

I. Meeting Packet



State of Florida
Public Service Commission
INTERNAL AFFAIRS AGENDA

Tuesday, June 25, 2013

Immediately following Commission Conference
Betty Easley Conference Center, Room 140

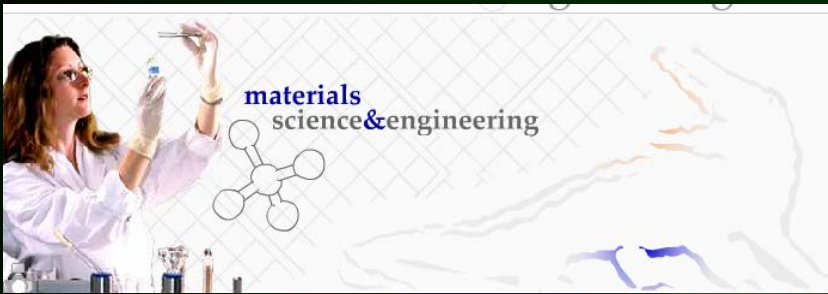
1. Presentation by Dr. Jennifer Languell, Trifecta Construction Solutions. (Attachment 1)
2. Update/Demonstration by Office of Commission Clerk - Automation and Activities. (Attachment 2)
3. Draft Report on the Status of Competition in the Telecommunications Industry. Approval is sought. (Attachment 3)
4. Briefing on Proposed Implementation Plan for 2013 Legislative Directive. Guidance is sought. (Attachment 4)
5. Legislative Update. (Attachment 5)
6. Executive Director's Report. (No Attachment)
7. Other Matters. (No Attachment)

BB/css

Comparing Commercial Green Building Rating Systems

National and State- Level





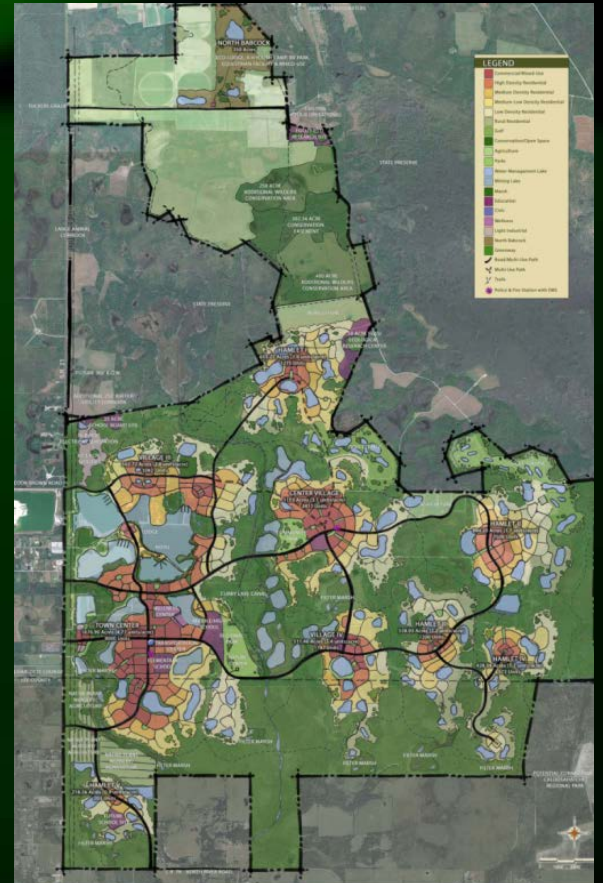
UNIVERSITY OF
FLORIDA
CIVIL ENGINEERING



Trifecta - Sustainability

- Certified over 5 Million Square Feet of 3rd party certified single and multi-family residential
- Over 2 Million Square Feet of certified LEED Projects
- Over 4 Million Square Feet of Green Globes or FGBC Commercial
- Over 30,000 acres of certified Green Developments
- Active Board and Standard Committees
 - USGBC, FGBC, NAHB
- Host Discovery Channel's PROJECT EARTH
- Florida Contractor #1330049







Rating Systems



US Green Building Coalition (USGBC)

Leadership in Energy and Environmental Design - LEED
2009 Construction and Major Renovations (NC/MR)



Green Building Initiative (GBI) - BREEAM
Green Globes



Florida Green Building Coalition (FGBC)
Green Commercial Building Standard

Conservation

Versus

Renewables



Retrofit with Air Barrier

Savings: 75,758 kWh/yr

Initial Cost: \$18,000

Annual Savings: \$ 7,500 (\$0.099/kWh)

\$ 1,500 Natural Gas

Utility Rebate: \$ 9,000 (from Air Barrier)

Payback: 1 Yr

Install PV's

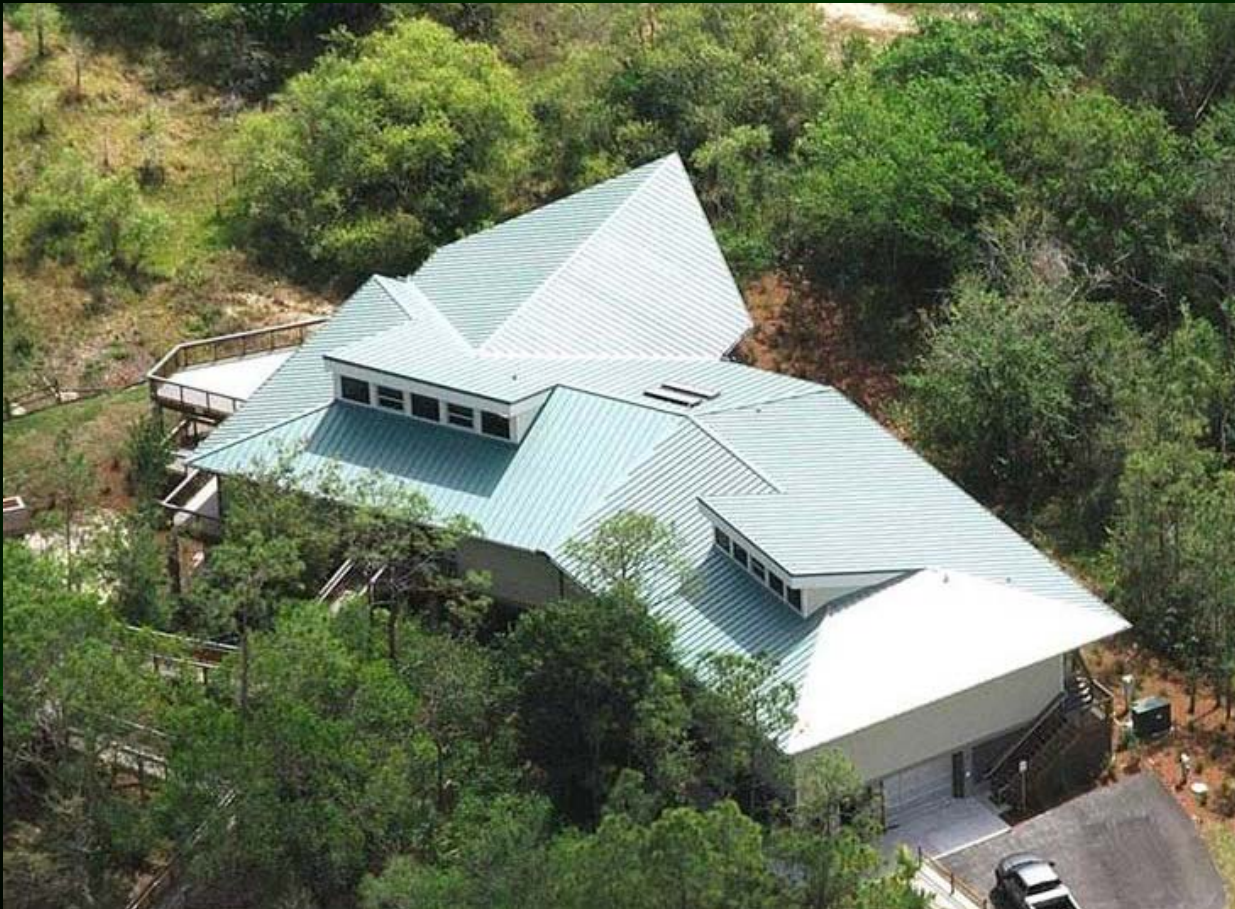
Production: 82,000 kWh/yr

Initial Cost: \$250,000

Production: \$ 9,000 (\$0.11/kWh)

Payback: 27 Yr

LEED



usgbc.org/leed

27% Federal
EO 13514

Total Projects (Mar 2013)
US: 17,800
FL: 1086 NC



LEED

- Paper, 3rd Party Assessment
- Formed in the US in 2000 by USGBC
- ANSI 17024 Accredited in 2011
- DOE Grant
- GBCI Administers LEED Certification Program
 - NFP Third Party
 - Est. 2008
- 25 Max. Member Board of Directors



Certification Programs

LEED New Construction

LEED Existing Buildings O&M

LEED Commercial Interiors

LEED Schools

LEED Healthcare

LEED Retail

LEED Homes

LEED Core & Shell

LEED Neighborhood Development



Point Totals and Certification

Points for Certification **40**

Maximum Available Points **110**

Category	Points	%
Sustainable Sites	26	24%
Water Efficiency	10	9%
Energy & Atmosphere	35	32%
Materials & Resources	14	13%
Indoor Environmental Quality	15	14%
Innovation & Design Process	6	5%
Regional Priority Credits	4	4%

Certified 40
Silver 50
Gold 60
Platinum 80



LEED Membership Dues

Education & Government

based on size and institution type

K-12 school system- **\$500**,
3-5 university campuses- **\$1000**

All other

based on revenue, asset base

contractors & builders:
<\$250,000 in construction-**\$300**
>\$5 billion - **\$5000**

Contractors & Builders

Dues	Construction Volume
\$300	Less than \$250,000
\$500	\$250,000 - \$1 million
\$750	\$1 million - \$5 million
\$1,500	\$5 - \$25 million
\$2,500	\$25 - \$50 million
\$3,500	\$50 - \$250 million
\$4,000	\$250 million - \$5 billion
\$5,000	More than \$5 billion

Corporate & Retail

Dues	Gross Annual Revenue
\$1,000	Less than \$50 million
\$2,500	\$50 - \$250 million
\$3,500	\$250 million - \$5 billion
\$5,000	More than \$5 billion

Educational Institutions

Dues	Type
\$300	Individual K-12 school
\$500	District K-12 school system
\$750	1-2 university/institute campuses
\$1,000	3-5 university/institute campuses
\$1,500	5-20 university/institute campuses
\$2,000	More than 20 institute campuses

Federal Government

Dues	Type
\$750	Government owned
	Contractor operated lab (GOCO)
\$1,000	Federal agency

Financial & Insurance Companies

Dues	Asset Base
\$2,500	Less than \$250 million
\$3,500	More than \$250 million

Nonprofit & Environmental Orgs (501c3)

Dues	Gross Annual Revenue
\$300	Less than \$15 million
\$500	\$15 - \$250 million
\$750	More than \$250 million

Product Manufacturers

Dues	Gross Annual Revenue
\$500	Less than \$1 million
\$1,500	\$1 - \$5 million
\$2,500	\$5 - \$25 million
\$3,500	\$25 - \$50 million
\$5,000	\$50 - \$250 million
\$7,500	\$250 million - \$5 billion
\$8,500	\$5 - \$10 billion
\$12,500	More than \$10 billion

Professional Firms

Dues	Gross Annual Revenue
\$300	Less than \$250,000
\$750	\$250,000 - \$1 million
\$1,000	\$1 million - \$5 million
\$1,500	\$5 - \$25 million
\$2,500	\$25 - \$50 million
\$3,500	More than \$50 million

Professional Societies & Trade Orgs

Dues	Gross Annual Revenue
\$500	Less than \$1 million
\$1,500	\$1 - \$5 million
\$2,500	\$5 - \$25 million
\$3,500	\$25 - \$50 million
\$5,000	More than \$50 million

Real Estate & Real Estate Providers

Dues	Gross Annual Revenue
\$750	Less than \$5 million
\$1,500	\$5 - \$25 million
\$2,500	\$25 - \$50 million
\$3,500	\$50 - \$250 million
\$4,000	More than \$250 million

State & Local Governments

Dues	Population
\$500	Under 500,000
\$750	500,000 - 1 million
\$1,000	More than 1 million

Utility & Energy Services

Dues	Gross Annual Revenue
\$750	Less than \$10 million
\$1,500	\$10 - \$50 million
\$2,500	\$50 - \$250 million
\$3,500	More than \$250 million





Certification Fees

	Project Gross Floor Area in Sq Ft (excluding all parking areas)			Expedited Review
	Less than 50,000	50,000-500,000	More than 500,000	
Registration				
USGBC members	\$900			N/A
Non-members	\$1,200			
Precertification Review (Optional, LEED CS only)				
USGBC members	\$3,250			\$5,000 surcharge
Non-members	\$4,250			
Standard Review	Flat rate	Per Sq Ft	Flat rate	
Design & Construction Review				
USGBC members	\$2,250	\$0.045/sf	\$22,500	\$10,000 surcharge
Non-members	\$2,750	\$0.055/sf	\$27,500	
Split Review	Flat rate	Per Sq Ft	Flat rate	
Design Review				
USGBC members	\$2,000	\$0.04/sf	\$20,000	\$5,000 surcharge
Non-members	\$2,250	\$0.045/sf	\$22,500	
Construction Review				
USGBC members	\$500	\$0.010/sf	\$5,000	\$5,000 surcharge
Non-members	\$750	\$0.015/sf	\$7,500	
Appeals				
Complex credits	\$800/credit			\$500/credit surcharge
All other credits	\$500/credit			
LEED Interpretations				
USGBC members	\$180/credit			N/A
Non-members	\$380/credit			
Project CIRs	\$220/credit			N/A



Certification Cost

IF USGBC MEMBER Example:

- Contractor with \$20 million in construction volume
- 250,000 sf building LEED certification

USGBC			Cost
Membership			\$1,500
LEED			
Registration			\$900
Standard design & construction review	\$0.045/sf	\$11,250	Total Cost \$13,650
Split design & construction review	\$0.050/sf	\$12,500	\$14,900



Certification Cost

NON MEMBER Example:

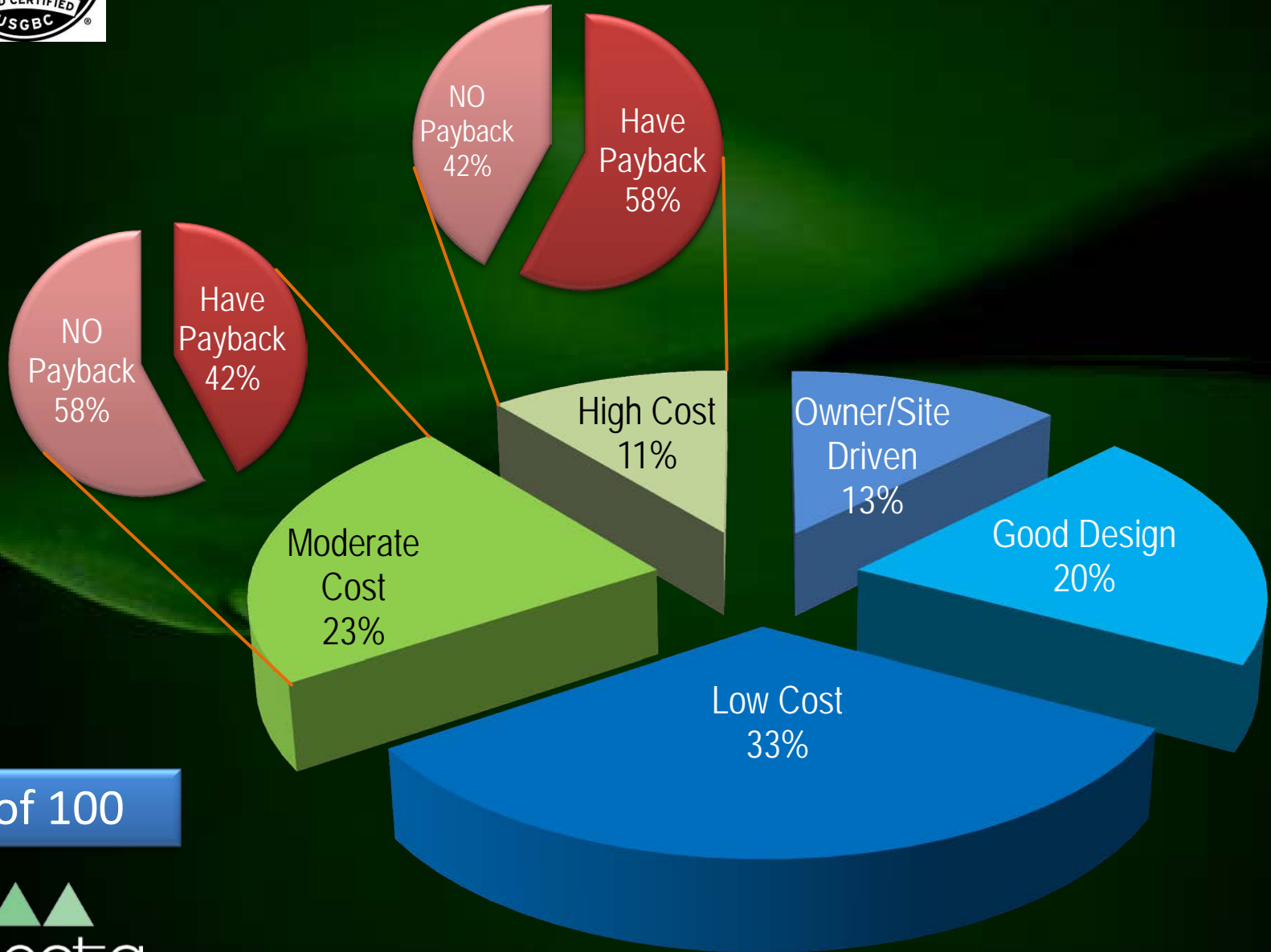
- Contractor with \$20 million in construction volume
- 250,000 sf building LEED certification

LEED

Registration		\$1,200	Total Cost
Standard design & construction review	\$0.055/sf	\$13,750	\$14,950
Split design & construction review	\$0.060/sf	\$15,000	\$16,200



LEED- Credit Cost



31 of 100

LEED- Soft & Hard Costs

Soft Cost

- USGBC Estimate: \$20,000 - \$60,000
- Per Data Collection: 0.01% - 15.9% of total project cost

Hard Cost

- Based on Credits Selected – Per Data 4.11% avg LEED Silver

PROJECT INFORMATION			LEED SOFT COSTS						LEED HARD COSTS			TOTAL LEED Premium			
Project/Document/Reference	Project Certification Level	Total Project Cost	Design	Commissioning	Documentation	Energy Modeling	LEED SOFT Cost Premium	TOTAL LEED Soft Cost Premium (% of Project)	Calculated Average	LEED HARD Cost Premium	TOTAL LEED Hard Cost Premium (% of Project Cost)	Calculated Average	TOTAL LEED Premium (Soft & Hard Cost)	Calculated Average	
Navy 1391 Template (V2.2)				0.76%				1.07-3.19%	2.13%		3.83%	3.83%	4.9% - 7.02%	5.96%	
NAVFAC Hot Humid - Building							\$23,525	0.70%	0.70%	\$35,253	1.05%	1.05%	1.75%	1.75%	
NAVFAC Hot Humid - HQ							\$26,396	0.27%	0.27%	-\$62,697	-0.65%	-0.65%	-0.38%	-0.38%	
Indian Health Service (IHS)	Certified Silver	\$16,753,370		1%-3% 3.5%-7.6%	0.2%-3.9% 2.4%-8.3%			1.2%-15.9%	8.55%		1.1%-7.7%	4.40%	2.3% - 23.6%	12.95%	
American Chemical Council			0.4-0.6%	0.5%-1.5%	0.5%-0.9%	0.1%		1.5%-3.1%	2.30%		3%-8%	5.50%	4.5% - 11.1%	7.80%	
Stegall 2004 Residence Hall	Silver	\$12,550,000		0.05%-0.52%	0.20%-0.81%	0.06%		0.3%-1.39%	0.85%		1.04% - 2.8%	1.92%	1.34% - 4.19%	2.77%	
AAEC CCC comp leed soft costs	Silver V3		0.60%	1.30%	0.90%	0.30%		3.10%	2.50%						
GSA - courthouse	Certified-Gold	\$57,640,000						0.19%-0.62%	0.41%		-0.4% - 8.1%	3.85%	-0.21% - 8.72%	4.35%	
GSA - office building	Certified-Gold	\$39,858,000						0.16%-0.54%	0.35%		1.4% - 7.8%	4.60%	1.56% - 8.34%	4.95%	
D'Antonio - 11 building*	Certified -Gold	\$188,977,516	0.80%	0.12%-0.94%	\$3,000-\$6,000	\$10,000-\$35,000		1.0%-6.0%	3.50%	\$2,771,079	4.63%*	4.63%	2.47% - 7.47%	4.63%	
Michigan State Univ. - office study								0.25%-0.38%	0.32%		1% - 3%	2.00%	1.25% - 3.38%	4.32%	
Kats Green Buildings 2003 - 33 buildings**	Certified-Platinum												0.66% - 6.50%	1.84%**	
SBW Consulting, Inc. 2003 - McCaw Performance Hall		\$129,914,286					\$16,600	0.01%	0.01%	\$909,400	0.70%	0.70%	0.71%	0.71%	
SBW Consulting, Inc. 2003 - Seattle Justice Center	Gold	\$90,952,632					\$16,600	0.02%	0.02%	\$1,728,100	1.90%	1.90%	1.92%	1.92%	
Langdon 2007 - cost of green					\$1.5-\$3/sf commissioning \$1-\$2/sf for add'l comm										
Langdon 2004	Silver										1.90%	1.90%			
Kats Green Schools - 30 Schools***	Certified -Gold										0%-6.27%	3.14%	AVG = 1.65%***	1.65%	
								AVERAGE LEED SOFT COST	1.68%			AVERAGE LEED HARD COST	2.77%	AVERAGE TOTAL LEED PREMIUM	4.11%

Green Globes Certification



greenglobes.com



Dec 2012

US: 482

Florida: 31





- Online, 3rd party certification
- Formed in 2000 by BREEAM (Est. 1990) – UK
- To Canada in 2000
- To the US in 2004 by GBI:
 - Non-Profit
 - Accredited by ANSI as a Standards - 2005
 - 15 Member Board: industry, NGOs, construction companies, architectural firms, academic institutions



Point Totals and Certification

Points for Certification **350**

Maximum Available Points **1000**

Category	Points	%
Project Management	50	5%
Site	115	12%
Energy	380	38%
Water	70	7%
Resources, Materials, Waste	100	10%
Emissions, Effluents	85	9%
Indoor Environment	200	20%

1 Globe 350
2 Globes 550
3 Globes 700
4 Globes 850



Certification Fees

Guiding Principles Compliance Assessment for Existing Buildings Third-Party Assessment/Certification Pricing¹

Registration/Survey Form	Price Each
Guiding Principles Compliance Assessment for Existing Buildings ¹ Project Registration, Self-Evaluation survey (PDF form), and Self-Evaluation Report (Single Assessment/Certification Use)	\$500 per building

Guiding Principles Compliance (GP Compliance) Third-Party Compliance Assessment/Certification¹ Price Per Building Based on Building Square Footage (Enclosed or Occupied)

Type of Service	Individual or Campus	< 50,000 to < 100,000 SF	100,000 to < 200,000 SF	200,000 to < 500,000 SF	500,000+ SF
Guiding Principles Third-Party Assessment, Rating & Certification ¹	Individual or First and Primary Campus Building ²	\$5,000		\$0.030/SF	\$15,000
	Second and Subsequent Campus Building ³	\$3,000	\$4,000	\$5,000	\$6,000



Certification Fees



Assessor Travel Expenses ¹⁶ (Mandatory for all on-site assessments)	Option 1: Upfront flat fee of \$1,500 for GP site visit alone or \$500 for GP site visit supplemental to Green Globes CIEB site visit Option 2: Actual expenses +20% overhead billed after the assessment is completed
Expediting Fee ⁷	\$2,500 regardless of square footage
Appeal Fee ⁸	\$1,000 one-time flat fee
Optional GBI Order Entry Fee (GBI personnel enter orders for a campus/group of building) ^{9 10}	\$500 per campus/group order (<10 building per campus/group) ⁹ \$1,000 per campus/group order (10-50 building) ⁹

Available Discounts ⁹	Discount Amount
Federal Agency – New Customer, Volume Discount ⁵ <i>Applicable to Federal Agencies that purchase GP Compliance Third-Party Assessment/Certification for 25 or more buildings for the first time</i>	\$2,000 one-time fee discount

Guiding Principles Compliance Certification Recognition Items	Price Each
Guiding Principles Compliance Certification 16x16 Plaque (includes shipping)	\$785
Certificate (included with Assessment/Certification)	N/C



Certification Cost

Example:

- 250,000 sf building Green Globes Certification

Green Globes

Registration		\$500	
Certification	\$0.030/sf	\$7,500	Total Cost
Assessor Travel Expenses		\$1,500	\$9,500

Florida Green Building Certification



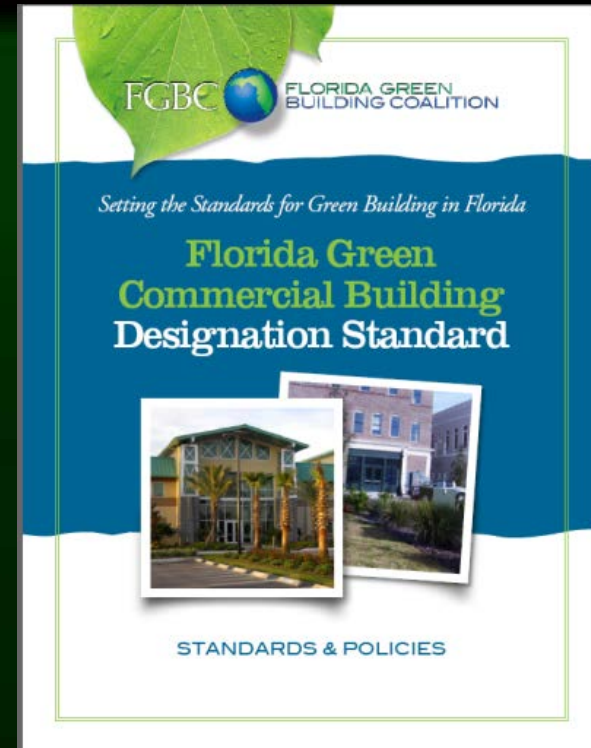
floridagreenbuilding.org

Florida:

7 Commercial (10 reg.)



- Online, 3rd party assessment
- Non-profit organization formed in 2000 in Florida
- 25 board members from:
 - Construction & development
 - Design & Analysis
 - Academic & Research
 - Product Development
 - Real Estate & Finance
 - Government & Public Advocates





FGBC Standards are endorsed by:

- The Florida Legislature
- The Florida League of Cities
- Florida League of Mayors
- The Florida Home Builders Association





Point Totals and Certification

Points for Certification **100**

Maximum Available Points **419**

Bronze 100
Silver 151
Gold 201
Platinum 250+

Category	Points	%
Project Management	9	2%
Energy	144	34%
Water	77	18%
Site	75	18%
Health	42	10%
Materials	39	9%
Disaster Mitigation	33	8%



Membership Dues

Business Categories

Business	\$250
Non-profit	\$100
Government Agency	\$200

Other Categories

Individual	\$100
Affiliate (employed by Business Cat. Member)	\$25
Full-Time Student (current student ID RQD)	\$25



Certification Cost

FGBC Commercial	Total Cost
0 to 5,000 SF	\$1,000
5,001 ≤ SF ≤ 10,000	\$2,000
10,001 ≤ SF ≤ 25,000	\$3,000
25,001 ≤ SF ≤ 50,000	\$4,500
> 50,000 SF	\$6,000

Example:

