

# I. Meeting Packet



**State of Florida**  
**Public Service Commission**  
**INTERNAL AFFAIRS AGENDA**

Tuesday – May 19, 2020

9:30 AM

Room 148 – Betty Easley Conference Center

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1. Presentation by Gary Williams, Florida Rural Water Association
2. General Counsel's Report
3. Executive Director's Report
4. Other Matters

BB/aml

OUTSIDE PERSONS WISHING TO ADDRESS THE COMMISSION ON  
ANY OF THE AGENDAED ITEMS SHOULD CONTACT THE  
OFFICE OF THE EXECUTIVE DIRECTOR AT (850) 413-6463.

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

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

# III. Supplemental Materials for Internal Affairs

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

# IV. Transcript

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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PROCEEDINGS: INTERNAL AFFAIRS  
  
COMMISSIONERS  
PARTICIPATING: CHAIRMAN GARY F. CLARK  
COMMISSIONER ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER ANDREW GILES FAY  
  
DATE: Tuesday, May 19, 2020  
  
TIME: Commenced: 9:30 a.m.  
Concluded: 11:30 a.m.  
  
PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida  
  
REPORTED BY: DEBRA R. KRICK  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

PREMIER REPORTING  
114 W. 5TH AVENUE  
TALLAHASSEE, FLORIDA  
(850) 894-0828

## 1 PROCEEDINGS

2 CHAIRMAN CLARK: All right. Well, we will go  
3 ahead and get start then with that announcement.  
4 We will go ahead and kick things off this morning.

5 This is IA, and it is Tuesday, May 19th.  
6 Thank you for joining us today, those of you that  
7 are joining on-line and those of you that are here  
8 with us live. We have several things to go  
9 through, so we will go ahead and -- good morning,  
10 Commissioner Polmann, there he is. He is back with  
11 us now.

12 We will go ahead and get started. We are  
13 going to begin today with a presentation by Gary  
14 Williams of the Florida Rural Water Association.

15 Gary, are you on the line this morning?

16 MR. WILLIAMS: Yes, I am on the line. Thank  
17 you.

18 CHAIRMAN CLARK: All right. The floor is  
19 yours.

20 MR. WILLIAMS: Okay. Thank you.

21 I want to make this kind of a discussion  
22 related thing. I have got three, four, five  
23 topics, but I would love for you to interrupt me at  
24 any time if you have anything you want to ask or if  
25 you have any other the topics you want to discuss.

1           I wanted to go over first of all some of the  
2           stuff related to the Corona 19, the pandemic  
3           situation related for water and wastewater  
4           utilities.

5           The -- one of the concerns that we had early  
6           on related to it was the human resource side, and  
7           if operators at water utilities were unable to  
8           perform their duties. So as part of Florida water  
9           and FlaWARN -- and FlaWARN is the Florida Water  
10          Agency Response Network. And it's essentially  
11          water utilities helping water utilities.

12          So we spent quite a bit of time initially  
13          getting ready on a preparedness standpoint. So one  
14          of the first things we did was to reach out to  
15          water utility operators and ask them if they were  
16          willing to help out neighboring water utilities if  
17          their operators were either sick, come in contact  
18          with somebody or were quarantined. So we had a  
19          list, like, say 125, there were probably a dozen in  
20          every area of the state.

21          I'm happy to report we haven't had to use very  
22          many of those volunteers. Everybody stayed pretty  
23          healthy. A lot of the precautions that water  
24          utilities took to shelter in place, protect their  
25          workforce worked well.



1           We had a few isolated situations where  
2           somebody at a water utility came in contact with  
3           somebody that had symptoms of the virus. And so  
4           what happened is that person would be in  
5           quarantined, and everybody that they came in  
6           contact with. So it might have been other people  
7           at the water utility.

8           And in that scenario, typically what we did is  
9           we had people go in and just backstop that utility,  
10          provide for operations and help them.

11          And in all of those situations, we essentially  
12          did it without any publicity. We didn't  
13          necessarily want it getting in the media that their  
14          operator was sick, and for the public to think it  
15          you have it could have some impact on the water  
16          quality. So we just kind of maintained the  
17          operation and went forward.

18          Another thing that we did is Florida recently  
19          adopted a new water tracking system. In the past,  
20          there used to be a thing called Storm Tracker,  
21          which allowed systems to indicate after an event if  
22          they were having operational problems, if, like,  
23          after a hurricane they needed generators, that type  
24          of stuff. A new system has been developed that  
25          allows them to indicate their operational status

1 and indicate need and any resources that they have  
2 to help other water utilities.

3 We were shooting for that to be live on  
4 June 1st for hurricane season. Because of the  
5 pandemic, we pushed it forward and we essentially  
6 said, all of the water utilities are operational,  
7 but we wanted them to be able to enter in there any  
8 needs they had.

9 And as you would probably guess, most of the  
10 stuff that was requested was PPE, specifically  
11 masks, gloves, sanitizers, that type of thing.

12 So one of the things that happened was Florida  
13 Rural Water, we went ahead and we bought 8,000 KN95  
14 masks -- KN95 masks and 8,000 fiber masks to make  
15 available for the industry, and then we sold them  
16 at cost. And the thought there was that a critical  
17 worker, to use a KN95 mask and put a fiber mask  
18 over to make it last longer.

19 So all 8,000 of those are sold. And the  
20 reason we did it is because all of the vendors  
21 wanted payment up front. And that's really not how  
22 water utilities work. They typically issue a PO,  
23 or something like that, and then they, you know,  
24 they go ahead and get the product and pay for it.

25 COMMISSIONER BROWN: Mr. Chairman.

1 MR. WILLIAMS: Yes.

2 COMMISSIONER BROWN: Mr. Chairman, if I may,  
3 just a quick question about that system that was  
4 developed, and it's great that you have some type  
5 of resource like that for your members.

6 Are all of the members currently enrolled in  
7 that type of system, and are they having -- are you  
8 seeing a good membership attracted to that?  
9 Because I think that will be really helpful for  
10 hurricane season.

11 MR. WILLIAMS: Yeah, Commissioner Brown. That  
12 actually was developed in partnership with DEP  
13 FlaWARN and Florida Rural Water. And so there is a  
14 requirement after an event for water utilities to  
15 report to DEP their operational status. So the  
16 system was created to replace the one that existed  
17 before by DEP, but it grouped together essentially  
18 systems being able to ask for resources.

19 So it's very robust. There are about 7,000  
20 water utilities -- of course, there is 5,000 public  
21 drinking water utilities and about 2,000 wastewater  
22 utilities. So they all have requirements to report  
23 and post after that, and we are trying to get them  
24 to all log in now to be ready for hurricane season.

25 COMMISSIONER BROWN: Thank you.

1           MR. WILLIAMS: So there is a number of them in  
2           there now. I don't think we have everybody that's  
3           logged in and set their password, but I am sure it  
4           will happen by June 1st, as DEP has been calling  
5           the systems trying to help them through it.

6           COMMISSIONER BROWN: Oh, good. Thank you.

7           MR. WILLIAMS: The other thing I want to say  
8           on masks is EPA came out with 180,000 cloth masks  
9           for the Florida water and wastewater industry. So  
10          we've got all of those, and all of the associations  
11          in Florida are helping deliver those to water  
12          utilities. They are free of charge. I think about  
13          100,000 have been distributed now, and there is  
14          about 80,000 remaining.

15          They are -- we've got pickup locations in  
16          Pompano Beach, Bonita Springs, Pinellas County,  
17          Orlando, Daytona, Jacksonville, Palm Coast,  
18          Gainesville, Tallahassee and Destin. So what  
19          happens is somebody just lets that utility know  
20          that they would like five masks per employee at no  
21          charge, and they go pick them up at that utility.  
22          So we are still distributing them, and will until  
23          they are all, you know, all the utilities have  
24          those.

25          Actually, today, right now, we just sent out a

1 phone message to all of the 7,000 utilities with an  
2 automatic dialer to let them know that the masks  
3 were available, and to go to FlaWARN to find their  
4 closest distribution site to get the masks. We had  
5 already emailed out and let people know by website,  
6 but we want to make sure everybody, including the  
7 smallest systems, knew that they were available.

8 So that's good. We think that as we go back  
9 into opening up fully, that everybody will be  
10 encouraged to wear a mask, and we want the water  
11 utility people to protect each other. So that is  
12 occurring currently also.

13 Another thing that we ran into a little bit of  
14 a problem with initially was getting access to some  
15 of the smallest utilities by contract operation  
16 firms. As they were trying to go visit their water  
17 plant, they would be stopped and be wondering why  
18 they were running around out in -- when they are  
19 supposed to be sheltering at home.

20 So for those that didn't have a utility, you  
21 know, identification, we had to get a letter for  
22 them, essentially saying that they were a critical  
23 infrastructure and critical service, so that if  
24 they did get stopped, they had -- they could get  
25 access to the water plant. And that actually was

1 developed by EPA, and Florida signed on to it and  
2 provided it for water utility personnel.

3 One of the things that we are doing right now  
4 is we are more into trying to figure out how to  
5 open up related to the pandemic the water  
6 utilities. So one of the things we are doing and  
7 we developed some SOPs and some BMPs, is a lot of  
8 commercial buildings, large ones, shut down. And  
9 when they go to open up, there is going to be  
10 stagnant water in those buildings. So we've  
11 developed a number of tools to encourage water  
12 utilities to get up with their customers and let  
13 them know that they need to flush those buildings  
14 before they occupy them.

15 And what our suggestion has been is to look at  
16 your meter records, and somebody that was used to,  
17 you know, using 10,000 gallons a month, for  
18 example, if they were using very few gallons, that  
19 probably shows their building had been shut down.  
20 So we needed to communicate directly with them,  
21 that when they go back they need to flush.

22 There is also a BMP that can be sent to the  
23 customer telling them how much to flush, and if the  
24 water utility is involved, we're even suggesting  
25 for, like schools, that they may want to help the

1 school flush, and also then maybe take a  
2 bacteriological sample.

3 The other thing we are concerned about with  
4 schools, it's not only the stagnate water for  
5 bacteriological, but we are worried about lead and  
6 copper. If the water has been sitting there  
7 stagnant for six months, that first draw is going  
8 to be high, and we need to get that water out of  
9 there. So we are communicating with water  
10 utilities about -- about the things they should do  
11 to be available to open up commercial facilities.

12 Another thing that I will mention related to  
13 FlaWARN is we are getting ready now to start  
14 hurricane season. Typically in a hurricane event,  
15 the people that are the most able to help a damaged  
16 water utility is another water utility, and that's  
17 been very successful for 15 years now in Florida.

18 We are a little bit concerned that water  
19 utilities are going to be willing to share  
20 equipment with other water utilities, but they may  
21 not be as willing to share the human resources,  
22 their staff.

23 So we are -- we are looking at, if we do have  
24 a hurricane during this pandemic event, how do we  
25 get equipment to damaged utilities, how do we deal

1 with logistics if the assisting utilities are not  
2 going to bring the equipment themselves? And then  
3 how are we going to have enough staff there to  
4 deploy the equipment needed, generators, bypass  
5 pumps to run the water system and the wastewater  
6 system?

7 And if anybody has ideas on that, we are open  
8 to all ideas on that as we continue to try to think  
9 about that. But it's a concern related to this  
10 hurricane season, as we don't think people are  
11 going to be willing to share their human resources  
12 as freely as they have in the past.

