I. Meeting Packet

State of Florida
Public Service Commission
INTERNAL AFFAIRS AGENDA
Tuesday – March 8, 2011
Immediately Following Commission Conference
Room 140 - Betty Easley Conference Center

---

1. Approve February 23, 2011, Internal Affairs Meeting Minutes. (Attachment 1)

2. Proposed Letter to Governor, President of the Senate, and Speaker of the House regarding FEECA Report. (Attachment 2)

3. Briefing on EPA Regulations. (Attachment 3)

4. Briefing on Natural Gas Safety. (Attachment 4)

5. Legislative Update. (No Attachment)

6. Other matters, if any.

TD/sa

OUTSIDE PERSONS WISHING TO ADDRESS THE COMMISSION ON ANY OF THE AGENDAED ITEMS SHOULD CONTACT THE OFFICE OF THE EXECUTIVE DIRECTOR AT (850) 413-6068.

Attachment 1

Attachment 1

State of Florida
Public Service Commission
INTERNAL AFFAIRS MINUTES
Wednesday – February 23, 2011
9:30 am - 10:27 am
Room 140 - Betty Easley Conference Center

COMMISSIONERS PRESENT: Chairman Graham
Commissioner Edgar
Commissioner Brisé
Commissioner Balbis
Commissioner Brown

STAFF PARTICIPATING: Devlin, Hill, Kiser, Helton, Ballinger, S. Brown, Trapp, Pennington, Futrell, Shafer

1. Approve January 26, 2011, Internal Affairs Meeting Minutes.

   The minutes were approved.

   Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

2. Draft Annual Report on Activities Pursuant to the Florida Energy Efficiency Conservation Act (FEECA) as required by Sections 366.82(10) and 377.703(2)(f), Florida Statutes.

   The draft annual report was approved. Staff was instructed to prepare and circulate, for the Commissioners' review, a follow-up letter regarding issues discussed and to bring back to the next Internal Affairs meeting.

   Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

3. Legislative Update.

   Staff briefed the Commissioners on legislative proposed bills and matters of interest.

   Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

4. Other matters, if any.

- Commissioner Edgar advised that she had sent a memo to the Executive Director and other Commissioners requesting staff to gather certain information to be discussed at a future Internal Affairs meeting. This will provide an opportunity for the Commission to weigh in on pipeline safety policy and EPA rules at the Federal level.

- Commissioner Edgar asked the Commission to keep the community and children in mind with regard to the unexpected passing of a teacher. She also wanted to take this opportunity to let the Commissioners know how grateful she is to work with them and is looking forward to continuing to learn from them.

- Chairman Graham advised that he spoke with Senator Nelson last week concerning the Universal Service Fund. Senator Nelson is aware of what is happening and was receptive to the direction the Commission is taking to rectify the imbalance that is occurring concerning Florida's contributions to the Fund.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

Attachment 2

Attachment 2

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: February 28, 2011

TO: Timothy J. Devlin, Executive Director

FROM: Thomas E. Ballinger, Utilities System/Engineering Spec Supervisor, Division of Regulatory Analysis

RE: Proposed letter to Governor, Senate President, and Speaker of the House regarding 2011 FEECA Report

Critical Information: Please place this item on the March 8, 2011 Internal Affairs. Approval of letter is requested.

At the February 23, 2011 Internal Affairs, the Commissioners requested staff to draft a letter to the Governor, Senate President, and Speaker of the House to provide additional information regarding the role of building code and appliance efficiency standards. Attached is a draft letter that is responsive to this request. Approval of the letter, along with any suggested edits, is requested.

ART GRAHAM
CHAIRMAN

STATE OF FLORIDA

Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
(850) 413-6040

Public Service Commission

March 8, 2011

DRAFT

The Honorable Rick Scott
Governor of Florida
The Capitol
400 South Monroe Street
Tallahassee, Florida 32399-0001

Dear Governor Scott:

On March 1, 2011, you were provided the Commission's annual report on activities pursuant to the Florida Energy Efficiency and Conservation Act as required by Section 366.82(10), Florida Statutes. This report summarizes the progress of Florida's five (5) investor-owned electric utilities and the state's two (2) largest municipal electric utilities toward achieving seasonal peak demand and energy savings goals established by the Commission for the period of 2004 through 2009.[1] I am happy to report that overall, the demand and energy savings goals established for this period were met. In achieving these goals, during 2009, the FEECA utilities expended and recovered through the rates charged their retail customers over $310 million dollars to fund utility sponsored conservation programs. The monthly bill impact for a typical residential customer varied between companies from $0.96 to $3.59.

While important, it should be noted that utility-sponsored energy conservation is but one element of Florida's overall energy efficiency policy. The first element is customer awareness and education. Energy conservation is largely affected by personal choice and is not always driven by strict economics. Consumers face many economic decisions in their day-to-day lives. Even low cost energy alternatives like changing to more efficient light bulbs can often take a back seat to other consumer needs and desires. In order to provide a foundation for customers to make wise energy choices that best suit their needs, the Commission's consumer education program employs a variety of methods to educate the public about the benefits of energy conservation. Energy savings resulting from personal choices reduces the need for additional utility incentives which may result in subsidization by other ratepayers.

Another highly effective area of energy conservation is through building codes and appliance efficiency standards. While these efforts ensure energy savings through government mandates, their costs are not governed by the Commission. However, the person who pays for the efficient appliance reaps the savings and therefore eliminates the need for subsidization by other customers.

