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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 20230123-WS

IN RE: PROPOSED RULE 25-30.0372, FLORIDA
ADMINISTRATIVE CODE, ALTERNATIVE PROCEDURE
FOR ESTABLISHING RATE BASE VALUE OF ACQUIRED
UTILITY SYSTEM.

PROCEEDINGS: COMMISSION WORKSHOP

COMMISSION STAFF
PARTICIPATING: SUSAN SAPOZNIKOFF
CAROLINE DIKE
SAMANTHA CIBULA
MARK CICCHETTI
CURT MOURING

PROCEEDINGS: COMMISSION WORKSHOP

DATE: Tuesday, November 14, 2023

TIME: Commenced: 9:30 a.m.
Concluded: 10:25 a.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
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1 A P P E A R A N C E S

2

MARTY FRIEDMAN and CHRIS SNOW
3 Sunshine Water Services

4

JARED DEASON
American Water

5

6

TROY RENDELL
U.S. Water Services Corporation

7

MICHAEL CARDEN
8 Southwest Florida Company & Florida Utilities

9

Aaron Silas
CSWR-Florida

10

TOM CRABB
11 Central States Water Systems

12

BETH KEATING
Southwest/Ni Florida

13

PATRICIA CHRISTENSEN
14 Office of Public Counsel

15

PSC STAFF:

16

SUSAN SAPOZNIKOFF

CAROLINE DIKE

17

SAMANTHA CIBULA

MARK CICCHETTI

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CURT MOURING

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

2 MS. SAPOZNIKOFF: It is 9:30 now, so we will
3 go ahead and get started.

4 Good morning. Today is Tuesday, November
5 14th, 2023. I am Susan Sapoznikoff from the Office
6 of the General Counsel of the Public Service
7 Commission.

8 I would like to introduce Caroline Dike and
9 Samantha Cibula, who are also with the Office of
10 General Counsel. And Caroline will read the
11 notice.

12 MS. DIKE: Good morning. Pursuant to notice,
13 this time and place has been set for a Rule
14 Development Workshop in 20230123-WS, to take input
15 from interested persons on new rule 25-30.0372,
16 Florida Administrative Code, alternative procedure
17 for establishing rate base value of acquired
18 utility system.

19 We have elected to have a court reporter
20 present for this workshop, and a transcript will be
21 published once received.

22 In addition, this workshop is live streaming.
23 You can view the video recording on the Commission
24 website by clicking the Watch Live and Archived PSC
25 Events heading on the Commission's home page, and

1 then scrolling down to "Rule Workshop - Staff" at
2 the bottom of the Florida Public Service Commission
3 streaming media archive page. If you have any
4 difficulty finding the video recording of this
5 workshop, you may contact the Commission Clerk or
6 reach out to me directly.

7 For those watching the proceedings today via
8 the internet, all materials for today's workshop
9 are posted on the Commission's website using the
10 rule development link in the regulatory information
11 section on the home page.

12 I will now turn this back over to Susan.

13 MS. SAPOZNIKOFF: Thank you, Caroline.

14 In addition to Samantha and Caroline on the
15 sigh dais today, we have Mark Cicchetti and Curt
16 Mouring both from AFD. In addition, in the gallery
17 today, we have staff from Economics and Engineering
18 in case any questions arise for them.

19 We will now take appearances. I am going to
20 start with those sitting in the front row to my
21 left. We will work our way down, and then if
22 anyone else is sitting on the sides and would like
23 to make an experience, if you could get to a
24 microphone and do so then.

25 MR. FRIEDMAN: Yes, I am Marty Friedman on

1 behalf of Sunshine Water Services.

2 MR. SNOW: Chris Snow, Director of External
3 Affairs from Sunshine Water Services.

4 MR. DEASON: Jared Deason with American Water.

5 MR. RENDELL: Troy Rendell, Vice-President of
6 U.S. Water Services Corporation.

7 MR. CARDEN: Michael Carden with Southwest
8 Florida Company and Florida Utilities.

9 MR. SILAS: Aaron Silas, Director of
10 Regulatory Operations at CSWR-Florida.

11 MR. CRABB: Tom Crabb of the Radey Firm on
12 behalf of Central States.

13 MS. KEATING: Beth Keating with the Gunster
14 Firm here with Southwest/Ni Florida.

15 MS. CHRISTENSEN: Patty Christensen with the
16 Office of Public Counsel.

17 MS. SAPOZNIKOFF: Anyone else?

18 In terms of procedure for today, we will first
19 provide a brief overview of the draft rule, and
20 then proceed subsection by subsection to obtain
21 comment on the draft rule language.

22 Does anyone have any preliminary matters
23 questions before we begin?

24 As an overview of the draft rule, we note that
25 Section 367.0811 Florida Statutes governs this

1 rulemaking. There are a few areas where we believe
2 additional clarification is appropriate and
3 necessary in the rule. These include defining a
4 few terms, determining how to establish the list of
5 approved licensed appraisers, setting forth the
6 process to determine when a petition for -- would
7 be considered complete, so as to start the
8 eight-month clock on a Commission order, and in
9 areas allowed by the Legislature, supporting what
10 certain aspects of the petition would include.

11 We will now address the rule subsection by
12 subsection, and allow for comment subsection by
13 subsection. We did receive pre-workshop comments
14 from Mr. Friedman on behalf of Sunshine Water
15 Services. Those are printed and on either barrier.
16 We also have copies of the Commission notice
17 printed for anyone needs on the barriers.

