess of the  
7 petition, but it almost looks like we are losing  
8 the proper noticing -- notification of the rate  
9 increase, as well as the link, based on the  
10 language in the electric and gas, versus the  
11 language in the water and wastewater is pretty  
12 clear, that they must notify them upon filing a  
13 petition, and that notification, along with the  
14 docket number as well, identifies a docket and a  
15 copy, and accompanied by a statement that a copy of  
16 the petition and the MFRs can be accessed on the  
17 Commission's website.

18 I just would like to see those two -- I would  
19 rather it clearer in the rule. Again, as Marty  
20 Friedman pointed out, this rule may not be changed  
21 for another decade, so I would like to have the  
22 language replicated that we have in the water and  
23 wastewater, because the way I read the electric and  
24 gas, it's very vague of what type of noticing has  
25 to be performed.



1 MS. COWDERY: Well, I don't -- we can  
2 certainly either look into that or make that  
3 change. I know we have utilities on the line who  
4 could address if they see any problem with that  
5 clarification, or if that just basically would  
6 codify what they do at this time.

7 COMMISSIONER BROWN: I would just like to be  
8 consistent regardless of a practice in general. I  
9 think having the same type of language would be  
10 consistent and proper practice.

11 The other question I have is regarding  
12 25-30.436(5)(h). This is with regard to water and  
13 wastewater utilities.

14 Staff is proposing an unrecorded instrument be  
15 granted for utility access even when it is not  
16 recorded -- pardon me, where a utility -- so  
17 that -- I am sorry, I am reading my handwriting and  
18 it is very messy.

19 Staff is proposing an unrecorded instrument  
20 grant utility access and continued use where  
21 facilities are located, and this is a change from  
22 the existing rule and would allow approval without  
23 this, but it doesn't provide a remedy after an  
24 order is issued that they do not successfully get  
25 the easement or other legal instrument recorded.

1           That is a substantial from our current  
2           practice, and there is no remedies. Can you  
3           elaborate on that proposal?

4           MS. COWDERY: Yes, Commissioner. This is  
5           Kathryn Cowdery.

6           This language is in -- we put into our  
7           certification rules. It's in about three or four  
8           other rules that when we did a major rewrite of  
9           those rules several years back, we looked into this  
10          whole section in quite a bit of detail. And I  
11          think the reason we felt comfortable with that is  
12          the rule does require that the applicant file a  
13          recorded copy within the time required in the order  
14          granting a rate increase.

15          So like many other things, if you have an  
16          order that has a specific requirement, and that  
17          order -- and that requirement isn't met, the  
18          utility is in violation of an order and you can do  
19          a show cause, you can, you know, contact the  
20          utility and remind them of it. But, you know, you  
21          have a remedy, which is under our statutes, we can  
22          come back and make them comply with it and initiate  
23          a show cause.

24          COMMISSIONER BROWN: Again, thank you for that  
25          clarification. I know we could do a show cause. I

1 am just curious why we would recommend approving an  
2 application without a recorded instrument granting  
3 continued use of access to the utility facilities  
4 that, you know, anything can happen with easements,  
5 and there is just not a remedy clearly stated in  
6 this recommended substantial change.

7 MS. COWDERY: I think my recollection of  
8 putting together this language was that this was  
9 something with water and wastewaters that staff did  
10 see that they had a document, and for some  
11 reason -- and I don't know if it had to do with  
12 finalizing something, but they were not always  
13 recorded at the time of the actual application, and  
14 that's why that language was added.

15 MR. FRIEDMAN: This is Marty --

16 COMMISSIONER BROWN: Okay, I was just going to  
17 ask for Marty Friedman. I was just going to ask.

18 MR. FRIEDMAN: Thank you, Commissioner Brown.  
19 I was going to ask you if you want to weigh in on  
20 that, because that's an issue that we were involved  
21 in a lot of times in certifications.

22 COMMISSIONER BROWN: I do.

23 MR. FRIEDMAN: It's just the practicality.

24 It's kind of the chicken before the egg thing.

25 In a new certificate, where the utility is

1 going to get -- going to -- or usually it's the  
2 utility's parent or related party is going to  
3 convey the land where the facilities are located  
4 onto the utility, and the question is they don't do  
5 that unless they get a certificate. And so --  
6 because they don't get a certificate, there is no  
7 reason to transfer the land to the utility's name.