13 Any questions on that?

14 Anything else you can think of together that  
15 the industry should -- the water industry should be  
16 doing?

17 CHAIRMAN CLARK: Commissioner Polmann.

18 COMMISSIONER POLMANN: Thank you, Mr.  
19 Chairman.

20 Mr. Williams, you had mentioned in the water  
21 system the idea of before buildings reopen the  
22 larger water users and typically public buildings,  
23 schools and such. I appreciate you identifying the  
24 old water from a water quality perspective, the  
25 bacteriological circumstances, the concern about



1 backfeed testing, for example, and I appreciate you  
2 highlighting the lead and copper concerns. I think  
3 that's particularly important, very insightful for  
4 you to bring that to the attention of your members.

5 I am wondering if there is a corresponding  
6 concern at all in the wastewater systems that with  
7 regard to those types of customers, that they've  
8 had very low flow corresponding to the low water  
9 flow, have you identified any issues in the  
10 wastewater collection system that may also arise?  
11 I can't think of any off the top of my head, but  
12 have you given consideration to that?

13 Thank you, sir.

14 MR. WILLIAMS: Yeah, there is one specific  
15 that we were a little bit concerned about, that  
16 systems have told us about, is related to lead and  
17 copper, and treatments to make sure that systems  
18 don't have lead and copper problems, many of them  
19 are feeding a polyphosphate, and that's a  
20 protective layer for the lead and copper.

21 As that water sits there and becomes stagnate,  
22 the phosphates build up, too, and when they are  
23 flushed and they are released to the wastewater  
24 plant, we are going to have phosphates going to the  
25 wastewater plant that may not be able to be dealt

1 with in the treatment because of the slugs that  
2 they are getting. So there is a possibility we  
3 could see some additional phosphorus levels for a  
4 period of time after some of these sites start  
5 flushing.

6 And we have been -- we have been warning  
7 wastewater systems about that, and probably  
8 suggesting the larger ones communicate with the  
9 water utility side to make sure that they know  
10 whether they are feeding polyphosphates and they  
11 may see them at the wastewater plant.

12 COMMISSIONER POLMANN: Yeah. One solution  
13 that immediately comes to mind is a slower rate of  
14 flushing rather than having a big slug all at once.  
15 But the interesting aspect of that is, depending on  
16 what type of wastewater treatment you are working  
17 with, you know, the biological aspect of the  
18 wastewater treatment could be affected by the --  
19 and again, depending if the phosphate comes into  
20 the plant, there could be an impact on the  
21 biological treatment, you also could be potentially  
22 discharging from that wastewater facility a big  
23 slug of phosphate out into the environment. It  
24 really depends on the individual circumstances.  
25 But I appreciate you giving that consideration as

1 well. It's very helpful. Thank you.

2 MR. WILLIAMS: Yeah. And that is a big  
3 concern related to, you know -- and I was going to  
4 get into a that a little bit, some of the  
5 legislative things that happened last year related  
6 to nutrient reduction. And if we get that slug of  
7 phosphorus at the wastewater plant and it goes into  
8 a receiving stream, we are not going to be as  
9 effective as we need to be in reducing algae and  
10 nutrients in discharges. So that's why we want  
11 people to be mindful they might be getting slugs of  
12 polyphosphate.

13 COMMISSIONER POLMANN: Exactly.

14 CHAIRMAN CLARK: Commissioner Brown has a  
15 question.

16 COMMISSIONER BROWN: Thank you, Mr. Chairman.

17 Gary, just one thing that's been on my mind  
18 regarding the pandemic is for some of those  
19 struggling water and wastewater utility companies  
20 that are your members, how are they going to deal  
21 with the issue of customers not paying their bill  
22 and having significant bad debt from that? Have  
23 you given some thought to expanding reserve funds?  
24 What are your thoughts on that?

25 MR. WILLIAMS: Thank you a lot. That's a

1 great segue into what I was just going to talk  
2 about.

3 Yeah, and I will tell you that most water  
4 utilities have kind of adopted a non-shut-off  
5 policy in this pandemic, really for protection of  
6 public health, you know, hygiene and all of those  
7 type things. You can't wash your hands if you  
8 don't have water. And we were very concerned about  
9 that initially what would be the financial impact  
10 on water utilities of having a non-shut-off policy?

11 And it's the right thing to do, but I will  
12 tell you that we are seeing systems, their  
13 shut-offs, you know, nonpayments, I guess I would  
14 say, double, triple and even be higher. And what  
15 we've noticed is people that can pay are not  
16 paying.

17 That doesn't necessarily mean that they don't  
18 have the obligation to pay later, but it is causing  
19 a revenue issue at water utilities related to --  
20 they have certain expenses they have to meet, or we  
21 want them to meet, you know, related to chemicals,  
22 chlorine, you know, electricity, pay staff, all of  
23 that type of stuff.

24 So we are concerned about it in the  
25 short-term, and one of the things that you probably

1           have seen is that the industry has been trying to  
2           contact Congress about that in the different  
3           stimulus activity. To date, nothing has been  
4           adopted, but there is \$1.5 billion in the next  
5           stimulus that's being proposed by the House. I  
6           don't have any idea of what the status of that will  
7           be going forward, but at least it's something  
8           that's getting recognition.

9           Other than that, you bring up a good point  
10          too. You know, I know a number of years ago we  
11          talked about the reserve accounts, and we set those  
12          up. I don't know how widely they have been adopted  
13          and accepted by the -- the private water system  
14          industry, and it's possible we need to look at that  
15          again and see if reserves, and encouraging water  
16          utilities to take advantage of that policy and  
17          process that you established, needs to be promoted  
18          more. Because reserves at this point would be a  
19          very healthy safety net for these water utilities  
20          to use in this situation.

21          You know, I know we always worry about the  
22          reserves, if they have them, them not using them  
23          for the correct purposes. And, you know, I guess  
24          we need to assure ourselves we have a process to  
25          protect them, but we probably need to have them

1 more firmly adopted to be able to protect the  
2 customers in situations like this.

3 So I would love to have continued discussions  
4 about that with you and staff. You know, I really  
5 don't know how many water utilities have actually  
6 set up reserve accounts, but it would be something  
7 that we should probably encourage. Of course you  
8 know about that, you helped on that in the study  
9 committee.

10 COMMISSIONER BROWN: And you helped on that  
11 too.

12 Well, I -- Mr. Chairman, I think that it is  
13 something that we should look at as the utilities  
14 continue to deal with the bad debt issues, and  
15 hopefully the Congress will pass that  
16 billion-dollar additional stimulus package that  
17 will benefit the utilities that we'll definitely  
18 see some significant revenue issues as we move  
19 forward.

20 CHAIRMAN CLARK: Thank you, Commissioner  
21 Brown.

22 Mr. Williams.

23 MR. WILLIAMS: Yeah, and switching gears just  
24 a second to sum up the stuff that passed in the  
25 State Legislature in the past year that you

1           probably saw.

2                   Many of the things are going to have a huge  
3           impact on wastewater utilities. There was a  
4           significant bill that passed that you probably saw  
5           that is going to transfer the on-site septic  
6           program from the Department of Health to DEP. It's  
7           going to require on-site remediation plans.

8                   And when I talk about these things, a lot of  
9           this is going to be teed up, I think, by rule from  
10          DEP, and probably will need to have some of your  
11          involvement in that also related to water -- water  
12          and wastewater utilities. And I don't know how  
13          long it will take, you know, to actually adopt some  
14          of those rules, but they are going to have a huge  
15          financial impact on wastewater systems.

16                  One of the things that they are encouraging is  
17          to try to take septic tanks off-line and get people  
18          hooked up to wastewater utilities. One of the  
19          things in there is that every county is going to  
20          have to have some kind of wastewater plan.

21                  There was a specific thing in the bill that  
22          Indian River Lagoon area, every wastewater system  
23          there will have to become AWT, which is advanced  
24          wastewater treatment. Now, for very small systems,  
25          these going to be very tough. It's going to be

1 very expensive, and it's going to have a huge  
2 impact on rates if we have small systems that have  
3 to attain that.

4 And I think, in talking to the folks that  
5 worked on that, it's an expansion of other areas  
6 where they have AWT requirements and they are now  
7 looking at whether that might make sense statewide.

8 So we are really going to have to be concerned  
9 about the financial impact of that, and I think  
10 what's going to happen in the Indian River Lagoon  
11 area, we are going to have to look at is it going  
12 to make sense to make all these small systems AWT,  
13 or is it going to make more sense to regionalize  
14 and consolidate? And that's going to be a tough --  
15 that's going to be a tough situation, because  
16 people like to keep their own systems.

17 So the other couple of things that happened is  
18 in the bill there was a reduction of the ability to  
19 land -- land dispose biosolid. And so in that  
20 scenario, you no longer can essentially take your  
21 biosolids and take them and land apply them. The  
22 other options for that are taking them to a  
23 landfill. Well, it's a whole lot more expensive to  
24 pay the tipping fees in landfills. So that's going  
25 to cause costs to go up.



1           The other thing that we get very concerned  
2           about related to that message is one of the biggest  
3           problems we have at wastewater plants is the owners  
4           don't want to pay to haul sludge, and so they leave  
5           the sludge in the plant too long, and it kills the  
6           plant. And so we create, essentially, a lot more  
7           environmental problems than trying to save that  
8           money than to actually understand that's part of  
9           the maintenance, is to haul and dispose of that  
10          biosolid and sludge. So as those rules are  
11          developed, we are going to have to make sure that  
12          systems understand what their options are going  
13          forward.

14           The other thing that the bill did was it put a  
15          lot of emphasis on asset management and on I&I  
16          reduction for wastewater utility. And I&I is  
17          inflow and infiltration that our system -- that  
18          have deteriorated infrastructure, and we need to  
19          try to help correct that, and that's why asset  
20          management is being promoted so much in the bill.

21           CHAIRMAN CLARK: Commissioner Polmann has a  
22          question.

23           COMMISSIONER POLMANN: Thank you, Mr.  
24          Chairman.

25           Gary, you raised the issue about improper --

1           about the improper management or control of solids  
2           in the plant and disposal of the sludge, and I  
3           understand the inherent cost of hauling and  
4           disposal, particularly if they are a reformed land  
5           application and gone to treating sludge as a solid  
6           waste, which of course it's not predominantly  
7           liquid.

8                     But do you foresee any -- any industry action  
9           to help develop improved operations training, not  
10          just from the -- from the mechanical aspect, if you  
11          will, of the operators, but also the management,  
12          because there is a -- as you said, there is a loss  
13          of operational efficiency and a deterioration in  
14          the plant as an effective treatment system, but  
15          there is a consequential cost impact to the  
16          owner/operator from this poor technique.

17                    So there is a feedback, even though they are  
18          trying to reduce costs by not hauling and disposal  
19          properly, there is an impact within the operation  
20          of the facility itself, is what I am imaging.

21                    So my question is, do you foresee some type of  
22          education, training, something else that should be  
23          done, could be done to help turn this mindset  
24          around?

25                    MR. WILLIAMS:   Excellent point.   It's most

1           definitely education, and we're probably fighting  
2           an uphill battle there in the fact that a lot of  
3           these smaller systems, the owners look at today's  
4           costs, not the incremental costs you are talking  
5           about, you know, what's it going to cost me in  
6           terms of asset management, the plant dying, I got  
7           to go get new seed sludge, I got to go, you know,  
8           restore the biological action.

9           So we have got to do a better job, I guess,  
10          all of us, in convincing people that they need to  
11          make the best long-term management decision, and  
12          probably the best long-term financial decisions,  
13          too, but it's just really hard to get them out of  
14          the mindset of if I can delay that -- that cost of  
15          hauling 60 days, that helps me, but that 60 days  
16          may really hurt them.

17          So you are correct. We just got to do a  
18          better job of explaining, showing, getting data to  
19          demonstrate the fact that they got to make the best  
20          long-term decision.