[1] The electric utilities subject to FEECA include Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Tampa Electric Company (TECO), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), Orlando Utilities Commission (OUC), and JEA (Jacksonville)

The Florida Building Commission is a 25-member body appointed by the Governor and currently housed within the Florida Department of Community Affairs. The Florida Building Commission is the governing body for establishing the guidelines for building code development, interpretation, and updates in Florida. The Building Commission is also responsible for updates to the Energy Efficiency Code for Building Construction, a state minimum energy conservation code. During the 2008 Legislative Session, the Legislature established a schedule of increases in the performance of buildings subject to the Florida Energy Efficiency Code. Pursuant to Section 553.9061, F.S., The Florida Building Commission shall "include the necessary provisions in the 2010 edition of the Florida Energy Efficiency Code for Building Construction to increase the energy performance of new buildings by at least 20 percent as compared to the energy efficiency provisions of the 2007 Florida Building Code adopted October 31, 2007." Section 553.9061, F.S., also requires incremental increases to building efficiencies in 2013, 2016, and 2019.

Appliance efficiency standards are mostly adopted at the Federal level. For example, in 2001, the Department of Energy (DOE) increased the efficiency standards for central air-conditioning equipment, typically the most energy intensive device for residential customers, by 30 percent. The new standards are applicable to all equipment manufactured after January 23, 2006. The DOE is currently considering amendments to these standards which are scheduled to be completed by June 2011. The new standards for central air-conditioning equipment may become effective by 2016. The Energy Independence and Security Act of 2007 (EISA 2007) was passed by Congress and signed into law by the President on December 19, 2007. The new law contains provisions for phasing in more efficient incandescent lamps between January 1, 2012 and 2014. For the same lumen output, the minimum requirements represent a reduction of 25 percent over the incandescent technology in use in 2007. The DOE is scheduled to initiate rulemaking in 2014 to consider whether it is technologically feasible and economically justified to make the standards higher than the EISA 2007 levels. In 2010, the DOE also increased the minimum efficiency standards for residential water heaters which become effective April 16, 2015. By 2045, the DOE expects the energy savings from the new water heater standards to eliminate the need for approximately three new 250 MW power plants.

As appliance and building efficiency performance improve, the need for utility sponsored conservation programs in these areas is lessened. Continued focus can be placed, however, on capturing any additional remaining energy savings. Typically, utility programs offer rebates for efforts that go beyond code compliance or minimum efficiency standards. The savings from these programs are somewhat uncertain as they depend on voluntary participation by customers and the expense is shared by all customers. As noted above, however, the costs to date have been relatively small. The Commission will continue to evaluate the cost of utility sponsored conservation programs to ensure that the rate impact to customers is not overly burdensome.

Thank you for your continued support of energy awareness and conservation. If you have any questions or would like any additional information, please do not hesitate to contact me.

Sincerely,

Art Graham
Chairman
Florida Public Service Commission

Cc: Commissioner Lisa Polak Edgar
Commissioner Ronald A. Brisé
Commissioner Eduardo E. Balbis
Commissioner Julie I. Brown
Timothy J. Devlin, Executive Director
Curt Kiser, General Counsel

Attachment 3

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: February 28, 2011

TO: Timothy J. Devlin, Executive Director

FROM: Mark A. Futrell, Public Utilities Supervisor, Division of Regulatory Analysis
Judy G. Harlow, Senior Analyst, Division of Regulatory Analysis
Cindy Miller, Senior Attorney, Office of General Counsel

RE: Update on U.S. Environmental Protection Agency Rulemakings

Critical Information: Please place this item on the March 8, 2011 Internal Affairs Agenda – Commission guidance is sought.

The U.S. Environmental Protection Agency (EPA) is currently conducting six rulemakings that could directly affect Florida's electric utilities. The potential rules and standards are at various stages of development and include regulations focused on: (1) air emissions, including greenhouse gases; (2) cooling water intake and wastewater discharge; and (3) the disposal of coal combustion residues.

On February 21, 2011, Commissioner Edgar requested that staff compile relevant information regarding the rulemakings in order for the Commission to have an initial discussion at an Internal Affairs meeting. Staff has been monitoring the rulemakings and seeks Commission guidance on any further activities the Commission wishes for its staff to pursue regarding these rulemakings and the potential impacts to Florida's electric utilities and ratepayers.

At this early stage, it is difficult to determine the specific impacts on Florida's electric utilities and ratepayers. The rulemakings, however, have introduced added uncertainty to the electric utility planning process, and as a whole, could have significant cost impacts on Florida's electric utilities and ratepayers. At the same time, the Federal Energy Regulatory Commission (FERC) is considering proposed rules on electric transmission planning and cost allocation that could affect transmission-owning electric utilities and their customers.

At its 2011 Winter meetings, the National Association of Regulatory Commissioners (NARUC) held a workshop on the EPA rulemakings and passed a resolution regarding the role of state regulatory policies in the development of the rulemakings. While NARUC took no position on the merits of the potential rules, NARUC recognized that the regulations "could pose significant challenges for the electric power sector, with respect to the economic burden, the feasibility of implementation by the contemplated deadlines and the maintenance of system reliability." The resolution included a list of guiding principles for EPA to consider as it moves forward with the rulemakings.