- 250,000 sf building FGBC certification

FGBC Commercial

Registration	\$6,000	Total Cost
		\$6,000

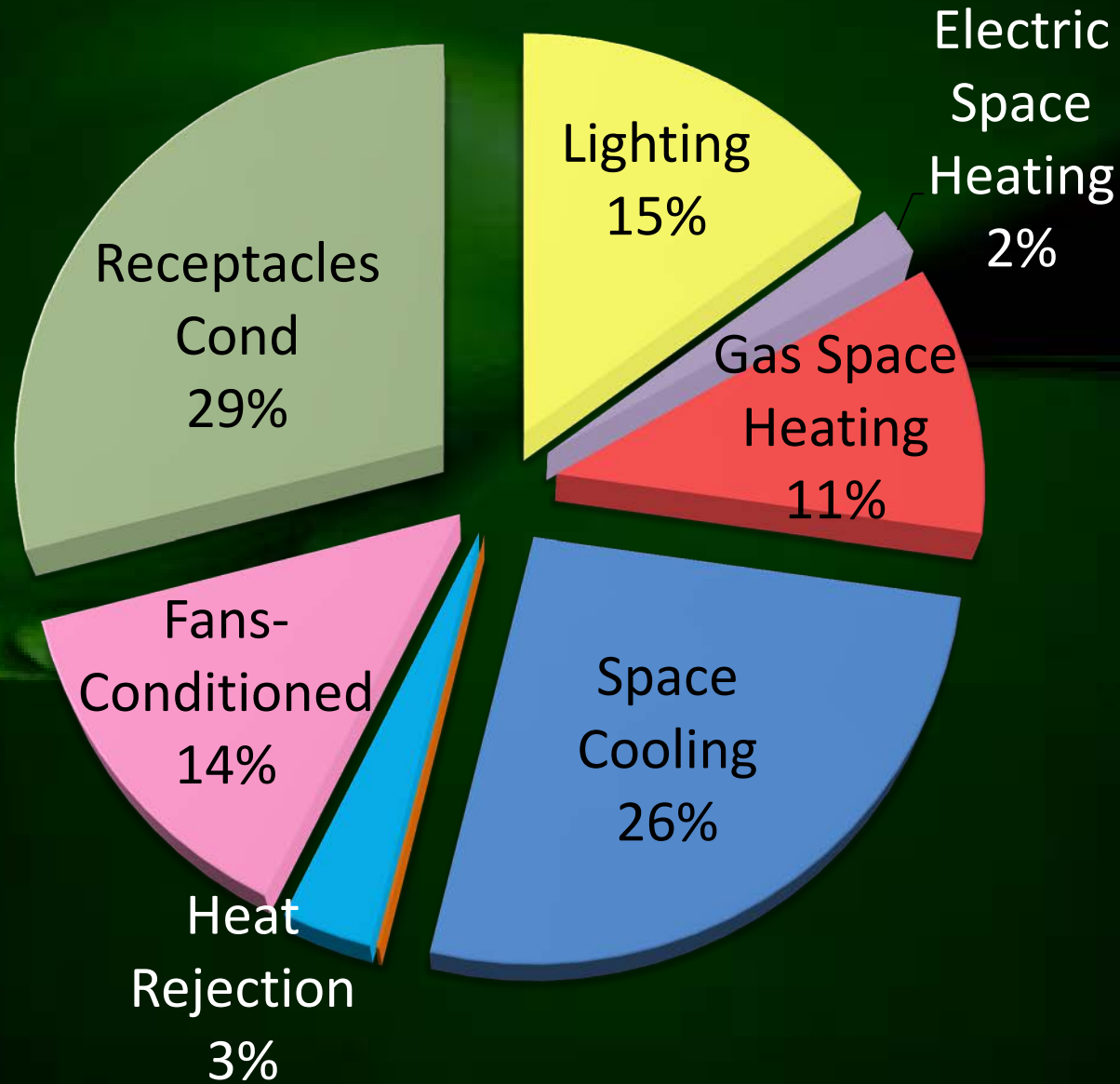
ASHRAE & Plug Load



	plug	no plug
ASHRAE 90.1- '01		X
ASHRAE 90.1- '04	X	
ASHRAE 90.1- '07	X	
ASHRAE 90.1- '10	X	
ASHRAE 189.1- '09	X	

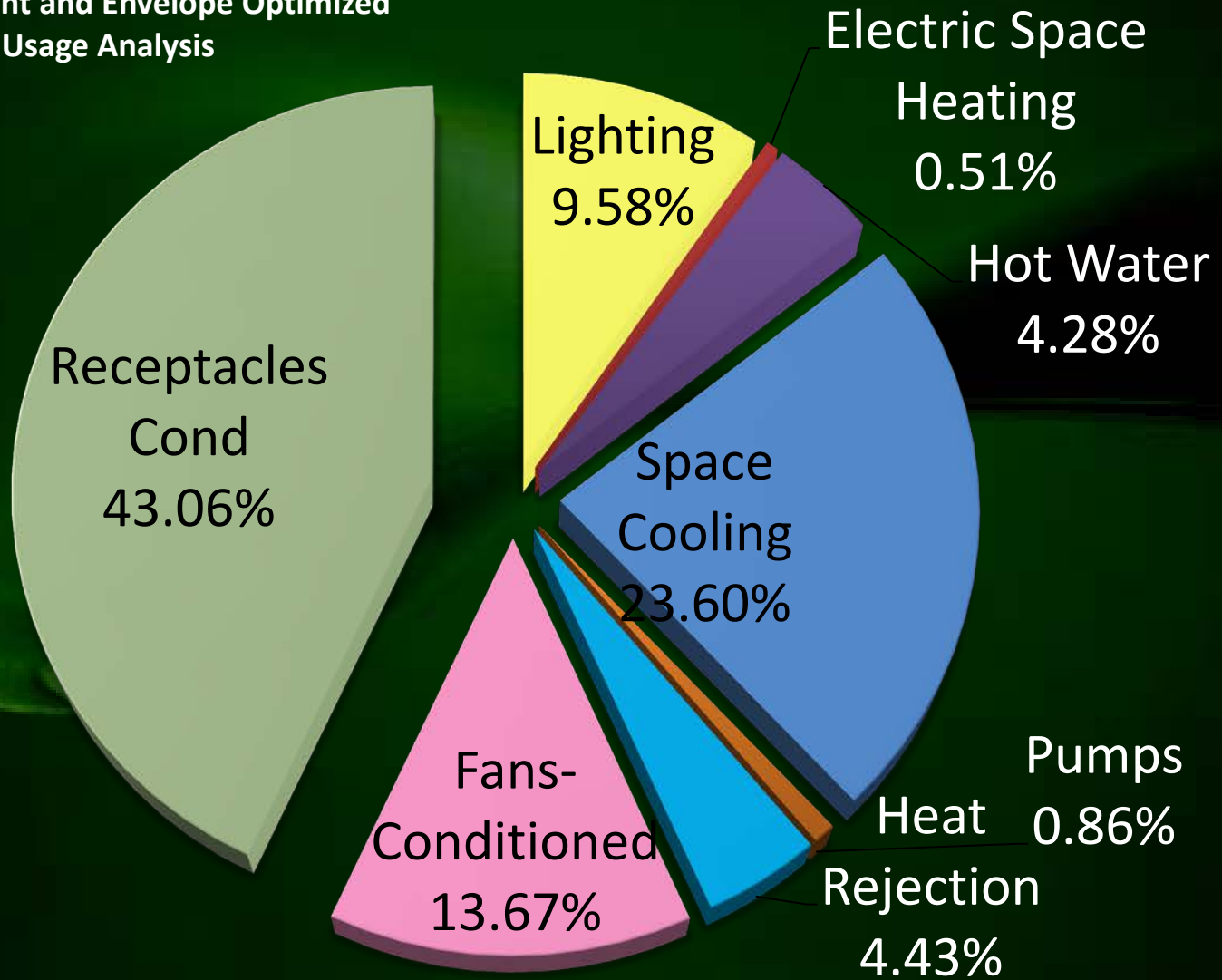
Phase I - Energy Models

PDEC ASHRAE 90.1 BASE CASE Energy Usage

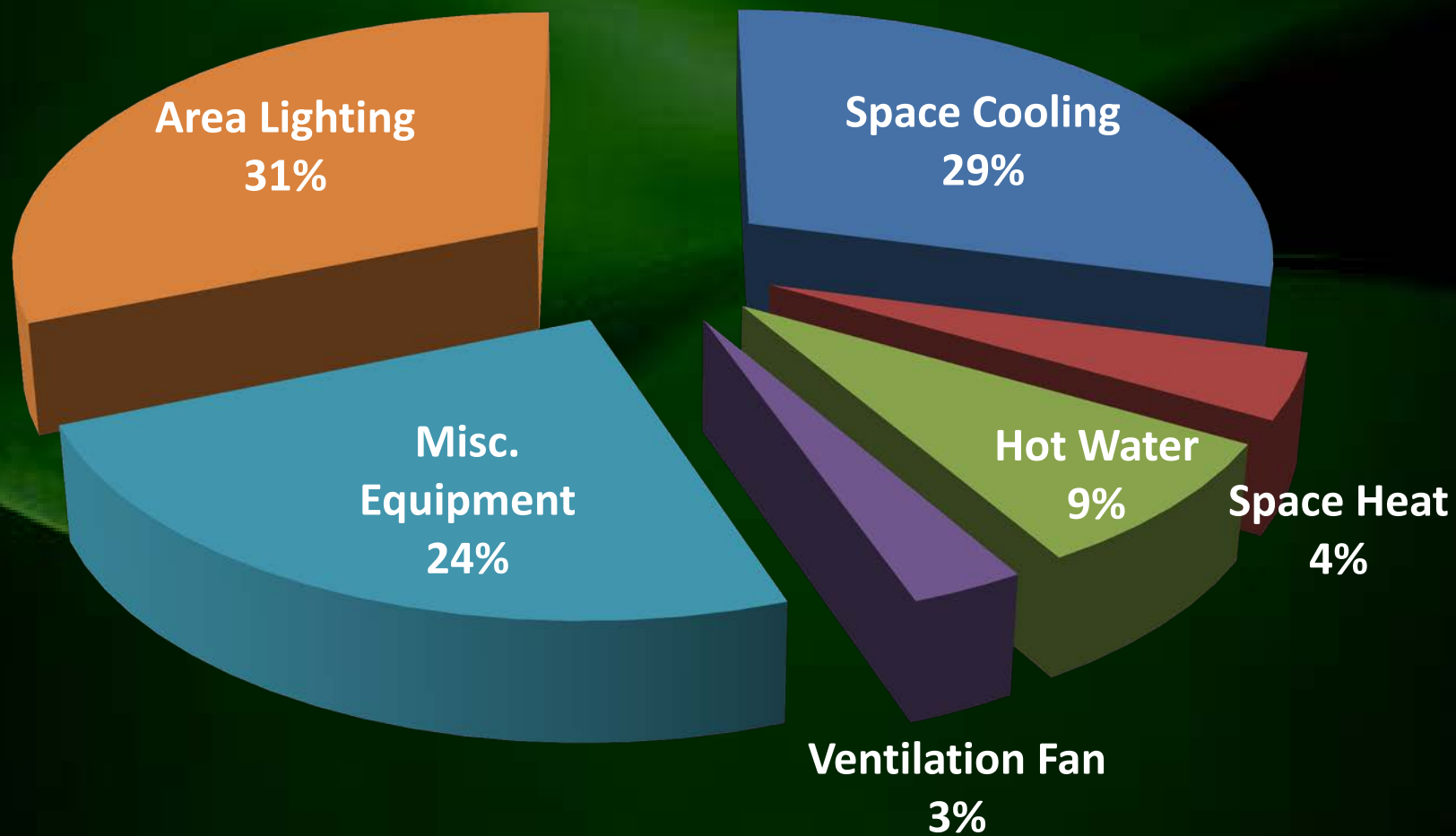


Phase I - Energy Models

PDEC EISA Equipment and Envelope Optimized
Energy Usage Analysis



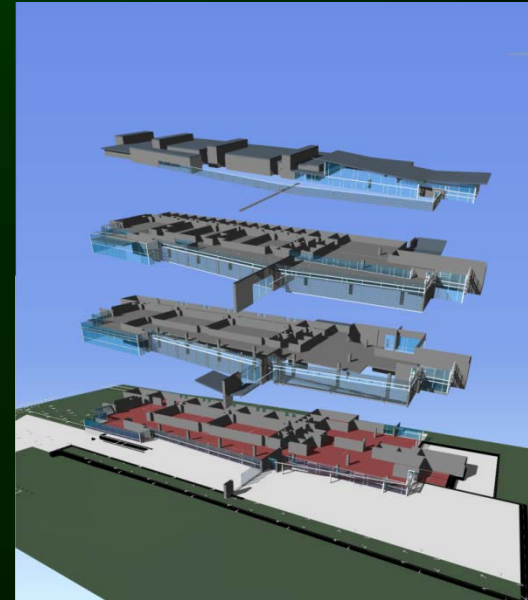
Energy Technology Center



Gaming The ASHRAE Baseline

Manipulating the ASHRAE 90.1 Baseline Building

1. Show additional energy % savings without actually building a different building
 - Building is not actually more energy efficient
 - On paper we show increased energy performance
2. Gain Additional LEED points to achieve directives (FED)

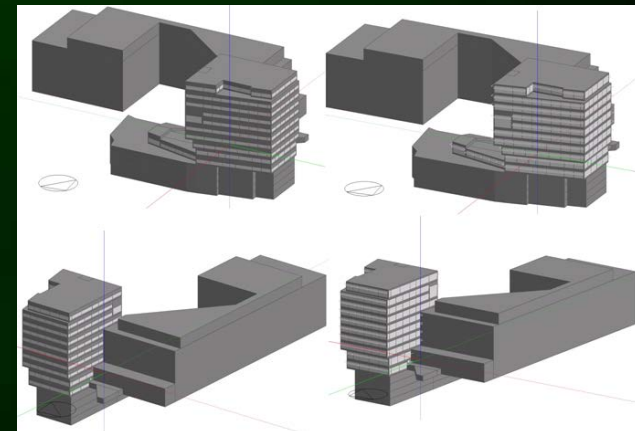
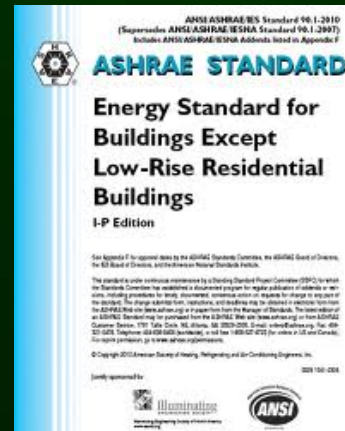


Gaming The ASHRAE Baseline

17,000 sf educational facility	Energy \$/YR	Incremental Reduction	LEED Points	<u>COMMENTS</u>
BASE CASE:	\$42,870			
PROPOSED DESIGN:	\$28,771			Matching geometry, zoning, etc. No skylight on base or proposed
REDUCTION:	32.89%		11	
BASE CASE MOD 1	\$43,643			Matching geometry, zoning, etc. added skylight to base and removed in proposed
Energy Savings	34.08%	1.8%	12	
BASE CASE MOD 2:	\$46,371			Use non-pressurized, average construction on base
Energy Savings	37.95%	3.88%	14	
BASE CASE MOD 3:	\$46,436			Rotated the base case to worst case
Energy Savings	38.04%	0.09%	14	
BASE CASE MOD 4:	\$46,833			Changed base case building shape to long thin with concentration of glass on long side
Energy Savings	38.57%	0.53%	14	
BASE CASE MOD 5:	\$48,387			Tweak mechanical systems
Energy Savings	40.54%	2.50%	15	

▲ Gaming The ASHRAE Baseline - LEED

- 7.8% Additional Apparent Energy Savings
 - No ACTUAL building improvements
 - 3 – 5 additional LEED points
 - Excluding ethical considerations – more possible
- \$1,120 Design time cost
- \$85,000 ... to achieve 5 points.
 - \$25,000 for leakage testing, infrared photography, and report
 - \$60,000 for high-performance skylight in lieu of ASHRAE standard



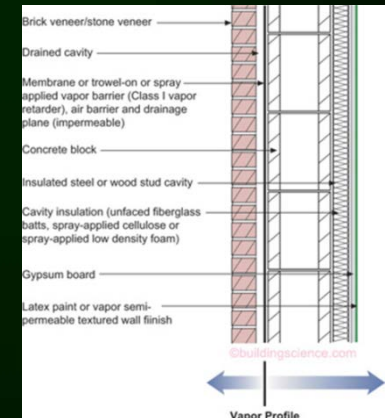
Phase I Outcome – Envelope

• Roof

- ▶ ASHRAE BASELINE Insulation: \$177,988
- ▶ Improved insulation to R-38: \$ 28,767 additional cost
- ▶ Resulting Annual Savings \$ 61
- ▶ Simple Payback 471 years

• Walls

- ▶ ASHRAE BASELINE Insulation: \$ 77,109
- ▶ Improved insulation to R-38: \$131,393 additional cost
- ▶ Resulting Annual Savings \$ 609
- ▶ Simple Payback 216 years





Energy Related Systems

Not Including Building

INITIAL COST

Description	King Salmon AFB, AK	Denver CO	Laughlin AFB TX	Eglin AFB FL	Niagara ARS NY
ASHRAE BASE CASE	\$412,431	\$326,964	\$333,187	\$318,959	\$338,388
MODEL 11 VAV, Lo Light, HP Boiler/Chiller/DHW	\$1,251,734	\$1,132,773	\$1,013,601	\$1,061,102	\$1,261,973
MODEL 13 (11 with R-160 Insulation)	\$1,604,960	\$1,520,559	\$1,428,797	\$1,462,343	\$1,664,098
MODEL 14 (11 with Gas/Oil Fired Boiler/DHW)	\$966,687	\$926,860	\$995,096	\$1,033,530	\$1,017,135

LCC

Description	King Salmon AFB, AK	Denver CO	Laughlin AFB TX	Eglin AFB FL	Niagara ARS NY
ASHRAE BASE CASE	\$2,665,619	\$938,258	\$938,828	\$1,178,657	\$853,828
MODEL 11 VAV, Lo Light, HP Boiler/Chiller/DHW	\$2,882,957	\$1,750,825	\$1,626,104	\$1,845,559	\$1,802,690
MODEL 13 (11 with R-160 Insulation)	\$3,227,411	\$2,144,118	\$2,040,669	\$2,245,747	\$2,209,122
MODEL 14 (11 with Gas/Oil Fired Boiler/DHW)	\$2,647,442	\$1,549,440	\$1,610,881	\$1,828,855	\$1,572,462

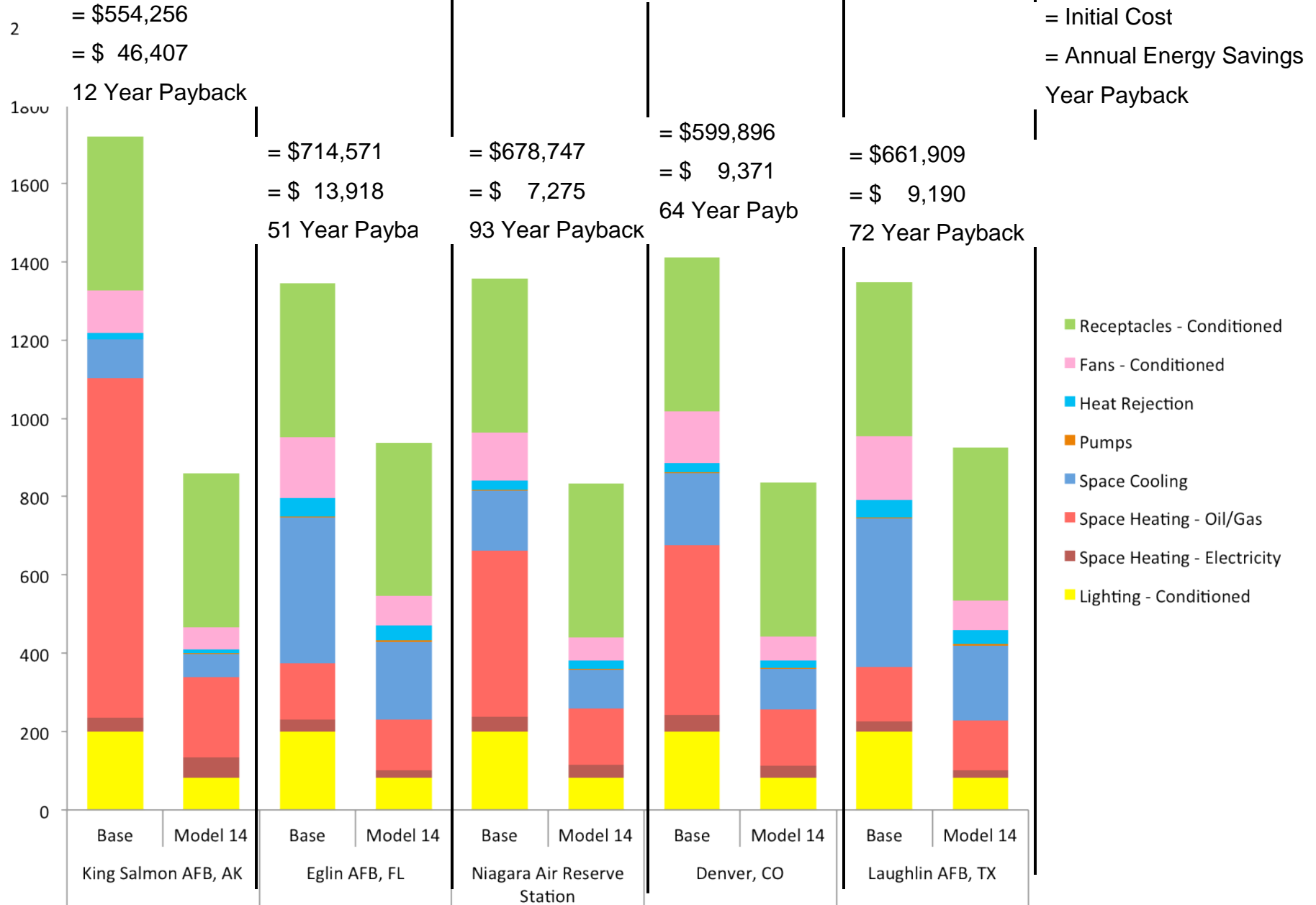
Lowest Initial and LCC is the Base Case – except for climate and Utility Cost extremes



Note: Borefield added to heat pump systems in cold climates (AK, CO, NY)



Energy Use Distribution



Rating System Point Totals



Certified

36%

Silver

45%

Gold

55%

Platinum

73%



1 Globe

35%

2 Globes

55%

3 Globes

70%

4 Globes

85%



Bronze

24%

Silver

36%

Gold

48%

Platinum

60%



1 Star

Meet RQS

2 Star

38%

3 Star

46%

4 Star

55%

5 Star

74%



Silver *

28%

Gold *

53%

Platinum*

73%

* Based on number of measures met, rather than point weights

Rating System Point Totals

Category	LEED		Green Globes		FGBC		AEGB		EAI*	
Specific RQD Measures	0		0		15		8		18	
Energy & Atmosphere	35	32%	380	38%	144	34%	17	21%	16	20%
Site	26	24%	115	12%	75	18%	19	24%	20	25%
IEQ/Health	15	14%	200	20%	42	10%	14	18%	18	23%
Water	10	9%	70	7%	77	18%	10	13%	11	14%
Materials & Resources	14	13%	100	10%	39	9%	13	16%	15	19%
Project Management			50	5%	9	2%	1	1%		
Emissions & Effluents			85	9%						
Disaster Mitigation					33	8%				
Innovation & Design	6	5%					5	6%		
Regional Priority Credits	4	4%								
Education							1	1%		

* Number of measures, rather than points

Costs



Membership Fee

minimum	\$300		\$25	
maximum	\$12,500		\$250	
average	\$2,293		\$150	

Certification Fee

Member minimum	\$3,150	\$7,000		
Non-Member minimum	\$3,950	\$8,000	\$1,000	
Member maximum	\$25,900	\$17,000	\$6,000	\$3,750 \$5,000
Non-member maximum	\$31,200	\$18,000		

Total Minimum (Member Fee +Cert.)	\$3,450	\$7,000	\$1,025	
Total Maximum (Non-Member Cert.)	\$31,200	\$18,000	\$6,000	\$3,750 \$5,000

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Return on Investment

Component	Capital Cost	Annual Savings	Rebate	Net Cost	Return (yrs)
TPO Roof	\$75,799	\$14,400	\$15,188	\$60,611	4.2
Chiller	\$144,490	\$49,551	\$2,000	\$142,490	2.9
Lighting	\$5,274	\$4,042	\$0	\$5,274	1.3
Dual Flush Toilets	\$12,000	\$1,153	\$0	\$12,000	10-19
Aerators	\$50	\$202	\$0	\$50	0.25-0.5
FF Landscape	\$13,070	\$0	\$0	\$12,685	32
Irrigation	\$311	\$685	\$0	\$311	0.5

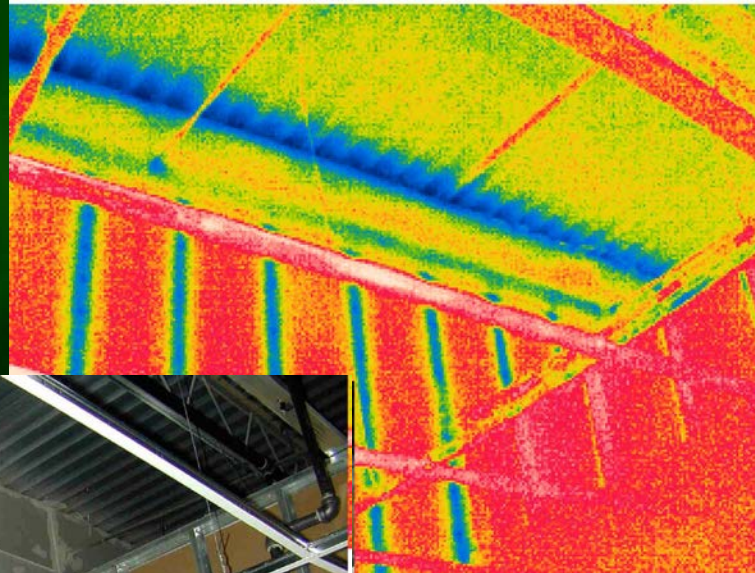






Potentially the Single Best Efficiency Measure

“You can get heating and cooling savings of 30% by using air barriers only, or by using a whole slew of other things.”



According to Laverne Dalglish, executive director of the Air Barrier Association of America (ABAA),

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Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: June 12, 2013
TO: Braulio L. Baez, Executive Director
FROM: Ann Cole, Commission Clerk *Ann Cole*
RE: Update on CLK Automation and Activities

Critical Dates: Please place on the June 25, 2013 Internal Affairs – Demonstration of Web Based Electronic Filing

The Office of Commission Clerk (CLK) strives to make its filing convenient and the filed documents promptly available. In keeping with this goal, CLK has been working with AIT's Bureau of Information Technology on the development of a web based e-filing portal. CLK would like to demonstrate its Web Based Electronic Filing System, which will be available to the public on July 1, 2013. CLK will also continue accepting filings at filings@psc.state.fl.us, until further notice. Concurrent with this programming, CLK will begin accepting internal e-filing from staff and an Intranet link will be available on July 1, 2013, for that purpose.

Attached is a copy of the web based Electronic Filing Requirements, which CLK will be posting on the website.

/ac

Attachment

cc: Apryl Lynn, Deputy Executive Director-Administrative
Chuck Hill, Deputy Executive Director-Technical
Lisa Harvey, Docket Manager

Florida Public Service Commission Electronic Filing Requirements

The Florida Public Service Commission (FPSC) recognizes that electronic filing (e-filing) facilitates quick and easy access of records and that many electronic records are “born digital” so there is no paper counterpart. The FPSC’s Office of Commission Clerk (CLK) has two e-filing options.

1. filings@psc.state.fl.us

This e-mail attachment method of e-filing will remain available until further notice and is subject to the filing restrictions listed on FPSC’s E-mail [Electronic Filing Requirements](#).