21                 COMMISSIONER POLMANN: So as a follow-up, Mr.  
22          Chairman.

23                 I understand your -- your observation, from  
24          the operator's perspective, it's a  
25          long-term/short-term cost and how they choose to

1 deal with the capital and operating expense. So --  
2 so a follow-up would be any suggestion, not here  
3 today, but going forward, perhaps consider the  
4 Commission and our technical staff might look in  
5 more detail, or look differently at prudent  
6 operating costs for this type of thing. How is the  
7 operator claiming expenses for the appropriate way  
8 to operate the plant as a wastewater plant,  
9 planning for reinvestment and maintenance, and --  
10 now I am just thinking off the top of my head, but  
11 if there is something that's wasteful in costs to  
12 the customer, what is it that we, as a commission,  
13 and our technical staff who are reviewing these  
14 types of things and the accounting staff looking at  
15 how the costs are being expended, maybe you and  
16 others in the industry who are more knowledgeable  
17 might -- might help us think through that in the  
18 future.

19 Just a thought. I appreciate your  
20 consideration. Maybe just some suggestions back  
21 from our technical folks, so thank you very much.

22 MR. WILLIAMS: Thank you.

23 So anyway, that's kind of the main part of the  
24 legislative stuff, except for there was also a bill  
25 that doubled all of the fines on a lot of different

1 industries for spills, but it's going to have a  
2 major impact on water/wastewater systems as they  
3 have sanitary sewer overflows. And I think what it  
4 is -- this is the situation where in a emergency  
5 event, loss of power, people probably kind of  
6 understand there is going to be spills. We lost  
7 power in the pumps, that type of thing. But we are  
8 having sanitary sewer overflows and spills on blue  
9 sky days.

10 And those, it's really more we got to identify  
11 the problem and fix the problem. It's an asset  
12 management situation. We got to make sure we have  
13 redundancy at lift stations. We got to make sure  
14 our collection systems are tight and sustainable.

15 And so I think the fines were proposed to try  
16 to get all of the industry's attention to the fact  
17 that they need to invest back in their wastewater  
18 utility.

19 One good thing on that, even though the fines  
20 have doubled -- we had a discussion with the  
21 Secretary of DEP, and he has discretionary  
22 authority to return the fine monies back to the  
23 utility if they will use those fines to correct  
24 problems. And that's been one of our concerns, is  
25 if we take the money away, it would have been money

1           they might have been able to use to fix the  
2           problem.

3           So he assured us that even in this situation,  
4           if they will provide some match funds back, that  
5           the money will be made available in the fine to fix  
6           problems, fix pumps at lift stations, whatever is  
7           causing the problem.

8           So I think that will help. We will just have  
9           to make sure that the utilities understand that  
10          they are going to have to ask for that and make the  
11          right commitment to make the investment back in  
12          their system.

13          And this doesn't affect any of your smaller  
14          private systems, but one of the things that we see  
15          in our industry on the governmental side of  
16          municipal and county is many of those systems  
17          transfer money out of their water utility to  
18          general government.

19          And so one of the things that has happened  
20          there is the Secretary said that if there are any  
21          transfers leaching the water and wastewater funds  
22          for general government that aren't being held to be  
23          invested back in the water utilities for asset  
24          management, that they won't be eligible to get the  
25          fine money back.

1           So we'll see how that works out, but at least  
2           from a private system, and most small systems,  
3           nonprofits, there is no transfers, so that gives  
4           them, you know, the ability to demonstrate that  
5           they should get the monies back.

6           CHAIRMAN CLARK: All right.

7           MR. WILLIAMS: Any questions on any of that?

8           CHAIRMAN CLARK: Any other questions for  
9           Mr. Williams? Anybody?

10          Okay. Mr. Williams.

11          MR. WILLIAMS: Okay. A little bit on some of  
12          our services, and I won't try to go a lot into  
13          this, but I was asked to talk about it.

14          So we have 35 staff, most of them are, you  
15          know, in regions of the state, live in an area and  
16          work to help water utilities, wastewater utilities  
17          deal with groundwater, stormwater issues and all of  
18          that type of stuff. And our folks have continued  
19          to be out in the field helping water and wastewater  
20          systems through this, and will continue on.

21          Another one that I think probably -- not  
22          getting too much into this, but they are  
23          specifically working on operational problems,  
24          compliance problems, emergency response, which is  
25          the pandemic, or if there is some issue at a

1 system, we look at that as being an emergency and  
2 are going to try to get support to them as soon as  
3 possible at no charge. So whether they are a  
4 member or not, we are going to help all water  
5 utilities and all wastewater utilities.

6 The other one is that we have had to -- or we  
7 have expanded our engineering staff significantly.  
8 We have two full-time engineers on staff, but we  
9 have so many projects that come in that we have  
10 developed an essential relationship with a number  
11 of consultants, and we call them subengineers for  
12 the Florida Rural Water.

13 So what we do is we have about I think eight  
14 of them now all across the state. And so as we get  
15 hundreds and hundreds of projects every year, our  
16 two engineers on staff will work on the ones they  
17 can, but we will reach out to our subengineers and  
18 ask them if they can help systems on projects at a  
19 very low charge.

20 So what ends up happening there, we don't  
21 really charge for a service, but if somebody wants  
22 to make a contribution, then we would give that  
23 contribution to the subengineer to perform the  
24 project.

25 And so many times projects that we are doing,



1 and we may be asking for a contribution of \$1,000  
2 to say \$3,000, and in that scenario, there is  
3 typically -- they are not real large projects, and  
4 so most larger consulting firms are probably -- it  
5 would cost them a lot to actually do these real  
6 small projects, so we go to, like, one-person firms  
7 and help them do that.

8 So for your standpoint, we have more  
9 engineering resources, permitting, development of  
10 treatment strategies, and all of that type of thing  
11 that we have had in the past, and we can manage  
12 many more projects than we used to. So if any of  
13 those come up to you that we can help, we want to  
14 do it for the small systems as low a cost as  
15 possible.

16 Is there any -- I wasn't going to go too much  
17 into the services unless anybody had any questions  
18 on that.

19 CHAIRMAN CLARK: No questions. Proceed.

20 MR. WILLIAMS: Okay. Another thing I want to  
21 talk about is compliance related stuff on the water  
22 utility.

23 We are in pretty good shape. Florida has  
24 97 percent compliance with all of the health-based  
25 standards that are essentially compliance related

1           that affect human and public health.

2           A lot of times there are compliance issues  
3           related to monitoring and reporting, but those are  
4           more -- those have less to do with public health  
5           and more to do with not filling out the right forms  
6           and submitting them in a timely manner. So we are  
7           pretty happy that it's, you know, less than three  
8           percent of the systems have any health-based  
9           levels.

10           The last report for Florida, there were 117  
11           systems that had health-based violations. There  
12           are 5,100 public water systems, so that's how you  
13           get the 97 percent.

14           The other thing I will mention is that 99 of  
15           those 117 violations were disinfection,  
16           disinfection byproducts. And that is a specific  
17           concern for Florida in the fact we have organics in  
18           our source water, our well water, and when we  
19           combine those organics with chlorine, it's creating  
20           disinfection byproducts. And it's not an acute,  
21           you know, health concern. It's more of a chronic  
22           health concern.

23           So 87 percent of our violations are that. And  
24           it -- it's a tough issue in the fact that as the  
25           water age goes up, as the water temperature goes

1 up, the levels of disinfection byproducts go up.  
2 So we typically say to the systems is the way to  
3 attain compliance the cheapest way is to reduce  
4 water age. And what that means is you are  
5 suggesting that they flush.

6 The problem is is that they run up against the  
7 water management district consumptive use permit,  
8 and actually the water management district suggests  
9 they only use one percent of their water for  
10 flushing. In almost all these situations one  
11 percent, is not enough. So we have to help the  
12 utilities to petition the water management district  
13 for a higher percent for flushing.

14 Now, there are systems that when they do what  
15 we will call adequate operations, adequate  
16 flushing, they will attain compliance, and then  
17 their operational protocols will get more lax, will  
18 do less flushing, and then they go out of  
19 compliance again.

20 So we see quite a few that are close to the  
21 maximum contaminant level, can get below it and  
22 then you go above it again. So we see a lot of  
23 people that are in compliance for a quarter, out of  
24 compliance for a quarter, that type of thing. So  
25 there are probably some things we need to do better

1 in that sense in identifying the water utilities  
2 that are at that break point, that level where they  
3 are in compliance or out, and we need to make their  
4 flushing more robust, or we need to identify that  
5 flushing is probably not going go to get them in  
6 compliance on a consistent basis and suggest to  
7 them alternate disinfection and treatment.

8 CHAIRMAN CLARK: Commissioner Brown, I  
9 believe, has a question regarding robust flushing.

10 MR. WILLIAMS: Okay.

11 COMMISSIONER BROWN: I do -- I do have a  
12 question about that. And I was curious about  
13 your -- what you said regarding petitioning the  
14 water management districts in those cases where --  
15 for a higher percentage for flushing.

16 Is DEP supportive of that type of avenue when  
17 it works? And how can the Commission engage on  
18 that issue when you believe that's the appropriate  
19 remedy?

20 MR. WILLIAMS: I am glad you asked that, and I  
21 was hoping you guys would ask that.

22 I think we probably need help in convincing  
23 DEP that water quality should trump water quantity  
24 in all situations. And as you know, the water  
25 management districts are a subset of DEP, but they

1 do have larger budgets, and so many times the water  
2 management district issues drive the train instead  
3 of the water quality side.

4 And so I don't know how to do it on an overall  
5 basis. We have only been able to, at this point,  
6 do it on a case-by-case basis, where we have  
7 demonstrated that somebody can achieve compliance  
8 if they flush three percent, and then we approach  
9 the water management district and explain that, and  
10 get their approval to use up to three percent. But  
11 it would be best if they didn't set it at one  
12 percent and -- because when they tell the water  
13 utilities that, the water utilities look at it  
14 like, I guess I am supposed to be out of compliance  
15 with disinfection byproduct to be in compliance  
16 with the water management district.

17 So it's a great point. I am open to  
18 additional ideas. I probably need to take it to  
19 higher levels in DEP to, you know, have a  
20 discussion on this. And I don't know, it's  
21 probably going to take something from DEP down to  
22 all the water management districts for them to  
23 reset their expectations on flushing for water  
24 quality.

25 COMMISSIONER GRAHAM: All right.

1 Commissioner --

2 COMMISSIONER BROWN: I think Commissioner  
3 Polmann has a point, so I will defer to him.

4 CHAIRMAN CLARK: Commissioner Polmann.

5 COMMISSIONER POLMANN: Thank you, Mr.  
6 Chairman. I have so many opinions on this that I  
7 will say as little as I can.

8 The disinfection byproduct is the primary  
9 standard that is an EPA national standard and DEP  
10 is -- I forget what the right word is, but  
11 basically promulgating the national standard. The  
12 water management district has control over the  
13 water quantity, and I think Gary is identifying  
14 that conflict. Interesting that you would put it  
15 in the context of who has the most money, and that  
16 being the water management district in most cases  
17 around the state.

18 But, you know, I think from our perspective,  
19 looking at the public health, safety and welfare,  
20 the water quality issue we would agree with you, I  
21 think, that that is the primary concern. As we  
22 review our regulated utilities, we are always  
23 considering whether they are in compliance with  
24 their permits, in particular their DEP permit. So  
25 the water quality issue is -- is the major concern

1 for us.

2 The disinfection byproduct, our experience has  
3 typically been that the treating technology, which  
4 then correlates directly to the cost for the  
5 owner/operator, which then impacts directly the  
6 customer. So we often struggle with the public  
7 interest test of the rate impact and the value of  
8 that.