On November 4, 2010, staff provided a memo to the Commissioners and their staff members describing the purpose of each rule and the status of each EPA rulemaking proceeding. The purpose of this memo is to provide an update on: (1) the status of each rulemaking, (2) available information on national costs associated with the rulemakings, and (3) staff's activities to monitor the rulemakings. A brief discussion of the FERC rulemaking is also included.

I. Clean Air Act Regulations

EPA has initiated three rulemaking proceedings related to air emissions from electric generating units, including: (1) interstate transport rule; (2) national emissions standards for hazardous pollutants, and (3) greenhouse gas regulations. EPA has authority to set standards for specified air emissions under the Clean Air Act.

Interstate Transport Rule

The "good neighbor" provisions of the Clean Air Act require EPA to address the interstate transport of air pollutants that significantly contribute to air pollution in downwind states. To meet this obligation, in 2005, EPA adopted the Clean Air Interstate Rule (CAIR). CAIR requires significant reductions in sulfur dioxide (SO_2) and nitrogen oxide (NO_X) emissions by electric generating facilities. SO_2 and NO_X react in the atmosphere to form fine particles and ozone that can be transported long-distances, potentially impacting the air quality of other states.

In 2008, the U.S. Court of Appeals remanded CAIR to EPA, finding that portions of the rule were not consistent with the requirements of the Clean Air Act. Under the Court's ruling, the CAIR will remain in effect until EPA finalizes new rules. The CAIR regional control programs are operating while EPA responds to the Court order. The Court did not impose a schedule for EPA to propose and finalize a new rule. On July 6, 2010, EPA responded to the Court's ruling by proposing a new rule, referred to as the Transport Rule. The rule is applicable to all fossil fuel generating units with a capacity exceeding 25 megawatts (MW).

EPA's proposed Transport Rule requires emission reductions by electric generating units in 31 states and the District of Columbia, and is expected to result in emission reductions beyond those required by CAIR. The rule reduces fine particulates by setting annual SO_2 and NO_X emission budgets for 28 of the covered states, including Florida. Ozone reduction is achieved through the requirement for 26 states, including Florida, to reduce NO_X during the summer months. The transport rule requires larger emission reductions more quickly than the CAIR. Each state will determine how to meet their SO_2 and NO_X emission budgets by developing a state implementation plan, which is subject to EPA approval. In order to reduce compliance costs, EPA's proposed rule allows emissions trading within each state, with limited trading among states.

EPA estimates annual compliance costs for the electric generating industry to total $2.8 billion in 2014, with increases in electricity prices of approximately 1.5 percent. EPA projects annual

benefits to health, visibility, and the environment of $120 billion to $290 billion. No Florida-specific data is currently available.

Status of Transport Rule Proceeding

EPA proposed the transport rule July 6, 2010, and allowed a sixty day comment time window. The rule is expected to be finalized in June 2011, with initial SO_2 and NO_X emission reduction requirements beginning in 2012, and additional SO_2 reductions in 2014.

EPA has determined that additional emissions reductions beyond the proposed Transport Rule will be necessary for several areas of the U.S. to attain existing ozone standards and anticipated upcoming standards. EPA expects that a second phase of rulemaking regarding NO_X emissions will be necessary, with a proposed rule in 2011, and a final rule in 2012.

National Emissions Standards for Hazardous Pollutants

Title 1 of the Clean Air Act obligates EPA to develop an emission control program for listed hazardous air emissions, including mercury, arsenic, lead, and dioxins. To implement Title 1, EPA established the Clean Air Mercury rule (CAMR) in 2005, the first ever federally-mandated requirements that coal-fired power plants reduce emissions of mercury. CAMR established a nationwide cap for mercury emissions from existing and new coal-fired plants, implemented through a cap and trade system. The first phase of CAMR would have become effective in 2010, with a more stringent cap in 2018.

CAMR was challenged in Court, resulting in a U.S. Court of Appeals order in 2008, remanding the rule to EPA. The Court imposed a schedule on EPA to issue a proposed rule implementing Title 1 by March 2011, and finalize the rule by November 2011. The rule will include all existing and future coal- and oil-fired generating units. Pursuant to Title 1, existing plants will be required to achieve emission levels at or below those associated with the maximum achievable control technology (MACT), defined by the Clean Air Act as "the average emission limitation achieved by the best performing 12 percent of the existing sources." Emissions from new plants will be limited to those achieved by the best single performing source within the same category of generators. EPA expects the rule to prompt significant investment in upgrading plants with modern pollution control. The proposed rule could address additional air emissions beyond the original mercury-only regulations, such as lead, arsenic, acid gases, dioxins, and furans.

Status of the National Emission Standards Proceeding

EPA is required to issue its proposed rule in March 2011, to be finalized by November 2011. EPA generally schedules a comment period of sixty days following the issuance of a proposed rule. Pursuant to the Clean Air Act, existing generating units would have a three-year timeframe to comply, and may receive approval for a one-year extension, which would indicate compliance by 2014 or 2015.

Greenhouse Gas Regulation

In April 2007, the U.S. Supreme Court found that greenhouse gases (GHGs), including carbon dioxide (CO_2), qualify as air pollutants that can be regulated by EPA pursuant to the Clean Air Act. The Court's ruling is focused on transportation-related GHGs. In compliance with the Court's ruling, EPA performed a study on the effects of GHGs from vehicles and found that these emissions endanger public health and welfare. Consequently, in April 2010, EPA issued a draft rule regulating GHGs from light-duty vehicles. This draft rule is the first regulation of GHGs under the Clean Air Act.