18 We will take Mr. Friedman's pre-workshop
19 comments under consideration. Mr. Friedman, you
20 are able to expound on those today if you want.
21 You can put that in your postworkshop comments, or
22 both, whatever you would prefer to do.

23 We will start with subsection (1), which is
24 definitions. Paragraph (1)(a) of the draft rule
25 defines licensed appraiser, which term is used in

1 Section 367.0811(4)(a). The definition proposed is
2 to identify who would have the appropriate skills
3 to perform the valuation of the utility being
4 acquired.

5 Paragraph (1)(b) of the draft rule defines
6 price index, which term is used in paragraph (4)(e)
7 of the draft rule in discussing when a rate
8 stabilization plan is required to be included in
9 the petition. We will address paragraph (4)(e) in
10 the draft rule in due course, and request that
11 comments at this time be limited to subsection (1).

12 We will now take stakeholder comments
13 regarding subsection (1) of the draft rule
14 beginning on the left.

15 MR. FRIEDMAN: Thank you. This is Marty
16 Friedman.

17 We set forth some comments about the
18 designation process, so my question was when did
19 y'all come up with these criteria in (a)(1)?

20 MS. SAPOZNIKOFF: Caroline.

21 MS. DIKE: So we first looked to the
22 definition of a licensed appraiser. There is no
23 definition for licensed appraiser under Florida
24 Statutes. And we also looked at the licensure
25 requirements for general real estate appraiser in

1 Florida. The main concern is that a general real
2 estate appraiser may not be able to do a utility
3 valuation.

4 So we looked to the utility valuation experts
5 under fair market valuation legislation in other
6 states, and those utility experts, almost all of
7 them had a certification from one of the three
8 listed national organizations in this rule. And
9 those organizations go through education, training
10 requirements. They have to pass the USPAP exam and
11 other things. So those organizations are kind of a
12 clearinghouse for a utility evaluation expert.

13 MR. FRIEDMAN: Thank you.

14 MS. SAPOZNIKOFF: We also looked at the
15 experts on the DEP's list, and all of those had
16 those certifications as well. And we looked at
17 people who had testified before the Commission on
18 valuation issues and they had those certifications.

19 MR. FRIEDMAN: Thank you.

20 MS. SAPOZNIKOFF: Anyone else have questions
21 or comments regarding subsection (1)?

22 We will move on to subsection (2) concerning
23 appraisals, paragraph (2)(a) of the draft rule
24 requires the appraisal to value the system being
25 acquired according to its intended use.

1 Paragraph (2)(b) of the draft rule sets forth
2 who chooses the appraisers.

3 Paragraphs (2)(c) through (f) of the draft
4 rule set forth the process of being added or
5 removed from the list of licensed appraisers.

6 We will now take stakeholder comments
7 regarding subsection (2) of the draft rule.

8 MS. CHRISTENSEN: This is Patty Christensen
9 with the Office of Public Counsel.

10 Our understanding, based on the way the
11 statute is drafted, that there will be three
12 appraisers chosen. And we are not necessarily
13 objecting to the way the staff has categorized how
14 those appraisers will be chosen. Our concern more
15 goes to a practical implication of how this may
16 evolve over time.

17 Given the unique circumstances for water
18 cases, where you have potentially a buyer and a
19 seller who both are interested in getting the
20 higher, or highest valuation of the property, you
21 don't have your normal incentives you might have in
22 a normal real estate transaction. And if those are
23 the parties that are choosing the appraisers, I
24 think we need to at least be concerned, and be
25 aware, that if appraisers from the same firm, or

1 get repeatedly chosen over time with these high
2 valuations, it may skew the process and the intent
3 of the process, which is to make sure that you have
4 a fair third-party evaluation of the actual cost of
5 the system. And that's our concern, is not
6 necessarily how it's drafted in the rule today, but
7 how it may be implemented in the future over time.

8 I know we have some additional comments on
9 maybe who should also be considered as a licensed
10 third-party appraiser, and we can include those in
11 our draft postworkshop comments, but we are not
12 suggesting today any amendments to the rule, but we
13 did want to put forth that concern, that we want to
14 ensure with the choice of these appraisers.

15 And our assumption is if they are licensed
16 appraisers, they have certain ethical obligations
17 under their licensure, which is what the Commission
18 is counting on to ensure that these will be
19 reliable, independent and fair evaluations, but I
20 want to make sure that what we are anticipating is
21 going to happen today based on the way the rule is
22 drafted today, is what, in fact, ends up happening.

23 And we probably won't know that until we start
24 seeing a couple of these cases come through, but we
25 did want to put our concern on the record today.

1 And we may draft some written comments to that
2 concern going forward. Today, we don't have any
3 suggestions how you would make that better or, you
4 know, if you would have to require that you get
5 your independent appraisers from three different
6 firms, or some other additional obligation. I
7 don't know that that's necessary today, but it's
8 something that I think we all need to be aware of.

9 Thank you.

10 MS. SAPOZNIKOFF: Thank you, Ms. Christensen.
11 And certainly, if you have any specific suggestions
12 or rule language, if you could include those in
13 your postworkshop comments, that would be greatly
14 appreciated.

15 MS. CHRISTENSEN: Certainly. And if we think
16 that that would be helpful, we will certainly put
17 it in our post written comments. As of today, I
18 don't know that we will add any additional
19 language, but we will probably take it back and
20 process it some more. And if we think that that
21 would be helpful, we may make that suggestion to
22 the Commission staff.