2. **Web based E-filing**

This e-filing method is available from the FPSC’s Home Page, www.floridapsc.com, by selecting the [Clerk’s Office](#) link and [FPSC Electronic Filing](#). This application accepts documents in Adobe PDF format only. The Commission strongly encourages the use of this e-filing method and may transition to mandatory e-filing in the future. The potential benefit to e-filers in paper reduction, postage savings, and elimination of delivery costs is substantial.

Filers must submit pleadings so that they are properly oriented to be read without needing to be rotated. Pleadings accepted for filing will have the Document Number (DN) and a date/time stamp electronically affixed to the upper right-hand corner of the first page of the document. Filers should leave approximately 1 inch by 2 inches on the upper right-hand corner of the first page of filings empty to accommodate this stamp requirement.

The filing party is responsible for ensuring that no information protected by privacy or confidentiality laws is contained in any document that would be posted to FPSC’s Web site in the regular course of business.

Separate procedures for e-filing tariffs can be found on the FPSC’s Web site by selecting [Utility Regulation](#), [Telecommunications](#), and [E-Tariff Information](#).



Documents Ineligible for Filing

- a. Documents that are identified as ineligible in the docket’s Order Establishing Procedure.
- b. Documents that contain proprietary confidential business information.
- c. Documents that must be accompanied by a fee or payment.
- d. Adobe PDF files greater than 500 MB or Acrobat portfolio files.

How to E-file?

- Convert the filing to an Adobe PDF document. Note that *Cover letters* and/or *certificates of service* must be included in the relevant PDF document and that s/ or /s/ are recognized as electronic signatures.
- Access the [FPSC Electronic Filing](#) link. Simply fill in the blanks, attach the PDF document to be filed, and click SUBMIT to e-file the document. One submission is allowed per filing.

What Happens Next?

-  You will receive an automatic acknowledgement that the document has been received. It is the filer's responsibility to contact CLK if this acknowledgement is not received.
-  Documents will be processed in the order that they are received. You will be notified that a DN is assigned, which will link to the new filing on the FPSC’s Web site, or that the document submitted does not meet the filing requirements.

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Florida Public Service Commission Electronic Filing Requirements

Rule 28-106.104, F.A.C. Filing.

(1) In construing these rules or any order of a presiding officer, filing shall mean received by the office of the agency clerk during normal business hours or by the presiding officer during the course of a hearing.

(2) All pleadings filed with the agency shall contain the following:

(a) The style of the proceeding involved;

(b) The docket, case or file number, if any;

(c) The name of the party on whose behalf the pleading is filed;

(d) The name, address, any e-mail address, and telephone number of the person filing the pleading;

(e) The signature of the person filing the pleading; and

(f) A certificate of service that copies have been furnished to all other parties as required by subsection (4) of this rule.

(3) Any document received by the office of the agency clerk before 5:00 p.m. shall be filed as of that day but any document received after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

(4) Whenever a party files a pleading or other document with the agency, that party shall serve copies of the pleading or other document upon all other parties to the proceeding. A certificate of service shall accompany each pleading or other document filed with the agency.

(5) All parties, if they are not represented, or their attorneys or qualified representatives shall promptly notify all other parties and the presiding officer of any changes to their contact information by filing a notice of the change.

(6) All papers filed shall be titled to indicate clearly the subject matter of the paper and the party requesting relief.

(7) All original pleadings shall be on white paper measuring 8 1/2 by 11 inches, with margins of no less than one inch. Originals shall be printed or typewritten.

(8) A document shall be filed by only one method (e-filing, facsimile, courier, hand-delivery, or U.S. mail) and shall not be filed multiple times. A duplicate filing will not be docketed and will be destroyed.

Note: The requirement to file an original and seven copies as found in the following FPSC rule is waived for those wishing to e-file using the Web based portal.

Rule 25-22.028, F.A.C. Filing, Number of Copies.

(1) Filing. Filing shall be accomplished by submitting the original document and the appropriate number of copies, as provided by rule, to the Office of Commission Clerk. Filing may be made by U.S. Mail, hand delivery, or courier service. Filings on behalf of companies with gross annual operating revenues derived from intrastate business in excess of \$750,000, Class A water and sewer utilities, and parties to proceedings affecting these entities, shall also include a copy of the document on diskette in word processing or spreadsheet format, whichever is appropriate, when filing documents capable of being generated by word processing or spreadsheet software. Material for which a request for confidential classification is pending under Rule 25-22.006, F.A.C., should not be included in a diskette copy. The diskette filing need not recreate document attachments not originally generated for the purpose of filing with the Commission, such as exhibits attached to a petition. The copy of the document on diskette shall be filed within 1 working day of the date the original printed document is filed. Information about the word processing and spreadsheet software preferred by the Commission may be obtained from the Director of the Division. Each diskette shall be accompanied by a statement specifying the density of the diskette, the operating system and the software used to prepare the document on diskette. For purposes of the requirement that copies of documents be filed on diskette, "document" means all prehearing statements regardless of length, and pleadings, post hearing statements of positions on issues or briefs, proposed findings of fact and conclusions of law in excess of 5 pages exclusive of the service list. In case of a discrepancy between an original printed document that is filed and the document on diskette, the filed original document shall prevail. If the filing is made with the presiding officer during the course of a hearing, as provided by subsection 28-106.104(1), F.A.C., the responsible party shall ensure that a copy of the document is submitted on diskette to the Division within 5 working days. Where a document is served upon a party pursuant to these rules, its original and the appropriate copies, or, in the case of interrogatories or production of documents, a notice of service, shall be filed with the Office of Commission Clerk no later than 5 days after service.

(2) Number of Copies. The original and seven copies of all pleadings shall be submitted to the Office of Commission Clerk. However, initial pleadings for increases in rates, except rate increases by water and wastewater utilities, shall be filed with 20 copies. The requirement for filing 20 copies shall apply to all exhibits appended to the original petition, prepared testimony and exhibits, briefs and other supplemental data requested by the Commission.

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: June 14, 2013
TO: Braulio Baez, Executive Director
FROM: Office of Telecommunications (Fogleman, Bates, Curry, Hawkins, Long) *AF*
RE: Draft of the Report on the Status of Competition in the Telecommunications Industry *KIC*
CRITICAL INFORMATION: Please place on the June 25, 2013 Internal Affairs. FPSC approval of draft report is sought. Report due to the Governor and Legislature by August 1, 2013. *BN*

Section 364.386, Florida Statutes, requires that the Commission prepare an annual report on the status of competition in the telecommunications industry. The report is to be submitted to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the majority and minority leaders of the Senate and the House of Representatives by August 1st of each year. The attached preliminary draft report on the "Status of Competition in the Telecommunications Industry" has been prepared to fulfill the legislative requirement. Staff is seeking approval of the draft report.

Attachment

cc: Chuck Hill, Deputy Executive Director, Technical
S. Curtis Kiser, General Counsel

DRAFT 06/14/2013

Report on the Status of
**Competition in the
Telecommunications
Industry**



AS OF DECEMBER 31, 2012

Florida Public Service Commission
Office of Telecommunications

DRAFT 06/14/2013

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List of Acronyms

Bus	Business
CAF	Connect America Fund
CDC	Centers for Disease Control
CLEC	Competitive Local Exchange Company
ETCs	Eligible Telecommunication Carriers
FCC	Federal Communications Commission
FiOS	Verizon's trademark name for its fiber-to-the-home package of services
FPSC	Florida Public Service Commission, the Commission
F.S.	Florida Statutes
ICA	Interconnection agreement
ILEC	Incumbent Local Exchange Company
IP	Internet Protocol
kbps	kilobits per second
LEC	Local Exchange Company
Mbps	Megabits per second
NG911	Next Generation 911
Res	Residential
USF	Universal Service Fund
USAC	Universal Service Administrative Company
VoIP	Voice over Internet Protocol

Executive Summary

This report fulfills the statutory obligations set forth in Section 364.386, Florida Statutes (F.S.), which requires the Florida Public Service Commission (the Commission or FPSC) to report on “the status of competition in the telecommunications industry” to the Legislature by August 1 of each year. The Commission is required to address specific topic areas within the realm of competition. On February 14, 2013, information requests were sent to the 10 incumbent local exchange companies (ILECs) and 266 competitive local exchange companies (CLECs) certificated by the Commission to operate in Florida, as of December 31, 2012.

Analysis of the data produced the following conclusions:

- Many CLECs reported offering a variety of services and packages comparable to those offered by ILECs. Subscribers to cable, wireless, and competitive wireline services continued to increase. These factors contribute to the conclusion that competitive providers are able to offer functionally equivalent services to both business and residential customers.
- The continued decrease in both business and residential ILEC access lines demonstrates customers are finding reasonable pricing packages and functionality with CLECs, cable providers, and wireless providers.
- Based on the continued growth of interconnected Voice over Internet Protocol (VoIP) services and wireless-only households, network reliability of non-ILEC providers is sufficient to satisfy customers. The FCC-reported telephone penetration rate of 93.7 percent for Florida suggests that the overwhelming majority of Florida residents are able to afford telephone service.¹ The number and variety of competitive choices among all types of service providers and recent high customer satisfaction rates for interconnected VoIP providers suggests that competition is having a positive impact on the telecommunications market in Florida.

Wireline Competition

The following data relates exclusively to the ILEC and CLEC wireline market and does not reflect the number of wireless and VoIP subscribers in Florida. For the second year in a row, total wireline business access line exceeded total residential lines. This report addresses changes in the telecommunications market for the period January 1, 2012, through December 31, 2012. Significant findings relating to the wireline market as of December 2012 include:

¹ FCC, “Telephone Subscribership in the United States as of July 2011,” December 2011, Table 3, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-311523A1.pdf, accessed on May 19, 2013.

CLEC Market Share

- CLECs' market share of all wireline access lines (residential and business) in Florida increased to 26 percent as of December 2012 from 20 percent in 2011.
- CLEC residential market share increased to 3 percent in 2012, from 2 percent in 2011.
- CLEC business market share increased to 45 percent in 2012, from 36 percent in 2011.

CLEC Access Lines

- Total CLEC access lines increased by 18 percent from December 31, 2011, to December 31, 2012.
 - CLEC residential access lines decreased by 2 percent.
 - CLEC business access lines increased by 19 percent.
- CLEC business access lines were 95 percent of total CLEC access lines served in 2012, compared to 94 percent in 2011.

ILEC Access Lines

- Total ILEC access lines decreased by 17 percent from December 31, 2011, to December 31, 2012.
 - ILEC residential and business lines each decreased by 17 percent.
- ILEC residential lines accounted for 58 percent of total ILEC access lines in 2012.
- ILEC business access lines were 42 percent of total ILEC lines served in 2012, unchanged from 2011.

Intermodal Competition

Wireless and VoIP services compete with traditional wireline service and represent a significant portion of today's communications market in Florida. Broadband service also provides the basis for some VoIP services. These three services are not subject to FPSC jurisdiction, and the FPSC relies on information collected from other sources for this analysis. However, the number of wireless handsets in service and VoIP customers in Florida far exceeds the 1.4 million wireline access lines served by CLECs. Four ILECs and 54 CLECs furnished VoIP data. Highlights relating to wireless, VoIP, and broadband services include:

Wireless

- Approximately 17.9 million wireless handsets were in service in Florida as of December 2011, the most current data available.
- The Centers for Disease Control (CDC) estimate that nearly 36 percent of U.S. households were wireless only as of July 2012.

VoIP

- An estimated 2.7 million Florida residential VoIP subscribers were reported as of December 2012, an increase of approximately 12 percent over the 2.4 million estimated in 2011.
- Fifty-four CLECs and four ILECs voluntarily reported 844,721 VoIP lines (residential and business) to the FPSC as of December 2012. This figure is an increase in VoIP lines of 27 percent from December 2011.
- The Florida Cable Telecommunications Association (FCTA) reported 2.1 million residential cable digital voice (VoIP) subscribers as of December 2012, an increase of five percent from the number reported for December 2011.

Broadband

- Fifty-one percent of Florida households have a fixed broadband connection with download speeds of at least 3 Mbps, as of June 2012.
- Seventy-four percent of Florida households have fixed broadband connections of 200 kbps or greater, as of June 2012.

Chapter I. Introduction and Background

In 1995, the Florida Legislature amended Chapter 364, F.S., to allow for competition in the state's local telecommunications markets. The Legislature found that "the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications services, encourage technological innovation, and encourage investment in telecommunications infrastructure."

Chapter 364, F.S., sets forth the principles by which the FPSC regulates wireline telecommunications companies. Commission oversight is primarily focused on incumbent local telephone companies (ILECs). Competitors to the ILECs, known as CLECs, and interexchange companies (IXCs) are subject to minimal regulation. The Commission does not regulate wireless, broadband, or VoIP services.

Chapter 364, F.S., requires the Commission to prepare and deliver a report on the status of competition in the telecommunications industry to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives on August 1 of each year. Section 364.386, F.S., requires that the report address the following four issues:

1. The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.
2. The ability of customers to obtain functionally equivalent services at comparable rates, terms, and conditions.
3. The overall impact of competition on the maintenance of reasonably affordable and reliable high-quality telecommunications services.
4. A list and short description of any carrier disputes filed under Section 364.16, F.S.

The Commission is required to make an annual request to local exchange telecommunications providers each year for the data required to complete the report. The data request was mailed on February 14, 2013, and responses were due April 15, 2013. Data requests were mailed to 10 ILECS and 266 CLECs. The Commission continues its efforts to increase efficiency while gathering the data and information to produce this report. Commission staff is confident that the data presented and the analyses that follow accurately reflect the information provided by the ILECs and the reporting CLECs.

Chapter II. Wireline Market Overview

A. Economy

According to the U.S. Commerce Department, the economy continued to recover at an increased pace in 2012 compared to 2011. Gross Domestic Product, the best measure of overall economic activity, grew by 2.2 percent in 2012, compared to an increase of 1.8 percent in 2011.² Although less than 2011 figures, unemployment figures remained high through 2012, averaging around 8.2 percent through the first three quarters of the year before declining to approximately 7.8 percent in the fourth quarter.³

In 2012, Florida's economic growth remained positive for the second year after declining for the previous two years. The state's gross domestic product ranked Florida fourteenth in the nation in real growth with a gain of 2.4 percent.⁴ Florida's personal income grew 3.2 percent in 2012 over 2011, ranking Florida thirty-first in the country with respect to state growth. The national average was 3.5 percent.⁵ The unemployment rate in Florida was greater than the national average during each month of 2012. However, Florida's 2012 unemployment rate did show consistent improvement during each month, falling from a high of 9.2 percent in January to a low of 7.9 percent in December.⁶

With continued high unemployment and moderate economic growth during 2012, it is likely that Florida consumers took steps to save more and spend less of any discretionary income. The economy was likely a contributing factor to Florida ILECs losing approximately 814,000 access lines, or roughly 17 percent of their wireline market in 2012.⁷ Competitive wireline carriers (CLECs) gained approximately 213,000 access lines in 2012, an increase of 18 percent.

B. Incumbent Carriers

AT&T, CenturyLink, and Verizon are the three largest ILECs in Florida providing wireline services.⁸ These providers continued to face access line losses in the national wireline market in 2012. While their wireline access line counts fell, both AT&T and Verizon

² U.S. Department of Commerce, Bureau of Economic Analysis, "National Income and Product Accounts: Gross Domestic Product, 4th quarter and annual 2012 (third estimate), Corporate Profits, 4th quarter and annual 2012, March 28, 2013 http://www.bea.gov/newsreleases/national/gdp/2013/gdp4q12_3rd.htm, accessed on April 30, 2013.

³ Unemployment Rate, U.S. Bureau of Labor Statistics, <http://data.bls.gov/timeseries/LNS14000000>, accessed on April 30, 2013.

⁴ U.S. Department of Commerce, Bureau of Economic Analysis, June 6, 2013 news release: "Advance 2012 and Revised 2009–2011 GDP-by-State Statistics," http://www.bea.gov/newsreleases/regional/gdp_state/2013/pdf/gsp0613.pdf, accessed on June 10, 2013.

⁵ U.S. Department of Commerce, Bureau of Economic Analysis, March 27, 2013 news release: "State Personal Income" <http://www.bea.gov/newsreleases/regional/spi/2013/pdf/spi0313.pdf>, accessed on June 10, 2013.

⁶ Local Area Unemployment Statistics, U.S. Bureau of Labor Statistics, <http://data.bls.gov/timeseries/LASST12000003>, accessed on April 30, 2013.

⁷ Responses to FPSC Local Competition Data Request for 2012 and 2013.

⁸ AT&T and Verizon are also the largest wireless carriers nationwide and increased subscribership by 3.7 million and 6.1 million, respectively, according to their 2012 Form 10-K reports.

experienced increased wireless subscriptions as well as subscriptions to digital voice services provided over VoIP as consumers transitioned from traditional circuit switched services.

In 2012, AT&T reported losses of 4.6 million local wireline access lines nationwide from the prior year. Residential lines fell 17 percent during this period while business lines declined 9 percent.⁹ AT&T attributes the access line declines to economic pressures and increased competition. Customers have disconnected traditional landline services, or switched to alternative technologies, such as wireless and VoIP. AT&T's strategy continues to be to offset these line losses by continuing to market its wireless products as well as increasing non-access-line-related revenues from customer connections for data, video, and voice.¹⁰ For 2012, AT&T's total operating revenues increased by \$700 million despite their wireline access line losses. AT&T capitalized on its opportunity to increase its wireless segment revenues for customers that choose AT&T Mobility as an alternative provider. In Florida, AT&T's wireline residential access lines decreased by 19 percent and business access lines decreased 20 percent.¹¹

Verizon also lost access lines nationally while experiencing an increase in operating revenue of \$5 billion.¹² Verizon reported a national access line decline of 6.8 percent in 2012. This represents a slower rate of wireline access line loss than in 2010 and 2011 when Verizon lost 8 percent and 7 percent of its access lines, respectively. Verizon reported growth of 13 percent in both its FiOS Internet and TV services from last year.¹³ In Florida, Verizon experienced wireline reductions of 26 percent in residential access lines and 14 percent in business access lines in 2012.¹⁴

Nationally, switched access lines provided by CenturyLink declined in 2012 to 13.7 million after swelling to 14.5 million in 2011 as a result of its acquisition of Qwest.¹⁵ This represents an approximately 6 percent loss of CenturyLink's access lines nationwide. By comparison, CenturyLink experienced a 3.5 percent increase in broadband subscribers. By the end of 2012, CenturyLink's operating revenues increased \$3 billion, or 20 percent from 2011. CenturyLink's wireline access line loss in Florida was 7 and 8 percent for the residential and business sectors respectively.¹⁶

The seven remaining smaller Florida carriers also experienced contraction in their respective wireline service areas. Rural carriers in Florida saw their residential access lines fall

⁹ AT&T Inc., Form 10-K, December 31, 2012, Exhibit 13, p. 11

<http://www.sec.gov/Archives/edgar/data/732717/000073271713000017/ex13.pdf>, accessed on May 18, 2013.

¹⁰ Ibid.

¹¹ Responses to Local Competition Data Request for 2012 and 2013.

¹² Verizon, Form 10-K, December 31, 2012, Exhibit 13,

<http://www.sec.gov/Archives/edgar/data/732712/000119312513075713/d441535dex13.htm>, accessed on May 18, 2013.

¹³ Ibid.

¹⁴ Responses to Local Competition Data Request for 2012 and 2013.

¹⁵ CenturyLink 10-K, December 31, 2012

<http://www.sec.gov/Archives/edgar/data/18926/000104746913002037/a2213129z10-k.htm>, p. 46, accessed on May 18, 2013.

¹⁶ Responses to FPSC Local Competition Data Request for 2012 and 2013.

by approximately 7 percent in 2012.¹⁷ In Florida, Windstream is the largest of the “rural” ILECs and operates in northeast Florida. Windstream experienced an overall access line loss of only two percent, the second lowest access line loss of any carrier in Florida. Nationally, Windstream has 1.8 million consumer voice lines in service.¹⁸ Through an aggressive acquisition strategy, Windstream has shifted its revenue mix towards business and consumer broadband services. Windstream estimates that 69 percent of its 2012 revenues were generated from these areas.¹⁹

Even with the decline in wireline access lines, wireline telecommunications carriers continue to play a role with an evolving telecommunications ecosystem. For example, wireless carriers continue to be dependent on the wireline network. The majority of wireless call transport occurs over the wireline network, not over wireless facilities, a function commonly referred to as “backhaul.” While the economic sustainability of the wireline network appears to be tenuous as access lines continue to decline, it remains a crucial element in the mix of communications technologies.

C. Mergers/Acquisitions

Approval of merger and acquisition petitions for telecommunications carriers peaked nationally in 2006 with more than 90 communications companies consolidating their operations.²⁰ By comparison, 37 mergers and acquisitions occurred in 2012.²¹ This figure represents a decrease of 42 percent from the previous year. Recent transactions of interest to Florida are described below.

1. Birch/AstroTel/DayStar

In 2012, Birch Communications announced two acquisitions. Its latest buyout marked the 16th major acquisition by Birch Communications since 2006. Birch’s acquisition of AstroTel in April included an IP network covering Tampa, St. Petersburg, Clearwater, Sarasota and Bradenton.²² Birch’s acquisition of DayStar Communications in October, with network assets also in several southwest Florida markets, further strengthened its presence in Florida.²³

¹⁷ Ibid.

¹⁸ Windstream, 10-K, December 31, 2012, <http://www.sec.gov/Archives/edgar/data/1282266/000128226613000020/a201210k.htm>, p. F-5, accessed on May 22, 2013.

¹⁹ Ibid. p. 4.

²⁰ FCC, “2006 Completed Domestic Section 214 Transfer of Control Transactions,” <http://www.fcc.gov/wcb/cpd/214Transfer/214completed2006.html>, accessed on March 19, 2013.

²¹ FCC, “2012 Completed Domestic Section 214 Transfer of Control Transactions,” <http://www.fcc.gov/encyclopedia/2012-completed-domestic-section-214>, accessed on March 19, 2013.

²² “Birch Communications Completes Acquisition of AstroTel Operating Assets,” Birch News Release, released April 11, 2012, <http://www.birch.com/about/04112012.aspx>, accessed on March 19, 2013.

²³ “Birch Completes Acquisition Of DayStar Communications Assets,” Birch News Release, released October 15, 2012, <http://www.birch.com/about/10152012.aspx>, accessed on March 19, 2013.

2. AT&T/NextWave

On August 2, 2012, AT&T and NextWave Wireless released a statement that they entered into an agreement under which AT&T would acquire NextWave Wireless.²⁴ AT&T's acquisition of NextWave Wireless's spectrum will allow it to increase its wireless capacity to provide mobile data services. Previously, this spectrum has not been utilized for mobile Internet usage due to technical rules designed to avoid possible interference to satellite radio users in adjacent spectrum bands. In June, AT&T and Sirius XM filed a joint proposal with the FCC that would protect the adjacent satellite radio spectrum from interference and enable the use of this spectrum. The FCC approved the acquisition in December.²⁵

3. T-Mobile/MetroPCS

Deutsche Telekom and MetroPCS Communications announced on October 3, 2012, that they have signed an agreement to combine T-Mobile and MetroPCS.²⁶ The combined company, which will retain the T-Mobile name, will have the expanded scale, spectrum and financial resources to compete more effectively with the other national wireless carriers. The Department of Justice let the evaluation time expire and did not offer an objection to the merger. The FCC approved the merger on March 12, 2013.²⁷

4. Sprint/Clearwire

On December 17, 2012, Sprint entered into an agreement to acquire the approximately 50 percent stake in Clearwire it does not currently own.²⁸ Sprint asserts that its acquisition of Clearwire would result in public benefits by helping provide the financial resources needed to transition Clearwire's network to Long Term Evolution (LTE) technology. Sprint also states that it will improve wireless broadband service to both Clearwire and Sprint customers by using Clearwire's 2.5 GHz spectrum more effectively. Clearwire had initially deployed WiMax technology as opposed to LTE for use with its spectrum. However, after the nation's major wireless operators elected to use LTE rather than WiMax for their 4G deployments, Clearwire began shifting its network towards LTE. If the transaction gains the needed regulatory approvals, it is expected to close in mid-2013.

²⁴ "AT&T Agrees to Acquire NextWave Wireless, Inc.," AT&T News Release, released August 2, 2012, <http://www.att.com/gen/press-room?pid=23161&cdvn=news&newsarticleid=34976&mapcode=corporate|financial>, accessed on March 19, 2013.

²⁵ "AT&T Receives FCC Approval for Acquisition of NextWave Wireless, Other WCS Transactions; Approval Sets the Stage for WCS Spectrum for Mobile Broadband Use," AT&T News Release, released December 21, 2012, <http://www.att.com/gen/press-room?pid=23645&cdvn=news&newsarticleid=35870&mapcode=corporate|financial>, accessed on March 19, 2013.

²⁶ "T-Mobile USA and MetroPCS to Combine, Create Value Leader in U.S. Wireless Marketplace," T-Mobile News Release, released on October 3, 2012, <http://newsroom.t-mobile.com/articles/t-mobile-metropcs-combine>, accessed on March 19, 2013.

²⁷ FCC, Memorandum Opinion and Order and Declaratory Ruling, DA 13-384, released March 12, 2013, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0312/DA-13-384A1.pdf, accessed on March 19, 2013.

²⁸ "Sprint to Acquire 100 Percent Ownership of Clearwire for \$2.97 per Share," Sprint News Release, released December 17, 2012, http://newsroom.sprint.com/article_display.cfm?article_id=2477, accessed on March 19, 2013.

Chapter III. Status of Wireline Competition in Florida

A. Wireline Access Lines in Florida

1. 2012 Summary of Results

During 2012, total traditional wireline access lines for ILECs and CLECs combined declined 10 percent, from approximately 6.0 million in December 2011, to 5.4 million as of December 2012.²⁹ Residential wireline access lines declined by 17 percent, or 477,000 access lines, in 2012. From 2002 through December 2012, combined wireline residential access lines have declined by 70 percent, or nearly 5.7 million lines.

Total wireline business access lines, ILEC and CLEC combined, decreased by approximately 123,000 lines, or 4 percent, between 2011 and 2012. The net decrease was comprised of a decrease of 339,000 ILEC business lines and an increase of 216,000 CLEC business access lines. Most of the business line losses were experienced by AT&T and Verizon with declines of 20 percent and 14 percent from last year, respectively. This compares to only a 1.4 percent decline among all of the rural ILECs.

The trend of business access lines has been relatively stable from 2002 to 2012, fluctuating in response to the business cycle during the period. Residential lines have consistently trended downward for all the individual ILECs and the CLECs in the aggregate over the same ten-year period. The composition of ILEC and CLEC access lines served has also undergone a noticeable shift since 2002. As of December 2012, total ILEC business lines were 42 percent of total ILEC lines served, compared to 27 percent in 2002. CLEC business access lines were 95 percent of total CLEC access lines served in 2012, compared to 64 percent in 2002.

2. CLEC Market Composition

Table 3-1 shows the distribution for 2011 and 2012 of the number of CLECs by ranges of residential access lines served. Only two CLECs reported more than 20,000 residential access lines in 2012. Together, they serve 65 percent of residential access lines in Florida provided by CLECs. By comparison, in 2011 there was only one CLEC reporting that many lines representing 35 percent of the market. For the last two years, there have been no CLECs with between 10,000 and 20,000 residential customers. Forty-six additional CLECs had fewer than 10,000 residential customers in 2012. This compares to 55 CLECs from a year earlier. Most of these carriers had less than 1,000 residential customers. Among the CLECs offering service in Florida in 2012, 52 offered service only to business customers.

²⁹ VoIP connections reported by CLECs and cable companies are not included in wireline CLEC market share analyses.