9 It's a very complex problem. I appreciate  
10 your concern for it. I -- as I said, I have a lot  
11 of opinions. I don't have an answer. There is a  
12 very simple answer, which is fix the problem from  
13 an engineering perspective and pay the cost, which  
14 is nearly impossible to implement in many, many  
15 cases.

16 So I think unfortunately, because the water  
17 quality we have in Florida with the high organic  
18 content in many of the groundwater sources that  
19 this is an ongoing problem we have had for decades  
20 and will continue on in the future.

21 I think it's just something we need to -- to  
22 continue to talk about and work together on. One  
23 concern I have with increasing the rates or  
24 percentage of flushing is how do you deal with the  
25 disinfected water as you return it back to the

1 environment, whether that's being appropriately  
2 addressed in terms of -- I will just -- I will say  
3 removing the disinfectant before you return that to  
4 the environment. For example, you have -- whether  
5 you dechlorinated, and so forth. If those  
6 practices are being appropriately followed and you  
7 are protecting environmental systems, but that's  
8 another thing.

9 So anyway, I will stop there. I appreciate  
10 your concern. I recognize your concern. It's a  
11 very significant issue, particularly for the small  
12 utilities. I would encourage our commission to  
13 continue to participate in the discussion. So I am  
14 grateful that you brought it up. Thank you.

15 CHAIRMAN CLARK: Thank you, Commissioner  
16 Polmann.

17 Any other questions from other Commissioners?  
18 Anybody? Anything?

19 All right. Mr. Williams, we are wrapping up.

20 MR. WILLIAMS: Let me -- yeah, let me just say  
21 one thing on that, is one of the things related to  
22 flushing is a lot of systems will go out and flush  
23 a very large volume at one time. And there does  
24 become an issue of where is that going? And are we  
25 properly, you know, containing that chlorinated



1 water?

2 One of the things that we try to advocate is  
3 they identify their dead end and their volume lines  
4 and they put an automatic flushing valve on those  
5 locations, so that on a timer, it flushes the  
6 appropriate amount, which is probably not going to  
7 have as much environmental impact. It's going to  
8 lower the disinfection byproduct, and it's going to  
9 keep the water less stagnate.

10 Now, one of the things that happens on with  
11 that is you can build it relatively cheaply with a  
12 timer, but somebody has to maintain, you know, the  
13 batteries and check on that.

14 And when you say automatic, a lot of times  
15 they think, well, it's automatic, I don't have to  
16 worry about it. But we would have to encourage  
17 test utilities to go out and check on those  
18 devices.

19 And one of the things we have talked to DEP  
20 about is that maybe they should, when they have  
21 those devices, request that the meter reading on  
22 the automatic flushing device be recorded monthly  
23 and put on the monthly operating report, because it  
24 would require people to go out and check on there  
25 monthly to see what the volume was that was

1 flushed, and it would cause them to check the  
2 battery; and if there was no flow, it would tell  
3 you that the flusher wasn't working. And that if  
4 sampling at that site later occurred, it's quite  
5 likely you are not going to pass the disinfection  
6 byproduct. So that's one thing that we have been  
7 trying to get the industry to understand.

8 CHAIRMAN CLARK: Commissioner Polmann.

9 COMMISSIONER POLMANN: Thank you, Mr.  
10 Chairman.

11 I -- Gary, I appreciate your last comment with  
12 regard to metering the automatic flushing. We  
13 recently had a discussion on a particular docket  
14 where the utility using automatic flushing devices  
15 and there was a discussion about estimating the  
16 amount of water being flushed. And I think  
17 metering that, requiring reporting on that would be  
18 extremely helpful, but I -- I appreciate that you  
19 raised that issue with DEP, and I would encourage  
20 that discussion to continue.

21 Thank you.

22 The put on the monthly operating report and  
23 require people to go out and vehicle check on the  
24 monthly to see what the volume was that was flushed  
25 and cause them to check the battery and if there.

1                   CHAIRMAN CLARK: Thank you, Commissioner  
2 Polmann.

3                   Mr. Williams.

4                   MR. WILLIAMS: Yeah, and I will say it's not  
5 often that we are advocating for additional  
6 regulation of water utilities, but if it's going to  
7 have an improvement on water quality, and actually  
8 it would probably save some operational cost, too,  
9 if we do it periodically instead of large volumes  
10 at one time. So we think there is some advantages  
11 to looking at that.

12                   So the one thing, too, on that, is that, you  
13 know, a lot of water systems will look at the  
14 cheapest option on alternate disinfection, which is  
15 chloramine, which is feeding ammonia and chlorine,  
16 but there becomes real problems related to that  
17 with nitrification, biofilm and a bunch of other  
18 issues. So we try to discourage people from only  
19 considering the initial costs, but also considering  
20 the operational concern of an alternate  
21 disinfectant.

22                   One of the things that we have been working  
23 with a lot of utilities on is hydrogen peroxide  
24 because it's an oxidant that improves the water  
25 quality, improves the efficiency of chlorine, and

1           actually is a product that cleans up the water  
2           instead of putting ammonia in the water that may  
3           not be a cleaning agent.

4           So there are some things there that we are  
5           really trying to advocate for and help people on.  
6           I know a number of systems looked at carbon  
7           filtration, which is very, very effective in  
8           disinfection byproduct removal until the media gets  
9           used up, and so it becomes an operational cost that  
10          many don't plan for and they don't keep up with  
11          when they have the breakthrough of the activated  
12          carbon being effective. So we get concerned about  
13          that as being a long-term answer that unless  
14          maintain right, they are back into a disinfection  
15          byproduct situation.

16          So I am sure you are dealing with all of those  
17          as people bring stuff forward related to treatment  
18          to meet disinfection byproduct, and we are with you  
19          trying to come up with the best option, and we do a  
20          lot of pilot testing of different treatments for  
21          systems to try to figure out what might be  
22          effective.

23          One of the things on hydrogen peroxide I  
24          wanted to say is we haven't figured out yet what  
25          characteristics in the water make hydrogen peroxide

1 very effective as compared to not effective. So at  
2 this point, we are having to pilot test hydrogen  
3 peroxide at every system that's considering it to  
4 find out whether it's an effective treatment or  
5 it's not going to work.

6 So maybe the more we do we will be able to  
7 figure out the water characteristic trends to be  
8 able to better predict its effectiveness, but at  
9 this point we are pilot testing it and jar testing  
10 at every utility to find out its effectiveness.

11 CHAIRMAN CLARK: All right. Any other  
12 questions for Mr. Williams this morning?

13 Mr. Williams, did you have anything to wrap up  
14 with?

15 MR. WILLIAMS: Two other things that I was  
16 asked about.

17 We probably are going to see some additional  
18 costs from water utilities as the new lead and  
19 copper rule is released. It's been proposed, it's  
20 open for comment now, and it is significantly more  
21 impactful on water utilities than the current lead  
22 and copper rule, and I guess you could attribute  
23 that to one word, flint.

24 The good history of most water utilities was  
25 negated by flint, and so it has caused additional

1 regulation instead of probably taking 20 years of  
2 good history for sampling and water quality at  
3 water utilities and letting that be our guiding  
4 light. So you will see some additional costs that  
5 are going to come back probably into rates related  
6 to the lead and copper rule as it goes forward.

7 That's the last one I had. I don't have a  
8 problem trying to answer any questions, or I don't  
9 have a problem working with the Commission on  
10 anything we can do to help water utilities and the  
11 Commission.

12 CHAIRMAN CLARK: All right. Well, thank you  
13 so much -- Commissioner Brown.

14 COMMISSIONER BROWN: Thank you, Mr. Chairman.

15 And in the interest of time, I want to thank  
16 you, Gary, for your presentation. It's nice to  
17 hear you come back before the Commission and give  
18 us some of these updates.

19 And with that, I did want to ask if it's okay  
20 with the Commissioners to ask staff to continue the  
21 dialogue with regard to some of the issues that  
22 were raised here today, including the issue of  
23 potential bad debt and the creation, or in helping  
24 the utilities with the creation of a reserve fund  
25 potentially, as well as the issue of flushing that

1 we discussed. And all I am asking is that we  
2 continue some discussions and see what we can come  
3 up with.

4 MR. BAEZ: Thank you, Commissioner Brown.

5 Those conversations are going on already  
6 in-house, and I certainly took a lot of notes about  
7 what Gary was proposing and there are some good  
8 things in there to focus on. So thank you for the  
9 direction.

10 CHAIRMAN CLARK: Great.

11 COMMISSIONER BROWN: Thank you, Braulio.

12 CHAIRMAN CLARK: All right. Commissioner  
13 Polmann.

14 COMMISSIONER POLMANN: Thank you, Mr.  
15 Chairman. I would certainly support the comments  
16 from Commissioner Brown in line with my thoughts as  
17 well.

18 Mr. Williams, I want to thank you very much  
19 for your time today. This is the first  
20 presentation that I believe I received from your  
21 organization. My office had talked about having  
22 you come forward and joining us for one of these  
23 meetings.

24 I am very enlightened. I learned a lot today  
25 about what your association does and provides, and

1 I -- I thank you for your willingness and your  
2 energy, quite frankly, to work with us and the  
3 water management districts and DEP, and everyone  
4 else in the industry here. I am very encouraged  
5 going forward.

6 All the issues you presented today I think are  
7 right on point. So anything we can do to help you  
8 move forward on these important issues, please let  
9 us know. Like Mr. Braulio just indicated, you are  
10 already working together, and anything the  
11 Commission can do to further the interest that we  
12 collectively have, let us know.

13 Thank you for coming today. Much appreciated.

14 CHAIRMAN CLARK: Thank you.

15 MR. WILLIAMS: Thank you. And I look forward  
16 to getting back together in person.

17 CHAIRMAN CLARK: As do we all.

18 All right. Any other comments from any  
19 Commissioners?

20 All right. Thank you, Mr. Williams. Have a  
21 great day. We appreciate your presentation today.

22 MR. WILLIAMS: Thank you all.

23 CHAIRMAN CLARK: All right. The next item on  
24 the agenda is our General Counsel report, Mr.  
25 Hetrick.



1 MR. HETRICK: Thank you, Mr. Chair.

2 I just want to report to the Commission that  
3 GCL is functional and operating at a high level.  
4 We have been focusing in the past two weeks on  
5 interviewing some new potential lawyers. We are  
6 four down now and trying to fill a few positions.

7 We have also been focusing on the  
8 technological side of conducting a hearing remotely  
9 if we need to do that. So we have got a couple of  
10 examples coming up in June dealing with aspects of  
11 the TECO settlement that's been filed, and also the  
12 Orange County need determination, but all is going  
13 well so far in terms of our preparation, and we  
14 hope to be able to conduct seamless hearings in  
15 those two matters in June.

16 Thank you.

17 CHAIRMAN CLARK: Thank you, Mr. Hetrick.

18 Any questions from any Commissioners for Mr.  
19 Hetrick?

20 All right. Seeing none, we will move into our  
21 Executive Director's report.

22 Mr. Baez.

23 MR. BAEZ: Thank you, Mr. Chairman. Good  
24 morning, Commissioners. I have got a couple of  
25 pocket items, which I will refer to in a moment.

1 First, a legislative update.

2 At this time, we haven't seen any action on  
3 legislation on the bills coming out of the '20-'21  
4 session, that includes our budget, so that's on  
5 hold as well. And there have been reports and  
6 messaging coming out of the Governor's Office that  
7 he is not necessarily in a hurry on the budget  
8 issue since we do have time with a July 1st  
9 implementation, so we are keeping our eye on that.  
10 And as soon as there is any movement on any of our  
11 track legislation, as well as the budget, our  
12 legislative affairs people will be in contact with  
13 you and your advisers.