8 So what historically we have done is we've  
9 given a copy -- like, if it's the deed for a plant  
10 site. We file an executed copy of a deed, that's  
11 unrecorded obviously, but executed and ready to  
12 record, we file that with the application. And  
13 then, as was pointed out, within a certain period  
14 of time after the order is entered, we are required  
15 to file -- or not file, but record that deed and  
16 provide a copy to the docket file.

17 So it's just a practical issue. And I don't  
18 think that it's, in my recollection, has ever been  
19 a problem that somebody provided the executed copy  
20 and never recorded it.

21 COMMISSIONER BROWN: No, that's great. I  
22 appreciate that. I guess the emphasis was on  
23 executed. You know, if we just had a draft copy of  
24 an instrument unsigned, that would give me concern.  
25 And the language doesn't say, you know, executed.

1           It just says an unrecorded copy.

2           So I am comfortable the way that you  
3           present -- you represented that. However, going  
4           back to the other rule, I do think that we need to  
5           be consistent with the water and wastewater and  
6           electric and gas regarding notification to  
7           government authorities.

8           Thank you, Mr. Chairman.

9           CHAIRMAN CLARK: Thank you, Commissioner  
10          Brown.

11          Commissioner Polmann.

12          COMMISSIONER POLMANN: Thank you, Mr.  
13          Chairman.

14          First, I want to thank Commissioner Brown.  
15          She's obviously -- (inaudible) --

16          CHAIRMAN CLARK: Commissioner Polmann, hold up  
17          one second. We are having -- you are really  
18          breaking up bad there. Let's see what the problem  
19          might be. Okay, try it again.

20          COMMISSIONER POLMANN: Are we ready now?  
21          Okay. Let me see if we can do any better here.  
22          Commissioner Brown was breaking up before, and then  
23          she got better, so let me know if you can't hear  
24          me.

25          I want to thank Commissioner Brown first of

1 all, and I will come back to a suggestion on the  
2 work that her office has done, but I wanted to  
3 reflect on staff response to Mr. Friedman on number  
4 of copies, and so forth. The point there being on  
5 documents in terms of paper or electronic copies, I  
6 think it's significant that documents of the type  
7 that one would normally feel necessary in large  
8 format, paper format, that you would want to see  
9 printed in order for it to be legible, whether it's  
10 a spreadsheet or a drawing, that if we receive  
11 electronically and then staff feels like, you know,  
12 I can't really see this on screen, I want it to be  
13 printed, that, to me, would be a reasonable request  
14 that that be submitted in paper so that we don't  
15 find ourselves in-house delayed or, in fact, not  
16 having printing facilities for, you know, a large  
17 sheet, an engineering drawing, and end up with the  
18 burden that we can't do our job because we just  
19 don't have a facility or don't have enough copies.

20 I have been in that situation in prior work  
21 where the only way to be able to review something  
22 is to be able to print out something that's, you  
23 know, three feet long. So I think that's an issue  
24 that needs some consideration. I recognize that,  
25 as Commissioner Brown indicated, I don't know if 10

1 copies is the right number, so somebody can decide  
2 that.

3 The other aspect of this -- and again, I am  
4 very particular about where we are at in  
5 rule-making, and it's a burdensome process, and we  
6 want to get it right.

7 The fact that you go through rule-making and  
8 you may not come back to it for five or 10 years  
9 raises the element of significance of importance.  
10 And that we've lost the Chairman, but maybe he is  
11 listening.

12 Commissioners, I think -- I want to give some  
13 respect to the work that Commissioner Brown's  
14 office has done here, and some of the points that  
15 were raised, and I have to ask, Mr. Chairman, if  
16 staff can respond here. And I don't want to put  
17 the utilities on the line, you know, in a spot, but  
18 is there a particular urgency here that this needs  
19 to be moved forward? There may be some value, and  
20 I will simply just make the suggestion, and maybe  
21 it's a form of question, is there some value in  
22 taking another round here to make sure that  
23 Commission offices, such as Commissioner Brown's  
24 office, has an opportunity to get her answers and  
25 issues fully vetted? I -- you know, the

1 consistency issue between water utilities and  
2 others, you know, the language in rule-making is so  
3 important.