Table 3-1. Summary of CLEC Residential Access Line Providers

Number of Lines	2011		2012	
	# of Providers	% of Total CLEC Res Lines	# of Providers	% of Total CLEC Res Lines
20,000 or more	1	35	2	65
10,000 – 19,999	0	0	0	0
1,000 – 9,999	12	54	7	28
Less than 1,000	43	11	39	7

Source: Responses to FPSC data requests (2012-2013)

B. Wireline Market Share and Access Lines

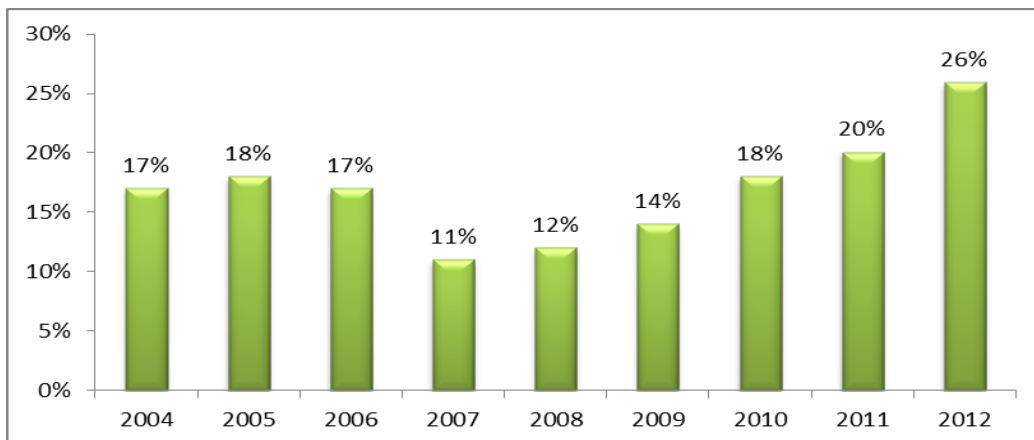
Data collected for this year’s edition of the report are as of December 31, 2012. Figures and tables are arranged to provide market share (expressed as a percentage) and actual line counts (presented as raw numbers). Market share data are presented first, followed by actual line counts.

1. CLEC Market Share

a. Florida

Calculations based on responses to the Commission’s data request indicated the overall CLEC wireline market share was 26 percent as of December 2012, an increase from 20 percent in 2011. Figure 3-1 provides the CLEC wireline market share percentages for total access lines (combined residential and business lines) from 2004 through 2012.

Figure 3-1. Florida CLEC Wireline Market Share

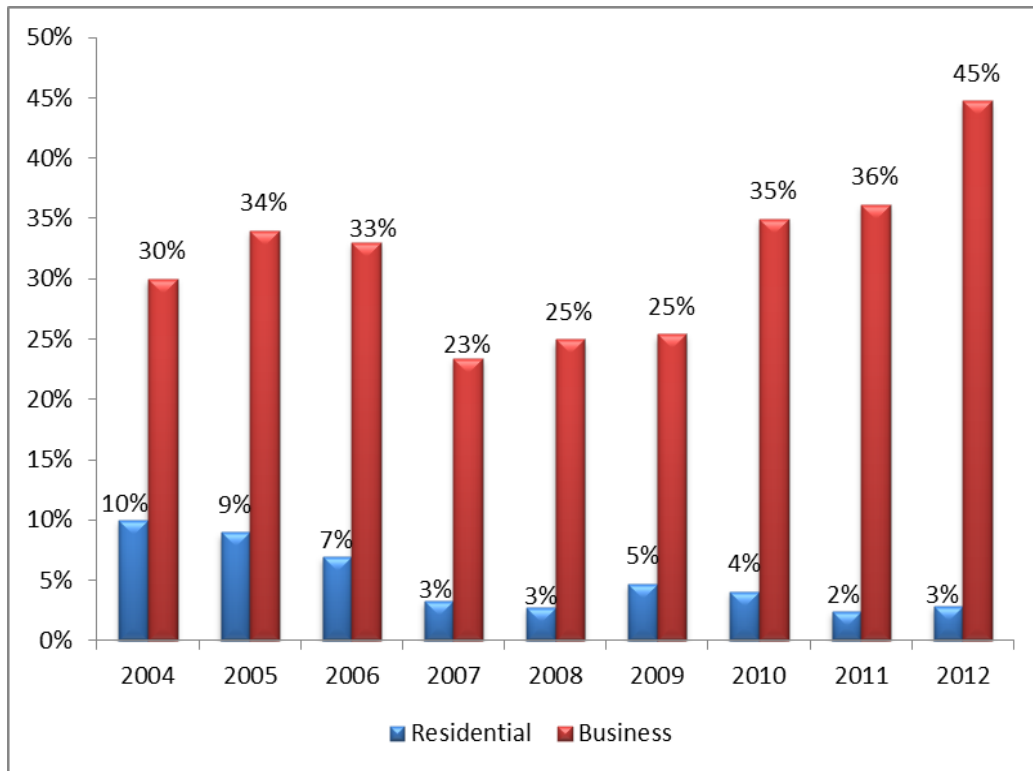


Source: Responses to FPSC data requests (2005-2013)

Figure 3-2 shows the CLEC residential and business market shares for 2004 to 2012.

- CLEC residential market share increased to 3 percent as of December 2012.
- CLEC business market share increased to 45 percent in 2012.

Figure 3-2. Florida Residential & Business CLEC Market Share



Source: Responses to FPSC data requests (2005-2013)

b. National

The FCC reports Florida's CLEC market share at 44 percent as of June 2012.³⁰ The FCC started including VoIP subscriber lines in the market share calculations with its December 2008 Local Competition Report. The inclusion of VoIP subscriber lines account for the majority of the difference in market share totals calculated by the FPSC compared to those reported by the FCC.

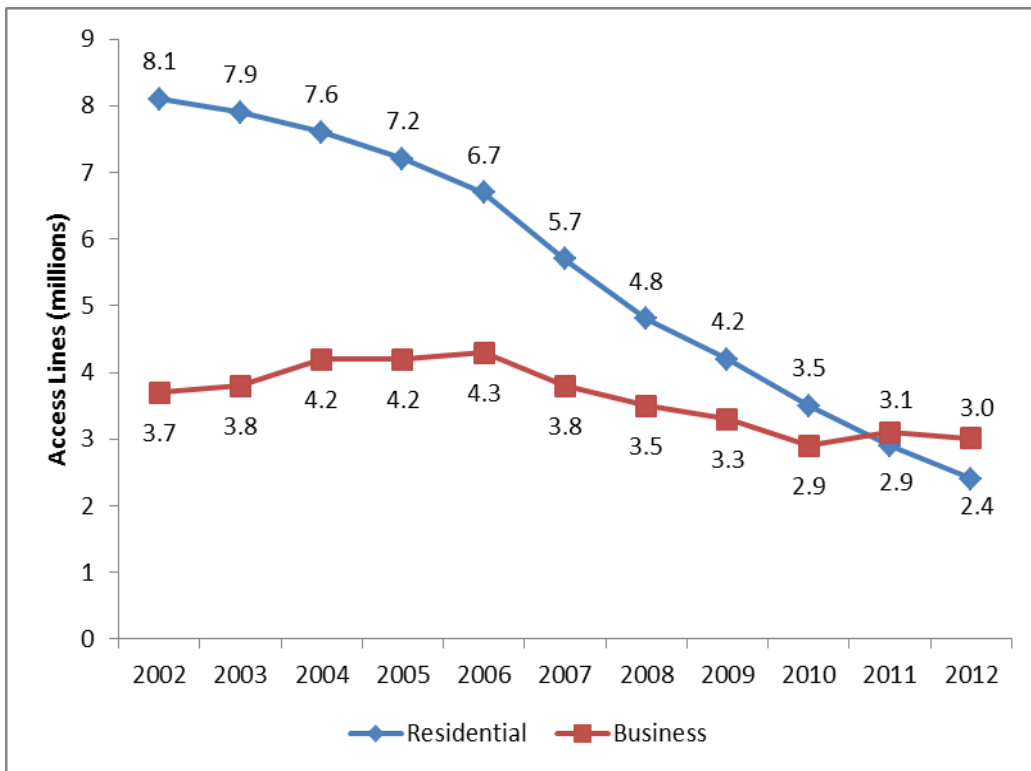
2. Access Line Overview

Local exchange companies were serving approximately 5.4 million lines in Florida as of December 31, 2012, a decline of 6.4 million lines from June 30, 2002. As Figure 3-3 illustrates, the number of residential lines has declined every year since 2002. The number of business lines

³⁰ FCC, "Local Telephone Competition: Status as of June 30, 2012," June 2013, Table 9, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0613/DOC-321568A1.pdf, accessed on June 13, 2013.

has varied within a relatively narrow range since 2002, generally lagging the business cycle. Business lines decreased approximately 123,000 in 2012. Last year was the first time since the FPSC has been producing this report that total (ILEC and CLEC) business access lines exceed total ILEC and CLEC residential access lines. This year, the gap between the number of residential and business access lines widened.

Figure 3-3. Florida Access Line Trends



Source: Responses to FPSC data requests (2003-2013)

Table 3-2 displays the residential and business access line counts for ILECs and CLECs from 2010 to 2012. Between December 2011 and December 2012:

- Total access lines in Florida decreased by 10 percent.
- ILEC residential and business access lines each decreased by 17 percent.
- Total CLEC access lines increased by 18 percent.
- ILEC business access lines accounted for 42 percent of total ILEC lines in December 2012, compared to 27 percent in June 2002.
- CLEC business access lines accounted for 95 percent of total CLEC lines in December 2012, compared to 64 percent in June 2002.

Table 3-2. Florida Access Line Comparison

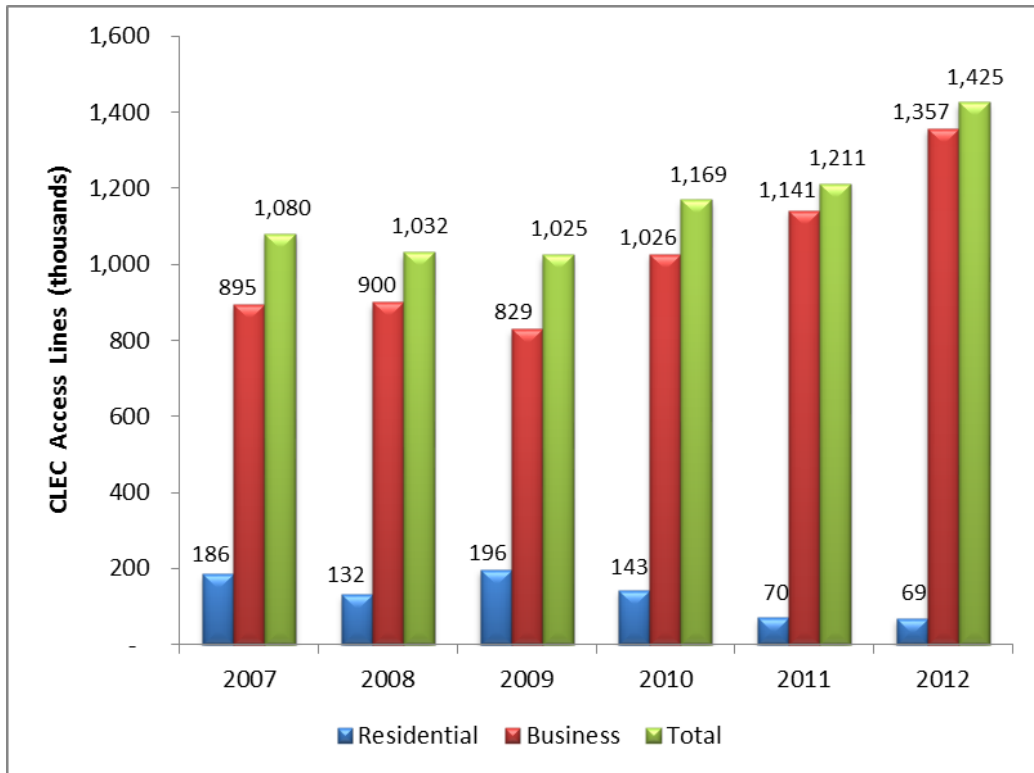
	2010			2011			2012			Change from 2011
	Res	Bus	Total	Res	Bus	Total	Res	Bus	Total	
ILECs	3,360,755	1,906,314	5,267,069	2,809,826	2,013,846	4,823,672	2,334,184	1,675,328	4,009,512	<17%>
CLECs	142,873	1,025,993	1,168,866	70,259	1,140,816	1,211,075	68,659	1,356,555	1,425,214	18%
Total	3,503,628	2,932,307	6,435,935	2,880,085	3,154,662	6,034,747	2,402,843	3,031,883	5,434,726	<10%>

Source: Responses to FPSC data requests (2011-2013)

Figure 3-4 graphically displays CLEC residential and business access line counts from 2007 to 2012.

- CLEC residential access lines decreased by 1,600 from December 2011 to December 2012, a 2 percent decrease.
- CLEC business access lines increased by approximately 216,000 from December 2011 to December 2012, a gain of 19 percent.

Figure 3-4. Florida CLEC Lines



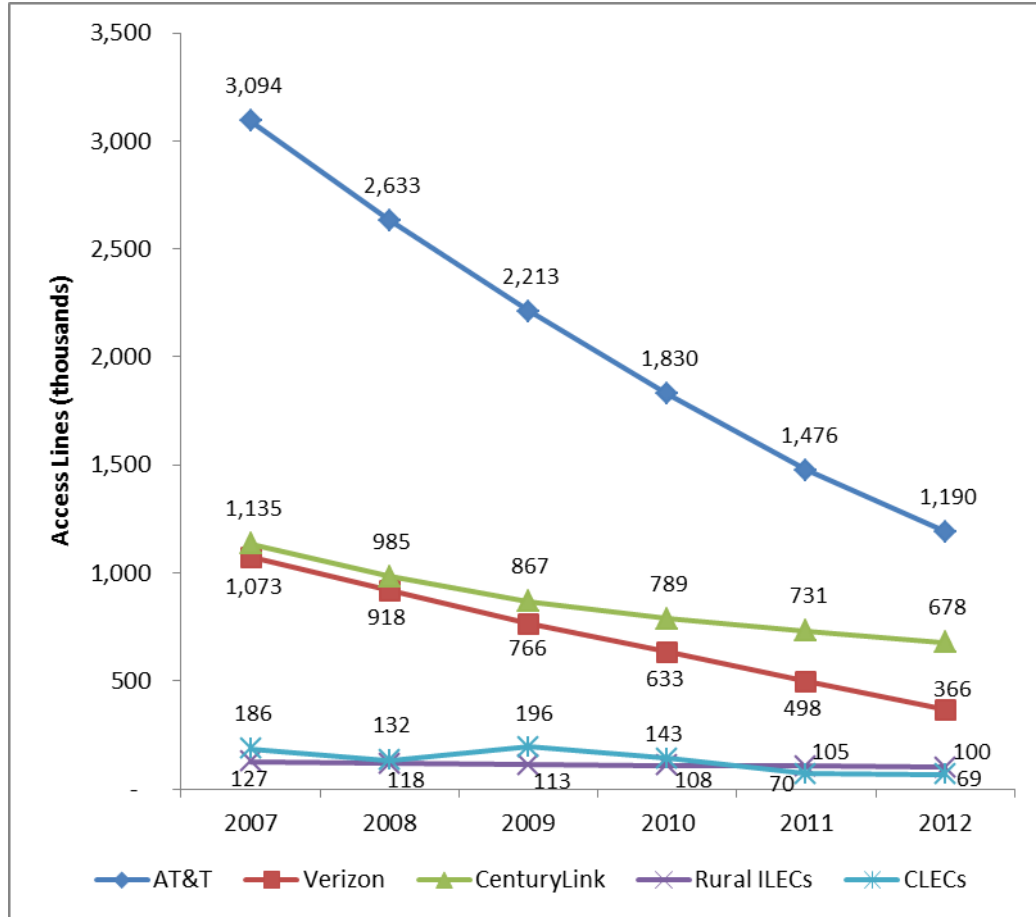
Source: Responses to FPSC data requests (2008-2013)

C. Competitive Market Trends

1. Residential Access Line Trends

Figure 3-5 displays the residential access line trends separately for AT&T, Verizon, CenturyLink, the rural ILECs, and aggregate CLECs. Each individual ILEC and the CLECs in aggregate reported a decline in residential access lines from December 2011 to December 2012.

Figure 3-5. Florida Residential Line Trends by ILECs and CLECs



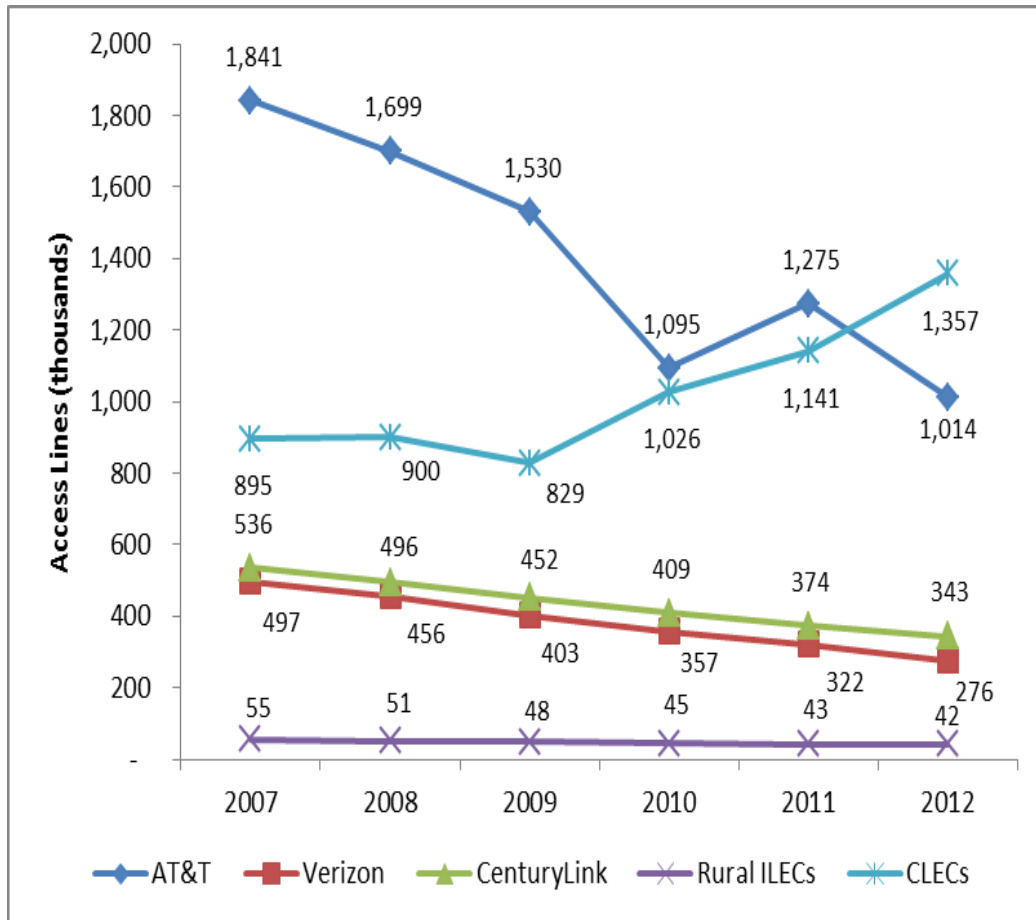
Source: Responses to FPSC data requests (2008-2013)

ILEC residential access lines declined for AT&T and CenturyLink at approximately the same rate in 2012 as in 2011. By comparison, Verizon and the rural ILECs experienced a slight increase in the rate of residential access line loss from last year. CLECs experienced the least decline in residential access lines for 2012, 2 percent, however, this compares with a 51 percent loss in 2011.

2. Business Access Line Trends

Figure 3-6 displays the business line trends for AT&T, Verizon, CenturyLink, the rural ILECs, and CLECs. ILEC business access lines generally trended downward in the last five years with the exception of AT&T last year. CLEC business access lines increased by 11 percent in 2011 and by 19 percent in 2012.

Figure 3-6. Florida Business Line Trends by ILECs and CLECs



Source: Responses to FPSC data requests (2008-2013)

D. Competitive Market Analysis and Statutory Issues

Section 364.386, F.S., contains four specific issues the Commission is required to address in its annual report on telecommunications competition. These issues emphasize analysis of the impact of competition and regulatory changes on the telecommunications market.

1. The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.

The total number of access lines in Florida decreased by 10 percent in 2012. CLEC lines increased 18 percent between December 2011 and December 2012 and total CLEC market share in Florida increased to 26 percent in 2012 from 20 percent in 2011. In addition, Florida wireless subscribers increased by June 2012 to 18.2 million (handsets in service)³¹ and residential VoIP subscribership rose to nearly 2.7 million by December 2012.³² This data suggests that CLECs, VoIP, and wireless carriers are able to provide functionally equivalent services to residential and business customers at rates, terms and conditions acceptable to consumers. The number of CLECs offering a variety of services also indicates the availability of functionally equivalent services at comparable terms. Other services offered by the 97 CLECs that reported providing local service include:

- Bundles including services other than local voice (48 CLECs)
- VoIP (54 CLECs)
- Broadband Internet access (33 CLECs)
- Fiber to end users (11 CLECs)³³
- Video service (6 CLECs)

The majority of CLECs reported no barriers to competition or elected not to respond in the comment portion of the survey. A few carriers noted concern over the inability to charge rates that are competitive with ILEC rates, due to the cost of wholesale service. Other complaints relate to wholesale billing errors, delays in number porting, and concerns regarding the future arbitration of IP-to-IP interconnection.

Conclusion: The majority of CLECs did not report any significant barriers to competition. Subscribers to CLEC, VoIP, and wireless services continued to increase in 2012, reflecting the opportunity for customers to seek out services from providers other than traditional ILECs. Many CLECs reported offering a variety of services and packages comparable to those offered by ILECs. All of these factors contribute to the conclusion that competitive providers are able to offer functionally equivalent services to both business and residential customers.

2. The ability of consumers to obtain functionally equivalent services at comparable rates, terms, and conditions.

Customers may obtain functionally equivalent services via wireline telephony, wireless telephony, or VoIP. The primary focus of this report is the provision of wireline

³¹ FCC, "Local Telephone Competition: Status as of June 30, 2012," June 2013, Table 18, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0613/DOC-321568A1.pdf, accessed on June 13, 2013.

³² Responses to FPSC data requests 2011 and 2012.

³³ Carriers that resell fiber loops provided by other carriers were not included.

telecommunications by ILECs and CLECs, which submit responses to the FPSC's annual data request. As of December 31, 2012, 97 CLECs reported providing local voice service in contrast to 117 CLECs as of December 31, 2011, continuing the gradual decline in the number of CLECs providing service. CLECs can offer service through resale of an ILEC's or a CLEC's wholesale services, by using its own facilities, by leasing portions of its network from an ILEC, or a combination of any of these methods. According to the FCC, 44 percent of the total Florida access lines are provided by companies other than ILECs.³⁴

ILEC business lines fell 17 percent in 2012, almost matching the rate of growth in CLEC business lines. This suggests that business customers have the ability to find reasonable pricing packages with CLECs and are taking advantage of these options. These options also include cable and in some cases, wireless providers. Residential ILEC lines decreased 17 percent in Florida in 2012, while nationally, wireless-only households continued to grow, reaching 36 percent through June 2012.³⁵ As reported in Chapter IV of this report, there are approximately 2.7 million interconnected residential VoIP subscribers in Florida.³⁶ These and other factors demonstrate that customers are able to find comparable services at reasonable prices through wireless, CLEC, and VoIP providers.

Conclusion: CLEC business lines increased offsetting ILEC business line losses in 2012. This suggests that business customers are finding comparably priced packages and functionally equivalent services with a variety of providers, which includes CLECs, cable providers, and wireless providers. Residential lines have maintained a steady decline and wireless-only households continue to grow consistent with the trend over the past several years. Providers are coping with the changing market by modifying the way consumers pay for their services and bundling pricing among wireline, wireless, and television services, further increasing customers' ability to select the services, providers, and pricing plans they prefer.

3. The overall impact of competition on the maintenance of reasonably affordable and reliable high-quality telecommunications services.

The FCC reported that 93.7 percent of Florida households had telephone service in 2012, lower than the national penetration rate of 95.9 percent.³⁷ As shown in Figure 3-7, the Florida telephone penetration rate has consistently been below the national penetration rate and the gap has varied from as little as one percent in 2003, to as much as 2.7 percent in 2009; it has roughly doubled in the past five years. The gap persists despite successful efforts in recent years by

³⁴ FCC, "Local Telephone Competition: Status as of June 30, 2012," June 2013, Table 12, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0613/DOC-321568A1.pdf, accessed on June 13, 2013.

Note: The referenced access lines consist of switched access lines as well as VoIP subscriber lines.

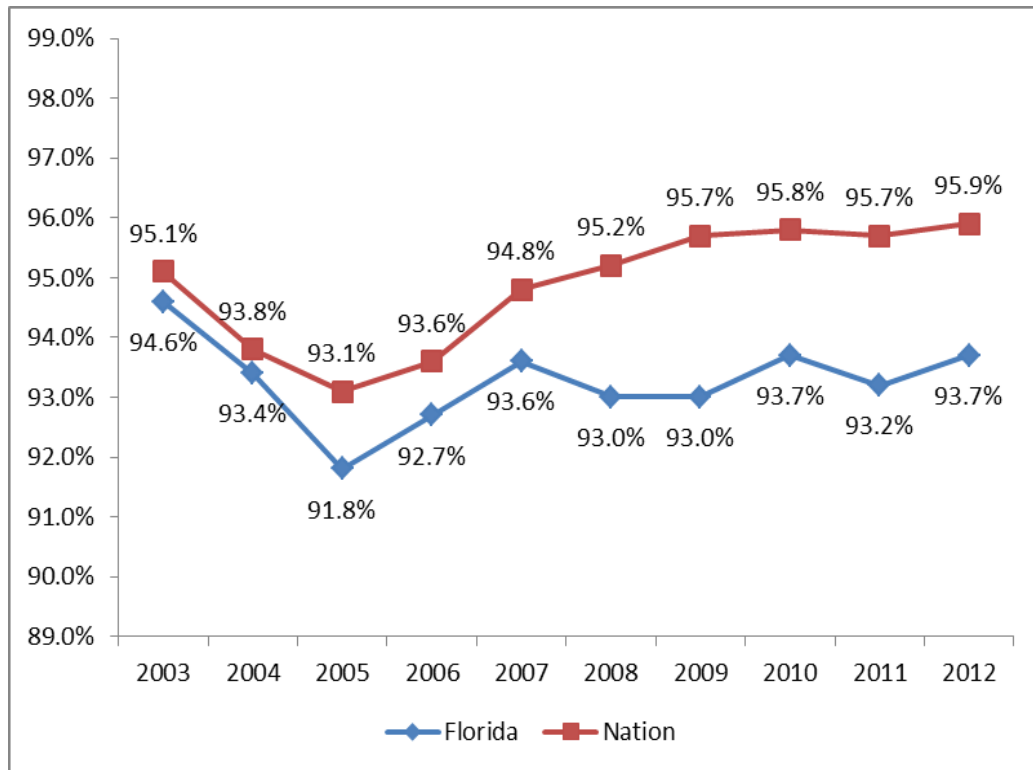
³⁵ Stephen J. Blumberg, Ph.D., Julian V. Luke, "Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January – June 2012" December 2012, p. 6, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201212.pdf>, accessed on April 30, 2013.

³⁶ Responses to FPSC Local Competition Data Request for 2012.

³⁷ FCC, "Telephone Subscribership in the United States as of July 2011," December 2011, Table 3 for historical data, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-311523A1.pdf, accessed on May 19, 2013; FCC, "Universal Service Monitoring Report," released March 2013, CC Docket Nos. 98-202, 96-45, Section 3, Table 3.8 for current data, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0403/DOC-319744A1.pdf, accessed on May 19, 2013.