14 That being said, we are, of course, still  
15 waiting to be see what happens with Senate Bill  
16 7018 on the essential state infrastructure,  
17 specifically the electric vehicle charging station  
18 master plan for that infrastructure.

19 IDM under Cayce Hinton will be taking the lead  
20 in developing the PSC's contribution to the Florida  
21 Department of Transportation's plan. We have  
22 already started working on putting together an  
23 implementation plan based on our responsibilities  
24 in the bill, but we are still awaiting a more -- a  
25 more robust contact with FDOT as they get their

1 process started so that we can receive guidance  
2 that will then funnel into our final work.

3 Our legislative staff has been in contact with  
4 FDOT's legislative affairs, and they have already  
5 appointed a chief planner to ride herd over the  
6 efforts, so more updates to come on that.

7 The second item I had, which I am going to  
8 kick over to IDM -- to Cayce shortly, concerns the  
9 New England Ratepayers Association petition to FERC  
10 regarding net metering.

11 You will recall on April 14th, NRA filed a  
12 petition with FERC for a declaratory order  
13 concerning some unlawful pricing of certain  
14 wholesale sales. Generally, that encompasses and  
15 focuses on the net metering activities. And they  
16 have asked FERC to declare some net metering sales  
17 from rooftop solar as wholesale -- as wholesale  
18 transactions, which would -- which would reverse  
19 FERC's current standing and treatment of such  
20 transactions as retail and, therefore, within the  
21 State's purview.

22 I am going to particular it over to Cayce for  
23 a brief -- what we wanted to bring you was a very  
24 quick briefing on the issue. The point of which is  
25 we have an opportunity -- or at least you, as the

1 Commission, as a decision point here on -- on  
2 direction whether we want to participate in the  
3 traditional way through NARUC, or any other ways  
4 some of the options that might be laid out by the  
5 folks that are on hand to answer your questions.

6 We've got Cayce Hinton and Matthew Vogel and  
7 our legal team, Samantha Cibula and Adria Harper  
8 are on -- should be on line to answer any  
9 questions.

10 And with that, I am going to kick it over to  
11 case for a quick -- a quick intro on the -- on the  
12 matter.

13 Cayce.

14 MR. HINTON: Thank you. Before I start  
15 rambling, can I just confirm that you can hear me?

16 MR. BAEZ: Yes.

17 MR. HINTON: Okay, very good.

18 And Braulio provided some of the summary I was  
19 planning on giving, but, yeah, just to reiterate  
20 the point, FERC disclaimed jurisdiction over net  
21 metering nearly 20 years ago, where they concluded  
22 that no wholesale sale occurs when an individual  
23 customer sells generation and accounts for its  
24 dealings with the utility through the practice of  
25 netting. And only when production exceeds

1 consumption over the course of the state determined  
2 netting periods there are wholesale sales subject  
3 to federal pricing regulation.

4 And FERC later affirmed this conclusion and,  
5 like, eight years after that, the first order was  
6 in 2001, and then in 2009 they affirmed that  
7 decision. And then even recently, in 2018-2019,  
8 cited back to the decision as well. So in spite of  
9 a recent 2010 DC circuit decision that NERA points  
10 to, saying that, you know, the underlying  
11 assumptions of FERC misplaced, I think FERC -- it  
12 appears that FERC still feels like it's on solid  
13 ground with those net metering decisions.

14 But what NERA argues is that these  
15 state-regulated net metering arrangements -- and as  
16 you are aware, the transactions -- the transfer of  
17 energy from the retail customer to the utility in  
18 Florida is governed by our net metering statute and  
19 rule, and -- but NERA argues that these state  
20 regulated net metering arrangements are preempted  
21 by federal law and that they believe that the  
22 netting between consumption and production should  
23 be calculated on an hourly basis, and that any  
24 excess hourly production is a wholesale sale in  
25 interstate commerce from the ratepayers to the

1 utility. Basically any energy that the customers  
2 is putting back on the grid is essentially a sale  
3 for resale, and is subject to wholesale rates.

4 Comments, FERC has set a deadline of June 15th  
5 for comments, and NARUC is planning to file  
6 comments and has requested participation in the  
7 drafting process by state commissions. And  
8 currently we are participating in that process. To  
9 what degree hasn't been determined because we  
10 haven't -- our first call, I think, is going to  
11 happen this week, but we are playing a part in  
12 that.

13 That's the conclusion of my summary. I will  
14 be happy to try to answer any questions.

15 CHAIRMAN CLARK: All right. Do we have any --  
16 Commissioner Graham.

17 Commissioner Graham, unmute your phone. We  
18 can't hear you. You are still showing muted. We  
19 still can't hear you, Commissioner Graham.

20 Commissioner Brown, you have -- I see your  
21 green right on.

22 COMMISSIONER BROWN: I will talk for him.

23 CHAIRMAN CLARK: Commissioner Brown will be  
24 speaking on your behalf.

25 COMMISSIONER BROWN: Thank you.

1           So, Commissioners, there are 18 -- at least 18  
2           other states that have filed for intervention.  
3           This is a critical issue with regard to our state  
4           sovereignty and our rights. And I think that it  
5           would be most prudent for us to also file comments,  
6           and the due date, I think, is June 15th, and I  
7           think we can have that discussion with Cayce as  
8           well as to what those comments should look like.

9           CHAIRMAN CLARK: All right. Let's try you  
10          again, Commissioner Graham.

11          COMMISSIONER GRAHAM: Can you hear me now?

12          CHAIRMAN CLARK: We can hear you now, yes.

13          COMMISSIONER GRAHAM: Okay. I evidently --  
14          well, I am on both my computer and my phone,  
15          because for some reason the mic in my computer  
16          doesn't work well, and I guess whoever is  
17          controlling the system had my phone muted.

18          CHAIRMAN CLARK: We unmuted you now.

19          COMMISSIONER GRAHAM: Cayce, quick question  
20          for you. You said 20 years ago, and even it  
21          confirmed eight years ago, that just as long as  
22          it's under the net level, they considered that on  
23          the -- on the state level. What happens when it  
24          goes over net? What currently happens when it goes  
25          over net?

1 MR. HINTON: Well, what FERC said was that  
2 within a -- as long as it didn't -- there wasn't an  
3 excess energy netted going -- let me rephrase.

4 Under a netting situation where the customer  
5 ends up putting more energy back on the grid than  
6 they take off within a determined cycle, billing  
7 cycle, then that would -- that excess energy should  
8 be priced on a wholesale basis. That's -- FERC  
9 said that. But they did leave it to the states, it  
10 appears, to establish what this netting cycle is.

11 And in Florida, we have established a calendar  
12 year as the netting cycle, where, you know, from  
13 January through December, excess energy is --  
14 that's put on the grid, it comes back as a kilowatt  
15 interest credit on the customer's bill. But at the  
16 end of the year, we have determined that that's the  
17 end of that netting cycle, and so we then have  
18 required the utility to purchase those excess  
19 energy credits at the as-available energy rate,  
20 which is the wholesale rate.

21 COMMISSIONER GRAHAM: All right. Well, now I  
22 understand that, but when they do exceed that  
23 level, when they exceed more into the -- into the  
24 grid than they are taking out of the grid, are they  
25 setting that wholesale rate now, or who is setting



1           that rate?

2           MR. HINTON: We have established that it's the  
3           as-available energy rate, which is the wholesale  
4           rate that is probably need to -- we definitely need  
5           to have somebody more knowledgeable how that rate  
6           is set, but that is, you know, from my  
7           understanding, a FERC approved rate.

8           COMMISSIONER GRAHAM: Is that how -- is that  
9           how -- is that how everybody is doing it in the  
10          United States, or is that just how Florida is  
11          handling that situation?

12          MR. HINTON: A number of jurisdictions handle  
13          it -- handle it different with different billing  
14          cycles that they address. I don't know -- I  
15          definitely wouldn't say everybody handles it like  
16          us.

17          COMMISSIONER GRAHAM: No, I am saying  
18          regardless of the billing cycle, because you said  
19          each state determines what net is and how that's  
20          determined, either six months, 12 months billing  
21          cycle. But regardless, whenever you go over that  
22          in every state, however they determine that is, who  
23          sets -- who currently sets that wholesale rate?

24          MR. HINTON: Wholesale rates are governed by  
25          FERC.

1           COMMISSIONER GRAHAM: Okay. If so we have  
2           somebody in Florida now that went over what we  
3           considered net, they are putting more back into the  
4           grid than they are taking out, then FERC is  
5           currently setting that wholesale rate for the state  
6           of Florida?

7           MR. HINTON: I am not -- I may need to defer  
8           to Mark, if he is there, to establish how exactly  
9           that as-available energy rate is established.

10          CHAIRMAN CLARK: I am going to -- before I  
11          turn it over to Mr. Futrell, I want to ask on that  
12          same question.

13          I think we've got a wholesale rate and a  
14          retail rate. Maybe we are talking two different  
15          languages here. Most of the utilities are actually  
16          doing -- if you do a kilowatt hour per kilowatt  
17          hour credit, you are essentially giving the retail  
18          rate credit, is that correct, Mr. Futrell?

19          MR. FUTRELL: That's correct. Although it --  
20          as Cayce said, it shows up as a kilowatt hour. It  
21          reduces the total kilowatt hours that the ultimate  
22          rates are applied to, but effectively it's the  
23          retail equivalent, because it's a full kilowatt  
24          hour.

25          CHAIRMAN CLARK: And as Commissioner Graham

1           was asking, though, the FERC -- the FERC date is a  
2           wholesale credit, which is different than what most  
3           Florida utilities are giving in terms of a retail  
4           credit.

5           MR. FUTRELL: Correct, month-to-month, that's  
6           correct. But as Cayce explained, at the end of the  
7           calendar year, if there is any remaining excess  
8           energy that has not -- that has not been returned  
9           back to the customer, then it's priced at the  
10          as-available wholesale rate, and that shows up as a  
11          dollar credit on the bill at the end of the -- at  
12          the end of the year.

13          And, Commissioner Graham, the Commission has  
14          rules regarding the calculation of as-available  
15          energy, and it's compliant with PURPA and all the  
16          federal regulations, but essentially it represents  
17          the avoided fuel cost and some variable O&M that  
18          may be included, and it's utility specific, but  
19          it's compliant with, as I understand you, our  
20          traditional compliance with PURPA regulations as  
21          well.

22          CHAIRMAN CLARK: Mr. Futrell, on that note,  
23          would you explain the difference between an  
24          as-available right and avoided cost?

25          MR. FUTRELL: Sure.

1           Avoided costs can include various components,  
2           including an energy component, or it can include --  
3           and it can include a capacity component, which  
4           represents the cost of construction of a generating  
5           unit. So avoided costs can include those two  
6           components, the capacity for the cost to build the  
7           facility and the energy, which is the cost to  
8           operate the facility, primarily fuel.

9           As-available energy is what this -- what the  
10          utility -- when energy is sold to the utility  
11          without a firm commitment, the utility pays for  
12          that energy pursuant to our rules and PURPA at the  
13          rate of avoided fuel, essentially. In other words,  
14          it's what the utility would have paid for that  
15          incremental kilowatt hour of energy, which is  
16          primarily fuel.

17                 CHAIRMAN CLARK: Thank you.

18                 Commissioner Graham, did that address -- you  
19          are recognized.

20                 COMMISSIONER GRAHAM: Yes. Thank you, sir.

21                 All right. So Florida does the as-available  
22          cost for their wholesale rates. Is that what the  
23          all the other states do, or that just happens to be  
24          how we handle it? That's my question.