4 Mr. Chairman, I will just leave it there. You  
5 know, I don't have anything else to say other than  
6 recognizing that having the rules -- the  
7 language -- the issue, you know, whether it's a  
8 standard practice or not, to me, that's not --  
9 that's not a valid answer. I don't want to  
10 complaint about how these things have been  
11 addressed here today, but I just want to make sure  
12 it's done right.

13 Thank you, Mr. Chairman.

14 CHAIRMAN CLARK: I think you have got -- you  
15 made a great point, Commissioner Polmann, and this  
16 is a proposed amendment. I know staff has vetted  
17 this with --

18 Ms. Helton, what would be the formal steps  
19 that we would be going through? Once the  
20 Commission approves this, suppose we did defer it  
21 and make some more changes and come back, or can we  
22 make changes after we approve the proposed  
23 amendment?

24 MS. HELTON: Well, Mr. Chairman, and  
25 Commissioner Polmann, staff was deliberate with



1           respect to putting this recommendation on today's  
2           Agenda Conference.

3           The goal here, as I understand it, is to have  
4           a rule -- a revised rule in place in time for some  
5           of the rate cases, larger rate cases that we are  
6           expecting to be filed next year. So I am concerned  
7           that if we were to defer this, that that will  
8           impinge our timing with respect to having a revised  
9           rule in place by the time we are expecting some  
10          rate case filings next year.

11          With respect to the process, the Commission  
12          proposes a rule today, then any -- the Commission  
13          can change the rule, but the rule would be --  
14          changes would have to be based on another hearing  
15          with comments filed by interested persons for the  
16          Commission to consider. So any changes have to be  
17          based on a record of another process at a future  
18          Agenda Conference.

19          CHAIRMAN CLARK: What would force this to an  
20          automatic rule hearing? Just an opposition by one  
21          of the parties?

22          MS. HELTON: Well, it's not -- a rule hearing  
23          is more kind of like a public meeting, kind of like  
24          a legislative hearing, where we would hear --  
25          parties would file, or interested persons would

1 file comments about changes that they would like to  
2 see to the rule and the Commission, then would then  
3 consider whether to make those changes at a future  
4 Agenda Conference. So it's not so much of a  
5 protest as a request to change the language that  
6 you proposed.

7 CHAIRMAN CLARK: Then that would have to come  
8 back to the Commission again for another approval  
9 for --

10 MS. HELTON: Yes, sir. Yes, sir.

11 CHAIRMAN CLARK: Commissioner Polmann, you  
12 were -- you had another comment?

13 COMMISSIONER POLMANN: Yes, Mr. Chairman.  
14 Thank you.

15 With all due respect to our Advisor, I can't  
16 put this anymore bluntly than this, Mr. Chairman,  
17 that is not the answer I wanted. You know, to  
18 suggest that this thing is moving forward in  
19 rule-making in the light of my comments a few  
20 minutes ago, because we have particular rate cases  
21 coming forward on a particular schedule is not the  
22 way to do rule-making. And I will stand down, sir.

23 CHAIRMAN CLARK: Commissioner Brown.

24 MS. HELTON: Well, Mr. Chairman, if I could  
25 also add, you can -- if you would like to make

1 changes to what staff is recommending be proposed  
2 today, this is the time to do that.

3 CHAIRMAN CLARK: Okay. Valid consideration.  
4 Commissioner Brown.

5 COMMISSIONER BROWN: Thank you.

6 And I appreciate Commissioner Polmann's  
7 sentiment. We have to get rules right, especially  
8 when it takes a decade to change an outdated rule.  
9 And I think the comments that you said,  
10 Commissioner Polmann, whether -- you know, whether  
11 10 copies are the right number, I think that's very  
12 valid, and we, as a commission, can't be boxed in  
13 based on a schedule of expected rate cases.

14 The only thing that I know that needs to be  
15 consistent is making the language in the notice  
16 consistent with the clear language in the water and  
17 wastewater rule. That's my biggest concern.

18 I would also suggest that we insert a word in  
19 a 25-30.436(5)(h) that clarifies that it's an  
20 executed copy of an unrecorded instrument. And  
21 with that, I don't think 10 copies is necessarily  
22 the right number, but I can live with that.