Florida carriers and the FPSC to make Lifeline and Link-Up benefits more accessible to eligible low-income consumers. The majority of Florida residents have a choice between several non-ILEC providers, with 10 or more providers available in 84 percent of Florida zip codes.³⁸ According to the FCC, there are no zip codes in Florida without at least one CLEC or non-ILEC VoIP provider.³⁹

Figure 3-7. Telephone Service Penetration: Florida vs. Nation



Source: FCC, Telephone Subscribership & Universal Service Monitoring Report

The Centers for Disease Control (CDC) released a report on wireless substitution for the period January-June 2012 and found that 35.8 percent of adults live in wireless-only households.⁴⁰ While state-specific data on wireless-only households was not provided in the most recent CDC report, an October 2012 report containing state-level data noted that Orange County had the highest wireless-only penetration rate in Florida at 39.7 percent.⁴¹ The CDC report found 8.8 percent of Florida adults living in households with only a wireline phone. It

³⁸ FCC, “Local Telephone Competition: Status as of June 30, 2012,” June 2013, Table 21, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0613/DOC-321568A1.pdf, accessed on June 13, 2013.

³⁹ Ibid.

⁴⁰ Stephen J. Blumberg, Ph.D., Julian V. Luke, “Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January – June 2012” December 2012, p. 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201212.pdf>, accessed on April 30, 2013.

⁴¹ Stephen J. Blumberg, Julian V. Luke, “Wireless Substitution: State-Level Estimates from the National Health Interview Survey, 2010-2011,” October 12, 2012, Table 2, <http://www.cdc.gov/nchs/data/nhsr/nhsr061.pdf>, accessed on May 31, 2013.

also found that 2.1 percent of Florida adults living without any form of telephone service.⁴² This data suggests that most Florida households are able to afford telephone service and have access to a variety of service providers, including ILECs, CLECs, VoIP, and wireless. This data also supports the fact that many consumers choose to subscribe to more than one type of telephone service.

Historically, regulatory reliability standards have applied to landline telecommunications service making it the most reliable telecommunications service. Reliability in landline networks is no longer insured as many states, including Florida, eliminated service quality standards. Given the continued growth of interconnected VoIP and wireless-only households, and the continued erosion of landline access lines, it appears that the reliability of these alternatives is acceptable to consumers. Moreover, mobility, pricing, and the demand for data-based services are consumer preference factors that may be changing how consumers view reliability.

Conclusion: Based on the continued growth of interconnected VoIP and wireless-only households and the ongoing erosion of landline access lines, network reliability of non-ILEC providers appears to be sufficient. The telephone penetration rate of 93 percent supports the conclusion that Florida residents are able to afford telephone service. The number and variety of competitive choices among all types of service providers suggest that competition is having a positive impact on the telecommunications market in Florida.

4. A listing and short description of any carrier disputes filed under Section 364.16, F.S.

Conclusion: This information can be found in Appendix B. The number of docketed and informal intercarrier complaints remained relatively stable in 2012.

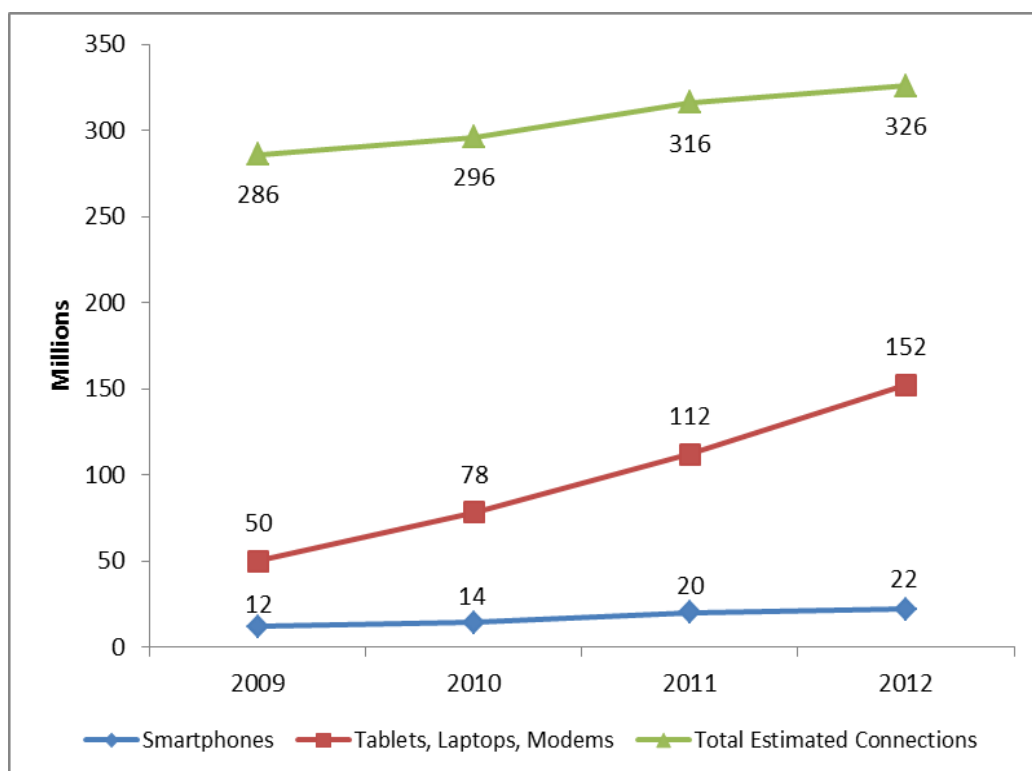
⁴² Ibid.

Chapter IV. Wireless, VoIP, and Broadband

A. Wireless

Wireless devices have evolved from voice-only handsets to multi-functional devices primarily utilized for their data and text capabilities. Today, Smartphones, cell phones, and other wireless devices are nearly ubiquitous, resulting in increased household wireless substitution. Figure 4-1 shows that total household wireless connections topped 326 million in 2012, which is greater than the current population of the United States.⁴³ The latest CDC figures report that 35.8 percent of all households were wireless-only in the first half of 2012, up from 31.6 percent during the first half of 2011.⁴⁴ During the same timeframe, the number of households with both landline and wireless service declined from 55.0 percent in 2011 to 52.5 percent in 2012.⁴⁵

Figure 4-1. Smartphones, Tablets, & Other Devices vs. Total Connections



Source: CTIA – The Wireless Association’s Semi-Annual Wireless Survey

⁴³ Census Bureau, U.S. Department of Commerce, population estimate for December 31, 2012 of 315,085,365 <http://www.census.gov/popclock/>, accessed June 4, 2013.

⁴⁴ Stephen J. Blumberg, Ph.D., Julian V. Luke, “Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January – June 2012: December 2012, p. 6, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201212.pdf>, accessed on April 30, 2013.

⁴⁵ Ibid.

1. Devices and Usage

At the end of December 2012, 87 percent of American adults had at least one cell phone, and 45 percent had Smartphones.⁴⁶ The average length of a wireless phone call remains steady at under 2 minutes, though down slightly at 1.80 minutes in June 2012, from 1.83 minutes in June 2011.⁴⁷ Monthly minutes of usage, which peaked at 769 minutes in 2007, declined to 615 minutes in 2012.⁴⁸ By June 2012, annualized minutes of usage nationwide had increased 3 percent to 2.32T (trillion) minutes, from 2.251T minutes for the previous year.⁴⁹

While voice usage seems to have flattened out over the past few years, total usage and revenues have not. Ninety-eight percent of owners of Smartphones utilize their devices to take pictures, followed by text messaging at 96 percent, and accessing the Internet at 93 percent.⁵⁰ For cell phone users, the percentages are 82 percent, 80 percent, and 56 percent, respectively.⁵¹ By June 2012, 184.3 billion text messages were being sent monthly.⁵² Smartphone users spent 4 out of 5 mobile minutes using applications.⁵³ By December 2012, the number of 4G users was up 273 percent, to 33.1 million. In all, 3G and 4G enabled devices were in use by 97.7 percent of U.S. smartphone users.⁵⁴ Data usage currently accounts for 38.6 percent of wireless revenue, amounting to \$68.3 billion industry-wide by June 2012. As Figure 4-2 shows, total wireless revenues have continued to climb to over \$180 billion as companies and customers find new ways to use their many devices.⁵⁵ The average monthly wireless bill for the same period of time was \$47.16.⁵⁶

⁴⁶ Brenner, Joanna Pew Internet: Mobile. Pew Internet & American Life Project January 31, 2013, <http://www.pewinternet.org/Commentary/2012/February/Pew-Internet-Mobile.aspx>, accessed on April 30, 2013

⁴⁷ CTIA “Semi-Annual Wireless Industry Survey by CTIA” dated 10/11/2012; printed from http://files.ctia.org/pdf/CTIA_Survey_MY_2012_Graphics-final.pdf, accessed on April 30, 2013.

⁴⁸ FCC, “Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services”, March 21, 2013, Chart 20, p. 169 http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-103A1.pdf, accessed on April 30, 2013.

⁴⁹ CTIA “Semi-Annual Wireless Industry Survey by CTIA” dated 10/11/2012; printed from http://files.ctia.org/pdf/CTIA_Survey_MY_2012_Graphics-final.pdf, accessed on April 30, 2013.

⁵⁰ Maeve Duggan, Pew Research Center’s Internet & American Life Project, Summer Tracking Survey, August 7 – September 6, 2012. N=1,262 smartphone owning adults ages 18 and older. Margin of error is +/- 3.2 percentage points for results based on smartphone owners.

⁵¹ Lee Rainie, Maeve Duggan, “Cell Phone Activities 2012” November 25, 2012, <http://pewinternet.org/Reports/2012/Cell-Activities/Main-Findings.aspx>, accessed on May 1, 2013.

⁵² CTIA “Semi-Annual Wireless Industry Survey by CTIA” dated 10/11/2012; printed from http://files.ctia.org/pdf/CTIA_Survey_MY_2012_Graphics-final.pdf, accessed on April 30, 2013.

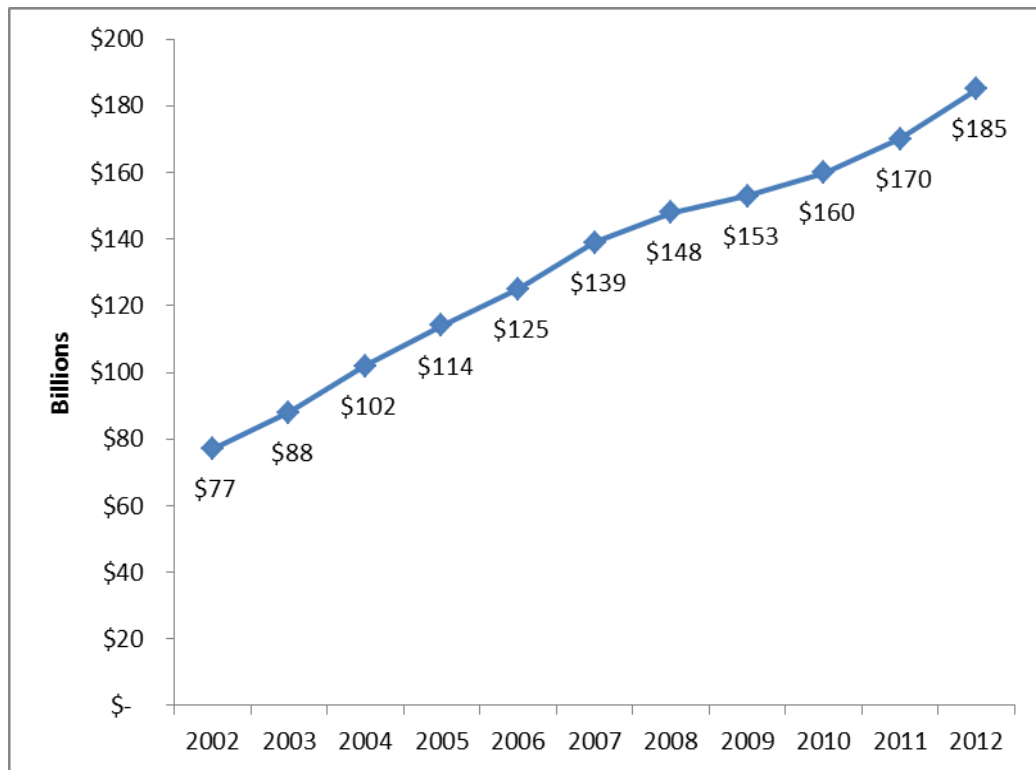
⁵³ ComScore, “2013 Mobile Future in Focus,” February 2013, http://www.comscore.com/Insights/Presentations_and_Whitepapers/2013/2013_Mobile_Future_in_Focus, accessed on April 30, 2013.

⁵⁴ ComScore, “2013 Mobile Future in Focus,” February 2013, http://www.comscore.com/Insights/Presentations_and_Whitepapers/2013/2013_Mobile_Future_in_Focus, accessed on April 30, 2013.

⁵⁵ CTIA “Semi-Annual Wireless Industry Survey by CTIA” dated 10/11/2012; printed from http://files.ctia.org/pdf/CTIA_Survey_MY_2012_Graphics-final.pdf, accessed on April 30, 2013.

⁵⁶ Ibid.

Figure 4-2. Total 12-Month Wireless Service Revenues



Source: CTIA – The Wireless Association’s Semi-Annual Wireless Survey

The CDC reports that the number of wireless-only homes continues to grow. Growth during the first half of 2012 grew at a slower pace than the previous six months.⁵⁷ According to the CDC:

- Hispanic and Latino households had the highest percentage of wireless-only households with 46.5 percent. This represented a 7 percent increase from the end of 2011.
- The age group showing the highest wireless substitution growth is the 30-34 year old demographic which grew 8 percent, from 50.9 percent to 55.1 percent in the first half of 2012.⁵⁸

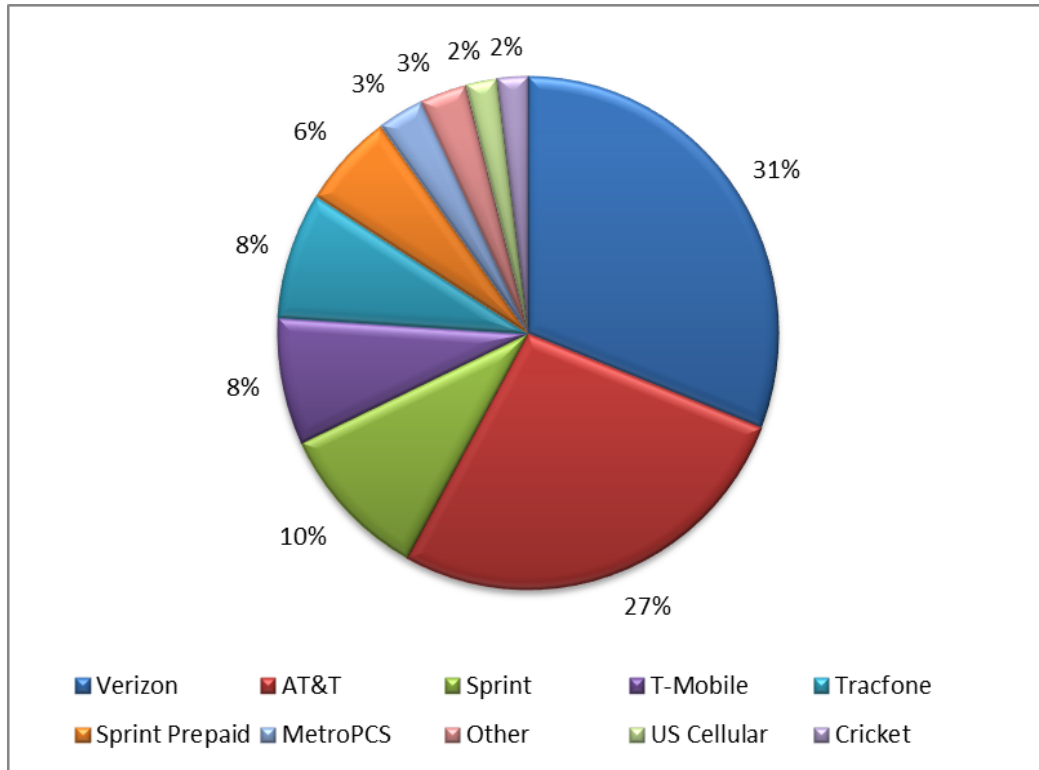
As Figure 4-3 shows, four carriers share 76 percent of the U.S. wireless market: Verizon, AT&T, Sprint, and T-Mobile. Verizon leads with 31 percent of total subscribers, followed by

⁵⁷ Stephen J. Blumberg, Ph.D., Julian V. Luke, “ Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January – June 2012” December 2012, p. 2, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201212.pdf>, accessed on April 30, 2013.

⁵⁸ Stephen J. Blumberg, Ph.D., Julian V. Luke, “ Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January – June 2012” December 2012, Table 2, page 8, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201212.pdf>, accessed on April 30, 2013.

AT&T's 27 percent, Sprint at 10 percent, T-Mobile and Tracfone with 8 percent, and Sprint Prepaid with 6 percent. An additional 6 percent is made up of MetroPCS and smaller companies, and US Cellular and Cricket each have 2 percent of the market.⁵⁹

Figure 4-3. U.S. Network Operator Share of Total Mobile Market



Source: Comscore

2. Florida Trends

In Florida, the number of wireless handsets in service reached a total of 18.2 million.⁶⁰ Overall growth of wireless phone subscription in Florida has mirrored the national trend as the market reaches saturation. Since the end of 2003, wireless handsets in service in Florida have exceeded wireline subscriptions.

⁵⁹ ComScore, "2013 Mobile Future in Focus," February 2013, http://www.comscore.com/Insights/Presentations_and_Whitepapers/2013/2013_Mobile_Future_in_Focus, accessed on April 30, 2013.

⁶⁰ FCC, "Local Telephone Competition: Status as of June 30, 2012", June 2013, Table 18, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0613/DOC-321568A1.pdf, accessed on June 13, 2013.

B. Voice over Internet Protocol (VoIP)

As in prior years, the number of Florida residences and businesses subscribing to VoIP services increased.⁶¹ The FCC's most recent data reports approximately 32.6 million interconnected residential VoIP subscribers and nearly 6.6 million business subscribers nationwide as of June 2012.⁶² This represents nearly a 16 percent increase of total interconnected VoIP subscribers nationwide since June 2011.⁶³ Data collected by the FPSC shows an estimated 2.7 million residential interconnected VoIP service subscribers in Florida as of December 2012.⁶⁴

1. National Market Analysis

Cable companies have continued to maintain their dominance in the VoIP market while traditional wireline carriers, such as AT&T and Verizon, make gains as more consumers take advantage of their fiber-based services. Other ILECs and CLECs have also experienced an increase in VoIP subscribership.

a. Facilities-Based VoIP Providers

ILECs, CLECs, and cable companies all provide interconnected VoIP services. However, cable companies dominate the facilities-based residential VoIP market with an estimated 27 million residential VoIP subscribers as of June 2012.⁶⁵ More recent data is available from publicly traded carriers. Comcast, the largest cable provider, had 9.7 million VoIP subscribers at the end of 2012, a four percent increase over the previous year.⁶⁶ Time Warner Cable and Cablevision Systems, the nation's second and third largest cable providers, had an estimated 5.2 million and 2.4 million VoIP subscribers, respectively.^{67, 68} Time Warner's VoIP subscribership increased by almost 11 percent since 2011 while Cablevision Systems remained relatively unchanged.

⁶¹ See *Glossary*. Facilities-based VoIP services are generally provided over private managed networks and more closely emulate traditional telephone service reliability. Over-the-Top VoIP service is provided over the public Internet.

⁶² FCC, "Local Telephone Competition: Status as of June 30, 2012," Table 10 and Table 11, June 2013, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0613/DOC-321568A1.pdf, accessed on June 13, 2013.

⁶³ FCC, "Local Telephone Competition: Status as of June 30, 2011, Table 9, June 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314631A1.pdf, accessed June 13, 2013.

⁶⁴ Responses to FPSC Local Competition Data Request 2013.

⁶⁵ FCC, "Local Telephone Competition: Status as of June 30, 2012," Table 10, June 2013, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0613/DOC-321568A1.pdf, accessed on June 13, 2013.

⁶⁶ Comcast Corporation, Comcast Reports Fourth Quarter and Year End 2012 Results, February 12, 2013, http://files.shareholder.com/downloads/CMCSA/2450357090x0x635133/a7b4ad9f-cb76-4369-9837-ffe25effea71/CMCSA_News_2013_2_12_General_Releases.pdf, accessed April 29, 2013.

⁶⁷ Time Warner Cable, Inc., Form 10-K, Fourth Quarter 2012 Results, January 31, 2013, <http://ir.timewarnercable.com/files/TWC%20Q4%202012%20Earnings%20Release%20FINAL.pdf>, accessed April 29, 2013.

⁶⁸ Cablevision Systems Corporation, Fourth Quarter and Full Year 2012 Results, February 28, 2012, <http://www.cablevision.com/pdf/news/022812.pdf>, accessed April 29, 2013.

All of the large cable companies continue to experience growth in VoIP subscribership; however, the rate of growth has significantly decreased. Between 2007 and 2009, the number of residential VoIP subscribers more than doubled. However, in 2010 cable VoIP providers began reporting slower yearly subscriber growth rates. This decrease can be partially attributed to consumers completely abandoning their home phones for wireless phone service.⁶⁹

Wireline telephone companies continue to deploy facilities-based VoIP services over fiber-based facilities. While AT&T and Verizon continue to show losses in traditional voice access lines, both companies reported gains with their other services offerings. AT&T reported approximately 2.9 million U-verse voice subscribers at year-end 2012. This represents a 26 percent increase from the previous year.⁷⁰ Verizon reported approximately 3.2 million FiOS Digital Voice subscribers as of December 2012, an approximate 68 percent increase from the previous year.⁷¹

b. Over-the-Top VoIP Providers

Over-the-top providers offer low-priced stand-alone interconnected VoIP service.⁷² The service quality of these VoIP Providers varies because calls are transmitted over the public Internet rather than private managed IP-based networks. The price advantage over the bundled services offered by facilities-based VoIP providers has allowed the over-the-top VoIP providers to attract customers. Vonage, 8x8, Inc., Skype, Google, and magicJack are a few of the leading over-the-top VoIP providers. Some of these companies have also introduced mobile VoIP services that take advantage of consumers' mobile broadband connections to offer service. The adoption of mobile VoIP services is rapidly increasing. It is anticipated that between 2010 and 2015 the number of mobile VoIP subscribers will increase 10-fold.⁷³

Reliable information on subscribership is not widely available for over-the-top providers. Some available data suggest that certain market segments are performing better than others. The data also suggests that the market may be maturing due to slower growth rates. For instance, despite having a 19 percent increase in VoIP subscribers in 2011, 8x8, Inc., which almost exclusively focuses on the business market, reported a slightly lower percentage of growth at 17 percent for 2012.⁷⁴ Vonage reported approximately 2.4 million subscribers at year-end 2012.

⁶⁹ PRWeb.com, December 24, 2012, <http://www.prweb.com/pdfdownload/10267567.pdf>, accessed April 29, 2013.

⁷⁰ AT&T 2012 Annual Report, http://www.att.com/Investor/ATT_Annual/2012/downloads/ar2012_annual_report.pdf, accessed on April 29, 2013.

⁷¹ Verizon Investor Quarterly Fourth Quarter, January 22, 2013, http://www22.verizon.com/investor/DocServlet?doc=vz_4q_quart_bulletins_2012.pdf, accessed April 29, 2013.

⁷² The phrase "over-the-top VoIP" refers to a VoIP service that requires a consumer to obtain broadband access from another company.

⁷³ Andrew Burger, "Report: Mobile VoIP Growing Exponentially, but Revenues Remain Small," *Telecompetitor*, October 20, 2011, <http://www.telecompetitor.com/report-mobile-voip-growing-exponentially-but-revenues-remain-small/>, accessed April 30, 2013.

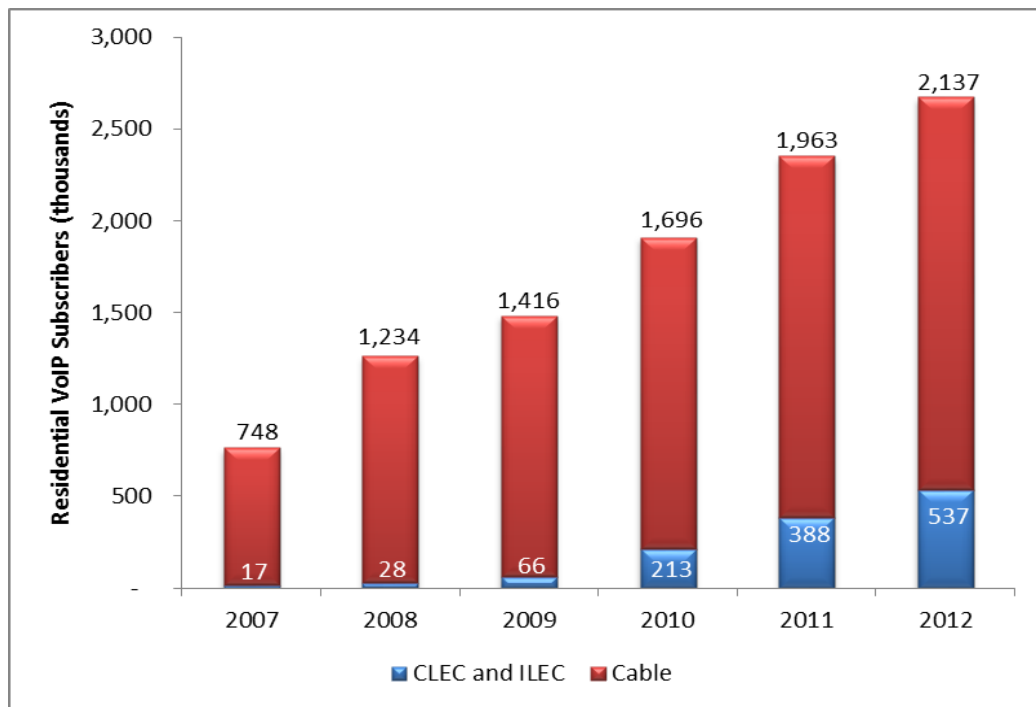
⁷⁴ 8x8, Inc. Form 10-K Annual Report 2012, <http://investors.8x8.com/secfiling.cfm?filingID=1136261-12-328>, accessed on May 24, 2013.

This represents a decline of more than 15,000 subscribers since 2011 and more than 45,000 subscribers since 2010.⁷⁵

2. Florida Market

Limitations exist in determining an accurate estimate of VoIP subscribers in Florida because the Commission does not have jurisdiction over VoIP services. However, the FCTA reported residential VoIP line data for its six largest member providers and a number of CLECs and ILECs voluntarily responded to the Commission’s data request. Based on a review of available data, there are an estimated 2.7 million residential interconnected VoIP subscribers in Florida. Figure 4-4, shows the number of residential interconnected VoIP subscribers in Florida by provider type, as of year-end 2012.

Figure 4-4. Florida Residential Interconnected VoIP Subscribers



Source: Responses to FPSC data requests (2008-2013)

⁷⁵ Vonage Annual Report 2012, http://files.shareholder.com/downloads/VAGE/2493284242x0x657310/eb12df26-506c-4a30-add0-942aec74d7a8/VG_AR12_1_.pdf, accessed on May 24, 2013.