23 MS. SAPOZNIKOFF: Thank you.

24 Anyone else with comments on subsection (2)?

25 Subsection (3) concerns the engineering

1 assessment, paragraph (3)(a) of the draft rule
2 addresses the engineering assessment required by
3 Section 367.0811(4)(b) of Florida Statutes.

4 Paragraph (3)(b) of the draft rule specifies
5 that the same person cannot serve as both a
6 licensed engineer and a licensed appraiser in the
7 same acquisition transaction.

8 We will now take stakeholder comments
9 regarding subsection (3) of the draft rule.

10 MR. FRIEDMAN: Again, Marty Friedman, on
11 behalf of Sunshine Water.

12 In our written comments, we pointed out that
13 we believe that the additional requirements that
14 have been added not only exceed the statutory
15 authority by adding more requirements that are not
16 in the statute, but also, as a practical matter,
17 involves a function that the engineering analysis
18 would not typically do, and we've pointed that out
19 in our written comments.

20 MS. SAPOZNIKOFF: And we appreciate those, and
21 we will definitely take those under consideration.

22 Anyone else have comments on subsection (3)?

23 MR. RENDELL: Yes. Troy Rendell on behalf of
24 U.S. Water Services.

25 I want to echo Mr. Friedman's comments. That

1 was really my only comment on the rule, is the
2 quality of service and quality of product is not
3 listed in the statute.

4 Engineers strictly are there to look at the
5 condition and age of the assets. There is numerous
6 assets that have nothing to do with quality of
7 water or quality of wastewater. You have water
8 meters. You have an office building. You may have
9 vehicles, meter readers, meter reading devices. So
10 there is a lot of assets that really have nothing
11 to do with the quality of product, but is necessary
12 to run a water and wastewater utility.

13 MS. SAPOZNIKOFF: Thank you. We will
14 definitely take that under consideration. And if
15 you have any specific suggestions as to proposed
16 rule language, if you could include those in your
17 written postworkshop comments.

18 Anyone else?

19 MR. FUTRELL: Susie, I have got a question I
20 would like to follow up if I may.

21 MS. SAPOZNIKOFF: Sure.

22 MR. FUTRELL: I am Mark Futrell with the
23 staff.

24 So I just want to explore that comment about
25 the concerns about those provisions, about the

1 quality of the product, because I think what staff
2 was trying to get at with that information was to
3 help provide and allow the Commission to fulfill
4 its requirements in the statute to consider
5 improvements in quality of service and other
6 aspects, it's in the statute.

7 So are there other means of acquiring that
8 information that you have thought about that could
9 give that -- the Commission the information it
10 needs to fulfill these other considerations in any
11 requirements in the statute?

12 So I think that's what the staff was trying to
13 get at with those provisions in that engineering
14 assessment. That's the place where that
15 information could be developed and provided.

16 MR. FRIEDMAN: I don't think it belongs in the
17 engineering assessment. I understand the concern,
18 you know, and that's something that certainly the
19 staff and Commission can look at, is increase in
20 quality of service.

21 There is plenty of documentation out there on
22 the condition of the existing system, you know,
23 from DEP and other agencies. And you are probably
24 going to ask those type of questions in this
25 transfer proceeding as well, because you have to

1 provide that sort of information in a transfer
2 proceeding, and so you are going to be looking at
3 quality of service anyway.

4 And that's, you know, my next question, when
5 we get to the next section, is how do all these
6 proceedings tie into each other?

7 MR. FUTRELL: Right.

8 MR. FRIEDMAN: But we are not saying you can't
9 do it. We are saying that the engineering study
10 can't include it.

11 MR. FUTRELL: Right. I guess one thing we
12 thought about is while it may make sense for the
13 transfer of -- the certificate transfer and the
14 rate base value proceeding to occur perhaps some
15 parallel paths, perhaps, but I don't think it's --
16 that's required by the statute. So I think the
17 utility has some flexibility there in how it
18 staggers those regulatory requests to the
19 Commission.

20 Would there be an openness to having this kind
21 of information be added to the rule but in a
22 separate section, as far as providing -- in the
23 event that it wasn't included in the transfer and
24 there -- maybe some type has elapsed between the
25 certificate transfer and the rate base value

1 proceeding, just to make sure the Commission has
2 the most current information on quality of service,
3 and, you know, DEP test results, things like that?

4 MR. FRIEDMAN: Yeah. I am not sure I would
5 oppose that. I would want to see where it's going
6 to be and what it plays, but certainly, you know,
7 improvements in quality of service is something
8 that you legitimately can look at, just like the
9 other issues, you know, financing, management and
10 those other issues.

11 MR. FUTRELL: Right.

12 MR. RENDELL: That's also my suggestion, Mark,
13 is -- I know the statute says, at a minimum, the
14 Commission must improve -- look at improvements in
15 quality of service and the compliance. I think
16 those could be provisions of the petition. Like,
17 later on, you have the petition, just make the
18 requirements that the utility or the buyer has to
19 provide information on that.

20 MR. FUTRELL: Okay.

21 MS. CHRISTENSEN: This is Patty with OPC.

22 Obviously, we are in support of more
23 information is better, particularly if there is
24 quality of service issues that are impacted by
25 things that the engineer would be reviewing in his

1 analysis.