23 CHAIRMAN CLARK: Thank you, Commissioner  
24 Brown.

25 Mr. Futrell.

1           MR. FUTRELL: Mr. Chairman and Commissioners,  
2           I think one of the comments from Ms. Cowdery  
3           earlier went to seeing if there is any reaction to  
4           the electric and gas utility representatives that  
5           might be on the phone to Commissioner Brown's  
6           comments about the noticing language and the  
7           consistency. That may be something to provide an  
8           opportunity to see if those folks have any reaction  
9           to the consistency -- the consistency between the  
10          language.

11          CHAIRMAN CLARK: All right. Are there any of  
12          the utilities that would like to comment on that  
13          aspect of Commissioner Brown's remarks?

14          MR. RUBIN: Thank you, Mr. Chairman. This is  
15          Ken Rubin on behalf of FPL and Gulf, if I can be  
16          recognized?

17          CHAIRMAN CLARK: Yes, sir.

18          MR. RUBIN: From FPL and Gulf's perspective,  
19          you know, looking quickly at the comment that  
20          Commissioner Brown made regarding the notice  
21          requirement, I think it's subsection (2) of the two  
22          rules, that looks -- that looks fine to us. We  
23          don't have any concern with duplicating that  
24          language.

25          The concern we would have in terms of -- and I

1           certainly understand and recognize the Commission's  
2           position regarding upcoming rate cases, there are  
3           provisions in the existing rule, or rules, that, if  
4           they remain, would require -- and it was FPL that  
5           indicated in comments -- for the 10 copies, it's  
6           100,000 pages, for the 21 copies under the current  
7           rule, the multiplication, obviously it's more than  
8           210,000 pages, but probably more to the point is  
9           the electronic filing requirements that are in the  
10          revise the rule.

11                 If the rule is not revised, the utilities, for  
12           their rate cases, will need to provide paper copies  
13           to libraries around the state, municipalities who  
14           have all told us that they really don't have any  
15           room for them, or want them. But we would be fine  
16           with the comments made by Commissioner Brown in  
17           terms of duplicating the language that is currently  
18           in the 22.0407 rule into the 22.0406 rule.

19                 Thank you, sir.

20                 CHAIRMAN CLARK: Thank you, Mr. Rubin.

21                 Any other utilities have a comment?

22                 All right. I believe that addressed that  
23           issue.

24                 Commissioner Brown, I look back to you. You  
25           have done most of the work on this. Do you have

1 a -- and I will just address one specific issue. I  
2 think everybody is in agreement with the other  
3 language, but the number of copies required, do you  
4 have a suggestion or something that you want to  
5 discuss further with staff in regards to that?

6 COMMISSIONER BROWN: I see Commissioner Graham  
7 does, and I would defer to him, but I would say  
8 five, but --

9 CHAIRMAN CLARK: Commissioner Graham.

10 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

11 I guess maybe I am the dinosaur here on the  
12 Commission. I definitely want a copy. I know -- I  
13 can't remember who from staff went through and said  
14 what each one of the 10 copies went to. I know the  
15 first five went to the five different Commission  
16 offices. My office definitely wants that copy.

17 You know, we can zero down and change the  
18 number of copies at some other point. I don't know  
19 that we necessarily need to do that now. I mean, I  
20 can't sit back and argue with staff with the 10  
21 that they say that should be out there, if that  
22 should be eight, or that should be seven, or that  
23 should be six. I mean, I think it would be  
24 arbitrary to say it's five, and does that mean that  
25 the five Commission offices don't get it and staff

1 gets everything electronically? I don't know where  
2 that is or how that -- how that comes about. And,  
3 you know, I am speaking for my office today. You  
4 know, I may not be in this office next year at this  
5 point, and maybe somebody else may or may not want  
6 to have that copy. So -- and I don't know if you  
7 want to put some sort of flexibility into that,  
8 that I don't know.

9 I agree with Ms. Helton, if we want -- if we  
10 want to take that first step now and then we can  
11 make another step at some other point, that's fine.  
12 But I think this is a pretty significant step down,  
13 going from 21 copies to the 10 copies.

14 And I can honestly tell you my -- I have a  
15 certificate in pulp and paper, a minor if you will,  
16 so my job working for Georgia-Pacific, I always ask  
17 for paper.