The Supreme Court's ruling also has implications for the electric industry. EPA is currently considering the regulation of GHGs from large emitters, such as electric generators. EPA issued a rule in May 2010, establishing an approach to permitting GHG emissions that focuses on the largest emitters. On November 10, 2010, EPA issued a prevention of significant deterioration (PSD) memo that clarified that GHGs become regulated pollutants in January 2011. The PSD memo provides guidance to assist the state and local permitting authorities as they address the permitting of GHGs through existing air emissions permitting programs. In Florida, air permits pursuant to the Clean Air Act are issued by the Department of Environmental Protection (FDEP) on the EPA's behalf.

According to EPA, the implication of the PSD memo is that new or expanded large stationary emitters, such as power plants, will be required to obtain preconstruction permits for GHGs under EPA's PSD program. Starting July 1, 2011, a new source of GHG emissions that exceeds thresholds established in the May 2010 rule will be required to obtain air permits for GHGs. Thresholds are set at 100,000 tons per year of CO_2 (or the equivalent in other GHGs) for a new source and 75,000 tons per year resulting from a modification to an existing source. The PSD program typically requires emitters to employ the best available control technology.

Status of Greenhouse Gas Regulations

There is a great deal of uncertainty surrounding EPA's GHG regulations. Litigation has been filed challenging several of EPA's GHG-related actions, including the May 2010 rule and the light-duty vehicle rule. EPA's PSD memo addressing GHGs, issued in November 2010, was based on the May 2010 rule currently under litigation. EPA accepted comments through December 1, 2010, on the PSD memo and is expected to issue a revised PSD memo in February 2011. As of this date, EPA has not issued the revised PSD memo. Adding to the uncertainty, the U.S. House of Representatives has acted to reduce EPA's budget in order to prevent EPA from regulating GHGs.

II. Clean Water Act Regulations

EPA is developing two rules implementing portions of the Clean Water Act that will affect electric utilities: (1) the Cooling Water Intake Structures Regulation, and (2) the Steam Electric Effluent Limitations Guideline.

Cooling Water Intake Structures Regulation

The withdrawal of cooling water from bodies of water by electric generators has the potential to harm aquatic wildlife. Section 316(b) of the Clean Water Act requires EPA to protect aquatic wildlife by ensuring that cooling water intake structures reflect the best available control technologies. EPA interprets the Act to require reductions in harm consistent with the best available control technologies, such that the entrapment of fish and shellfish and impingement of eggs and larvae are reduced.

In 2004 and 2006, EPA implemented this requirement by promulgating rules establishing standards for the location, design, construction and capacity for cooling water intake structures at existing large power plants. These existing rules gave utilities the flexibility to meet the standards with several compliance alternatives, such as implementing additional protection technologies and using restoration measures.

Both rules were litigated, resulting in the U.S. Circuit Court remanding portions of the rules to EPA in 2007. The Court imposed a schedule of March 2011 for a proposed rule, to be finalized by July 2012. EPA subsequently suspended implementation of the rule for existing large power plants. EPA now intends to develop new rules for all existing steam electric generating facilities with clean water intake structures. The Court allowed, but did not require, EPA to determine the costs and benefits of a new rule. EPA was required, however, by Executive Order 12866, to estimate the social costs and benefits of a proposed rule.

There is a concern that the new rules would be less flexible and provide fewer options for existing power plants to meet the standards. A "one-size-fits-all" approach could require existing power plants with once-through cooling systems to modify these systems to closed-loop systems. In order to install these systems, the utility must have available land. Closed-loop systems also reduce the efficiency of an existing plant because more power is required to run closed-loop cooling.

Status of the Cooling Water Intake Structures Rulemaking Proceeding

EPA has not yet released a proposed rule, but has agreed to release the rule and standards by March 14, 2011, and after considering comments, to finalize the rule by July 27, 2012. EPA is currently collecting data to perform a cost/benefit analysis. Implementation of the rule is expected to begin in 2014, with full compliance within five years.

Steam Electric Effluent Limitations Guideline

The Clean Water Act requires EPA to establish guidelines for effluents released by industry, including steam electric generators, into U.S. water systems. These guidelines are incorporated into the National Pollutant Discharge Elimination System discharge permits issued by EPA and the states. Specified electric generators are required to hold these discharge permits and must

apply for renewal every five years. The guidelines affect steam generating facilities, including those fueled with coal, nuclear, oil, and natural gas.

EPA last updated its steam electric effluent guidelines in 1982. In December 2009, EPA completed a study in which it found that the existing rule did not fully address effluents being released and technological changes in electric generation. EPA is considering new regulations for currently unregulated effluents in ash ponds, wastewater from air pollution controls, and landfill leachate, including certain metals, nutrients, and chlorides, as well as other power plant waste streams. EPA has not completed a cost/benefit analysis of additional regulations.

Status of the Electric Effluent Limitations Guideline Rulemaking Proceeding

In December 2009, EPA initiated a rulemaking to revise its existing Steam Electric Effluent Limitations Guideline rule. EPA is currently collecting technical and financial data, and expects to release a proposed rule in mid-2012. Electric generators would be required to comply when renewing their discharge permits.