2 I know he doesn't necessarily be opining on
3 the quality of the water. That's more of a DEP
4 function, or that kind of testing, but if there is
5 issues with pipes, with pump stations, with
6 treatment facilities that may impact the quality of
7 the water and the product, those should be, and
8 must be, addressed in any of the engineering
9 studies.

10 So I don't want to divorce the engineering
11 study from any commentary on the impact of the
12 water -- of the quality service -- or water quality
13 service where they necessarily intersect where it's
14 the actual infrastructure of the water facility
15 that's causing the problem.

16 And I understand that there may be, you know,
17 other issues that impact water quality. We've had,
18 you know, just the water being pumped out of the
19 aquifers can create an impact on the water quality,
20 but you may also have pipes that are, you know,
21 leaking, or a water tank that's rusting. There
22 could be things that the engineer should identify
23 and comment on how that would impact on the water
24 quality. So I don't want to necessarily divorce
25 them like the other commentators have said.

1 MR. FRIEDMAN: I mean, if your engineer wanted
2 to address those issues, they could. Our position
3 is that the statute is clear that it's not a
4 requirement of the engineering study to do that.
5 But there may be circumstances, like Patty
6 mentioned, that it's clear that when the engineer
7 comes out and does an analysis of the plant, that
8 this is what needs to be done. As a result of
9 doing this, you are going to increase the quality.
10 I mean, that may be a foregone conclusion, but I
11 don't think you can include it as a requirement in
12 the engineering study.

13 MS. SAPOZNIKOFF: Thank you all. We will
14 certainly take the comments here today, and any
15 postworkshop written comments under consideration.

16 While the mention of the quality of product
17 and service isn't up in the engineering section
18 part, when you get down to the petition and the
19 reason we included it in the engineering part is
20 (5)(D), says that the three-year plan to address
21 the deficiencies are the assessment of tangible
22 assets, which is the engineering assessment,
23 required by the section has to address the impact
24 of quality of service and any planned improvements.
25 So that's how we kind of thought the tie-in was

1 there. But again, we will take all of your
2 comments under consideration and appreciate your
3 input.

4 Anything on subsection (3)?

5 MR. FUTRELL: Yeah, let me just ask you a
6 question as far as how you guys read that as far as
7 the engineering assessment, and then this
8 three-year plan. Are those different documents?
9 Are they different efforts? Are they -- can they
10 be the same? How do you guys interpret that
11 language?

12 MS. SAPOZNIKOFF: Is that directed to us or
13 the utilities?

14 MR. FUTRELL: No, the parties here.

15 MS. SAPOZNIKOFF: Okay.

16 MR. SILAS: This is Aaron Silas for
17 CSWR-Florida.

18 I think that, from kind of my experience with
19 the engineering assessments we have done for fair
20 market valuations in states like Texas, those
21 usually go pretty hand-in-hand. So there are a lot
22 of recommendations that come out of that
23 engineering assessment --

24 MR. FUTRELL: Right.

25 MR. SILAS: -- that it's fairly simple to have

1 an engineer kind of put a timeline to if they had
2 to prioritize. So that's from my experience in
3 other states.

4 MR. FUTRELL: So the three-year plan is kind
5 of the foundation of it, if you will, is the
6 engineering assessment?

7 MR. SILAS: That's what I would say.

8 MS. SAPOZNIKOFF: Anything else?

9 We will move to subsection (4) regarding the
10 petition.

11 Paragraph (4)(a) of the draft rule sets forth
12 the timeframe for acquiring the utility to file its
13 petition. It also allows staff 30 days to review a
14 petition to determine if it satisfies the filing
15 requirements of Section 367.0811(5) of Florida
16 Statutes.

17 Once staff notifies the acquiring utility that
18 its petition is complete, the eight-month clock to
19 render a determination to approve, modify or deny
20 the requested rate base begins.

21 Paragraphs (4)(b) and (c) of the draft rule
22 include additional information to be included in
23 the petition's five-year projected rate impact as
24 allowed by Subsection 367.0811(5)(e), Florida
25 Statutes.

1 Paragraph (4)(d) of the draft rule requires an
2 acquiring utility to provide its proposed Uniform
3 System of Accounts classifications.

4 Paragraph (4)(e) addresses the requirement
5 that the petition include a rate stabilization plan
6 if the acquisition results in a significant
7 individual increase in rates during the projected
8 five-year impact period.

9 We address the individual increase aspect as a
10 rate increase during any 12 consecutive months of
11 the five-year projected rate impact period. We
12 address significant as -- significant aspect by
13 linking it to a rate increase, a nexus of the price
14 index, which is defined up in subparagraph (1)(b),
15 over the current rates of the utility system being
16 acquired.

17 We will now take stakeholder comments
18 regarding subsection (4) of the draft rule.

19 MR. FRIEDMAN: Thank you. Marty Friedman
20 again on behalf of Sunshine Water Services. And we
21 included these in our written filing, but let me
22 just briefly talk about what our issues are.

23 And we want to make clear that you can file --
24 and I don't know how -- whether the Commission
25 staff contemplated how those two proceedings, the

1 transfer and the alternate determination, how those
2 two play into each other, but I think it needs to
3 be made clear that you could file them
4 simultaneously; because as I point out, there are
5 many instances, I would guess, that the purchase
6 may be contingent upon a determination of a certain
7 amount of rate base.

8 The second one, you know, we've got a concern
9 about this CPVRR, as we did in the acquisition
10 adjustment rule too. But you kind of went a step
11 farther in this rule and made it a requirement to
12 use that form instead of, in the acquisition
13 adjustment rule, you just made it -- you made it as
14 an option to do.