18 CHAIRMAN CLARK: Duly recognized.

19 Mr. Baez.

20 MR. BAEZ: Thank you, Mr. Chairman and  
21 Commissioners.

22 I think, along the thoughts of what  
23 Commissioner Graham just said, that's sort of what  
24 I was thinking. When the question was answered  
25 originally, Ms. Bulecza-Banks sort of laid out the

1 rationale for the number. And I think the bottom  
2 line number started at five because the divisions,  
3 it will be hard to justify any division that takes  
4 part in the rate case process not having to meet,  
5 and so that became -- that became the rock bottom  
6 number.

7 Another five, as Commissioner Graham pointed  
8 out, really becomes a matter of reference for the  
9 Commission suites, and I am not -- I am not  
10 suggesting that anyone should pass up their -- you  
11 know, that those numbers are negotiable amongst you  
12 all. Clearly, some offices can beg off and others  
13 don't need them.

14 What I think we can accommodate is, as long as  
15 the needs of the professional staff are maintained,  
16 are addressed for the rule, whatever needs the  
17 suite may have, I think we can accommodate that  
18 in-house, whatever specific needs you all may have  
19 with respect to MFR filings. You have that  
20 commitment from the staff to provide you with  
21 whatever information, printed or otherwise, that  
22 you are going to need.

23 The only thing, as you all discuss what the  
24 magic number ought to be, is that you remember that  
25 at least half of that number corresponds to the



1 needs of -- the professional needs of the staff,  
2 and so if you can keep that in mind, then we would  
3 be ready to make up the difference ourselves  
4 customized to what the suites need.

5 CHAIRMAN CLARK: I may be oversimplifying  
6 this, but in the process of making the filing, an  
7 electronic copy, one electronic copy would suffice  
8 to might all of the requirements, the documentation  
9 it there. So everything from that point on is a  
10 matter of convenience for us and for staff, and I  
11 guess a financial matter as well, because the cost  
12 of reproducing the documents.

13 So if you establish the minimum is the  
14 electronic filing and one hard copy, and then a  
15 number to be determined by the Clerk that we could  
16 set arbitrarily at any time would that be -- I say  
17 arbitrarily. A specific number that may vary over  
18 time depending on the needs individual of the  
19 Commission and the staff. There might be a  
20 situation where we need 30 copies, and then there  
21 might be a situation where we need three, is  
22 that -- am I overly --

23 MR. BAEZ: You are sort of -- you are around  
24 the target. And I think you alluded to it  
25 correctly. This does become a cost issue. I am

1 not going to lie. The more responsibility for  
2 producing paper copies in-house that we have to do,  
3 that's a cost to the Commission, and I won't -- I  
4 won't get into the rabbit hole, let's not fall down  
5 that rabbit hole --

6 CHAIRMAN CLARK: Sure.

7 MR. BAEZ: -- but I think you understand at  
8 least what the central issue is for us in terms of  
9 cost.

10 The part about -- which is why we are willing  
11 to come halfway -- not willing. I think we can be  
12 comfortable coming halfway so that total burden is  
13 not on the staff to now produce that.

14 I think, to your comment about having the  
15 number of paper copies be a moving target, I think,  
16 I won't speak for General Counsel's Office, but I  
17 think that might get us on the outside of what the  
18 rule-making is intended to capture.

19 COMMISSIONER FAY: Mr. Chairman, can he speak  
20 into the mic more directly?

21 MR. BAEZ: I'm sorry.

22 COMMISSIONER FAY: We are losing you.

23 MR. BAEZ: Apologies.

24 COMMISSIONER FAY: Thank you.

25 MR. BAEZ: But as I said, my main point was

1           that I would like us all to keep in mind what the  
2           staff needs are, both in terms of actually having  
3           paper copies to distribute and the cost involved  
4           also, I am going to say, to be able to accommodate  
5           the remainder. We are giving -- we are giving up  
6           some --

7           CHAIRMAN CLARK: Okay. Commissioners, let's  
8           wrap this item up. Any other comments, thoughts,  
9           ideas? How would you like to proceed?

10           I am sorry, Commissioner Fay. You are in the  
11           corner down here. It's kind of dark. I can't see  
12           you.

13           COMMISSIONER FAY: I am feeling left out,  
14           Chairman Clark. Thank you.

15           Based on my colleagues' comments, I think  
16           this -- it exemplifies rule-making, right? So  
17           we've got an item in front of us that would kick  
18           off the proposed rule and allow for comments and a  
19           process to bring back potential comments or changes  
20           on those rules.