25                 CHAIRMAN CLARK: Mr. Futrell.

1           MR. FUTRELL: Yeah, Commissioner Graham,  
2           there -- it's quite a mixed bag. Some states do it  
3           very differently. They have got -- they define  
4           avoided costs differently. And in some states,  
5           there has been some -- some issues with FERC that  
6           FERC has raised and other companies have raised in  
7           those states about their definition of avoided  
8           costs, and so it -- it varies across -- across the  
9           country.

10           And even within Florida, we have got some  
11           municipal or cooperative utilities that use that  
12           differently. Again, they have the authority under  
13           statute to decide their net metering position,  
14           policies. Some have credits that run off into  
15           perpetuity, for example. They are not settled up  
16           at the end of the calendar years. Others are paid  
17           at the wholesale as-available energy rate at the  
18           end of each month. So it's quite a varying set of  
19           policies that we have observed.

20           CHAIRMAN CLARK: Commissioner Graham.

21           COMMISSIONER GRAHAM: So now I guess I am  
22           trying to understand. What FERC is trying to deal  
23           with now is what happens when it exceeds the net  
24           for everybody, or they want to -- they want to  
25           handle anything coming -- anything that's being

1 generated?

2 MR. HINTON: This is Cayce. If I could jump  
3 in.

4 FERC, I don't think is -- this isn't something  
5 that FERC has initiated. This is NERA is  
6 requesting that FERC establish that any excess  
7 energy measured on an hourly basis should be  
8 treated as a wholesale transaction. So this is  
9 NERA looking to establish that change in policy.

10 COMMISSIONER GRAHAM: So it's not exceeding  
11 the net, it's anything that's going back into the  
12 grid?

13 CHAIRMAN CLARK: Correct. Mr. Futrell.

14 MR. FUTRELL: Commission Graham --

15 MR. HINTON: That netting -- that netting  
16 should be measured on an hourly basis, which you  
17 are going to -- essentially you are going to end up  
18 with, yes, whatever is going back to the grid from  
19 the customer is going to be priced at that -- at  
20 the wholesale rate. I think that's effectively the  
21 impact of measuring it on an hourly basis.

22 COMMISSIONER GRAHAM: Okay. Thank you.

23 CHAIRMAN CLARK: Mr. Futrell, did you want to  
24 add something to that?

25 So I would ask a question on that same note.

1           And it's -- we keep talking about going back at the  
2           wholesale rate. I think NERPA's requests was that  
3           it actually -- what if FERC is considering is they  
4           go back at an avoided cost, is that right?

5           MR. FUTRELL: I believe so, but that would be  
6           whole -- effectively a wholesale rate. Whatever  
7           that -- whatever that avoided cost is is a  
8           wholesale rate that the utility would pay for that  
9           energy and treat -- and treat rooftop solar, behind  
10          the meter rooftop solar as they do a generator that  
11          is -- that is connected to the grid directly.

12          CHAIRMAN CLARK: Right. I also would ask  
13          wouldn't you think that would also depend on how  
14          they define avoided costs, as you just mentioned  
15          just then? Because my definition of avoided cost  
16          is the avoided cost of future -- the next available  
17          generating asset that you would be bringing on-line  
18          is the way I would define avoided costs. So  
19          wouldn't FERC probably need to define that a little  
20          more clearly?

21          MR. FUTRELL: Yes, sir. I believe so.

22          Again, there has been many debates at FERC  
23          about that given that some states have -- have  
24          taken different approaches to defining avoided  
25          costs. Florida has traditionally stuck to a very

1 traditional approach and has held to that for many  
2 decades. And I think Cayce was going to --

3 MR. HINTON: Yeah. This is Cayce.

4 NERA argues that a majority of customers with  
5 their own generation will qualify as -- they are a  
6 qualifying facility, QFs under PURPA, and so they  
7 should be paid -- they should be paid the PURPA  
8 voided cost rate. And from what I understand, FERC  
9 has -- has delegated how to establish that PURPA  
10 voided costs rate to the states.

11 CHAIRMAN CLARK: And what is that threshold  
12 for QF facility? Is that a megawatt or kW  
13 capacity? Is it 25 kW, or something like that?

14 MR. HINTON: Oh, boy. I think under one  
15 megawatt, you are automatically, you don't even  
16 have to self certify, but there is a certain  
17 threshold that you have to certify that you are a  
18 QF. I apologize, I didn't come prepared to answer  
19 that question.

20 CHAIRMAN CLARK: So the implication here they  
21 are dealing with is that most of the facilities  
22 that they are talking about are QFs, meaning they  
23 are larger than one megawatt production?

24 MR. HINKLE: Smaller than.

25 CHAIRMAN CLARK: Smaller than. Okay, that's



1           where I was going. I didn't see the possibility of  
2           them being larger.

3           MR. FUTRELL: Correct. And this is Mark.

4           The NERA petition specifically speaks to  
5           rooftop solar behind the meter as a prime example  
6           of what's proliferated under this full net metering  
7           approach that they are arguing FERC should take  
8           jurisdiction over.

9           CHAIRMAN CLARK: Okay. And I would just add  
10          one comment before I turn it to Commissioner Brown.  
11          I am certainly in favor of us responding that we  
12          are wholeheartedly opposed to FERC usurping any  
13          authority in this area. I would maintain that  
14          that's our sovereign right as a state to make that,  
15          and as a commission, to make those qualifying  
16          decisions on how this is to be treated.

17          I do not necessarily disagree with the  
18          position and the statement that's being taken here,  
19          but I do -- would certainly contend that that is  
20          the decision and a discussion for this Commission  
21          to have at a later date regarding how we treat and  
22          handle net metering, and I certainly would like for  
23          us to open that discussion at some point in time,  
24          but I kind of want to keep those two issues  
25          separate here, because I don't --

1           I guess I am saying this to make sure that  
2           staff understands as we lay out our position in  
3           terms of the sovereignty of this issue, that that's  
4           the principle we are fighting this on. We are not  
5           fighting and arguing the net metering concept and  
6           how that is to be calculated. We are strictly  
7           arguing a sovereignty issue here. That's -- that's  
8           my personal opinion.

9           Commissioner Brown, you are recognized.

10           COMMISSIONER BROWN: Mr. Chairman, I think you  
11           hit the nail on the head, that there are two  
12           separate substantive discussions regarding net  
13           metering. What we are dealing with here today is  
14           the NERA usurping state authority over net metering  
15           and deferring that to FERC's control. And I think  
16           it is imperative that our state commission file  
17           comments to express our support of our state  
18           authority and not FERC authority over this matter.  
19           And I think, as you suggested, that issue should be  
20           very limited, go to your state's sovereignty  
21           rights.

22           CHAIRMAN CLARK: All right. Other  
23           Commissioners, are we all in agreement to proceed  
24           in that direction?

25           Commissioner Polmann.

1                   COMMISSIONER POLMANN: Thank you, Mr.  
2                   Chairman.

3                   I believe I would agree that the primary issue  
4                   here is one of sovereignty, the issues that both  
5                   you and Commissioner Brown just spoke to. And I  
6                   would advocate that the letter that we are  
7                   contemplating be kept narrow in scope.

8                   The issue of the state sovereignty is always  
9                   one I would strongly support, and I think is always  
10                  worth fighting for. The discussion that we just  
11                  had, I think, was fairly broad. I think it's  
12                  important for all of us to understand the issues  
13                  that you raised, and I thank you for doing that.

14                  The communication to FERC I think does, for  
15                  simplicity sake, best be kept narrow, and to the  
16                  extent that we want to address other issues in the  
17                  future, a better understanding among all the  
18                  commissioners here is our first best step, because  
19                  I am a little bit unclear on several of the things  
20                  that were just discussed. I would like to delve  
21                  into them more deeply. But for current purposes, I  
22                  think a narrow focus would be the best -- best step  
23                  here. So thank you.

24                  CHAIRMAN CLARK: Thank you, Commissioner  
25                  Polmann.

1           Commissioner Fay, I was expecting your  
2           comments on robust flushing but I didn't get any,  
3           so we will turn to you now.

4           COMMISSIONER FAY: I missed my opportunity.  
5           Thank you, Mr. Chairman.

6           I think some of the comments that touch on the  
7           sovereign issue, and I think it's important and it  
8           makes sense to discuss it.

9           I would like to ask maybe either Mark or Cayce  
10          the process for weighing in from a state  
11          perspective and then also weighing in from a NARUC  
12          perspective. I am not quite sure how the timing of  
13          that works for the production of how we would  
14          comment.

15          CHAIRMAN CLARK: Mr. Futrell.

16          MR. FUTRELL: Sure.

17          As Cayce said, NARUC is kind of ramping up  
18          their -- their activity. They sent an email around  
19          that we saw about trying to schedule a call. And  
20          typically we've -- we've participated greater or  
21          lesser, depending upon the situation. I think with  
22          what I am sensing from your discussion, you are  
23          sensing -- giving us direction for staff to prepare  
24          comments for your consideration. That will be our  
25          primary focus. We will be monitoring NARUC and

1 participating as our time permits, and just to make  
2 sure that we are aware kind of the direction that  
3 they are headed.

4 That's kind of -- kind of how I foresaw our  
5 participation. It would just kind of depend on  
6 time and resources and what NARUC needs.

7 CHAIRMAN CLARK: And I also think we were  
8 asking you to bring something back maybe at Agenda.  
9 We have got time between now and then for you to  
10 draft at that response and have it to the  
11 Commission for the Agenda.

12 MR. BAEZ: Yes. I think the comment deadline  
13 is June 15th, which is after our next Internal  
14 Affairs. So our -- our -- our intention was to  
15 have this conversation get -- get some form of  
16 direction from you all so that we could return  
17 with -- with perhaps a draft product for you all  
18 to, again, discuss and refine and so that we could  
19 get it on out the door.

20 I -- I do want -- and maybe it's just only for  
21 my understanding, and in case I missed it. I am --  
22 I am proceeding two different avenues to -- to be  
23 discussing, two different options, from what I  
24 heard Mark saying. I think I would agree.

25 In my mind, we can either join the NARUC

1           comments, and think that how that -- that's sort of  
2           a decision that will develop organically as the  
3           comments go, because remember, at this point the  
4           score is 18 -- 18 different jurisdictions that are  
5           involved. And we have been involved in that manner  
6           traditionally as a commission.

7           The other -- the other option is to develop  
8           our own -- our own comments. The pros of that  
9           essentially are that we get to keep the narrow lane  
10          that we express. I don't know -- I don't know  
11          whether we are getting any value of that or not,  
12          depending on where NARUC is headed. And so it kind  
13          of -- it's something to be paying attention to.  
14          And, frankly, for my money, either way works.  
15          Getting our views on the record is -- is the  
16          important thing.

17          CHAIRMAN CLARK: Can we monitor the NARUC  
18          position as it is formally developed and then make  
19          a determination? Do we've need to go our own  
20          particular route or stick --

21          MR. BAEZ: Yes.

22          CHAIRMAN CLARK: -- with theirs? I think  
23          that's -- Commissioner Fay, is that kind of in line  
24          with what you were asking?

25          COMMISSIONER FAY: Yeah, much -- much better

1           said by you, Mr. Chairman. If we are in the  
2           process of drafting something specifically from  
3           Florida, and at the same time we are -- we are  
4           moving along with NARUC's potential proposed  
5           comments, then I think we need to consider the  
6           uniqueness of our state, and maybe how we would  
7           want to weigh in, because I -- I think my -- I  
8           guess I would confirm with that.