15 I think that using the CPVRR puts an
16 unreasonable emphasis on that determination, as
17 opposed to other nonfinancial advantages that our
18 utility -- that the utility customers may enjoy as
19 a result of a consolidation.

20 As we point out in the definition of
21 significant individual increase -- and I recognize
22 that significant to you may be different than
23 significant to me. But it seems like using the
24 price index, in other words, if a utility sells and
25 they didn't do the price index for five years,

1 bingo, you are going to automatically be, quote,
2 significant, and I don't think the CPI is a
3 significant number.

4 I mean, you adopt a very conservative indexing
5 number, and while I don't necessarily sit here
6 today and have a threshold for significant, I do
7 know that using the index isn't it. That's not a
8 significant increase. And maybe we need to give
9 some thought as to using two times that, maybe
10 using some other threshold, extraneous threshold to
11 determine what significant is, but that isn't it.

12 MS. SAPOZNIKOFF: Thank you.

13 Anyone else?

14 MR. DEASON: Yeah, Jared Deason with American
15 Water.

16 And I basically just have a question as far as
17 how the index is going to be applied to the CPVRR
18 calculation. Is it you are just going to take the
19 current index percentage and just assume it's going
20 to stay that amount over the next five years and if
21 any 12-month period during that five years, if it
22 exceeds that, it's considered a significant
23 increase?

24 Because I know, you know, the index is
25 basically an inflation adjustment in its core, and

1 just looking over the last five years, inflation
2 has been all over the place. Five years ago, it
3 was very low. A couple of years ago, it was very
4 high, historically, and now it's going back down
5 again.

6 So I think, you know, just using a purely
7 historical number to apply to the CPVRR, I think it
8 needs to be a number that's more forward-looking,
9 more prospective in nature, since the CPVRR is also
10 prospective in nature. So just, I think that
11 probably needs to be taken into consideration,
12 maybe finding a better number to determine
13 significant increase than just the index.

14 MR. CICCHETTI: We did contemplate it being
15 the current index, four-year, five-year analysis.
16 We would be very interested in hearing what you
17 would propose as a significant number.

18 MR. DEASON: I guess -- well, once again
19 significant is a very subjective number. It's not
20 an objective. So I appreciate the job you have as
21 far as determining what significant is, but I guess
22 my biggest concern is just the index -- the current
23 index is not prospective in nature at its core.

24 It's not.

25 And obviously, there is other sources that

1 maybe you could utilize. I know the Federal
2 Reserve often has inflation forecasts that go out
3 into the future. Although, if you look at the last
4 five years, a lot of their forecast has not been
5 entirely accurate, but there may be -- you know,
6 the U.S. Department of Labor often does track
7 inflation. I don't know if they have something
8 that's prospective in nature. They may. But I
9 think that's important, is if the CPVRR is going to
10 be prospective in nature, the determination of what
11 is significant increase is over the next five years
12 needs to be prospective as well.

13 MR. CICCHETTI: Well, we appreciate your
14 comments. We understand what you are saying. The
15 word significant is subjective, so we would like to
16 hear what everyone thinks significant ought to be
17 defined as.

18 MS. CHRISTENSEN: Well -- and this is Patty
19 Christensen with OPC.

20 The other thing that may need to be taken into
21 consideration is significant rate impact is, you
22 know, you have to take into consideration what the
23 customer's current rates are, and how those rates
24 are going to increase over the next five years.

25 I mean, I know the Commission has looked at,

1 you know, one-and-half times, you know, a rate
2 increase for certain rate classes as rate shock to
3 customers.

4 You know, there is different ways to evaluate
5 that besides -- you know, I am not suggesting you
6 don't look at the Consumer Price Index going
7 forward as a way of looking at that, but I think
8 there may be other methodologies that need to be
9 considered from the customer's perspective, you
10 know, is this going to increase by rates by more
11 than one-and-a-half times, or if you are looking at
12 customer deposits, they have to put down two months
13 worth of deposits, it's going to be more than
14 twice, you know, what I would have to put in
15 customer deposits.

16 So we are going to go back and think about
17 that, and we will think about suggesting some
18 language from that perspective, which I think
19 really seems to be what the statute is trying to
20 get at, is what's the rate impact from the
21 customer's perspective. So I think we have to
22 consider the idea of is this going to create a rate
23 shock to the customers over the next five years?
24 And one way to do that is you got to look at the
25 current rates, and then see how much that is going

1 to increase from their perspective.

2 MR. CICCHETTI: We look forward to your
3 comments.

4 MR. SILAS: This is Aaron Silas with Central
5 States Water Resources Florida. Just a couple
6 comments. A lot of them mirror what Marty said.

7 With subpart (a), obviously I agree with
8 Marty, that maybe just some language saying that
9 you can do it at the time of acquisition would be
10 ideal for us as well.

11 For subpart (b), with the CPVRR, you know,
12 this would be -- you said that is a little bit too
13 restrictive. There are a lot of kind of different
14 components to a kind of five-year projected rate
15 impact. For us in particular, you know,
16 consolidation is one of our bigger kind of drivers
17 in any find of kind of future rate increase or
18 adjustments, so without that kind of factor, it
19 doesn't really project an accurate rate in five
20 years. So that's kind of a one-size-fits-all, that
21 CPVRR. So just allowing utilities to present their
22 own analysis, their own models, would be ideal for
23 us as well.