III. Coal Combustion Residuals

The combustion of coal in electric generators produces residues, often referred to as coal ash, which are collected in pollution control devices, such as scrubbers. Coal ash is disposed of in solid form at landfills or in liquid form at large surface impoundments, or ash ponds. The residues may also be recycled into usable products, such as wallboard and cement. According to EPA, 37 percent of coal ash is currently recycled for beneficial uses. Potential environmental concerns associated with the remaining 63 percent of coal ash arise due to the potential for leakage or structural damage of storage ponds, as in the 2008 Kingston Tennessee coal ash spill. Regulation of coal ash could restrict the disposal in liquid form, and require additional liners or the capping of existing coal ash ponds.

Coal ash is currently considered exempt from federal regulation under the Resource Conservation and Recovery Act. Instead, these residues are regulated at a state level. Beneficial uses of coal ash are also regulated at the state level. In Florida, coal ash disposal and beneficial recycling are regulated by the FDEP. As required by existing rule and statute, power plants in the state of Florida are permitted or licensed, and required to monitor groundwater impacts from ash storage areas or settling ponds by one of the following ways:

- A National Pollutant Discharge Elimination System permit that includes a groundwater monitoring plan
- A separate groundwater permit
- Solid Waste permit
- Conditions of certification under the Florida Power Plant Siting Act

Due in large part to the environmental impact of the 2008 Kingston Tennessee coal ash spill, EPA is considering national rules regulating coal combustion byproducts as hazardous wastes.

EPA recently performed a risk assessment analysis, and concluded that contaminants from coal ash leak into ground water if the waste is not properly disposed of. Consequently, on June 21, 2010, EPA proposed rules that would regulate coal ash disposal by electric utilities. The rules pertain solely to the disposal of coal ash. At this time, EPA is not proposing to regulate beneficial uses of coal ash on a federal level. EPA has requested comments, however, on whether certain land-based forms of beneficial uses should be regulated, such as the use of coal ash as fill in land embankments and some agricultural applications.

EPA has proposed two regulatory schemes to regulate coal ash.[1] Both schemes require liners and ground monitoring to be installed on new landfills in which coal ash is disposed. The primary differences in the two plans involve the treatment of existing disposal facilities, as well as implementation and enforcement. The first approach includes measures intended to result in a phase out of existing surface impoundment facilities for the wet storage of coal ash. This approach also creates a comprehensive program of requirements for waste disposal that would be directly enforceable by the federal government through state or federal permit programs. States would need to adopt the rule before it would become effective. EPA expects that rule adoption by the states could take several years.

Under the second approach, EPA would set performance standards for coal ash disposal and would require liners on existing impoundments where coal is stored in wet form. EPA expects this would create incentives for utilities to close existing impoundments and increase the disposal of coal ash in dry form. This approach would go into effect sooner, perhaps as early as six months after promulgation of the rule, because it would not require state or federal permit programs. The rule would not be federally enforceable, but would be primarily enforced through citizen litigation.

EPA prepared a Regulatory Impact Analysis to estimate the costs and benefits of the two regulatory approaches under various scenarios. EPA estimates nationwide annual costs of $1.5 billion for the first approach and $.6 billion under the second approach. EPA's cost estimates include industry compliance costs, as well as state and federal monitoring and enforcement costs. EPA contends that the rule will have "widespread environmental and economic benefits," including: (1) benefits associated with groundwater protection, (2) prevention of future ash spills, (3) and encouragement of recycling into beneficial uses. Benefits are estimated to range from $.1 billion to $7.4 billion per year, depending on the rule option which is adopted. There has been disagreement over whether EPA's proposed rules will actually decrease beneficial uses for coal ash. In this case, EPA's benefit estimate for the first rule option is significantly negative. No Florida-specific cost data is currently available.

[1] Proposal one would regulate coal ash as "special waste" under Subtitle C of the Resource Conservation and Recovery Act; while under the second proposal, coal ash would be considered "non-hazardous waste" under Subtitle D of the Act.

Status of the Coal Ash Rule Proceeding

EPA co-proposed the two draft rules on June 21, 2010. The public comment period ended on November 19, 2010. A final rule is anticipated in 2011. The timing of compliance would depend on the rule option adopted, with full compliance expected by 2018. Both rules provide a five-year window for utilities to install required liners on existing wet storage impoundments.

IV. Cost and Reliability Impact Studies

In addition to EPA's cost benefit studies discussed above, several studies have been completed on the costs and potential reliability impact of EPA's potential rules. Staff has reviewed the study recently completed by the North American Electric Reliability Corporation (NERC). The NERC study includes a preliminary reliability assessment of the impacts of four of EPA's potential rules and standards on existing electric generating capacity.[2] The NERC report does not address EPA's steam electric effluent guidelines or greenhouse gas regulations. NERC found that the potential rules are expected to result in the forced retrofitting and retiring of a number of existing fossil-fueled units across the United States. NERC's preliminary assessment, however, appears to conclude that the Florida Reliability Coordinating Council region of Florida will not be significantly affected from a reliability standpoint.

Staff is in the process of obtaining and reviewing several additional studies on the national impact on costs and reliability. It is important to note, however, that any specific cost and reliability estimates will be evolving as EPA's rules become more certain.

V. Federal Energy Regulatory Commission Transmission Planning and Cost Allocation Rulemaking

On June 17, 2010, the Federal Energy Regulatory Commission (FERC) issued a notice of proposed rulemaking (NOPR) on electric transmission planning and cost allocation. It appears FERC's proposals may seek to expand its authority over transmission planning and establish cost allocation for transmission expansion and upgrades that may negatively impact state authority and Florida's ratepayers. On September 24, 2010, the FPSC filed comments expressing concern that FERC: (1) contemplates establishment of common transmission planning criteria; (2) requires IOUs to file with FERC the process for the evaluation of proposed transmission lines; (3) requires IOUs to coordinate with neighboring transmission regions on planning issues; and (4) requires IOUs to develop regional and interregional cost allocation methodologies for transmission additions, based on the principle that the beneficiaries of transmission would bear the costs commensurate with the benefits they receive.