21           I think, from hearing some of the feedback,  
22           we've got some different positions based on  
23           different Commissioners' thoughts on how this could  
24           proceed, and we are allowed the opportunity to  
25           engage in that, and we would be the ones

1 specifically adopting the final rule based on how  
2 it's written.

3 So to me, it seems appropriate to move forward  
4 with the agenda item that's presented in front of  
5 us, but then have some discussions about what those  
6 numbers might be finalized. And I think to some  
7 very good comments here today as, you know, if a  
8 chair -- or if an office has an opportunity to say  
9 yes or no they need it. I know we do have the  
10 prefiled testimony, and Commissioner Brown  
11 mentioned it. I prefer to have some of that  
12 printed, and others, we say we don't need it to  
13 save the cost for the agency. So I think we are  
14 table to do that with the item in front of us, and  
15 potentially get some feedback that's needed.

16 So I would be prepared to move the item  
17 forward, Mr. Chairman.

18 CHAIRMAN CLARK: Commissioner Fay, let me ask  
19 you a question, and Ms. Helton is waiving at me  
20 over here as well.

21 If I understood what she said earlier, if you  
22 make a proposed change, that has to come -- unless  
23 we incorporate that today, the specific change,  
24 then it would have to come back to the Commission  
25 again next month for another proposed amendment, is

1           that correct?

2           MS. HELTON: Mr. Chairman, let me -- maybe I  
3           wasn't super clear, so let me try to kind of put  
4           everything back in context.

5           If the -- any rule that the Commission  
6           proposes today, if there are no comments filed  
7           about that rule, then the rule that the Commission  
8           proposes today will be sent to the Secretary of  
9           State for adoption. So any changes based on the  
10          discussion today that the Commission would like to  
11          see, then the Commission should make those changes  
12          to what staff has recommended today. Then if there  
13          are no comments filed about that, then that is the  
14          rule that will be filed for adoption with the  
15          Secretary of State.

16          CHAIRMAN CLARK: So we can't --

17          MS. HELTON: So you have to --

18          CHAIRMAN CLARK: -- we can't come up with a  
19          number of copies next week without having --  
20          without bringing that back before the Commission  
21          again, is that what you are saying?

22          MS. HELTON: What I am saying, that if you  
23          propose 10 copies, or if you propose five copies,  
24          that is what will be filed for adoption unless  
25          someone requests that number to be changed, and

1           you -- which would then force you to reconsider the  
2           number at a future Agenda Conference.

3           CHAIRMAN CLARK: That was my point. It has to  
4           come back if we do not include everything today?

5           MS. HELTON: Yes.

6           CHAIRMAN CLARK: Thank you.

7           Commissioner Fay, does that change -- I  
8           mean --

9           COMMISSIONER FAY: Yeah. And just to make  
10          sure I am clear, Mr. Chairman, that item gets sent  
11          forward. JAPC would still review that rule. There  
12          is potential it could come back to us anyway --

13          CHAIRMAN CLARK: Correct.

14          COMMISSIONER FAY: -- we don't know the answer  
15          to that. But I think my point is just that we are  
16          saying, as we kick it off, proposed, Ms. Helton is  
17          saying that parties can comment on that rule, and  
18          then depending on what the Commission wants to do  
19          going forward, we are able to do that and if a  
20          change is made, she's correct, for final adoption,  
21          we would have to have that item proposed and then  
22          finalized in front of us.

23          So I think the decision is do we want to hit  
24          the pause button, work through it and then bring it  
25          forward as a new proposed rule, or do we want move

1           it forward and see if parties take issue with  
2           specific numbers or provisions in this language?

3           CHAIRMAN CLARK: Mr. Futrell, you were -- you  
4           had an observation during --

5           MR. FUTRELL: I just want to make sure, as I  
6           am understanding from Ms. Helton's comments, and  
7           make sure that Commissioner Fay is clear, that  
8           what's proposed today, if no party files comments,  
9           then that will just be sent -- the Office of  
10          General Counsel will submit that for adoption, and  
11          it will not come back to the Commission for a  
12          decision. So I just want to make sure that's  
13          clear.