24 For subpart (c), I just have that, you know,
25 in kind of other jurisdictions, trying to project

1 out those specific, like, the base charge gallonage
2 and billing determinants, doing rate design at kind
3 of the time of fair market value doesn't generally
4 lead to very accurate subparts. So generally what
5 I have seen is kind of overall bill impacts, like
6 an average rate impact that would happen, rather
7 than breaking it out into those three subparts.

8 And I think that that is -- that is it. And
9 then, yeah, just again, kind of mirroring what
10 Marty said with significant, and I guess what
11 everyone is saying, it's subjective, right? So we
12 will definitely put some more thought into that and
13 then comment on that in the postworkshop comments.

14 Thank you.

15 MR. FRIEDMAN: I do have one other comment
16 that I failed to mention, and that was in
17 determining the official date of filing. This
18 seems to be a different process than what you use
19 in rate cases. And my question was, is that done
20 intentionally?

21 Because in rate cases, when the staff says
22 it's final, it goes back to the date that you filed
23 the appropriate document and not the date that the
24 staff determines that it's final. And this seems
25 to say the official date of filing is the date the

1 staff determines it's complete, and it doesn't
2 relate back to the dates you actually made the
3 filing. And I didn't know whether that was
4 intentional or it was intended that this would
5 apply the same way that you apply in rate cases.

6 MS. SAPOZNIKOFF: Yeah, we wanted the date of
7 filing to be the date it was determined to be
8 complete, because we have such a short timeframe to
9 render an opinion, we only have the eight months,
10 so if there was any back and forth, and then we are
11 going to go back a month or two, or three, to when
12 it was actually filed before it was completely
13 filed, that would then, you know, bring the
14 decision time down to, say, five months or
15 something.

16 MR. FRIEDMAN: Well, that's true of a rate
17 case, you only got five months. In a PAA rate
18 case, you have got five months from the official
19 date of filing. And you determine the official
20 date of filing based upon when the information that
21 you filed was complete, not when the staff, 30 days
22 later, decided, okay, it was complete 30 days ago,
23 but it's going to be determined complete today. So
24 if it works in a five-month rate case, I don't know
25 why it wouldn't work in an eight-month timeframe.

1 MS. SAPOZNIKOFF: I think part of it is this
2 is just such a new format, and maybe after we've
3 gone through a cycle or two, we will realize that
4 eight months is more than adequate, and can go back
5 to an original filing date. But we appreciate your
6 comment, and we will definitely think about that as
7 we move forward.

8 MR. CARTIN: Michael Cartin with SouthWest
9 Water Company. I just want to reiterate Central
10 States' comments.

11 Based on my experience in other states with
12 acquiring government owned systems, a lot of this
13 data will more than likely be unavailable.
14 Recordkeeping, billing accounts, all of this stuff,
15 it's been -- it's sometimes very difficult to
16 provide all the information requested, so I just
17 wanted to note that.

18 MS. SAPOZNIKOFF: All right. Thank you.

19 Anyone else?

20 And I know we have gone section by section.
21 Before we conclude, does anyone have any general
22 comments they would like to make?

23 MR. SILAS: I will just say -- Aaron Silas
24 with Central States Water Florida -- just thank
25 you, obviously. I know that with this and the

1 acquisition adjustment workshop, there is a lot of
2 kind of new stuff floating around, so I wanted to
3 thank staff and just every stakeholder for taking
4 the time to, you know, make sure that this flows
5 accordingly, and works kind of with the intention
6 that the Governor and the Commissioners kind of
7 seeing it, so thank you for your hard work on this,
8 guys. We appreciate it.

9 MS. SAPOZNIKOFF: Thank you.

10 MS. CHRISTENSEN: And this is Patty
11 Christensen with OPC.

12 I want to echo the comments. Staff has worked
13 hard in trying to get a draft rule that reflects
14 what the statutory language requires. We think
15 it's good that it adheres fairly closely to the
16 statute, and is a good attempt to implement those.

17 I think once we get the comments back in from
18 the post-hearing workshops, I would like to request
19 that staff consider whether it be necessary to hold
20 another workshop, just to see how those comments
21 came together, and to maybe discuss if those should
22 be added or not, added to the Commission staff's
23 rule, rather than just kind of for publishing a new
24 version, you know, of the rule and then adopting
25 that. Because this is new.

1 And, certainly, we are -- we share some of the
2 same concerns with Mr. Friedman about the timing of
3 whether or not this has to be done at the time of
4 transfer or after the time of transfer, because the
5 Commission's practice has been to establish rate
6 base at the time of transfer, and then this is an
7 alternative process for establishing what the value
8 of the system would be going forward, and, you
9 know, how do you deal with that time lapse in
10 between?

11 And it may not be an issue if the Commission
12 sticks with the usual practice of establishing net
13 book value at the time of transfer, and then if
14 they want to file a petition within six months of
15 the transfer for an alternative treatment, you have
16 still got the net book value to fall back on if the
17 Commission finds that the alternative treatment
18 isn't in the public interest.

19 So I just wanted to throw that out, and I
20 probably should have addressed it earlier, but we
21 would hope that the Commission would maintain its
22 current practice of establishing a net book value
23 at the time of transfer so that it's available in
24 case the Commission doesn't approve a petition, for
25 whatever the reason may be, so that it's there for

1 the customers and the Commission to rely on for
2 future cases. And if they choose the alternative
3 methodology going forward, then, you know, that's
4 fine as well, but we will have had at least the
5 opportunity to have a full proceeding on the
6 alternative evaluation without having to worry that
7 we need to establish net book value at that time.