On November 10, 2010, the FPSC filed reply comments noting that the issues FERC attempts to address in the NOPR are primarily faced in those regions with regional transmission

[2] *2010 Special Reliability Scenario Assessment: Resource Adequacy Impacts of Potential U.S. Environmental Regulations*, North American Electric Reliability Corporation, October 2010.

organizations and independent system operators, structures not present in Florida. FERC should confine its reforms in transmission planning and cost-allocation to those regions and not affect state authority over these functions in vertically integrated states such as Florida. Staff will continue to monitor the FERC's actions in this rulemaking proceeding, as well as other proceedings that may affect the FPSC and Florida's ratepayers.

VI. Activities to Monitor EPA's Rulemakings

Staff has followed EPA's rulemakings through various avenues, including monitoring the rulemakings on EPA's website. Staff has participated in a series of webinars on the rulemakings co-sponsored by the NARUC Task Force on Climate Policy and the Subcommittee on Clean Coal. The Division of Regulatory Analysis also provided a training session for staff on the rulemakings and on NERC's analysis of the impact on U.S. electric utilities. In addition, in December 2010, staff met with FDEP staff and Progress Energy Florida, Inc. regarding the impact of the cooling water intake rulemaking on Florida's utilities. Staff has also obtained information from FDEP on current state regulatory practices for coal ash disposal and recycling.

Staff will continue to monitor EPA's rulemakings and the potential impact on Florida's electric utilities and ratepayers. While FDEP is the lead agency responsible for environmental issues and for reviewing EPA rules, staff seeks Commission guidance on any further actions the Commission wishes FPSC staff to pursue. Additional actions the Commission may wish for staff to pursue include:

- Invite the Florida IOUs to brief the Commission at Internal Affairs on the impact of the rulemakings on cost and reliability.
- Review EPA's draft rules once they are released and prepare summaries for Commissioners.
- Obtain and review available nationwide cost and reliability studies.
- Send data requests to Florida's IOUs to obtain Florida-specific information on utility activities to determine expected costs and reliability impacts.
- Hold regular meetings with FDEP staff to identify and share potential issues, solutions, and overlapping jurisdiction, if any.
- Where appropriate, prepare draft comments to the EPA for Commission consideration.

Cc: Chuck Hill, Curt Kiser, Beth Salak, Bob Trapp, Marshall Willis, Cheryl Bulecza-Banks, Tom Ballinger, Cayce Hinton

Attachment 4

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: February 28, 2011

TO: Timothy J. Devlin, Executive Director

FROM: Dan Hoppe, Director, Division of Service, Safety & Consumer Assistance

RE: Briefing on Natural Gas Safety

Critical Information: Please place on March 8, 2011, Internal Affairs. Briefing only. No action requested.

The attached briefing is in response to a memorandum from Commissioner Edgar dated February 21, 2011, requesting staff to provide information for discussion regarding natural gas transmission and distribution safety at a future internal affairs.

These talking points discuss the Florida Public Service Commission (FPSC) Natural Gas Safety Program, possible congressional action currently being discussed that could have an impact on the FPSC Natural Gas Safety Program, and some recent current events that have heightened public awareness nationally and within the state.

NATURAL GAS SAFETY
TALKING POINTS
INTERNAL AFFAIRS
MARCH 8, 2011

PSC Pipeline Safety Program

Florida has had the gas safety statute, Chapter 368 Gas Transmission and Distribution, since 1967 and a safety program since 1971. The Commission's natural gas pipeline safety jurisdiction covers approximately 62 gas safety systems, 45,740 miles of intrastate pipelines including mains and services and 840,285 customer service lines. This gas safety authority covers investor owned, municipal systems, gas districts and intrastate pipelines.

The Commission has five gas safety engineers located throughout the state each year to evaluate all the natural gas distribution systems for compliance with natural gas safety rules and regulations. Along with the annual system safety evaluations, the engineers examine new natural gas pipelines in various stages of construction throughout the year. Plans and specifications are reviewed during these evaluations to assure the correct design factors are used for all pipeline components. These checks also verify that the pipeline materials meet the required standards and quality.

Some Additional Areas Covered by the Annual Natural Gas Safety Evaluations	
Construction	**Operations and Maintenance**
Design	Abandonment of Inactive Service Facilities
Inspection & Testing Procedures	Alcohol and Drug Testing
Joining Procedures	Distribution Systems Patrols
Leak & Pressure Testing	Emergency Plans
Materials Standards	Employee Training
Pipe Installation & Cover	Excavation Damage Prevention Programs
Pipeline Design	Facility Identification Line Markers
Repair of Defects	Integrity Management Programs
Welder and Joiner Qualification	Leak Surveys and Repairs
X-ray & Destructive Testing	Mapping, Locating, and One-call
	Odorant Concentration
Corrosion control	Operating Pressures
Atmospheric Corrosion	Operator Qualification
Cathodic Protection	Pressure Regulator Stations
Monitoring	System Upgrading
Protective Coatings	Tapping and Purging
Qualification of Personnel	Testing Requirements
Remedial Measures	Unaccounted for Gas Audit
	Valve Maintenance Required Training for Pipeline Safety

Upon detection of a rule violation, the gas safety supervisor issues a notice of rule violation and report to the operator describing the deficiency and states the applicable rule violated. All violations are corrected immediately by the company or scheduled for corrective action pursuant to the Commission's enforcement procedures.