9                     And then just the other part is I just want to  
10           make sure I understand, maybe from Samantha or  
11           whoever can answer this, that if FERC does move  
12           forward and essentially preempts that field of net  
13           metering, what -- what would our commission or  
14           state do in response to that -- or what would be  
15           our options, I guess, in response to that?

16                    MS. CIBULA: Yeah. This is Samantha Cibula.

17                     What we are talking about here is the  
18           difference between, like Braulio said, filing  
19           comments with NARUC, which would be -- you know,  
20           NARUC would be the party. The other option would  
21           be file we would a notice of intervention, which  
22           would make the Commission a party to the  
23           proceeding.

24                     If we file a notice of intervention, we would  
25           file separate comments. And the due date for that,

1 for the notice of intervention and the comments, is  
2 the same. It's June 15th.

3 But as a party, we would have the -- we would  
4 have the authority to appeal any decision that FERC  
5 makes. So that's really the big difference.  
6 Because if we are not a party, we don't have any  
7 rights as a party to appeal any decision that comes  
8 out of FERC.

9 COMMISSIONER FAY: Great, and I think that's  
10 relevant. So I would just agree, Mr. Chairman,  
11 with your thoughts. And that's all I have.

12 CHAIRMAN CLARK: Thank you, Commissioner Fay.  
13 Any other comments, concerns?

14 All right. Mr. Baez, do you have clear  
15 direction?

16 MR. BAEZ: Well, I believe we do. And I want  
17 to -- I want to restate what I would propose is our  
18 approach and then you waive me off if --

19 CHAIRMAN CLARK: Hold one second.

20 Commissioner Polmann, did you have a question?  
21 I am sorry, I missed you.

22 COMMISSIONER POLMANN: Yes, thank you, Mr.  
23 Chairman.

24 Perhaps staff and legal counsel can -- can  
25 clarify this when they bring it back, and that



1 is -- and I understand what Ms. Cibula has stated,  
2 but being a party separate from NARUC I think is an  
3 important factor for the Commission to examine  
4 and -- and determine. But also being supportive of  
5 NARUC I think has -- has value to the State of  
6 Florida.

7 So if there is an opportunity to somehow to be  
8 an independent party and also to be supportive of  
9 the national organization, and if there is no  
10 conflict of -- of from both of those, I would like  
11 to have that a consideration for the Commission,  
12 and not be decided today, but when it comes back to  
13 you.

14 CHAIRMAN CLARK: No, I agree with you  
15 100 percent, Commissioner Polmann. I think you are  
16 right on target. That would always be the position  
17 we would take.

18 Mr. Baez, go ahead and --

19 MR. BAEZ: Mr. Chairman, I was about to say  
20 that from what I have -- what I have heard the  
21 input from you all, and what the consensus that  
22 seems to be building is that, yes, our involvement  
23 is going -- will take place. The form of that  
24 involvement I think is going to be informed a  
25 little bit better depending on what kind of tact

1 NARUC as a whole -- as an entire effort is taking,  
2 and whether we feel comfortable tagging along in  
3 that respect.

4 And I don't mean to imply that we wouldn't be  
5 supportive of the NARUC effort or not, Commissioner  
6 Polmann, to your comments, but rather we may  
7 have -- it may turn out that the -- that the --  
8 that the point that we want to drive home is a  
9 much -- much narrower, a much more refined point  
10 that we want to make.

11 The -- to Commissioner Fay's question, I  
12 think -- I think the notion of preserving our  
13 appeal rights is always attractive, but I also  
14 don't think that we are losing anything if, in --  
15 if, in the end, we decide to sign on -- or you all,  
16 rather, pardon me -- if the Commission decides that  
17 it's more effective to sign on to the -- to the  
18 NARUC comments once and for all.

19 I -- I -- I admit that's sort of -- you know,  
20 you are seeding your advantage at participating  
21 further in the process, but I -- I don't think --  
22 excuse me -- I -- I don't think that's a whole lot  
23 to lose in this sense, because NARUC has a -- has a  
24 long history of taking these things to the wire.  
25 So an adverse decision would most -- more than

1           likely be appealed with them, so...

2           CHAIRMAN CLARK: All right.

3           MR. BAEZ: We will -- we will continue  
4 monitoring and participating on the NARUC calls and  
5 developing our own -- our own draft set of  
6 comments, I think both efforts can walk in  
7 parallel.

8           CHAIRMAN CLARK: All right.

9           MR. BAEZ: Thank you.

10          CHAIRMAN CLARK: Anything else?

11          MR. BAEZ: Yes, I -- I wanted to say a word  
12 on -- on the quote/unquote reopening, the subject  
13 of reopening, and I want to start out by -- before  
14 I get to that, I want to start out by, once again,  
15 thanking our staff, your staff. They have  
16 exceeded, from my point of view, all of my  
17 expectations. I -- I hope -- I hope that you  
18 agree.

19                 They have -- they have performed -- we've had  
20 over a month-and-a-half now, which has included  
21 public meetings such as these, Agenda Conferences.  
22 And as -- and as Keith had alluded to earlier,  
23 we've got a few more formal and more, perhaps,  
24 complex proceedings in the offing that we are  
25 working very hard to provide for.

1           The staff has been remarkable. I think our  
2           administrative staff, April Lynn's folks in  
3           administration and the IT department, in  
4           particular, have done a wonderful job of making  
5           these types of meetings possible, and they have  
6           been supremely responsive to any and all issues  
7           day-to-day that any of our -- our technical staff  
8           and -- have had in carrying on the work of the --  
9           of the Commission.

10           The commitment of the -- of the staff has been  
11           remarkable. I -- I hope that but for the  
12           remoteness of -- of our -- of our contact and our  
13           conversation, you can -- you can see that this has  
14           been largely a seamless process. And I think that  
15           that has created a certain amount of flexibility  
16           and what I will call a luxury in context.

17           In terms of the reopening, there has been  
18           no -- at this point, there hasn't been any specific  
19           guidance from -- from the State. We have been --  
20           we are in regular contact with the -- with the  
21           executive office of the Governor, getting feedback  
22           from them, and with DMS and other contacts to try  
23           and understand what -- what our expectations ought  
24           to be. Nothing definite has -- has emanated from  
25           that process, but we cannot ignore the fact that --

1           that the rest of the world around us, as you  
2           have -- if you -- if you pick up a newspaper or --  
3           or even a cell phone these days, you know that  
4           there is a reopening of -- of sorts going on.  
5           So -- so stores and folks are coming out of -- of  
6           quarantine and stay at home to varying degrees.  
7           That has not impacted the work of the Commission  
8           yet.

9                         However, having said that, we are, certainly  
10           executive management and with -- with the input,  
11           certainly, of senior management and on down the  
12           line, we are trying to take in as much information  
13           as possible. We are monitoring and staying in  
14           contact with -- with our -- with our respective  
15           agencies of impact, and trying to -- trying to come  
16           up with what our particular solution is going to  
17           be. I say that with -- without any knowledge of  
18           what the intentions generally are going to be.

19                        There is two principles that -- that -- at  
20           least speaking from personal -- my personal view  
21           are the things that are trying to guide my thinking  
22           at least, and -- and hopefully you will feel the  
23           same way.

24                        The first, obviously, is the safety of the  
25           staff. This is not a game that we are playing, and

1           so we cannot put lives at risk. And -- and that  
2           would include in the thinking, you know, whatever  
3           new and best practices from the work to home  
4           universe, we can carry forward into our everyday  
5           operations. So we are thinking along those lines,  
6           looking forward to the day when -- when we are all  
7           together again.

8                     But the most important one for me, and the  
9           most meaningful one for me, is -- is to try and  
10          engender confidence in -- in our staff. And I hope  
11          that some of them, if not all of them, might be  
12          listening today.

13                    Our -- our -- our prime concern, obviously, is  
14          of safety, but -- but for me, it's the confidence  
15          of the staff that -- that when that day comes, if  
16          they return to work at Gunter, that they can feel  
17          confident that we do have safety measures in place,  
18          that they -- that they do feel confident in -- in  
19          the plan as it -- as it should be developed. And  
20          that's going to come with a lot of communication, a  
21          lot of understanding. And like I said, those  
22          luxuries of -- that we have developed throughout  
23          these last couple of months, of flexibility and  
24          adaptability.

25                    All of those things are going to be key for

1 us. Not just going forward generally, but coming  
2 back home more specifically. And -- and I want  
3 to -- I want to tell our staff and you,  
4 Commissioners, that those are the kinds of things  
5 that we are thinking of. Those are the kinds of  
6 principles and goals and objectives that we have  
7 and that we are working towards.

8 And, again, I want to -- I want to reiterate,  
9 and I -- and I don't do it enough to -- to the  
10 staff at how well they have worked together in  
11 order to put us in this position to be thinking  
12 this way. So I want to thank them again, all of  
13 them out there.

14 Commissioners, I am available for questions,  
15 any thoughts and any guidance and advice that you  
16 may have.

17 CHAIRMAN CLARK: Thank you, Mr. Baez.

18 I -- I want to say again to our staff thank  
19 you. You know, after the first -- the first  
20 hearing, I believe, or the first Agenda we had  
21 remotely after we closed the offices and everyone  
22 went home, you I spent a lot of time during that  
23 meeting thanking and bragging on our staff, and  
24 someone that was watching the hearing made a  
25 comment to me. He said, you know, how many times

1 are going to thank the staff and brag on them  
2 during that meeting? And -- and my answer was real  
3 simple and quick, not enough.

4 He was making the point that I had kind of  
5 overdone it. I really don't believe I did. And I  
6 am not going to fail to recognize our folks for the  
7 hard work, the commitment that they made, and the  
8 diligence to which they applied themselves in  
9 making this transition work. It was incredible.

10 And I want to just reiterate, on behalf of the  
11 Commissioners, I speak for my colleagues here,  
12 thank you for your hard work, and we are committed  
13 to the safety of our staff when we are able to open  
14 and return back to work. That is our number one  
15 priority. And as Director Baez stated, having the  
16 confidence of our staff that when we do reopen,  
17 that we are going to do so in a safe and competent  
18 manner is very, very important to us, and we are  
19 going to remain focused on making sure that, when  
20 that time comes, that we are adequately prepared.  
21 So thank you again.

22 All right. Commissioners, any comments or  
23 questions for Mr. Baez this morning?

24 All right. I will -- Commissioner Polmann.

25 COMMISSIONER POLMANN: Thank you, Mr.



1 Chairman.

2 A few -- a few thoughts in response to our  
3 executive director, and also reflecting on your  
4 comments, Mr. Chairman. And I -- I appreciate the  
5 thoughts -- the -- the emotion, and I will simply  
6 say at the outset, and not because I am one and  
7 have been for most of my career as a government  
8 employee, that among the government employees  
9 that -- that I have known, and the places that I  
10 have worked, and the folks that I have interacted  
11 with at -- at so many levels from the federal  
12 government down to the smallest towns in Florida,  
13 government employees are not appreciated. People  
14 do not appreciate, do not understand what we do.  
15 And I will brag all day along with you in how  
16 dedicated folks are to their work and to public  
17 service and, in particular, to public health,  
18 safety and welfare.

19 So anybody who wants to -- who wants to talk  
20 about the dedication of our staff, bring them on,  
21 because I will tell them. And again, I will say  
22 not because I am one. It's because I know what  
23 people do and how dedicated they are.

24 And -- and, Mr. Chairman, I don't mean to pick  
25 on words, but when you say return to work, I know

1           you mean return to the office.