8 Thank you.

9 MS. SAPOZNIKOFF: Thank you, Ms. Christensen.

10 MS. CIBULA: I just want to point out one
11 thing. We have a statutory deadline for this one.
12 We have to propose the rule by April 1st. That
13 means we have to take it to Agenda on March 5th.
14 So we might not have the time to have another
15 workshop, unfortunately. So it's important that
16 whatever comments that you have, to make sure you
17 include them in your postworkshop comments, because
18 we might not have another opportunity for a
19 workshop.

20 MS. CHRISTENSEN: Yeah, and I appreciate that.
21 I am hoping we could, just, you know, if we could,
22 you know, do something maybe in January, just --
23 truly, from the comments here today, it just kind
24 of, I think, will depend on when the post-hearing
25 comments come in and how much of tweaking to the

1 current rule that people are suggesting, because if
2 there is going to be a significant tweaking to the
3 rule, I think we would like an opportunity at least
4 to come in and discuss that one more time.

5 MS. CIBULA: Then in addition, we have to do
6 the SERC too, so I just want to, like, just have
7 everybody know what the time constraints are, so --
8 but thank you.

9 MR. SNOW: Chris Snow, Sunshine Water
10 Services.

11 I also just wanted to thank staff for their
12 hard work on this. I know this is something new
13 that everybody is having to deal with and
14 understand, and there are some vagaries that need
15 to be clarified, so I appreciate that.

16 We've known for a long time that the state of
17 water and wastewater across the state is very
18 fragmented, and so we look forward to working with
19 staff on trying to find a way to utilize this to
20 consolidate for the betterment of customers across
21 the state of Florida.

22 Thank you.

23 MR. HETRICK: And just a general question for
24 everyone. Does everyone intend -- I know, Marty,
25 thank you for your comments, really helpful, and

1 the explanations today.

2 Will folks follow up with specific language
3 options to kind of support this idea? And one of
4 the questions I had related to that goes to the
5 gentleman from CSWR, where you commented that you
6 thought the CPVRR was too restrictive.

7 And it's my understanding, any time we look at
8 rate impact, the Commission does, which the statute
9 is replete with, the CPVRRs are always standard
10 operating procedure to evaluate rate impact, but I
11 think you mentioned you thought that was too
12 restrictive, and that you were interested in
13 possibly some language which would allow utilities
14 to submit their own models. Would that be
15 equivalent to the requirements of a CPVRR, or how
16 you would write that language so that we receive
17 the same or similar information?

18 MR. SILAS: Yeah. I think it would be very
19 similar to the type of information that is captured
20 in the CPVRR. I think that like -- kind of like I
21 said with consolidation, and just kind of various
22 other elements that are unique to individual
23 companies.

24 That specific model that you guys presented
25 doesn't make a lot of sense for kind of the folks

1 that I presented that to in our finance department.
2 So what I am having them do is actually work on a
3 model that we may be able to show you guys, you
4 know, well in advance.

5 But, yes, I think the language allowing for a
6 company to present their own model with some very
7 specific information that's also held in the model
8 that you guys presented would be ideal.

9 MR. HETRICK: So you will submit an
10 alternative model that meets the requirements
11 similar to that which is required by a CPVRR?

12 MR. SILAS: That would be my goal, yeah.

13 MR. HETRICK: And can you submit some language
14 on that?

15 MR. SILAS: Yeah, we can definitely do that.

16 MS. CHRISTENSEN: This is Patty Christensen
17 with OPC.

18 And we would have concerns if the CPVRR
19 methodology was going to be changed, because that
20 has been Commission standard practice. We are all
21 familiar with the requirements of it, and we have
22 the ability to evaluate that in the current form
23 without too much change or process. And if the
24 Commission is going to consider an alternative
25 model for evaluating whether or not this is

1 economically -- or in the public interest and the
2 economic evaluation is going to change to a
3 different modeling methodology, or allow for that
4 alternative, that may create some difficulties,
5 especially against a eight-month time clock.

6 It's a lot easier to know that we can evaluate
7 something when we have it in a form or a format
8 that we are familiar with practicing before the
9 Commission, and it's standard for all types of
10 cases. It's not a different methodology for this,
11 varies different for that.

12 So we would have concerns about allowing a
13 different type of economic evaluation, because the
14 CPVRR -- or that evaluation methodology has been
15 pretty standard and across the board in all
16 industries.

17 MR. SILAS: I just want to make a quick
18 comment, just that, you know, I think that the
19 point of this rule and the acquisition adjustment
20 workshop is to maybe go against the standard just a
21 little bit, right, change, because things haven't
22 been working the way maybe they were intended. So
23 I would say, you know, using something just because
24 it's standard and kind of practice doesn't
25 necessarily mean that it's the best model to

1 utilize, or take into consideration, right?

2 I think with how few times the acquisition
3 adjustment rule has been utilized, and just kind of
4 across the board, I would say that being open to
5 new ideas and to new kind of financial models is
6 never a bad thing, is kind of my point there.

7 MR. FRIEDMAN: And I don't have the draft
8 acquisition adjustment rule, the new one that we
9 were working on in front of me, but my recollection
10 is that using the CPVRR was an option, and that you
11 did have the option, under the acquisition
12 adjustment rule, to use your own formula.