Recent Gas Accidents and Historical Trend

California - September 9, 2010, a high pressure gas pipeline exploded in San Bruno, a suburb of San Francisco. Eight people were killed, numerous individuals were injured, and many more were evacuated from the area. The blast destroyed 38 homes and damaged 120 homes.

The pipeline was constructed using 30-inch diameter steel pipe (API 5L Grade X42) with 0.375-inch thick wall. The pipeline was coated with hot applied asphalt, and was cathodically protected. The ruptured pipeline segment was installed circa 1956. The specified maximum operating pressure (MOP) for the ruptured pipeline was 375 pounds per square inch gauge (psig). According to the gas utility, the maximum allowable operating pressure for the line was 400 psig. The leak started at 5:45 p.m. and the gas feed was stopped at 7:40 p.m. - Source NTSB reports.

Photograph of the 28-foot-long ruptured section of pipeline

Pennsylvania - February 10, 2011, five people are killed and eight homes are destroyed in a gas explosion and fire in Allentown.

Natural gas is the likely cause of the explosion. Found at the site was a damaged 12-inch cast-iron pipe. The cast iron main involved in the incident had no leak history. There were no reports of gas odor preceded the explosion. The pipe was installed in 1928. The area outside the break appeared to be in pristine condition. There was heavy ground freezing weather and construction in the area. (It appeared that possible stress-cracking caused the break and leak by the ground heaving from freezing and thawing or construction vibrations.)

Florida - November 11, 2010, a gas accident injured two and damaged the 8" gas pipeline and service was lost to approximately 7,200 active customers in Lee and Collier counties.

Road construction workers hit the Ft. Myers main gas pipeline feed with a sand, soil mixing machine. The line had been previously located and marked by the gas utility for the construction contractor. A gas company worker in the area the day before the accident noticed the marking had been removed the employee informed the contractor to stop construction until the pipeline could be re-located. The next day, before the pipeline could be relocated, the mixing machine damaged the pipeline and caught on fire and two workers were injured. One was reportedly burned over 50% of his body and was transported to a hospital. The other worker was treated for a minor injury at the site. The damage to the pipeline was so severe that pressure could not be maintained and around 7,200 customers lost service for several days.

Recent Historical Trend – Attachment A is the most recent 25 year history of national pipeline incidents involving deaths and/or major injuries. The graph shows a downward trend (with occasional spikes) from 91 incidents in 1986 to less than 40 incidents in 2010.

Possible Federal Legislation

Senators Dianne Feinstein's and Barbara Boxer's Proposed Bill

The Strengthening Pipeline Safety and Enforcement Act of 2011

Legislation to strengthen pipeline safety oversight by the federal government and arm regulators with the authority to seek increased civil penalties for companies falling afoul of the rules.

- Doubles the number of federal pipeline safety inspectors.
  (No impact)

- Requires deployment of electronic or remote-control valves capable of automatically shutting off the gas in a fire or other emergency.
  (Minimal impact on Florida distribution systems.)

- Mandates the use of inspection devices called "smart pigs" or an inspection method certified by the Secretary of Transportation as equally effective at finding corrosion.
  (Minimal impact on Florida distribution systems.)

- Pipeline operators must establish a complete record of pipeline components in order to verify the "maximum allowable operating pressure," based on the weakest section of the pipeline. Pipelines with incomplete records must be pressure tested or replaced, and must operate at reduced pressure until testing is completed. This provision was recommended by the NTSB after it discovered serious problems with Pacific Gas and Electric's record keeping during the investigation of the San Bruno explosion.
  (No impact)

- Prohibits natural gas pipelines from operating at high pressure if they cannot be inspected using the most effective inspection technology.
  (Minimal impact on Florida distribution systems this is directed at higher pressure transmission pipelines.)

- Prioritizes old pipelines in seismic areas for the highest level of safety oversight.
  (No impact)

- Directs Department of Transportation to set standards for natural gas leak detection equipment and methods. Today there are no uniform national standards for how to detect leaks.
  (Minimal impact)

- Includes additional provisions to improve pipeline safety including increasing civil penalties for safety violations; expanding data collection to be included in the national pipeline mapping system; closing jurisdictional loopholes to assure greater oversight of unregulated pipelines; and requiring consideration of a firm's safety record when considering its request for regulatory waivers.
  (Minimal impact)

Senators Frank Lautenberg's and Jay Rockefeller's Proposed Bill

Pipeline Transportation Safety Improvement Act of 2011

Aims to strengthen the government's oversight of pipeline safety and address long-standing safety concerns with new technical requirements.

- Increase civil penalties for violators of pipeline regulations and add civil penalties for obstructing investigations.
  (Minimal impact)

- Expand excess flow valve requirements to include multi-family buildings and small commercial facilities.
  (Minimal impact on Florida, distribution systems currently have a program for residential and the change would be a long term program.)

- Eliminate exemptions and require all local and state government agencies, and their contractors, to notify "One-Call" notification centers before digging.
  (Florida's One-Call law has no exemptions.)