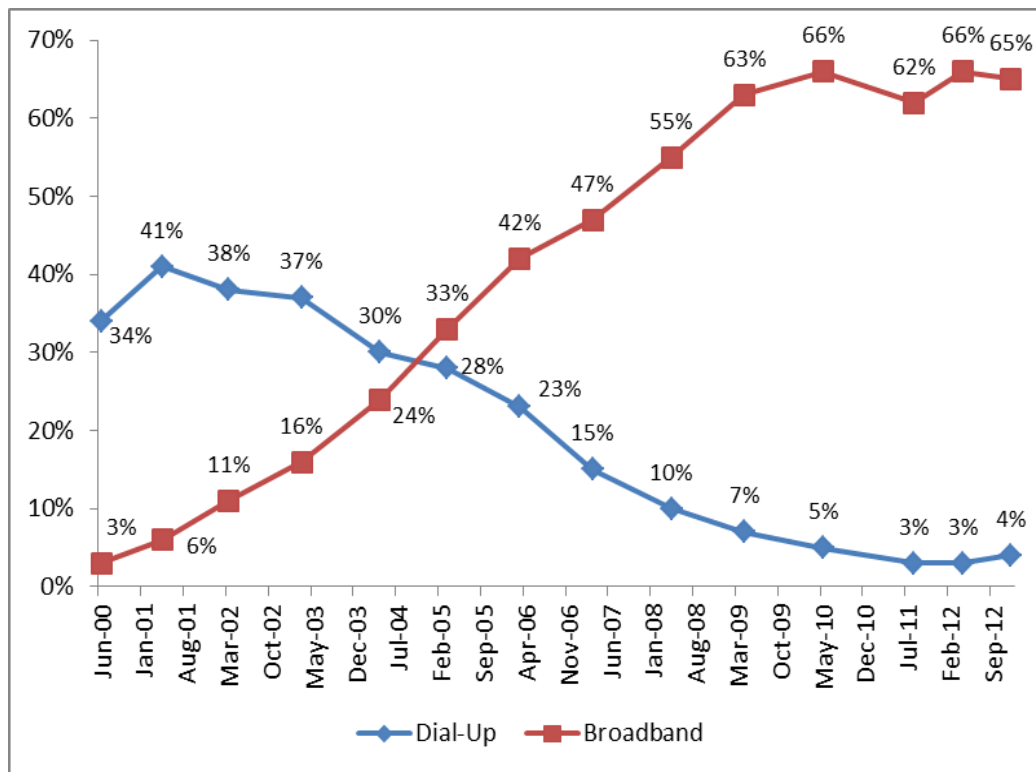
C. Broadband

1. National Broadband Trends

According to a recent survey report by the Pew Internet and American Life Project, as of December 2012, sixty-five percent of adults currently have broadband connections within their homes.⁷⁶ Having a broadband connection strongly affects how frequently an individual uses the Internet. Broadband users typically use the Internet more frequently than dial-up users. This difference can be attributed to the “always on” broadband connection.

Figure 4-5 illustrates the percentage of American households who had Internet access, via broadband and dial up, over the past twelve years. High-speed access to the Internet at home has risen steadily in recent years, while dial-up has steadily decreased. For instance, in 2001, only 4 percent of households had broadband accounts, compared to 65 percent in 2012.⁷⁷ Thirty-four percent of households had dial-up in 2001 compared to four percent in 2012. Figure 4-5 also displays that between 2009 and 2012 the percentage of households with broadband and dial-up connections has remained relatively level at 65-70 percent.

Figure 4-5. Broadband and Dial-Up Adoption



Source: Pew Research Center's Internet & American Life Project surveys

⁷⁶ Brenner Joanna, Rainie, Lee, “Pew Internet: Broadband,” December 9, 2012, <http://www.pewinternet.org/Commentary/2012/May/Pew-Internet-Broadband.aspx>, accessed on April 30, 2013.

⁷⁷ Ibid.

Demographic groups that are less likely to have broadband connections within their homes include minorities, those without a college education, and low income individuals.⁷⁸ Notable differences in broadband adoption in 2012 included:

- Men (65 percent) are just as likely as women (66 percent) to have home broadband.
- African American survey participants subscribed to broadband services at a rate of 53 percent, compared to Hispanics at 49 percent, and whites at 70 percent.
- Households with an annual household income of over \$75,000 subscribe to broadband at a rate of 89 percent, compared to 79 percent with incomes of \$50,000 to \$74,999, 69 percent with incomes of \$30,000 to \$49,999, and 46 percent for households with incomes that are less than \$30,000.
- Seventy-five percent of adults age 18 to 29 have broadband connection within their homes, compared to 74 percent age 30 to 49, 62 percent age 50 to 64, and 41 percent of adults 65 and older.
- Of the respondents with a college degree, 85 percent have access to broadband at home compared to 27 percent without a high school diploma.⁷⁹

The Pew survey also found that roughly one in five American adults (18 percent) do not use the Internet at all. Among those adults who do not use the Internet, almost half indicated that they do not use the Internet because it is not relevant to their lives.⁸⁰

The National Telecommunications and Information Administration (NTIA) published a report in May 2013 on broadband availability in the United States.^{81,82} According to NTIA's report, between June 2010 and June 2012, national broadband availability increased at all advertised speed levels with the greatest rates of change occurring at higher speed tiers beginning with 25 Mbps or greater. Approximately 93 percent of Americans have access to advertised wireline broadband at speeds of at least 3 Mbps and 6 Mbps, while 91 percent have access to speeds of at least 10 Mbps, and 78 percent at 25 Mbps.⁸³

2. Florida Broadband Trends

According to the most recent FCC report, 51 percent of households in Florida have a fixed broadband connection with download speeds of at least 3 Mbps and 74 percent have fixed

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ NTIA, "U.S. Broadband Availability: June 2010-2012, A Broadband Brief," May 2013, http://www.ntia.doc.gov/files/ntia/publications/usbb_avail_report_05102013.pdf, accessed on May 17, 2013.

⁸² NTIA identifies broadband as "available" if it can be deployed to a business or consumer within a specific timeframe and without an extraordinary commitment of resources. This definition does not include actual broadband subscribers.

⁸³ Ibid.

broadband connections of 200 kbps or greater.⁸⁴ The FCC also reported that cable modem services accounted for approximately 60 percent of non-mobile broadband connections in Florida with download speeds greater than 2000 kbps.⁸⁵ Mobile broadband connections accounted for 62 percent of all Florida broadband connections with download speeds in excess of 200 kbps.⁸⁶

According to the NTIA, Florida is ranked 9th out of all states based on the percentage of population with access to broadband speeds of 10 Mbps or greater. For speeds greater than or equal to 25 Mbps, Florida ranks 12th. Ninety-eight percent of Floridians have the availability to download speeds at ≥ 10 Mbps and approximately 91 percent have availability to speeds at ≥ 25 Mbps.⁸⁷

⁸⁴ FCC, "Internet Access Services: Status as of June 30, 2012," released May 2013, Table 13 and Table 14, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0520/DOC-321076A1.pdf, accessed on May 21, 2013.

⁸⁵ Ibid, Table 16.

⁸⁶ Ibid.

⁸⁷ NTIA, "U.S. Broadband Availability: June 2010-2012, A Broadband Brief," May 2013, http://www.ntia.doc.gov/files/ntia/publications/usbb_avail_report_05102013.pdf, accessed on May 17, 2013.

Chapter V. State Activities

A. *Intercarrier Matters*

1. **Verizon v. Bright House Access Charge Complaint**⁸⁸

In 2011, Bright House Networks, Florida, filed a complaint against Verizon Florida for failure to pay intrastate access charges on telecommunications traffic originating on Bright House's VoIP network. Verizon contended because the traffic originated on a VoIP system, the traffic was inherently interstate in nature and not appropriate for intrastate access compensation. During the pendency of the complaint, the FCC issued a Notice of Proposed Rule Making, finding that it had not declared VoIP-originated traffic to be inherently interstate in nature.

On May 1, 2012, Bright House Networks filed a Notice of Voluntary Dismissal, with prejudice, of its complaint. The Commission acknowledged the voluntary dismissal with prejudice in Commission Order No. PSC-12-0254-FOF-TP.

2. **AT&T v. Express Phone Adoption Dispute**⁸⁹

This dispute relates to Express Phone's allegation that AT&T Florida failed to honor Express Phone's request to adopt the interconnection agreement (ICA) between AT&T and another CLEC. Express Phone contended that the alleged failure would violate the federal Telecommunications Act of 1996. An evidentiary hearing was held May 3, 2012. On July 17, 2012, the Commission adopted the staff's recommendation that Express Phone could not adopt an alternative ICA when it failed to materially comply with its existing ICA.

On August 28, 2012, Express Phone filed a complaint for declaratory and injunctive relief in the U.S. District Court, Northern District of Florida. Express Phone alleges that the Commission's decision was contrary to 47 U.S.C. §252(i) and 47 C.F.R. §51.809, and that the order is arbitrary and capricious. The parties filed their briefs in the first quarter of 2013 and are awaiting the Court's decision.

3. **AT&T v. Halo Complaint and Petition for Relief**⁹⁰

On July 25, 2011, AT&T Florida (AT&T) filed a Complaint and Petition for Relief (Complaint) against Halo Wireless, Inc. (Halo). In the Complaint, AT&T alleges that Halo has violated the terms of the parties' ICA by terminating traffic to AT&T which was not originated on a wireless network, in order to avoid the payment of access charges to AT&T. A hearing on the case was held July 12, 2012. By Order No. PSC-12-0593-FOF-TP, issued October 31, 2012,

⁸⁸ Docket No. 110056-TP – Complaint against Verizon Florida, LLC and MCI Communications Services, Inc. d/b/a Verizon Business Services for failure to pay intrastate access charges for the origination and termination of intrastate interexchange telecommunications service, by Bright House Networks Information Services (Florida), LLC.

⁸⁹ Docket No. 110087-TP – Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.

⁹⁰ Docket No. 110234-TP – Complaint and petition for relief against Halo Wireless, Inc. for breaching the terms of the wireless interconnection agreement, by BellSouth Telecommunications, LLC d/b/a AT&T Florida.

the Commission found that Halo materially breached the terms of the parties' Interconnection Agreement by sending landline originated traffic, inserting incorrect charge number data, and failing to pay for interconnection facilities ordered by Halo and authorized AT&T to discontinue further performance under and to terminate the parties' Interconnection Agreement. Additionally, the Commission ordered that Halo is liable to AT&T for non-local access charges on the non-local landline traffic Halo delivered to AT&T, as well as interconnection facilities charges for facilities ordered by Halo.

4. Qwest Discrimination Complaint⁹¹

Qwest Communications Company, LLC (Qwest), filed a complaint against a large number of CLECs on December 11, 2009, regarding rate discrimination in connection with the provision of intrastate switched access services. Qwest sought relief from all parties for engaging in unlawful rate discrimination. Specifically, Qwest alleged that by extending contracts to other interexchange carriers for switched access, advantages were withheld from Qwest. The complaint further alleged that all parties failed to abide by their pricelists, and charged Qwest more for switched access than other similarly situated interexchange companies. The Commission addressed several procedural filings in this docket and a hearing on the issues was held October 23-25, 2012. During the process, Qwest and a number of CLECs settled their disputes on these issues; as a result only 5 CLECs remained as respondents to the complaint at the time of the hearing.

On May 1, 2013, the Commission issued Order No. PSC-13-0185-FOF-TP, finding that the Commission retained authority under Chapter 364.16, F.S., to hear the complaint. The Commission found that that Qwest failed to demonstrate that it was similarly situated to AT&T and thus was not eligible for AT&T's contract terms. The Commission also found that the CLECs abided by their price lists and did not engage in any unlawful anticompetitive behavior against Qwest regarding these switched access contracts. On May 16, 2013, Qwest filed a Motion for Reconsideration of the Commission's decision.

5. AT&T v. Digital Express Adoption Dispute⁹²

On June 5, 2012, Digital Express, Inc. (Digital) filed a Notice of Adoption of an existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T Florida) and New Talk, Inc. (New Talk ICA) On July 9, 2012, AT&T Florida filed a Response in Opposition to Digital's adoption of the New Talk ICA. Order No. PSC-12-0598-PCO-TP, on November 1,

⁹¹ Docket No. 090538-TP – Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Broadwing Communications, LLC; Access Point, Inc.; Birch Communications, Inc.; Budget Prepay, Inc.; Bullseye Telecom, Inc.; DeltaCom, Inc.; Ernest Communications, Inc.; Flatel, Inc.; Navigator Telecommunications, LLC; PaeTec Communications, Inc.; STS Telecom, LLC; US LEC of Florida, LLC; Windstream NuVox, Inc.; and John Does 1 through 50, for unlawful discrimination.

⁹² Docket No. 120169-TP – Notice of adoption of existing interconnection, unbundling, resale and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Digital Express, Inc.

2012, established procedural dates and set this docket for an administrative hearing on April 18, 2013.

On February 8, 2013, Digital and AT&T filed a Joint Motion for Abatement, stating that the parties have reached an agreement to request an abatement of this docket until all appeals have been resolved in Docket 110087-TP, Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc. In support of their Joint Motion, the parties argue that the issues in this docket are substantially similar to the issues in Docket 110087-TP, which is currently on review to the United States District Court, Northern District of Florida as Case No. 1:12-cv-00197-MP-GRJ.

6. Budget PrePay, Inc. d/b/a Budget Phone v. AT&T Dispute⁹³

Budget PrePay, Inc. d/b/a Budget Phone filed a complaint against AT&T Florida on August 28, 2011 for “imposing an unlawful restriction on the resale of bundled local and long distance cash back promotions” and “engaging in actions that are preferential, discriminatory and anti-competitive as AT&T seeks to impair competition, enhance its competitive position and gain a competitive advantage through an inappropriate intra-corporate transaction and/or tying arrangement with its affiliate long distance company.” On September 17, 2012, AT&T filed its Answer and Counterclaim to the Budget Complaint.

On February 6, 2013, pursuant to Rule 28-106.204, F.A.C., the Parties filed a Joint Motion to Dismiss Complaint and Counterclaim (Joint Motion to Dismiss with Prejudice) in which the Parties “request that their respective claims be dismissed with prejudice, that each party bear its own costs and fees, and that this docket be closed.” Commission Order No. PSC-13-0128-FOF-TP granted the dismissal on March 15, 2013.

7. Nexus v. AT&T Promotional Credit Complaint⁹⁴

On November 18, 2010, Nexus Communications, Inc. (Nexus) filed its Complaint and Petition for Relief seeking to recover cash back promotional credits from AT&T. On November 24, 2010, AT&T filed its Answer and Affirmative Defenses.

On February 28, 2011, the parties filed a Joint Status Report and Proposed Motion to Abate. A second status report was filed by Nexus on January 10, 2013, stating that the parties had agreed in principle to the terms of a final settlement. On May 29, 2013, Nexus filed its Motion to Dismiss, with prejudice, stating that all issues presented in the instant case had been resolved.

⁹³ Docket No. 120231-TP – Complaint of Budget Prepay, Inc. against BellSouth Telecommunications, LLC d/b/a AT&T Florida.

⁹⁴ Docket No. 100434-TP – Complaint and petition for relief by Nexus Communications, Inc. against BellSouth Telecommunications, Inc. d/b/a AT&T Florida for dispute over interpretation of interconnection agreement regarding cash back promotions.

8. CompSouth Petition for Rulemaking on Expedited Complaints⁹⁵

On July 31, 2012, the Competitive Carriers of the South, Inc. (CompSouth) filed a Petition to Initiate Rulemaking to Revise and Amend Portions of Rule 25-22.0365, F.A.C, to revise portions of the Expedited Dispute Resolution Rule to “enable quicker resolution of cases where a consumer is without service or suffers impaired service as a result of a dispute between telecommunications carriers.”⁹⁶ A rule development workshop was held on November 15, 2012. The parties are currently discussing proposed rule language.

9. Wholesale Performance Measurement Plans

Wholesale performance measurement plans provide a standard against which the Commission can monitor performance over time to detect and correct any degradation in the quality of service ILECs provide to CLECs. The Commission adopted performance measurements for AT&T in August 2001, for CenturyLink in January 2003, and for Verizon in June 2003. Trending analysis is applied to monthly performance measurement data provided by each ILEC.

AT&T is the only ILEC that is required to make payments to CLECs when certain performance measures do not comply with established standards and benchmarks. AT&T’s approved Performance Assessment Plan consists of 47 measurements, of which 24 measurements have remedies applied to them. For the calendar year 2012, AT&T paid approximately \$263,820 in remedies to CLECs, a decrease of 75 percent from 2011.

CenturyLink’s 2012 Performance Measurement Plan contained 36 performance measures designed to ascertain if the ILEC is providing nondiscriminatory service to CLECs. For the 2012 calendar year, CenturyLink’s monthly compliance with established standards ranged from 87.8 percent to 92.2 percent.

On February 1, 2013, CenturyLink filed proposed revisions to its Performance Measurement Plan as a result of a negotiated settlement in Nevada. The revisions included eliminating 3 measures (leaving a net of 33 measures) and revising several others. The Commission approved these revisions on May 14, 2013, and they are scheduled to go into effect with the July 2013 reporting month.

Verizon’s current Performance Measurement Plan contains 29 measures. For the calendar year 2012, Verizon’s monthly compliance with approved standards ranged from 81.1 percent to 92.2 percent. The previous year, Verizon’s compliance ranged from 82.4 percent to 92.5 percent.

⁹⁵ Docket No. 120231-TP – Petition of the Competitive Carriers of the South, Inc., to initiate rulemaking to revise and amend portions of Rule 25-22.0365, Florida Administrative Code.

⁹⁶ *Petition* at page 1.

B. Lifeline

In order to comply with new FCC requirements (discussed in Chapter VI) and keep the Lifeline application process uncomplicated, the FPSC created an on-line Lifeline application for consumers participating in Supplemental Nutrition Assistance Program (SNAP), Medicaid, or Temporary Assistance for Needy Families (TANF). When the applicant completes the application making all the necessary attestations, certifications, and the electronic signature, the FPSC computer automatically makes a query to a Florida Department of Children and Families Web services interface to confirm current participation in SNAP, Medicaid, or TANF. The real-time response will verify participation in at least one of the programs, but does not identify the program. A positive response will generate an automatic e-mail to the appropriate Lifeline provider advising it that an approved Lifeline application is available for retrieval on the FPSC Web site. A negative response will cause a letter to be sent to the applicant stating his/her participation in SNAP, Medicaid, or TANF could not be confirmed and offering staff assistance with any questions.

C. Telephone Relay Service

Section 427.704, Florida Statutes, charges the Commission with the responsibility of overseeing the administration of a statewide telecommunications access system to provide access to Telecommunications Relay Services (TRS) by persons who are deaf, hard of hearing, deaf-blind, speech impaired, or others who communicate with them.

Based on a competitive bid evaluation process, the Commission awarded a new relay provider contract to AT&T, effective June 1, 2012, for a period of three years ending May 31, 2015. The contract contains options to extend the contract for four additional one-year periods, and requires mutual consent by both parties to extend the contract. The AT&T contract remained in effect during year one of the contract period.

States must seek recertification of their Relay programs from the FCC every five years. The state certification process is intended to ensure that TRS is provided in a uniform manner throughout the United States and territories. On September 25, 2012, the Commission submitted Florida's recertification application to the FCC, which contained documentation that Florida meets or exceeds all of the applicable mandatory minimum standards set forth in Code of Federal Regulations Section 64.604. The FCC's review process involves the issuance of public notices and letter orders of certification reviews between May and July 2013.

On June 3, 2013, the Commission issued Order No. PSC-13-0240-PAA-TP approving, as modified by the Commission, Florida Telecommunications Relay, Inc.'s (FTRI) 2013-2014 budget and maintaining the \$0.11 monthly surcharge per access line. Specifically, the Commission ordered that an annual budgeted operating revenue of \$8,771,408 and annual budgeted expenses of \$10,110,295 for fiscal year 2013-2014, effective July 1, 2013, be established. FTRI's projected \$1,338,887 revenue shortfall will be covered through FTRI's existing reserve account.

D. Florida Broadband Grant Projects

The Florida Department of Management Services received federal grant funding in January 2010 for \$2.5 million to develop a broadband map for Florida and broadband planning for the state. In September 2010, the Department was awarded an additional \$6.3 million, for a total amount of \$8.8 million, to extend the mapping project through 2014 and initiate four additional broadband projects. The four projects are library technology assessments, E-rate assistance, broadband grants assistance, and regional broadband planning.

1. Broadband Mapping

Efforts to maintain the map are ongoing, focusing on building Florida's database for household broadband availability and broadband use by anchor institutions. The most recently compiled data will be submitted for the national broadband map in October 2013.⁹⁷ Data will be updated bi-annually through the end of 2014. The Broadband Mapping team also assisted the Department of Education and the State Legislature with analysis of the broadband coverage and availability for all the public schools in Florida to assist with digital learning capability in the 2013 legislative session.

2. Library Technology Assessment

This project inventoried and reported on Florida's 180 public libraries and was completed by the end of the 2nd quarter of 2012. The assessment helped to identify libraries whose broadband needs are the greatest.

3. E-rate Assistance

In 2011, comparably populated states such as California, New York, and Texas received more E-rate funding than Florida.⁹⁸ In an effort to improve Florida's benefit from the program, the E-rate assistance team, which now also serves as the State E-rate Coordinators, provided technical training seminars throughout the state to assist potential applicants and served as a technical resource on multiple school and library E-rate applications, including follow-up assistance and application monitoring. Per a Universal Service Administrative Company (USAC) directive, the Department of Management Services must be the applicant for all funding requests that utilize the state master contracts. The team certified all of the applications and is in the process of handling any USAC review inquiries. The project is funded through 2014.

⁹⁷ The Florida broadband map can be accessed online at <<http://map.broadbandfla.com/>>.

⁹⁸ FCC, "Universal Service Monitoring Report, CC Docket 98-202, 2012 (data received through October 2012)," March 2013, <<http://www.fcc.gov/document/fcc-releases-2012-universal-service-monitoring-report>>, accessed on May 24, 2013.

4. Grants Assistance and Resource Development

In fiscal year 2010, Florida ranked 48th in federal program grant funds per capita.⁹⁹ The Resource Development team is focusing on matching up eligible community anchor institutions with federal programs that will support and fund broadband related technology. The current program focus is the new HealthCare Connect Fund, which falls under the Universal Service Fund umbrella and funds broadband capacity and infrastructure. The team will assist with the application process for all eligible applicants. The team also recently assisted community anchor institutions in seeking funding to expand the service area of Broadband Technology Opportunities Program projects in rural areas.

5. Regional Broadband Planning

This project will develop and provide Florida communities with a broadband planning process, tool kits, and training to local communities and regions who wish to develop broadband plans as part of their economic development efforts. This two-year project is approximately 50 percent complete and will soon enter the pilot phase in South Central and Southwest Florida, including Polk, Charlotte, Lee and Collier counties.

⁹⁹ “Federal Aid to States for Fiscal Year 2010,” U.S. Census Bureau, Economics and Statistics Administration, U.S. Department of Commerce, Figure 5, issued September 2011, <<http://www.census.gov/prod/2011pubs/fas-10.pdf>>, accessed on June 20, 2012.

Chapter VI. Federal Activities

A. Universal Service

The FPSC monitors and participates in ongoing proceedings at the FCC and with the Federal-State Joint Board on Universal Service (Joint Board). Florida consumers pay significantly more into the federal Universal Service Fund (USF) than what is returned to eligible service providers in Florida.¹⁰⁰ While Florida was a net recipient of Low Income support programs in 2009 and 2010, this trend was reversed in 2011 when contributions exceeded receipts. Table 6.1 shows Florida's estimated contribution and receipts for 2011. More recent data regarding the assessment factor is available from the FCC.¹⁰¹ The assessment factor is the rate at which carriers can assess end-users for the Federal universal service program. In 2012 the assessment factor, ranged from a high of 17.9 percent in the first quarter to a low of 15.7 percent in the third quarter.¹⁰²

Table 6-1. 2011 Federal Universal Service Programs in Florida
(Annual Payments and Contributions in Thousands of Dollars)

	2009	2010	2011	2011	2011
	Estimated Net	Estimated Net	Payments to Service Providers	Estimated Consumers Contributions	Estimated Net
High-Cost	(\$215,511)	(\$211,439)	\$54,708	\$261,019	(\$206,311)
Low Income	6,431	2,146	112,350	113,357	(1,007)
Schools & Libraries	(49,183)	(41,568)	76,928	144,554	(67,626)
Rural Health Care	(3,189)	(5,395)	572	9,130	(8,558)
Total ¹⁰³	(\$273,936)	(\$263,152)	\$244,557	\$534,994	(\$290,437)

Source: FCC Universal Service Monitoring Report, Tables 1.12 Table 1.13.

¹⁰⁰ FCC, "Universal Service Monitoring Report," CC Docket No. 98-202, released March 25, 2013, Table 1.12, http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0403/DOC-319744A1.pdf, accessed on May 16, 2013.

¹⁰¹ FCC, Contribution Factor & Quarterly Filings - Universal Service Fund (USF) Management Support, <http://www.fcc.gov/encyclopedia/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support>, accessed on May 16, 2013.

¹⁰² The assessment factor is applied to interstate and international telecommunications revenues. Mobile wireless carriers and interconnected VoIP providers also required to contribute, however they may use the interim safe harbor percentages to estimate the interstate portion of their revenues.

¹⁰³ The total contribution in this table includes approximately \$107 million in administrative expenses for the Universal Service Administrative Company.

1. High-Cost Reform

Towards the end of 2011, the FCC adopted an Order to modernize its existing high-cost fund to explicitly support deployment of broadband to unserved areas.¹⁰⁴ As part of this reform, the FCC began to phase out the existing high-cost support programs and began funding through the two new high-cost programs, the Connect America Fund (CAF) and the Mobility Fund. The CAF focuses on supporting and expanding fixed broadband availability and voice service. The distribution of support has been divided into two phases.

Phase I provides an immediate one-time infusion of funds to bring broadband to unserved areas. While the FCC capped Phase I the fund at \$300 million, only \$115 million in support was accepted by carriers. Carriers in Florida received \$722 thousand in CAF Phase I support.¹⁰⁵ This support was target to 121 census blocks in six counties where carriers agreed to the deployment criteria established by the FCC.¹⁰⁶

Phase II, once implemented, will provide ongoing support to deploy and maintain broadband and voice service in high-cost areas at rates comparable to urban areas. In Phase II, the FCC provided for up to \$1.8 billion in support to be distributed each year, over a period of five years. The FCC intends on using a combination of a forward-looking cost model and competitive bidding to award support. In 2012, the FCC continued the process of refining its forward-looking cost model.

The FCC also created a Mobility Fund that will provide up to \$300 million in one-time support to accelerate deployment of networks for mobile voice and broadband services in unserved areas. To receive support, carriers had to participate in an auction process and make certain deployment commitments.¹⁰⁷ In October 2012, the FCC released the detailed information regarding the winning bidders.¹⁰⁸ The three largest wireless carriers did not participate in the auction. In Florida, there were no “winning” bids. As a result, none of the eligible wireless carriers that offer service in Florida will receive any of \$300 million in support to expand service in Florida. The FCC will have an ongoing Mobility Fund support program. It will provide support of up to \$500 million per year targeted to areas where services would be unavailable absent federal support.

2. Low Income Reform

Support distributed from the low-income programs has been the primary driver in the increase in the overall size of the federal universal service program from 2008 to 2012. During

¹⁰⁴ Several states, NASUCA, NARUC, and the state members of the USF Joint Board challenged the FCC’s USF/ICC Order. Oral argument has been scheduled for November 13, 2013.

¹⁰⁵ FCC, Connect America Fund Phase I Interactive Map, <http://www.fcc.gov/maps/connect-america-fund-caf-phase-i>, accessed on May 16, 2013.

¹⁰⁶ Ibid.

¹⁰⁷ Specifically, carriers had to deploy networks to provide 3G or better mobile voice and broadband services.

¹⁰⁸ FCC, Public Notice, DA 12-1566, released October 3, 2012, http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db1003/DA-12-1566A1.pdf, accessed on May 16, 2013.

this time, these programs tripled in size from \$803 million to \$2.4 billion.¹⁰⁹ On February 6, 2012, the FCC released an Order to protect against waste, fraud, and abuse of the Federal Lifeline program.¹¹⁰ Because of the reforms adopted in this Order, which tightened requirements on recipients, overall demand began to decline during the first and second quarters of 2013.¹¹¹ The FCC Order adopted a number of reforms which include:

- Creation of National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers;
- Phase out of toll limitation service support;¹¹²
- Elimination of Link Up support except for recipients on Tribal lands;¹¹³
- Creation of a One-Per-Household rule which restricts Lifeline credits to one per household;¹¹⁴
- Reduction of the Federal universal service fund Lifeline Reimbursement to Lifeline providers from \$10 to \$9.25 per month for each Lifeline customer; and
- Requirement for Lifeline providers to access state or federal social services eligibility databases to determine an applicant's initial and annual program-based eligibility. If a Lifeline provider does not have access to a database, the applicant must provide documentation demonstrating that he/she qualifies for Lifeline under the program-based eligibility requirements.