13 MS. SAPOZNIKOFF: I can't speak directly to
14 that. I do know that the legislative history on
15 this -- with this statute, and directing us to do
16 this rule, that they wanted an alternative
17 valuation. So the fact that it may not be, you
18 know, what's done in the acquisition adjustment,
19 that it's something different here, I think that's
20 what the Legislature and the statute intended.

21 MR. CICCHETTI: Marty, you are correct. We
22 did say the model that's presented in the
23 acquisition adjustment rule is an example, and that
24 you could provide your own. But we would
25 contemplate that it would be something at least as

1 good as the CPVRR in terms of in order to determine
2 rates, you have to determine a revenue requirement.
3 And we understand that it's like a projected test
4 year. There is going to be things that are going
5 to have to be estimated and projected. And so we
6 would think that you would need to at least have
7 the building blocks of the revenue requirement in
8 order to be able to evaluate the rate impact.

9 MR. FRIEDMAN: Yeah, and I understand that.
10 It just seems to me that you are saying this is the
11 formula. You have got to use this formula, and
12 that's it. And I think, as was pointed out by
13 Central States, there may be situations that don't
14 fit that formula, and you should provide the
15 flexibility, as you did in the draft changes in the
16 acquisition adjustment rule, to use something else.
17 It's got to have the same type information. It's
18 got to spew out the same information so that the
19 Commission can make that determination, but you are
20 not -- you are not forced to use a particular
21 formula.

22 And that's all we are asking, is to have the
23 flexibility to provide something else. If we
24 provide something else that you don't like, you
25 say, that's not what we wanted.

1 MR. CICCHETTI: We will certainly take that
2 under consideration, and perhaps have, you know,
3 maybe the same language that either this is an
4 example, and the Commission would need something at
5 least as thorough.

6 MS. CHRISTENSEN: And I would ask the
7 Commission consider that if you are going to do
8 that, there -- the companies always have an option
9 of coming in and asking for a waiver and to use a
10 different methodology. And I know that they are
11 not fans of that, but, you know, it's something to
12 keep in mind. There is the option of doing that if
13 another model would be more appropriate and can
14 accomplish the same thing.

15 I don't know if we want to open up the door
16 and invite a different model at this point, but we
17 certainly look forward to the comments, and we will
18 address that in our comments as well.

19 MS. SAPOZNIKOFF: Thank you.

20 Anyone have any additional comments?

21 MS. WATTS: Yes, this is Linda Watts for
22 staff, and I would like to address the timing of
23 the filing of this petition.

24 When we were drafting the language, we looked
25 at the fact that the transfer application does not

1 have a statutory deadline, whereas this petition
2 has -- that they do, and a transfer can, you know,
3 add more time, and it could, you know, still not be
4 complete when the petition is complete sometimes,
5 you know, or we don't know, you know, what -- where
6 we would be in that transfer process, and so that's
7 why we wanted this petition to be filed after the
8 transfer process was complete.

9 MR. FRIEDMAN: I think that may sound good,
10 and it does sound good. It just doesn't work that
11 way in real life, because you would do the
12 transfer, you would get approved. You are sitting
13 there on -- and it's got no deadline, as you
14 mentioned. So you file the application. It takes
15 12 months to approve the transfer. We got the
16 transfer approved. And then you have -- you are
17 not going to close. The company said, I am not
18 going to close on this until I know what my rate
19 base is. So then you file -- you wait six more
20 months, and you file an application under this
21 process. That takes eight months. So you are
22 three months out of -- you signed a contract, and
23 you are three years to close a contract. That
24 just -- it doesn't make sense.

25 MR. HETRICK: Marty, will you have some

1 language for us?

2 MR. FRIEDMAN: I will -- if you would like, I
3 will be glad to come up with some.

4 MR. HETRICK: I appreciate it. Thank you.

5 MS. SAPOZNIKOFF: Anyone else?

6 We really appreciate all the comments today.
7 Next steps would be moving to postworkshop written
8 comments. And as we've already discussed, we are
9 on a tight timeline. So what we are proposing is
10 that if anyone wants to submit postworkshop written
11 comments, that they be filed with the Commission's
12 Clerk's office in Docket 20230123-WS by Thursday,
13 November 30th, 2023, which is 16 days from today.

14 We typically give two weeks. We wanted to put
15 some more time in because we know with the holidays
16 coming up, people aren't going to be working.

17 We want it to be known that you do not need to
18 have attended or participated in today's workshop
19 to submit written comments. There is no limit on
20 written comments. And written comments will be
21 given the same consideration and weight as the oral
22 comments made today. However, we do ask that if
23 you have any specific proposed rule language, or if
24 you have a type and strike version of the rule,
25 that you provide that to us in your written

1 comments.

2 Do any stakeholders have any other matters for
3 discussion?

4 MR. FRIEDMAN: Could you provide us with the
5 draft rule in Word so we can do a strike?

6 MS. SAPOZNIKOFF: Yes. If you can just send
7 me an email, anyone that wants it in the Word
8 version, let me know, and I will make sure to get
9 it to you.

10 Staff, do you have any matters that need to be
11 addressed before we adjourn?

12 All right. With no additional matters, we've
13 reached the end of our staff rule development
14 workshop. On behalf of the Commission, I thank you
15 for your valued participation today, and the
16 workshop is adjourned. Thank you.

17 (Proceedings concluded.)

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