2           CHAIRMAN CLARK:    Correct.

3           COMMISSIONER POLMANN:  We have never -- we  
4           have never stopped working.

5           CHAIRMAN CLARK:  That's right.

6           COMMISSIONER POLMANN:  And when people -- when  
7           we -- when we talk about essential services, the  
8           Florida Public Service Commission is an essential  
9           service.  And as Mr. Baez -- Mr. Baez has  
10          indicated, we have continued to work through all  
11          this, and we have made accommodations.  And I  
12          applaud the administration and, as he said,  
13          particularly IT services to facilitating that.

14          And again, I don't mean in any regard to --  
15          to -- to take issue with how this is being  
16          described, it is not a luxury to work at home.  It  
17          is simply a necessity to have been here in order to  
18          provide that essential service, and -- and with  
19          regard -- and I am saying this in the public forum  
20          because I think it's important for the public to  
21          understand this.

22          We -- we are an essential service.  We have  
23          been providing critical function to the public in  
24          order to serve the customers, to serve the state of  
25          Florida.  We continue to work through these

1           circumstances. We continue to utilize the  
2           technology and the abilities that we have. Our  
3           staff has risen to the challenge. And returning to  
4           the office will be important, but it is not  
5           necessary for us to continue to function at the  
6           high level that we have been. And we have not  
7           heard from anyone at the State.

8                     And I think returning to the office for many  
9           of us can be a personal choice, to some degree.  
10          And when I am looking around and reading the news,  
11          and on those few occasions when I need to be out,  
12          you still will see people with personal -- personal  
13          protective equipment because that's their personal  
14          choice.

15                    This idea of opening up, people will make  
16          their own decisions about how they do that. I have  
17          made my decision. My family has made my decision.  
18          I expect many of the staff have made their  
19          decisions. And being required to return to the  
20          office when it's not necessary, I think we all  
21          should be, as Commissioners, as the Commission as a  
22          body and as the executive leaders, we should think  
23          carefully about what we are requiring and what we  
24          believe is necessary. And I will leave it at that.

25                    Thank you, Mr. Chairman.

1           COMMISSIONER GRAHAM: Thank you for your  
2           comments, Commissioner Polmann.

3           Any other questions or comments for Mr. Baez  
4           this morning and the Executive Director's report?

5           All right. I have two items for discussion  
6           this morning, and I will try to make them rather  
7           quick.

8           We do have a one o'clock, we are -- one  
9           o'clock hurricane preparedness meeting that we will  
10          be starting promptly at 1:00. So just wanted to  
11          remind everyone of that.

12          There are two items that have come up over the  
13          last couple of weeks for your attention.

14          No. 1, we did receive some comments and --  
15          and -- out of NARUC last -- over the last couple of  
16          weeks regarding some, I guess, expressions coming  
17          out of Congress regarding a federally mandated debt  
18          collection requirement and service disconnection  
19          moratorium. And I have some very general concerns  
20          about Congress taking action regarding these.

21          No. 1, I would remind the commissioners that  
22          this commission took very early action in regards  
23          to this situation. Our utilities, in many cases,  
24          even before we took action, had already stepped up  
25          and put into play their own requirements and

1           procedures for how they were going to handle  
2           service interruptions during this pandemic. But as  
3           Congress is considering to take action on this, I  
4           think it is incumbent upon us as a commission to  
5           express our concerns.

6           I have very serious concerns about federal  
7           mandates regarding service interruptions, and how  
8           that interaction plays, and how may actually do  
9           more harm than it does good by potentially limiting  
10          a utility's ability to be flexible and work with  
11          consumers.

12          I came from the world of customer service, and  
13          know firsthand how important that customer  
14          relationship is with that utility company, and I am  
15          extremely concerned that that could hamper how our  
16          utility companies are working with consumers,  
17          specifically in a crisis that may become a smaller,  
18          or more localized event.

19          And we were asked to consider sending a letter  
20          to our congressional representatives to express our  
21          opinions regarding this federal mandate, and I  
22          would open that up for your consideration and  
23          thoughts. If you so desire, with your support, I  
24          would work with our technical and government  
25          relations staff to draft a letter to our

1 congressional delegation urging them to reject any  
2 proposal to preempt or intrude on our jurisdiction.

3 So it's open for your consideration.

4 Commissioner Brown.

5 COMMISSIONER BROWN: Mr. Chairman, that would  
6 be my motion.

7 CHAIRMAN CLARK: All right. We will just work  
8 off consensus. Let's -- let's -- anybody have any  
9 objections? Commissioner Polmann?

10 COMMISSIONER POLMANN: No objection whatsoever  
11 with regard to writing to our delegation. Every  
12 elected official knows that they work for their  
13 constituency, and as the saying goes, all politics  
14 is local. All customer service, as you have  
15 identified, is personal. And I believe and I  
16 wholeheartedly support that any of these issues  
17 should be dealt with at the -- at the local level,  
18 and I think you are right on point -- on point, Mr.  
19 Chairman.

20 Thank you so much.

21 CHAIRMAN CLARK: Thank you, Commissioner  
22 Polmann.

23 Any other comments or questions?

24 All right. We will have something drafted up  
25 for your consideration and review over the next

1 couple of days.

2 One other issue that I wanted to talk about is  
3 an issue that really kind of raised itself as we  
4 were having the hearings last week regarding the  
5 potential water rate increases in a couple of  
6 our -- a couple of our systems, and I have some  
7 concerns.

8 I have really become concerned over the  
9 last -- became more prevalent during this rate case  
10 about the quality of the information that we as a  
11 commission have when it comes to water quality  
12 issue in regards to how we are setting rates.

13 The Legislature was pretty clear when they  
14 asked us that we should take into account secondary  
15 water quality standards, taste, color, smell,  
16 pressure. And we end up relying on DEP tests each  
17 time we come into one of these rate cases and one  
18 of these evaluations. And these standards, these  
19 tests don't really seem to be answering the  
20 questions that most of us have. They are dealing  
21 with the primary water standards. They are dealing  
22 with water testing from different locations  
23 throughout the systems, but it really doesn't  
24 attest to the water quality that customers are  
25 receiving in their home, and that bothers me.

1           I -- I would like your indulgence to work with  
2           staff to come up with some options. And what I am  
3           interesting in doing is coming up with options to  
4           evaluate the potential cost of us doing  
5           at-the-meter testing, water quality testing when we  
6           are involved in a rate case, so that we have the  
7           definitive absolute information showing us that the  
8           product that the utilities are delivering to the  
9           customer are a quality product, and -- and not  
10          prior to the transmission service from the utility.

11          I also want to make sure that we are looking  
12          at some potential standards that take into  
13          consideration the quality of the customer's own  
14          service, their own piping. But I think  
15          at-the-meter testing -- and I reiterate that point.  
16          From my personal perspective, at the meter is where  
17          we need to be testing these systems and determining  
18          water quality at that level.

19          I think that with this type of information, we  
20          certainly will have a better understanding of how  
21          well the companies that we are regulating are  
22          actually serving the customers, and we wouldn't  
23          continually be guessing at the quality of the  
24          product.

25          And I realize that the biggest issue here is



1 going to be how the cost is determined, how the  
2 cost is shared, and how that cost is spread back  
3 out toward ratepayers. I realize that in small  
4 companies that may be seen to be burdensome.  
5 That's why I would like the staff to -- to look at  
6 all of the options that are available to us,  
7 whether we did some sort of in-house testing,  
8 whether we did a third-party independent  
9 contractor. In some cases the utility may can do  
10 third-party independent contracting themselves and  
11 provide us with those test results.

12 But I would like at least your initial  
13 thoughts and reactions to proceeding down this road  
14 before I -- I get too far into it and find out I am  
15 the only one with these concerns.

16 Any comments?

17 Commissioner Graham.

18 COMMISSIONER GRAHAM: Mr. Chairman, it's  
19 interesting. I know myself and docketers both have  
20 gone down this path, and I wish you the best of  
21 luck.

22 CHAIRMAN CLARK: Well, that's all I am going  
23 to get from him, is just good luck on this.

24 All right, Doc.

25 COMMISSIONER POLMANN: Well, thank you,

1 Commissioner Graham and Mr. Chairman.

2 We had gone so far some time ago to examine  
3 the potential of rule-making on -- on the water  
4 quality issue, and came to certain conclusions on  
5 that. I won't get into the details, but -- but we  
6 did raise a number of questions and came to the  
7 conclusion not to pursue rule-making at that time.  
8 I am not going to say it wasn't a good idea, it  
9 was, to examine that issue.

10 The -- the matter that you raised has so many  
11 different aspects that we -- we could try to  
12 identify many different technical alternatives. My  
13 immediate response to -- to your comments -- and --  
14 and you -- you have included in your comments  
15 the -- the key question in a concern regard, and  
16 that is the cost and who pays.

17 I would encourage -- because it -- it is  
18 always a question and almost a roadblock, is who is  
19 going to pay? Because we -- we hear from the  
20 utilities that there is a cost issue and the -- and  
21 the customer is going to pay.

22 What is the extent of sampling for secondary  
23 standards? How many samples? Where to sample? Do  
24 we sample it only in response to complaints? In  
25 which case, in my opinion, we are not really

1 addressing the system issues, and so forth.

2 I -- I would encourage an alternative  
3 examination, Mr. Chairman, rather than from a  
4 technical perspective, that what are the  
5 alternatives for funding? And not simply to say,  
6 well, whatever the -- whatever the cost is in the  
7 aggregate for the system, the customers are going  
8 to pay it.

9 And I have no idea what that answer is, but I  
10 think that the first question is what are the --  
11 what are the available alternatives, or what are --  
12 what are the alternatives not currently available  
13 to fund the examination of secondary water quality  
14 concerns? How do we identify the problem -- the  
15 magnitude of the problem?

16 Forget about the solution. The solutions are  
17 usually -- I don't know, maybe insoluble, but we  
18 can't even determine that unless we can pay  
19 somebody to do something to figure out that the  
20 problem can't be solved.

21 So if there is no money available, which is  
22 kind of where we are stuck right now. Well, you  
23 know, if we are going to do anything, we have to  
24 figure out who is going to pay for what. Well, you  
25 can't afford it. Okay. So we -- we don't even --

1 we can't get anybody to do anything.

2 So, you know, let's -- let's go to the  
3 executive director and say, come up with \$100,000.  
4 And he is going to say, I don't have that money in  
5 my budget, which is currently true.

6 So I am just talking off the top of my head,  
7 but I would like to examine what are the funding  
8 alternatives, which is a completely blank sheet of  
9 paper and an open mind.

10 CHAIRMAN CLARK: Great point.

11 COMMISSIONER POLMANN: That's my suggestion.

12 CHAIRMAN CLARK: Great point. Thank you.

13 COMMISSIONER POLMANN: I am going to get no  
14 support for that, but unless there is funds --  
15 funding available to start an examination of what  
16 is causing the -- the -- the customer to have the  
17 water quality problem, we can't -- we can't examine  
18 the effect on the whole issue.

19 CHAIRMAN CLARK: Thank you, Commissioner  
20 Polmann. Great points. That certainly will be  
21 taken absolutely into consideration.

22 Any other comments or thoughts?

23 All right. Is -- are there any other items  
24 that any of the commissioners would like to bring  
25 up in IA today? Comments or questions?

1           All right.  If we have none -- Mr. Baez, did  
2           you have anything else for us?

3           MR. BAEZ:  No, Chairman.  Thank you.

4           CHAIRMAN CLARK:  All right.  Well, thank you  
5           all for your indulgence today, and we will be back  
6           here at one o'clock.  IA is adjourned.  Thank you.

7           (Proceedings concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

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

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

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

DATED this 27th day of May, 2020.



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DEBRA R. KRICK  
NOTARY PUBLIC  
COMMISSION #GG015952  
EXPIRES JULY 27, 2020