Consistent with reforms made in the high-cost programs, the FCC selected 14 projects to participate in its Lifeline broadband adoption pilot program in December 2012.¹¹⁵ This program authorizes approximately \$13.8 million in support for rural, urban and suburban projects. The projects will provide data to inform the FCC on how the Lifeline program could be structured to

¹⁰⁹ FCC, Universal Service Monitoring Report, CC Docket 98-202, Tables 1.10 and 1.9, various years, <http://transition.fcc.gov/wcb/iatd/monitor.html>, accessed on May 16, 2013.

¹¹⁰ FCC, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45, released February 6, 2012,

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-11A1_Rcd.pdf, accessed on May 16, 2013.

¹¹¹ FCC, Contribution Factor & Quarterly Filings - Universal Service Fund (USF) Management Support, <http://www.fcc.gov/encyclopedia/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support>, accessed on May 16, 2013.

¹¹² Toll limitation service historically has included both toll blocking, which prevents the placement of all long distance and international calls for which the subscriber would be charged, and toll control, which limits to a preset amount the long-distance charges a subscriber can incur during a billing period.

¹¹³ Link Up provided qualifying consumers with discounts of up to \$30 off the initial costs of installing a single telecommunications connection.

¹¹⁴ A "household" is considered "any individual or group of individuals who are living together at the same address as one economic unit."

¹¹⁵ FCC, Order, DA 12-2045, released December 19, 2012, http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db1219/DA-12-2045A1.pdf, accessed on May 16, 2013.

promote the adoption and retention of broadband services by low-income households. Florida is among the 21 states affected by these projects. TracFone's pilot program will affect Florida and five other states. It will test the effect of both discounted price and hardware cost on mobile broadband adoption and retention. Throughout TracFone's six-state pilot program, it will not receive more than \$915,000 in support.

3. Rural Healthcare Reform

In December 2012, the FCC expanded its existing Universal Service Rural Healthcare program based on its pilot program expansion, which started in 2006. The FCC's Order implementing these reforms maintains a \$400 million ceiling on the cost of universal service support for broadband health care networks.¹¹⁶ The telecommunications component of the existing Rural Health Care Program will remain available. The new Healthcare Connect Fund will replace the Internet Access component of the existing Rural Health Care Program, which provides a 25 percent discount on Internet Access services. The new Healthcare Connect Fund will help expand access by health care providers to the high-bandwidth connections by:

- Removing limitations on technology and provider type;
- Encouraging consortia among smaller rural health care providers and urban medical centers;
- Increasing fiscal responsibility by requiring participants to contribute 35% of the costs;
- Allowing health care providers to construct broadband networks when that is cost effective; and
- Covering upgrades to higher speed service required for health care applications.

In addition, the FCC established a new pilot program to test expanding broadband healthcare networks to skilled nursing facilities. Up to \$50 million in support will be available from the fund over three years for these competitively-awarded pilots programs.

4. Contribution System Reform

In April, the FCC initiated a proceeding to consider modernizing how Universal Service fund contributions are assessed and recovered.¹¹⁷ Currently, USF is paid for by an assessment on the interstate and international revenues of carriers, as well as Voice over Internet Protocol (VoIP providers). The FCC has acknowledged that the current contribution system has given rise to uncertainty, inefficiency, and market distortions. Outdated rules and loopholes mean that services that compete directly against each other may face different treatment. Among the

¹¹⁶ FCC, Report and Order, FCC 12-150, released on December 21, 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-150A1.pdf, accessed on May 16, 2013.

¹¹⁷ FCC, Further Notice of Proposed Rulemaking, released April 30, 2012, http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0501/FCC-12-46A1.pdf, accessed on May 16, 2013.

options the FCC is considering is a change to assess contributions based on either total revenues (i.e., interstate and intrastate), connections, numbers, or a hybrid approach (of connections and revenues).

B. Next Generation 911

On February 22, 2012, Congress enacted the Next Generation 911 (NG911) Advancement Act of 2012 as part of the Middle Class Tax Relief and Job Creation Act of 2012.¹¹⁸ Part of the Act directs the FCC to issue a report containing recommendations for the legal and statutory framework for NG911 services.¹¹⁹ In general, NG911 systems would enable the public to transmit text, images, video and data to a 911 public safety answering point.

On December 13, 2012, the FCC released another notice seeking comments regarding rules relating to the build out of text-to-911 service.¹²⁰ The nation's four largest wireless carriers committed to make text-to-911 available to their customers by May 15, 2014, with significant deployments expected in 2013. The FCC proposed to require that all wireless carriers enable their customers to send text messages to 911 in areas where local 911 call centers are also prepared to receive the texts. The FCC sought comment on whether the May 15, 2014 date is achievable. The FCC also sought comment on an automated "bounce back" error messages to consumers attempting to text 911 in areas where the service is not yet available.

On February 22, 2013, the FCC submitted a report to Congress regarding the legal and statutory framework for NG911 and made recommendations to Congress. Among the FCC's recommendations were that Congress:

- Create incentives for states to become "early adopters;"
- Encourage state-level governance of NG911 deployment but consider the creation of a federal regulatory "backstop";
- Promote a consistent nationwide approach to key elements of NG911 deployment;
- Promote the development of location technologies that will support all NG911 applications regardless of the network or device used by the caller;
- Support establishment at the national level of certain databases that support NG911 routing and security; and

¹¹⁸ Middle Class Tax Relief and Job Creation Act of 2012, [http://thomas.loc.gov/cgi-bin/cpquery/R?cp112:FLD010:@1\(hr399\)](http://thomas.loc.gov/cgi-bin/cpquery/R?cp112:FLD010:@1(hr399)), accessed on May 16, 2013.

¹¹⁹ Section 6509, http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp112&sid=cp112D0pK&refer=&r_n=hr399.112&item=&&&el=TOC_295497&, accessed on May 16, 2013.

¹²⁰ FCC, Further Notice of Proposed Rulemaking, PS Docket Nos. 11-153 and 10-255, released on December 13, 2012, http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db1213/FCC-12-149A1.pdf, accessed on May 16, 2013.

- Could assist in the elimination of state regulations that are impeding NG911 deployment, while providing incentives for states to modernize their laws and regulations to accommodate NG911.

On May 8, 2013, the FCC adopted a *Report and Order* requiring all CMRS providers and providers that enable a consumer to send and receive text messages to provide an automatic “bounce-back” text message in situations where a consumer attempts to send a text message to 911 in a location where text-to-911 is not available. This capability is to be implemented no later than September 30, 2013.

C. TDM-to-IP Transition

In November 2012, two petitions were filed with the FCC asking it to initiate a rulemaking proceeding to respond to the ongoing transition of voice networks. Specifically, the transition of time-division multiplexed (TDM) facilities to networks based fully on Internet Protocol (IP) and the appropriate regulatory framework that should be applied.

The first petition, filed by AT&T on November 7, 2012, requests that the FCC initiate a proceeding to facilitate industry transition from legacy transmission platforms and services to new services based fully on IP.¹²¹ AT&T asks the FCC to conduct trial runs of the transition to next-generation services that include retiring TDM facilities and offerings with their replacement of IP-based alternatives in four select wire centers chosen by ILECs choosing to participate. The second petition, filed by the National Telecommunications Cooperative Association on November 19, 2012, seeks to review regulatory rules and requirements, while also seeking to maintain the authority and core competencies of state commissions.¹²² On December 14, 2012, the FCC released a Public Notice seeking comments from interested parties regarding the two proposals.¹²³

Additionally, on May 10, 2013, the FCC’s Technology Transitions Policy Task Force issued a Public Notice soliciting comment on the form and parameters of several proposed trials pending before the FCC. Included in the Notice were the TDM retirement trials requested by AT&T, along with possible trials for IP-based 911 services and trials serving consumers with wireless service in place of wireline service in certain geographic areas.

¹²¹ AT&T, Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, filed with the FCC on November 7, 2012, http://www.att.com/Common/about_us/files/pdf/fcc_filing.pdf, accessed on May 16, 2013.

¹²² National Telecommunications Cooperative Association, Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, filed with the FCC on November 19, 2012, <http://apps.fcc.gov/ecfs/document/view?id=7022064353>, accessed on May 16, 2013.

¹²³ FCC, Public Notice, DA 12-1999, released December 14, 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1999A1.pdf, accessed on May 16, 2013.

Appendix A - List of Certificated CLECs as of 12/31/12

**Indicates that the company did not respond to the Commission's data request.

365 Wireless, LLC	Bright House Networks Information Services (Florida), LLC
382 Networks, Inc.	Broadband Dynamics, L.L.C.
**A. SUR Net, Inc.	BroadRiver Communication Corporation
Absolute Home Phones, Inc.	Broadview Networks, Inc.
Access Communications, LLC.	Broadvox-CLEC, LLC
**Access Media 3, Inc.	Broadwing Communications, LLC
Access Networks of Florida, LLC	BT Communications Sales LLC
Access One, Inc.	Budget PrePay, Inc. d/b/a Budget Phone
Access Point, Inc.	BudgeTel Systems, Inc.
Access2go, Inc.	BullsEye Telecom, Inc.
ACN Communication Services, Inc.	Business Telecom, Inc. d/b/a EarthLink Business
Advanced Communications Southeast, Inc.	Cable & Wireless Americas Operations, Inc.
Aero Communications, LLC	Callis Communications, Inc.
Affordable Phone Services, Inc.	Cbeyond Communications, LLC
Airespring, Inc.	Centennial Florida Switch Corp.
ALEC, LLC	CenturyTel Fiber Company II, LLC d/b/a LightCore, a CenturyLink limited liability company
Alternative Phone, Inc.	Cincinnati Bell Any Distance Inc.
American Telephone Company LLC	City of Bartow
Americatel Corporation	City of Daytona Beach
ANEW Broadband, Inc.	City of Gainesville, a municipal corporation d/b/a GRUCom
Assurance Home Phone Services, Inc.	City of Lakeland
Astro Tel, Inc.	City of Leesburg
AT&T Corp.	City of Ocala
ATC Outdoor DAS, LLC	City of Quincy d/b/a netquincy d/b/a netquincy.com d/b/a www.netquincy.com
Atlantic.Net Broadband, Inc.	Clear Rate Communications, Inc.
ATN, Inc. d/b/a AMTEL NETWORK, INC.	Cogent Communications of Florida LHC, Inc.
Backbone Communications Inc.	Comcast Business Communications, LLC d/b/a Comcast Long Distance
Bandwidth.com CLEC, LLC	Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone d/b/a CIMCO, a Division of Comcast Business Services
BCN Telecom, Inc.	Comity Communications, LLC
BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service	Communications Authority, Inc
BellSouth Telecommunications, LLC d/b/a AT&T Florida d/b/a AT&T Southeast	
Benchmark Communications, LLC d/b/a Com One	
BetterWorld Telecom LLC d/b/a BetterWorld Telecom	
Birch Communications, Inc.	
Birch Telecom of the South, Inc. d/b/a Birch Telecom d/b/a Birch d/b/a Birch Communications	

ComNet (USA) LLC
 Comtech21, LLC
 Conterra Ultra Broadband, LLC
 Convergia, Inc.
 CoreTel Florida, Inc. d/b/a CoreTel
 **Covista, Inc.
 Cox Florida Telcom, L.P. d/b/a Cox
 Communications d/b/a Cox Business
 d/b/a Cox
 Crexendo Business Solutions, Inc.
 **Crown Castle NG East Inc.
 Custom Network Solutions, Inc.
 Dais Communications, LLC d/b/a Dais
 Communications
 Dedicated Fiber Systems, Inc.
 DeltaCom, Inc. d/b/a EarthLink Business
 Dialtone Telecom, LLC
 Digital Express, Inc.
 **DIGITALIPVOICE, INC.
 dishNET Wireline L.L.C.
 DRS Training & Control Systems, LLC.
 DSCI Corporation
 DSL Internet Corporation d/b/a DSLi d/b/a
 VOX3COM
 DukeNet Communications, LLC
 Easy Telephone Services Company
 ElectroNet Intermedia Consulting, Inc.
 Embarq Communications, Inc. d/b/a
 CenturyLink Communications
 ENA Services, LLC
 Enhanced Communications Network, Inc.
 d/b/a Asian American Association
 Entelegent Solutions, Inc.
 Ernest Communications, Inc.
 EveryCall Communications, Inc. d/b/a Local
 USA, All American Home Phone
 Excelacom Light, LLC.
 Express Phone Service, Inc.
 ExteNet Systems, Inc.
 Fast Phones, Inc. of Alabama
 FiberLight, LLC
 First Choice Technology, Inc.
 First Communications, LLC
 FLATEL, Inc.
 Florida Hearing and Telephone Corporation
 d/b/a Florida Hearing and Telephone
 Florida Phone Systems, Inc.
 Florida Telephone Services, LLC
 Fort Pierce Utilities Authority d/b/a
 FPUAnet Communications
 FPL FiberNet, LLC
 France Telecom Corporate Solutions L.L.C.
 Frontier Communications of America, Inc.
 General Computer Services, Inc. d/b/a
 BeCruising Telecom
 Georgia Public Web, Inc.
 Global Connection Inc. of America (of
 Georgia)
 Global Crossing Local Services, Inc.
 Granite Telecommunications, LLC
 **Great America Networks, Inc.
 GRU Communications
 Services/GRUCom/GRU
 GTC Communications, Inc.
 Harbor Communications, LLC
 Hayes E-Government Resources, Inc.
 Home Town Telephone, LLC
 Hotwire Communications, Ltd.
 Hypercube Telecom, LLC
 IBC Telecom Corp.
 IDT America, Corp. d/b/a IDT
 Image Access, Inc. d/b/a NewPhone, Inc.
 inContact, Inc. d/b/a UCN
 iNetworks Group, Inc.
 Integrated Path Communications, LLC
 IntelePeer, Inc.
 Inteltrace, Inc.
 Intellicall Operator Services, Inc. d/b/a ILD
 Interactive Services Network, Inc. d/b/a ISN
 Telcom
 InterGlobe Communications, Inc.
 Internet & Telephone, LLC
 Intrado Communications Inc.
 IPC Network Services, Inc.
 ITS Telecommunications Systems, Inc.
 J C Telecommunication Co., LLC
 Kenarl Inc. d/b/a Lake Wellington
 Professional Centre
 Kissimmee Utility Authority
 Knology of Florida, Inc.
 Latin American Nautilus U.S.A. Inc.
 Level 3 Communications, LLC

Lightspeed CLEC, Inc.
 Lightyear Network Solutions, LLC
 Linkup Telecom, Inc.
 Litestream Holdings, LLC
 Local Access LLC
 Local Telecommunications Services - FL,
 LLC
 Marco Island Cable, Inc.
 Maryland TeleCommunication Systems, Inc.
 MassComm, Inc. d/b/a Mass
 Communications
 Matrix Telecom, Inc. d/b/a Matrix Business
 Technologies also d/b/a Trinsic
 Communications also d/b/a Excel
 Telecommunications also d/b/a
 VarTec Telecom also d/b/a Clear
 Choice Communications
 **MBC Telecom LLC
 MCC Telephony of Florida, LLC
 McGraw Communications, Inc.
 MCImetro Access Transmission Services
 LLC d/b/a Verizon Access
 Transmission Services
 McLeodUSA Telecommunications Services,
 L.L.C.
 MegaPath Corporation
 Metropolitan Telecommunications of
 Florida, Inc. d/b/a MetTel
 Miami-Dade Broadband Coalition, Inc.
 Micro-Comm, Inc.
 Mitel NetSolutions, Inc.
 Mobilitie, LLC
 Momentum Telecom, Inc.
 MOSAIC NETWORKX LLC
 MULTIPHONER LATIN AMERICA, INC.
 **Navigator Telecommunications, LLC
 Nebula Telecommunications of Florida LLC
 Nettetalk.Com Inc. d/b/a Nettetalk
 Network Billing Systems, L.L.C.
 Network Innovations, Inc.
 Network Operator Services, Inc.
 Network Telephone Corporation d/b/a
 Cavalier Telephone d/b/a PAETEC
 Business Services
 Neutral Tandem-Florida, LLC
 New Edge Network, Inc. d/b/a EarthLink
 Business
 New Horizons Communications Corp.
 Nexus Communications, Inc. d/b/a Nexus
 Communications TSI, Inc.
 Norstar Telecommunications, LLC
 North American Telecommunications
 Corporation
 North County Communications Corporation
 NOS Communications, Inc. d/b/a
 International Plus d/b/a O11
 Communications d/b/a The Internet
 Business Association d/b/a I Vantage
 Network Solutions
 O1 Communications East, LLC
 One Voice Communications, Inc.
 OneTone Telecom, Inc.
 Opextel LLC d/b/a Alodiga
 Optical Telecommunications, Inc. d/b/a
 HControl Corporation d/b/a SH
 Services LLC
 Orlando Telephone Company, Inc. d/b/a
 Summit Broadband
 PaeTec Communications, Inc.
 Peerless Network of Florida, LLC
 **PeerTel Communication, LLC
 Phone Club Corporation
 PNG Telecommunications, Inc. d/b/a
 PowerNet Global Communications
 d/b/a CrossConnect d/b/a Thr!ve
 Communications
 Preferred Long Distance, Inc.
 Primus Telecommunications, Inc.
 Protection Plus of the Florida Keys, Inc.
 d/b/a ENGAGE
 COMMUNICATIONS
 Public Wireless, Inc.
 QuantumShift Communications, Inc.
 Qwest Communications Company, LLC
 d/b/a CenturyLink QCC
 RCLEC, Inc.
 Reliance Globalcom Services, Inc.
 ReTel Communications, Inc.
 RightLink USA, Inc.
 Ring Connection, Inc.

**RNK Inc. d/b/a RNK Communications
 Inc.
 Rosebud Telephone, LLC
 Sage Telecom, Inc.
 Sago Broadband, LLC
 Sandhills Telecommunications Group, Inc.
 d/b/a SanTel Communications
 Saturn Telecommunication Services Inc.
 d/b/a EarthLink Business
 **Semnac Technologies, LLC
 Servi Express Caracol d/b/a Telefonica
 Express
 Shands Teaching Hospital and Clinics, Inc.
 **SIP Interchange Corporation
 **SKYNET360, LLC
 Smart City Networks, Limited Partnership
 Smart City Solutions, LLC d/b/a Smart City
 Communications
 SNC Communications, LLC
 Southeastern Services, Inc.
 Southern Light, LLC
 Southern Telecom, Inc. d/b/a Southern
 Telecom of America, Inc.
 Spectrotel, Inc. d/b/a OneTouch
 Communications d/b/a Touch Base
 Communications
 Sprint Communications Company Limited
 Partnership
 STS Telecom, LLC
 Sunesys, LLC
 Sun-Tel USA, Inc.
 T3 Communications, Inc. d/b/a Tier 3
 Communications d/b/a Naples
 Telephone and d/b/a Fort Myers
 Telephone
 Talk America Inc. d/b/a Cavalier Telephone
 d/b/a PAETEC Business Services
 TCG South Florida
 TelCentris Communications, LLC
 Telco Experts, LLC
 TelCove Operations, LLC
 Tele Circuit Network Corporation
 Telecom Management, Inc. d/b/a Pioneer
 Telephone
 TeleDias Communications, Inc.
 Telepak Networks, Inc.
 TelOps International, Inc. d/b/a AmTel
 Telovations Inc.
 Telrite Corporation
 Telscape Communications, Inc.
 Terra Nova Telecom, Inc.
 The Other Phone Company, Inc. d/b/a
 Cavalier Telephone d/b/a PAETEC
 Business Services
 **Think 12 Corporation d/b/a Hello Depot
 Touchtone Communications Inc. of
 Delaware
 TQC Communications, Corp.
 Transparent Technology Services
 Corporation d/b/a North Palm Beach
 Telephone Company
 Tristar Communications Corp.
 tw telecom of florida l.p.
 U.S. Metropolitan Telecom, LLC
 Unity III Telecom, LLC
 **Unity Telecom, LLC
 US LEC of Florida, LLC d/b/a PAETEC
 Business Services
 US Signal Company, L.L.C.
 US Telesis, Inc.
 Utility Board of the City of Key West d/b/a
 Keys Energy Services
 Vanco US, LLC
 Velocity The Greatest Phone Company
 Ever, Inc.
 Verizon Florida LLC
 Verizon Select Services Inc.
 VoDa Networks, Inc.
 Voxbeam Telecommunications Inc.
 Wholesale Carrier Services, Inc.
 Wide Voice, LLC
 WiMacTel, Inc.
 Windstream KDL, Inc.
 Windstream Norlight, Inc.
 Windstream NTI, Inc.
 Windstream NuVox, Inc.
 WonderLink Communications, LLC
 WTI Communications, Inc.
 XO Communications Services, LLC
 XYN Communications of Florida, LLC
 YMax Communications Corp.
 Zone Telecom, LLC

Appendix B - Summary of Complaints Filed By LECs

(Calendar Year 2012)

Carrier		Date Opened	Complaint or Docket Number	Description	Date Closed	Resolution
AT&T	Digital Express	6/5/2012	120169-TP	Objection to adoption of interconnection agreement	pending	FPSC approved parties' request for abatement until the conclusion of Docket No. 110087-TP (AT&T/Express Phone, currently on appeal)
Terra Nova Telecom	Verizon Florida LLC	7/5/2012	informal	Delayed installation of CLEC's circuits	7/19/2012	Verizon installed the circuits to customer's satisfaction
CompSouth	AT&T	8/9/2012	informal	Objection to carrier notice of non-impairment pursuant to 47 C.F.R. §51.319	9/10/2012	AT&T withdrew its notice of nonimpairment
Budget Phone	AT&T	8/28/2012	120231-TP	Alleged unlawful restriction on resale of bundled promotions	3/15/2013	FPSC approved parties' joint motion to dismiss
Terra Nova Telecom	Verizon Florida LLC	9/26/2012	informal	billing dispute: both amount billed and dispute process	pending	Verizon agreed to refund certain charges; parties still working out details
Terra Nova Telecom	AT&T	10/1/2012	informal	customer's circuits were taken out of service	10/1/2012	AT&T restored circuits the same day
Southeastern Services	Birch	11/2/2012	informal	Billing dispute over possibly fraudulent international calls	1/25/2013	Parties worked out a settlement

Glossary

Access Line	The circuit or channel between the demarcation point at the customer's premises and the serving end or class 5 central office.
Backhaul	In wireless networks, the connection from an individual base station (tower) to the central network (backbone). Typical backhaul connections are wired high-speed data connections (T1 line, etc.), but they can be wireless as well (using point-to-point microwave or WiMax, etc.).
Broadband	A term describing evolving digital technologies offering consumers integrated access to voice, high-speed data services, video on demand services, and interactive information delivery services.
Circuit	A fully operational two-way communications path.
CLEC	<i>Competitive Local Exchange Company</i> . Any company certificated by the Florida Public Service Commission to provide local exchange telecommunications service in Florida on or after July 1, 1995.
Facilities-based VoIP service	This term refers to VoIP service provided by the same company that provides the customer's broadband connection. Facilities-based VoIP services are generally provided over private managed networks and are capable of being provided according to most telephone standards. While this service uses Internet Protocol for its transmission, it is not generally provided over the public Internet.
FiOS	FiOS is Verizon's suite of voice, video, and broadband services provisioned over fiber optic cable directly to the customer premises. FiOS can currently provide Internet access with maximum download speed of 300 Mbps and upload speed of 65 Mbps.
ICA	<i>Interconnection Agreement</i> . An interconnection agreement is a contract that establishes the rates, terms and conditions that govern the business relationship between telecommunications companies.
ILEC	<i>Incumbent Local Exchange Company</i> . Any company certificated by the FPSC to provide local exchange telecommunications service in Florida on or before June 30, 1995.
Interconnected VoIP service	According to the FCC, it is a VoIP service that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment; and (4) permits users generally to receive calls that originate and terminate on the public switched telephone network.

Intermodal	The use of more than one type of technology or carrier to transport telecommunications services from origination to termination. When referring to local competition, intermodal refers to nonwireline voice communications such as wireless or VoIP.
Internet Protocol (IP)	The term refers to all the standards that keep the Internet functioning. It describes software that tracks the Internet address of nodes, routes outgoing messages, and recognizes incoming messages.
Over-the-Top VoIP service	This term refers to VoIP service that is provided independently from a particular broadband connection and is transmitted via the public Internet. Examples of this service include Vonage and Skype.
Switched Access	Local exchange telecommunications company-provided exchange access services that offer switched interconnections between local telephone subscribers and long distance or other companies. Long distance companies use switched access for origination and termination of user-dialed calls.
Telecommunications Act of 1996 (the 1996 Act)	The federal Telecommunications Act of 1996 established a national framework to enable CLECs to enter the local telecommunications marketplace.
U-verse	U-verse is the brand name of AT&T for a group of services provided via Internet Protocol (IP), including television service, Internet access, and voice telephone service. Similar to Verizon's FiOS service, AT&T's U-verse is deployed using fiber optic cable.
Universal Service	This term describes the financial support mechanisms that constitute the national universal service fund. This fund provides compensation to telephone companies or other communications entities for providing access to telecommunications services at reasonable and affordable rates throughout the country, including rural, insular, high-cost areas, and public institutions.
Universal Service Administrative Company (USAC)	USAC is an independent American nonprofit corporation designated as the administrator of the federal Universal Service Fund by the Federal Communications Commission. USAC is a subsidiary of the National Exchange Carrier Association.
VoIP	<i>Voice over Internet Protocol</i> . The technology used to transmit voice conversations over a data network using Internet Protocol.
Wireline	A term used to describe the technology used by a company to provide telecommunications services. Wireline is synonymous with "landline" or land-based technology.



Public Service Commission

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

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

DATE: June 14, 2013
TO: Braulio L. Baez, Executive Director
FROM: Mark A. Futrell, Director, Office of Industry Development and Market Analysis *MF*
S. Curtis Kiser, General Counsel *SK*
Thomas E. Ballinger, Director, Division of Engineering *DB*
James W. Dean, Director, Division of Economics *J.W.D.*
RE: Briefing on Proposed Implementation Plan for 2013 Legislative Directive

CRITICAL INFORMATION: Please place on the June 25, 2013 Internal Affairs.
Direction from the Commission is sought.

The 2013 Florida Legislature passed Senate Bill 1472 which amends section 366.93, Florida Statutes (F.S.), regarding cost recovery for nuclear and integrated gasification combined cycle power plants. The bill revises the basis for calculating carrying cost, establishes additional regulatory requirements for investor-owned electric utilities (IOU) to recover costs and to proceed with project activities, and requires IOUs to demonstrate intent to construct a project. On June 10, 2013, the bill was presented to the Governor who has until June 25, 2013 to take action. This memorandum provides a summary of SB 1472 and describes the proposed plan to implement the requirements of the bill, should it become law. Staff seeks approval from the Commission on the proposed implementation plan. Also, additional factors to be analyzed as part of the feasibility analysis in the Nuclear Cost Recovery Clause (NCRC) (Docket No. 130009-EI) are described for the Commission's information.

cc: Chuck Hill

I. Proposed Implementation Plan for SB 1472

A. Allowance for Funds Used During Construction (AFUDC)

Summary: The bill amends section 366.93(2)(b), F.S., such that carrying costs shall be calculated based on the investor-owned electric utility's (IOU) most recently approved pretax AFUDC rate at the time an increment of cost recovery is sought. Thus, the AFUDC rate used to calculate carrying costs for recovery through the NCRC would be equivalent to the AFUDC rate used for all other purposes. Previously, the statute fixed the AFUDC rate applied during the entire project, at the rate in effect at the time of passage (2006). Assuming the bill becomes law, after July 1, 2013, this amendment would have the effect of decreasing the AFUDC rate applied in the NCRC from 7.420% to 6.52% for Florida Power and Light Company (FPL), and from 8.848% to 7.440% for (Duke Energy Florida) DEF.

Implementation:

1. Docket No. 130009-EI

Require FPL and DEF to submit through discovery, revised schedules which recognize the change in AFUDC for estimated expenses during the period July 1-December 31, 2013, and for projected expenses in 2014. The data from the filings will be used to determine the total costs to be recovered from FPL customers in 2014. The DEF Settlement Agreement sets the recovery factor for Levy through December 31, 2016. Therefore, any impact on Levy costs due to the change in AFUDC will be reflected in DEF customer bills after 2016.