14          COMMISSIONER FAY: That's correct. And nobody  
15          takes any issue with it, then it will be final  
16          adoption.

17          MR. FUTRELL: Correct.

18          CHAIRMAN CLARK: Commissioner Brown.

19          COMMISSIONER BROWN: I think I have a way to  
20          wrap this up with all the comments.

21          We -- as Ms. Helton pointed out, we can make  
22          changes here today for the proposed rule. I think  
23          we are stuck at the number of copies. So if we  
24          could hear from the -- other than Mr. Friedman, if  
25          we could hear from the rest of the parties on the

1 proposed suggestion of 10, whether they like it,  
2 whether they think it should be simplified, that  
3 could be helpful in getting us narrowed down so we  
4 can make a final decision today.

5 CHAIRMAN CLARK: Excellent suggestion,  
6 Commissioner Brown.

7 Would any of the other parties like to comment  
8 on their opinion regarding the number of copies  
9 required?

10 It sounds like they are all in favor of it,  
11 Commissioner Brown.

12 Commissioner Graham.

13 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

14 I recognize that the changes that staff had  
15 recommended for this rule-making is a step in the  
16 right direction. It's -- as Florida Power & Light  
17 said, it's significant savings for the decrease  
18 that they have the copies to provide. But one of  
19 the things that the Commission has got to take into  
20 account, if we decrease a task, and now the burden  
21 is going to be on us for individual offices to  
22 produce that copy. So now we are actually adding a  
23 cost to the agency that wasn't there before we even  
24 started this entire process.

25 And on top of that, you heard Ms. Helton say



1           that there is many rate cases coming before us this  
2           coming year, and so we are putting even more of a  
3           burden on our budget, which is, it's pretty tight  
4           as it is, to add copies that weren't even -- that  
5           weren't even imagined at the time.

6           I say the safest thing to do is go with what  
7           you have, and you can cut back later. But, you  
8           know, once again, I am just one of five votes. If  
9           you guys decide to cut this number down to five,  
10          just understand that you are putting a bigger  
11          burden on the agency as a whole.

12          CHAIRMAN CLARK: All right. Thank you,  
13          Commissioner Graham.

14          I know one of the comments that was made  
15          regarding the new requirements, that we would have  
16          to begin sending -- or the utilities would be  
17          required to send these out to all the  
18          municipalities and to libraries. I believe that  
19          would probably constitute a little bit bigger issue  
20          than I have actually even thought about. What has  
21          triggered that, Mr. Baez?

22          MR. BAEZ: No, actually, that's where we are  
23          picking up cost savings across the universe.  
24          That's where the real value in the rule -- the  
25          proposed rule is, is those requirements to have

1 printed copies present in every municipality, every  
2 public library. I forget what the current rule  
3 requires. That's really where the -- that's really  
4 where we are getting the efficiencies and the  
5 value.

6 MS. HELTON: We are eliminating that  
7 requirement.

8 MR. BAEZ: Exactly.

9 CHAIRMAN CLARK: And how many -- and let's  
10 just take the FPL case, for example. You are  
11 saying that each one -- each -- it was 110,000, I  
12 guess, for 10 copies?

13 MR. BAEZ: 110,000 pages, right --

14 CHAIRMAN CLARK: Pages.

15 MR. BAEZ: -- yeah. But just to give you  
16 scale under the requirement, back home where I live  
17 in Miami, is 67 different municipalities -- or 34  
18 last time I -- (inaudible) -- so that's 34  
19 municipalities in that area alone that would have,  
20 so you start --

21 CHAIRMAN CLARK: And the libraries, so each  
22 one of those is required to have a copy.

23 MR. BAEZ: Under the rule. I don't know if  
24 it's every library or what, but I think if you  
25 just -- you know, let's -- if you simplify it, that

1 every municipality within a territory has to have a  
2 copy filed and such, that's where -- that's where  
3 the real value comes in, because you are not  
4 requiring it.

5 CHAIRMAN CLARK: So, you know, whether the  
6 Commission gets 15 copies or 10 is pretty  
7 irrelevant relative to --

8 MR. BAEZ: On a cost savings basis I would  
9 agree. I think it -- you know, obviously it  
10 means -- we tried -- we tried -- the staff tried to  
11 be -- have a proper rationale for that number. 10  
12 copies is not arbitrary. I think you can count  
13 them out off a org chart.