- Require the installation of automatic or remote-controlled shut-off valves on new transmission pipelines.
  (Minimal impact covers higher pressure transmission pipelines.)

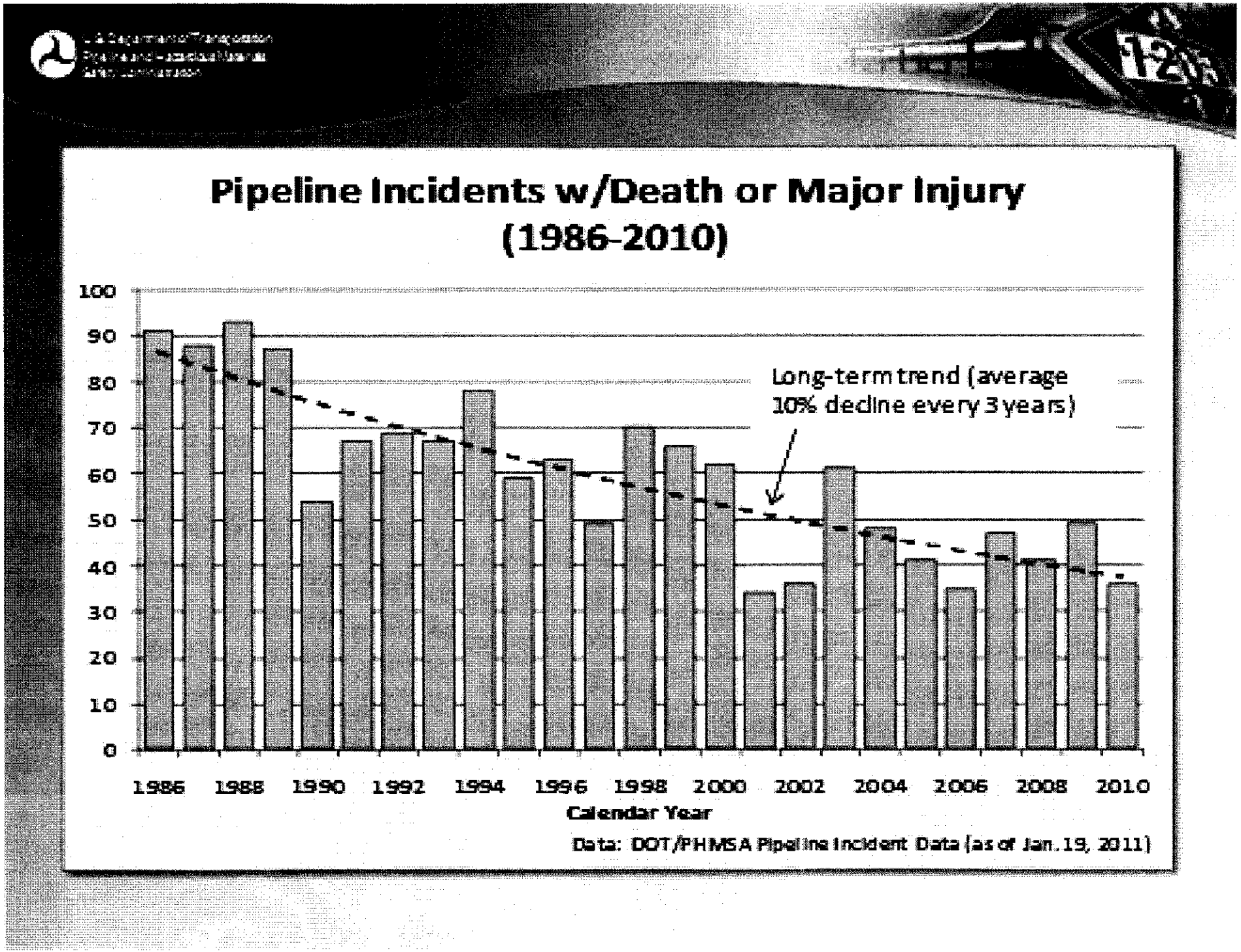
- Require the Secretary of Transportation to establish time limits on accident and leak notification by pipeline operators to local and state government officials and emergency responders.
  (This is not a problem for Florida, the Commission has a rule for notification.)

- Require the Secretary of Transportation to evaluate whether integrity management system requirements should be expanded beyond currently defined high consequence areas and establish regulations as appropriate.
  (Minimal impact covers higher pressure transmission pipelines.)

- Make pipeline information, inspections, and standards available to the public on the Pipeline Hazardous Material Safety Administration's (PHMSA) web site.
  (Minimal impact)

- Authorize additional pipeline inspectors and pipeline safety support employees, through a phased-in increase over the next four years.
  (No impact)

- Allow PHMSA to recover costs for oversight of major pipeline design and construction projects.
  (No impact)


Pipeline Incidents w/Death or Major Injury
(1986-2010)
100
90
80
70
60
50
40
30
20
10
0
1986
1988
1990
1992
1994
1996
1998
2000
2002
2004
2006
2008
2010
Calendar Year
Long-term trend (average
10% decline every 3 years)
Data: DOT/PHMSA Pipeline Incident Data (as of Jan. 19, 2011)

II. Outside Persons Who Wish to Address the Commission at Internal Affairs

The records reflect that no outside persons addressed the Commission at this Internal Affairs meeting.

III. Supplemental Materials Provided During Internal Affairs

The records reflect that there were no supplemental materials provided to the Commission during this Internal Affairs meeting.