14 CHAIRMAN CLARK: I think that is a valid, a  
15 very valid point.

16 Okay. Commission, what's your pleasure?

17 COMMISSIONER BROWN: Mr. Chairman, I can make  
18 a motion if the parties -- I saw there was a party  
19 that popped up on the screen, but I am prepared to  
20 make a motion after he comments, at your pleasure.

21 CHAIRMAN CLARK: Mr. Brown, we will give you a  
22 second. Go ahead.

23 MR. ANDREW BROWN: Yes, Mr. Chairman, thank  
24 you.

25 Normally we would be whispering to one another

1 and be able to clear up what our position was, but  
2 now we have to do it by texting while this is going  
3 on so it takes longer. But in general, yeah, the  
4 10 -- I think the 10 copies to the Commission is a  
5 reasonable accommodation. It is the fact that we  
6 are eliminating having to send out the copies to  
7 all of the municipalities, and that becomes, you  
8 know, you are sending out 50 or even 100 copies to  
9 get them out to everybody, and so that is the big  
10 cost saving issue.

11 As far as 10 the Commission, you know, that's  
12 fine. I understand the Commission's need and the  
13 staff's need that it's easier to have full copies  
14 and full sets, and I understand that. I am a paper  
15 copy guy myself, and so I fully understand it. But  
16 I think dropping that from 21 to 10 is a reasonable  
17 change.

18 Thank you.

19 CHAIRMAN CLARK: Thank you, Mr. Brown.

20 Commissioner Brown, you are recognized for a  
21 motion.

22 COMMISSIONER BROWN: Thank you.

23 And with that, Mr. Chairman, I would move  
24 approval of the proposed rule with the following  
25 modifications:

1           Replacing the language in 25-22.0406(2) with  
2           the language in 25-22.0407(2), and the additional  
3           modification in Rule 25-30.436(5)(h), before the  
4           word "unrecorded" -- pardon me, after the word  
5           "unrecorded", but a comma, and executed -- insert  
6           the word "executed".

7           And with that, that would be my complete  
8           motion.

9           CHAIRMAN CLARK: Do I have a second?

10          COMMISSIONER GRAHAM: I second that.

11          CHAIRMAN CLARK: I have a second on the  
12          motion.

13          Any discussion on the motion as presented?

14          Commissioner Fay, yes.

15          COMMISSIONER FAY: Thank you, Mr. Chairman.

16          I just want to get clarification really quick  
17          on those changes.

18          Commissioner Brown, what line on that (h) are  
19          you adding executed?

20          COMMISSIONER BROWN: Thank you, Commissioner.

21          It's on page 33, of course, on the recommendation  
22          on line 15. The full sentence is: The applicant  
23          may submit an unrecorded, executed copy of the  
24          instrument -- blah, blah, blah, blah.

25          COMMISSIONER FAY: Okay. Great.

1           And then just your other change, you are  
2           aligning the language that's in 0407(2), you are  
3           just basically copying that language?

4           COMMISSIONER BROWN: That's correct. It's  
5           much more clearer than the proposed in 0406.

6           COMMISSIONER FAY: Okay. And, Mr. Chairman, I  
7           am going to be supporting the motion. I just want  
8           to make sure, we had a lot of discussion here, and  
9           that change in the language, I know sometimes  
10          having language that's similar for different  
11          industries, gas, electric or water, makes sense,  
12          and sometimes it's not necessary depending on  
13          what's submitted, but I think the record here today  
14          has allowed the parties to comment on that based on  
15          Commissioner Brown's comments. So seeing that  
16          that's the case, I will support the item.

17          CHAIRMAN CLARK: Thank you, Commissioner Fay.

18          Any other comments or questions?

19          On the motion, all in favor say aye.

20          (Chorus of ayes.)

21          CHAIRMAN CLARK: Opposed?

22          (No response.)

23          CHAIRMAN CLARK: Motion is adopted

24          unanimously.

25          Thank you very much.

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(Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, DEBRA KRICK, Court Reporter, do hereby  
certify that the foregoing proceeding was heard at the  
time and place herein stated.

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

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

DATED this 14th day of December, 2020.



DEBRA R. KRICK  
NOTARY PUBLIC  
COMMISSION #HH31926  
EXPIRES AUGUST 13, 2024