2. Rulemaking - Revise Rule 25-6.0423(5)(b), F.A.C., to reflect the change in the calculation of carrying costs.

B. Recovery of Costs Prior to Licensure/Certification

Summary: The bill creates section 366.93(3)(b), F.S., which limits cost recovery through the NCRC to only costs related to applying for a license or certification until such license or certification is obtained.

Implementation:

Rulemaking - Revise Rule 25-6.0423, F.A.C., to reflect the change in statute.

C. FPSC Approval to Commence Preconstruction and Construction Phases

Summary: The bill creates section 366.93(3)(c), F.S., which requires an IOU to receive Florida Public Service Commission (FPSC) approval to proceed with work during the preconstruction phase after it receives its license or certification. To grant such approval, the FPSC must find that the facility is feasible and that projected costs are reasonable.

The bill creates section 366.93(3)(e), F.S., which requires an IOU to receive FPSC authorization to commence the construction phase. The FPSC must determine that the facility remains feasible and that projected costs are reasonable.

Implementation:

1. Docket No. 130009-EI

No FPSC action required at this time.

2. Rulemaking - Revise Rule 25-6.0423, F.A.C., to reflect the change in statute.

D. FPSC Approval of Certain Purchases

Summary: The bill creates section 366.93(3)(d), F.S., requiring an IOU to petition the FPSC for approval of any material or equipment purchases during the preconstruction phase that exceed 1 percent of the total projected costs for the project, after obtaining approval to proceed with preconstruction activities. The specific material or equipment purchases occurring during the preconstruction phase and subject to this provision will require further FPSC decision and may require additional rulemaking.

Implementation:

1. Docket No. 130009-EI

No FPSC action required at this time.

2. Rulemaking - Revise Rule 25-6.0423, F.A.C., to reflect the change in statute.

E. Requirements if Construction of a Facility has not begun

Summary: The bill creates section 366.93(3)(f), F.S., which establishes requirements if the IOU has not begun construction of a facility by certain deadlines.

Under section 366.93(3)(f)1.a., F.S., if the IOU has not begun construction 10 years after obtaining a license or certification, the IOU must petition the FPSC to preserve the opportunity for future recovery through the NCRC. The FPSC must determine if the IOU intends to construct the facility. If the FPSC finds a lack of such intent, it may prohibit any future cost recovery through the NCRC related to the facility.

Section 366.93(3)(f)1.b., F.S., precludes recovery of future costs through the NCRC if the IOU has not begun construction 20 years after obtaining a license or certification.

Section 366.93(3)(f)2., F.S., establishes that nothing in this section shall preclude the recovery of the full revenue requirement in base rates upon commercial in-service date of the facility, consistent with section 366.93(4), F.S.

Section 366.93(3)(f)3., F.S., establishes that the FPSC may find a utility intends to construct a facility if the utility proves by a preponderance of the evidence that it has committed sufficient, meaningful, and available resources to enable the facility to be completed, and that the utility's intent is realistic and practical. This language presents terms and conditions that are undefined, and appears to rely on the FPSC's discretion to determine what is sufficient, meaningful, and available, and what is realistic and practical. The FPSC order establishing the threshold for meeting these requirements will be subject to appeal.

Implementation:

1. Docket No. 130009-EI

No FPSC action required at this time.

2. Rulemaking - Revise Rule 25-6.0423, F.A.C., to reflect the change in statute.

II. Additional Factors in the Feasibility Analysis of Completing the Nuclear Projects (Docket No. 130009-EI)

The FPSC has existing authority and ongoing responsibility to annually review, in the NCRC, the long-term feasibility of completing the nuclear projects. The review includes an assessment of trends in quantitative and qualitative factors affecting feasibility. The feasibility analysis is an evolving process which allows the FPSC to consider additional factors during the development of the projects.

Traditionally, the FPSC has reviewed the following factors in the feasibility analysis:

1. Economic feasibility which includes an assessment of fuel costs, environmental compliance costs, nuclear project costs, and project cost-effectiveness compared to a natural gas-fired combined cycle unit, under multiple scenarios;
2. Regulatory feasibility which includes an assessment of federal and state regulatory policies which could impact the project cost and schedule. These include potential emissions standards, NRC approval of the combined operating license, NRC rulemaking proceedings, Florida site certification, and negotiations for land, roadway improvements and water supply;
3. Technical feasibility which addresses issues which may affect the generating technology to be utilized for the facility;

4. Funding feasibility which addresses the ability of the IOU to obtain funding for the project;
5. Joint ownership which addresses the efforts of the IOU to assess opportunities for joint ownership as a means of reducing project risk and cost to the IOU's ratepayers.

Staff believes it would be beneficial to evaluate additional factors as part of the feasibility analysis in the current NCRC proceeding. Information on the following factors will be gathered through discovery:

1. The continuing strategic value of fuel and generation technology diversity, baseload generating capacity, and reduction in dependence on fuel oil and natural gas;
2. The effects of the nuclear facilities on system reliability and integrity, including reserve margins;
3. Whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.

DRAFT

State of Florida



Public Service Commission

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

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

DATE: June 17, 2013

TO: Ronald A. Brisé, Chairman
Lisa Polak Edgar, Commissioner
Eduardo E. Balbis, Commissioner
Julie I. Brown, Commissioner
Art Graham, Commissioner

FROM: S. Curtis Kiser, General Counsel 
Katherine Pennington, Legislative Director

RE: 2013 Legislative Wrap-Up – Summary of Key Bills

KEY BILLS THAT PASSED

Energy

HB 0579 by Representative Ray – Relating to Natural Gas Motor Fuel

Summary: House Bill 579 amends the tax structure for the per-gallon equivalent of natural gas motor fuel to levels comparable to diesel fuel and provides that those taxes will be collected “at the pump.” The bill eliminates current requirements for motorists to obtain a vehicle sticker for use at natural gas refueling facilities, establishes criteria for potential natural gas fuel retailers, and creates a natural gas fuel fleet rebate program within the Department of Agriculture and Consumer Services. Finally, the bill appropriated \$6 million annually through the 2017-2018 fiscal year to fund the natural gas fuel fleet rebate program.

Provisions Affecting the Florida Public Service Commission: Staff estimates minimal impact to the Florida Public Service Commission (FPSC). Some local distribution companies (LDCs) may be required to file tariffs listing charges for service related to the dispensation of natural gas as motor fuel.

FPSC Action: None

Status: The Governor approved Senate Bill 579 on June 14, 2013, and the law was filed as Chapter 2013-198, Laws of Florida.

SB 0682 by Senator Simpson – Relating to Fossil Fuel Combustion Products

Summary: Senate Bill 682 creates section 403.7047, F.S., relating to the storage, disposal, and usage of fossil fuel combustion byproducts, including fly ash. The bill defines certain usages of fossil fuel generation byproducts, including use in cement, concrete, or payment aggregate as “beneficial.” These usages are limited and intended to minimize any negative environmental impacts from usage. The legislation exempts these products from being defined as hazardous waste for purposes of state law. This change is expected to limit any impact from a federal finding that these products are classified as hazardous waste.

Provisions Affecting the Florida Public Service Commission: Staff does not expect the legislation to have a direct impact on the FPSC. The bill will likely reduce the regulations that investor-owned electric utilities under FPSC jurisdiction will face regarding disposal of fossil fuel combustion byproducts.

FPSC Action: None

Status: The Governor approved SB 682 on May 30, 2013, and the law was filed as Chapter 2013-068, Laws of Florida.

SB 1472 by Senator Legg and others – Relating to Nuclear and Integrated Gasification Combined Cycle Power Plants

Summary: Senate Bill 1472 amends section 366.93, Florida Statutes (F.S.), relating to cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants (IGCC). The statute directs the Florida Public Service Commission (FPSC) to establish alternative cost recovery mechanisms for the recovery of certain prudently incurred costs associated with the development of nuclear and integrated gasification combined cycle (IGCC) electric generating facilities, and associated facilities by investor-owned electric utilities (IOUs).

Provisions Affecting the Florida Public Service Commission: The bill amends section 366.93(2)(b), F.S., such that carrying costs shall be calculated based on the investor-owned electric utility’s (IOU) most recently approved pretax AFUDC (Allowance for Funds Used During Construction) rate at the time an increment of cost recovery is sought.

Current law provides that the carrying costs for projects approved under section 366.93, F.S., shall be equal to the pretax AFUDC in effect when the original law went into effect (2006).

SB 1472 changes to the AFUDC rate used to calculate carrying costs for recovery, through the alternative cost recovery mechanism, would be equivalent to the AFUDC rate used for all other purposes.

The change in the calculation for the AFUDC rate would have the effect of decreasing the AFUDC rate applied in the Nuclear Cost Recovery Clause (NCRC) from 7.420 percent to 6.52 percent for Florida Power & Light (FPL), and from 8.848 percent to 7.440 percent for Duke Energy (formerly Progress). To give an indication of dollar impact, if the new AFUDC rates were fixed going forward, it would result in a savings of approximately \$710 million over the life of the Turkey Point project and approximately \$870 million over the life of the Levy project.

AFUDC Rates Established by the FPSC			
Florida Power and Light Company		Duke Energy	
Effective Date	AFUDC Rate	Effective Date	AFUDC Rate
January 1, 2005	7.420%	January 1, 2006	8.848%
January 1, 2008	7.650%	April 1, 2010	7.440%
January 1, 2009	7.410%		
April 1, 2010	6.410%		

Since the AFUDC rate in the NCRC will now change each time a new rate is approved for these utilities, the amount of savings actually realized cannot be determined at this time. There is a possibility that a rate could be approved at some future time that is actually higher than that previously fixed in the original statute. Further, it is unknown if the change in AFUDC rate will have any impact on the utilities' efforts to attract capital in the future.

Section 366.93(3)(c), F.S.: The bill creates section 366.93(3)(c), F.S., to limit cost recovery through the alternative cost recovery mechanism to only costs related to obtaining the licensing or certification from the Nuclear Regulatory Commission. While the utility seeks a license or certification from the Nuclear Regulatory Commission, the utility may only recover cost relating to, or necessary for, licensing or certification.

Once the utility obtains a license or certification from the Nuclear Regulatory Commission, it must petition the FPSC for approval to proceed with preconstruction work beyond activities necessary to obtain the license or certification. The FPSC must determine that the facility remains feasible and that construction of the plant remains feasible and that the projected costs for the plant are reasonable prior to approving preconstruction work on a plant.

The bill has the effect of dividing what is currently considered the preconstruction phase into two separate phases, with both requiring FPSC approval to move forward from one phase to the next. The bill may create a possibility of extending the project by precluding the efficient management of activities that would otherwise occur concurrently. The bill also adds a procedural layer to the process that could necessitate a pause in the project while awaiting FPSC approval to begin additional preconstruction work. As with any FPSC order, the approval to move forward with preconstruction work would be subject to appeal, potentially further extending the project and increasing project costs.

Section 366.93(3)(d), F.S.: The bill creates section 366.93(3)(d), F.S., to require the utility to petition the FPSC for approval of any preconstruction materials or equipment purchases that

exceed one percent of the total projected costs of the project. The specific material or equipment purchases occurring during the preconstruction phase and subject to the subsection are unclear.

Section 366.93(3)(e), F.S.: The bill creates section 366.93(3)(e), F.S., to require that an IOU receive FPSC authorization before it can commence the construction phase. The FPSC must determine that the facility remains feasible and that projected costs are reasonable. This subsection adds a procedural layer of regulatory approval and potential appeal to the process, thus creating the potential for delays and increased costs.

Section 366.93(3)(f), F.S.: The bill creates section 366.93(3)(f), F.S., to establish requirements if an IOU does not begin construction of a plant by certain deadlines. If the IOU does not begin construction within 10 years of obtaining a license or certification from the Nuclear Regulatory Commission, the IOU must petition the FPSC to preserve its opportunity for future recovery through the alternative cost recovery mechanism. The FPSC must determine if the IOU intends to construct the facility. If the FPSC finds a lack of intent to construct the facility, it may prohibit any future cost recovery under this section.

If the IOU does not begin construction within 20 years of obtaining a license or certification from the Nuclear Regulatory Commission, the IOU would not be eligible for alternative cost recovery of future costs relating to the plant. It appears that project costs could still be eligible for traditional rate base recovery methods.

Section 366.93(3)(f)3., F.S.: The bill establishes that the FPSC may find that a utility intends to construct a plant if the utility proves by a preponderance of the evidence that it has committed sufficient, meaningful, and available resources to enable the plant to be completed and that the utility's intent to construct the plant is realistic and practical. This language presents terms and conditions that are undefined, and appears to rely on FPSC discretion to determine what is sufficient, meaningful, and available, and what is realistic and practical.

FPSC Action: Changes in the AFUDC rates will be addressed in the 2013 Nuclear Cost Recovery Clause proceedings and in subsequent cost recovery proceedings. Additionally, the FPSC will initiate revisions to Rule 25-6.0423, F.A.C. Additional FPSC regulatory changes or activities prescribed in the legislation will occur following licensure or certification by the Nuclear Regulatory Commission.

Status: The Governor approved Senate Bill 1472 on June 14, 2013, and the law was filed as Chapter 2013-184, Laws of Florida.

SB 0948 by Senator Grimsley – Relating to Water Supply

Summary: Senate Bill 948 amends various sections of chapters 373 and 507, F.S. The legislation encourages utilities, private landowners, Department of Environmental Protection, Department of Agriculture and Consumer Services, municipalities, counties, and self-suppliers to create multijurisdictional water supply entities. The legislation requires that demand projections

for determining needs of agricultural self-suppliers be based on “best available data.” The legislation also requires the Department of Agriculture and Consumer Services to develop an agricultural water supply planning program.

Provisions Affecting the Florida Public Service Commission: The legislation has no direct impact on the FPSC. Some utilities currently subject to FPSC jurisdiction could transfer to a regional system under local or regional government jurisdiction.

FPSC Action: None

Status: The Governor approved Senate Bill 948 on June 14, 2013, and the law was filed as Chapter 2013-177, Laws of Florida.

SB 1808 by the Committee on Environmental Preservation and Conservation – Relating to Numeric Nutrient Criteria

Summary: Senate Bill 1808 provides the Department of Environmental Protection (DEP) with the authority to legislate upstream nutrient criteria in order to reduce downstream (estuary) nutrients. The legislation adopts DEP standards for nutrient criteria in streams, springs, lakes and estuaries in anticipation of the repeal of federal standards and provides the DEP the authority to interpret nutrient criteria for total nitrogen, total phosphorous and chlorophyll for non-estuarine coastal waters.

Provisions Affecting the Florida Public Service Commission: No direct impact to the FPSC.

FPSC Action: None

Status: The Governor approved Senate Bill 1808 on May 30, 2013, and the law was filed as Chapter 2013-071, Laws of Florida.

Other Bills

SB 0002 by the Committee on Ethics and Elections - Relating to Ethics

Summary: Senate Bill 2 makes numerous changes to Part III of Chapter 112, F.S., relating to public officers and employees, candidates for public office, filing of financial disclosure documents, and the collection of fines imposed by the Commission on Ethics. The legislation amends several other sections of Florida Statutes to incorporate and conform to the changes made to Part III of Chapter 112, F.S.

Provisions Affecting the Florida Public Service Commission: The legislation amends several sections of Part III of Chapter 112, F.S., of interest to employees and commissioners of the FPSC:

- Amends the definition of “business entity” contained in section 112.312(5), F.S., to include companies and limited liability companies. It further amends section 112.312(12)(b), F.S., to provide which items are not gifts. The language broadens the definition of business entities that may be the origin of gifts as provided under Chapter 112, F.S. The FPSC may need to revise its Administrative Procedures Manual (APM) to reflect this broadened definition. Additionally, training materials provided during ethics training relating to gifts may need to be revised to reflect this change.
- Amends section 112.313(9)(a)(3)(b), F.S., to prohibit, for a period of two years following vacation of office, a former member of the Legislature from lobbying for compensation, before an executive branch agency, agency official, or employee. Former members of the Legislature are currently prohibited from lobbying the Legislative branch for two years after they vacate their office. There is no change to the current law relating to lobbying by former PSC Commissioners.
- Creates section 112.31425, F.S., permitting public officers to create a blind trust and place their assets into the trust. (For purposes of this new section, it appears that “public officer” is not defined; therefore, its applicability to Commissioners is unclear.) When a public officer places assets into a blind trust, the public officer gives the trustee the authority to dispose of the assets. The bill prohibits certain relatives and other individuals from serving as a trustee. The bill specifies that the trust agreement must contain a statement of purpose namely, to remove control and knowledge of the investments so that conflicts between the grantor’s responsibilities as a public officer and his or her private interests are eliminated. Assets placed in a blind trust would not give rise to certain conflicts of interest. Assets in the trust would not create a violation of the prohibition on doing business with one’s own agency in s. 112.313(3), F.S.; would not give rise to a conflicting employment or contractual relationship which would be prohibited in s. 112.313(7), F.S.; and the assets in the blind trust would not give rise to a voting conflict of interest under s. 112.3143, F.S.
- Amends section 112.3143, F.S., relating to voting conflicts to require state public officers to abstain from voting on any matter that the public office knows would inure to his or her special private gain or loss. (This section of law currently defines “public officer” to include “any person elected or appointed to hold office in any agency, including any person serving on an advisory body.”) These changes expand the existing requirement that a public officer file a memorandum disclosing their financial interest in the matter. If it is not possible for the public officer to file the memorandum before the vote, then the memorandum must be filed after the vote no later than 15 days after the vote.
- Amends section 112.3144, F.S., relating to financial disclosure requirements, to provide that the Commission on Ethics shall treat an amended disclosure of financial interests that is filed prior to September 1 of the current year as the original filing. The bill further specifies that an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. This section also requires anyone filing a financial disclosure form to indicate

whether the filer used the dollar value threshold or the comparative (percentage) threshold to determine whether the filer is required to disclose his or her interests.

- Creates section 112.31445, F.S., to require the Commission on Ethics to make all financial disclosure filings, beginning with the 2012 filing year, publicly available through a searchable internet database. In addition, the Commission on Ethics, by December 1, 2015, must submit a proposal to the Legislature for a mandatory electronic filing system for recording and reporting full and public disclosure of financial interests.
- Creates section 112.31455, F.S., to provide additional tools for the Commission on Ethics to collect unpaid financial disclosure fines. The bill increases the statute of limitations to collect fines from four years to twenty years. The bill gives the Chief Financial Officer or governing body or board the authority to withhold the lesser of 10 percent, or the maximum allowable under federal law, of any payment made from public money to satisfy outstanding fines.
- Creates section 112.31485, F.S., prohibiting a reporting individual or procurement employee, or a member of his or her immediate family, from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee or a committee of continuous existence. The legislation also prohibits a political committee or a committee of continuous existence from giving, directly or indirectly, any gift to a reporting individual or procurement employee, or his or her immediate family. Finally, in addition to the penalties available in s. 112.317, F.S., the bill requires a penalty equal to three times the amount of the gift payable to the State's General Revenue Fund. The reporting individual, procurement employee, immediate family member, or an agent or person acting on behalf of a committee of continuous existence or a political committee is personally liable for the penalty.
- Amends section 112.3149, F.S., regarding the solicitation and acceptance of honoraria to prohibit a reporting individual or procurement employee from knowingly accepting an honorarium from a vendor doing business with the agency. This provision defines "vendor" as a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

FPSC Action: GCL and AIT will continue to determine if revisions to the APM or existing rules are necessary.

Status: The Governor approved Senate Bill 2 on May 1, 2013, and the law was filed as Chapter 2013-36, Laws of Florida.

SB 0050 by Senator Negron - Relating to Public Meetings

Summary: Senate Bill 50 creates section 286.0114, F.S., to require that a member of the public be given a reasonable opportunity to be heard at a public meeting on a proposition before a state or local government board or commission. The opportunity to be heard does not have to occur at

the same meeting at which the board or commission takes official action if the opportunity to be heard occurs at a meeting during the decision-making process and is within reasonable proximity in time before the meeting at which the board or commission takes official action. The legislation also sets forth certain exceptions to the "right to speak." The legislation does not apply to certain emergencies, ministerial acts such as approving minutes, or meetings in which the board or commission is acting in a quasi-judicial capacity. The legislation authorizes a board or commission to adopt certain reasonable rules or policies to ensure the orderly conduct of a public meeting.

Provisions Affecting the Florida Public Service Commission: The FPSC already affords certain procedures for participation in both its legislative and quasi-judicial proceedings. Rules 25-22.0021 and 25-22.0022, F.A.C., address participation at FPSC Agenda Conferences, and participation in formal administrative hearings is established through existing statutes and rules.

FPSC Action: Commission staff will continue to analyze what rulemaking, if any, may be appropriate because of this legislation.

Status: The Governor received the bill on June 14, 2013. He has until June 29, 2013, to approve or veto the legislation.

HB 0085 by Representative Steube - Relating to Public-Private Partnerships

Summary: House Bill 85 amends section 255.60, F.S., and creates sections 287.05715 and 336.71, F.S., to allow certain public entities to enter into "public-private partnerships" with private entities to fund certain publicly beneficial projects. Most of the qualifying projects listed in the legislation are municipal infrastructure projects and can include oil or gas pipelines, or a water, wastewater, or surface water management facility. These projects are likely to be initiated by municipal utilities and would not fall under the Commission's jurisdiction. The legislation also authorizes municipal electric utilities to enter into public-private partnerships only with the approval of the utility's governing board.

Provisions Affecting the Florida Public Service Commission: The bill allows municipal electric utilities to use the funding mechanisms authorized in the legislation. The FPSC could potentially be required to rule on a need determination for a project funded by these public-private partnerships.

FPSC Action: No rule revisions anticipated. The Commission will not take any action unless petitioned to rule on a need determination as noted above.

Status: The Governor received the bill on June 14, 2013. He has until June 29, 2013, to approve or veto the legislation.

HB 0649 by Representative Cummings - Relating to Public Records/Proprietary Confidential Business

Summary: House Bill 649 creates a public records exemption under Chapter 119, F.S. The legislation exempts proprietary confidential business information provided by a private or out-of-state entity to an electric utility subject to Chapter 119, F.S., in conjunction with a due diligence review of an electric project or a project to improve the delivery, cost, or diversification of fuel or renewable resources. The legislation provides that all proprietary confidential business information, as defined in the bill, shall be retained for one year after the due diligence review has been completed and the electric utility has decided whether to participate in the project. The legislation declares that a public necessity exists for the exemption to protect the provider from economic harm and competitive disadvantage, and to encourage the utilities to seek cost-effective solutions for improving the delivery, cost, and diversification of fuel or renewable energy. This public records exemption sunsets October 2, 2018, unless reenacted by the Legislature.

Provisions Affecting the Florida Public Service Commission: The provisions of this legislation do not apply to an investor-owned utility regulated by the FPSC. Although the FPSC is not directly impacted by the legislation, there may be an impact if a municipal electric utility were to petition the FPSC for a determination of need for an electric generating facility or electric gas transmission facility pursuant to Chapter 403, F.S., Florida's Electrical Power Plant Siting Act. There is a question as to whether the exemption will restrict access to records that the FPSC might need to analyze the petition for determination of need.

FPSC Action: No action required.

Status: The Governor approved the legislation on June 7, 2013 and the law was filed as Chapter 2013-143, Laws of Florida.

MONITORED BILLS THAT DID NOT PASS

Energy Bills

HB 4003 by Representative Rehwinkel-Vasilinda – Relating to Nuclear & Integrated Gasification Combined Cycle Power Plants

HB 4003 proposed a complete repeal of section 366.93, F.S., relating to alternative cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants.

The bill died in its first subcommittee of reference, the House Energy and Utilities Subcommittee. The bill had no Senate companion.

HB 309 by Representative Rehwinkel-Vasilinda and SB 0498 by Senator Thompson – Relating to Renewable Energy Producers

HB 309 and its identical companion, SB 498, proposed two changes to renewable energy policy in Florida. The bill proposed to change the basis for payments for standard offer contracts for renewable energy from the current “avoided cost methodology” to the same rate that a public utility would sell energy to taxpayers. The bill also proposed a revision to the definition of “public utility,” to exclude an entity that produces and sells five megawatts (MW) or less of renewable energy to users located on the property or adjacent or nearby to the property where the renewable energy facility is located. The bill would have exempted those renewable energy producers from regulation by the FPSC.

The bills both died in their first committee/subcommittee of reference, the Senate Communications, Energy, and Public Utilities Committee and the House Energy and Utilities Subcommittee, respectively.

HB 0567 by Representative Rehwinkel-Vasilinda – Relating to Energy

HB 567 was a proposed Memorial to Congress to urge Congress to stop increases in the federal loan guarantee program for new nuclear reactors and rescind remaining funds, and to support energy efficiency and renewable sources of energy. The Memorial also proposed funding for nuclear waste immobilization and increased funding for environmental cleanup programs.

The bill died in its first subcommittee of reference, the House Local and Federal Affairs Subcommittee of the Regulatory Affairs Committee.

HB 733 by Representative Mayfield– Relating to Government-Owned Utilities

HB 733 would have amended section 366.02, F.S., to include any municipality that supplies electricity or gas outside its incorporated limits under the Commission’s rate setting authority. The bill also proposed amendments to section 367.022, F.S., to require that any municipality that sells water or wastewater utility services outside its incorporated limits be subject to Commission regulation.

The bill died in its first subcommittee of reference, the House Energy & Utilities Subcommittee.

HB 743 by Representative Rodrigues and SB 1028 by Senator Clemens – Relating to Fracturing Chemical Usage Disclosure Act

HB 743 and SB 1028 would have created a hydraulic fracturing chemical registry in section 377.45, F.S., for all wells on which hydraulic fracturing treatments would be performed. The bills required that the registry include, at a minimum, the total volume of water used in the

hydraulic fracturing treatment and each chemical ingredient used for each well. The Department of Environmental Protection would have maintained the information and made it accessible on its website.

HB 743 passed the House on a 92-19 vote; however, the Senate bill was never heard. The House bill died in the Senate Environmental Preservation Committee.

HB 1337 by Representative Williams and SB 1452 by Senator Braynon – Relating to Supplier Diversity

HB 1337 and SB 1452 proposed to encourage greater economic opportunity for businesses controlled and operated by women, minorities, and disabled veterans. The bills would have also authorized the FPSC to require certain regulated corporations to submit a plan for increasing procurement from such businesses.

Both bills died in their first committees of reference, the House Energy and Utilities Subcommittee and the Senate Commerce and Tourism Committee.

Telecommunications

HB 1135 by Representative Antone and SB 1688 by Senator Altman – Relating to Telecommunications Access System

HB 1135 and SB 1688 relating to the Telecommunications Access System (TAS) proposed to: (1) require the FPSC to establish a recovery mechanism that would require wireless carriers to impose a monthly surcharge on their customers and to remit the moneys collected to the TAS administrator; (2) provide for the distribution of certain wireless mobile devices to qualified persons; (3) revise the membership of the TAS Advisory Committee; (4) require that the FPSC annually ensure that public safety and health providers comply with their obligation to obtain and operate telecommunications devices for the deaf and hard of hearing (or similar devices); and (5) require the FPSC to submit a report of its findings to the TAS Advisory Committee.

Both bills died in their first committees of reference, the House Energy and Utilities Subcommittee and the Senate Communications, Energy, and Public Utilities Committee.

Water and Wastewater

SB 1386 by Senator Hays – Relating to Water and Wastewater Utility Systems

SB 1386 proposed to implement some of the recommendations of the Study Committee on Water and Wastewater Utility Systems. The bill proposed to: (1) set a threshold for water resellers (landlord/tenant relationships) coming under FPSC jurisdiction; (2) require the FPSC to consider

secondary drinking water standards when determining quality of service; (3) establish criteria for the Commission to consider regarding quality relating to wastewater utilities, including smell, noise, "aerosol drift," and lighting; (4) authorize the FPSC to establish a reserve fund for water and wastewater utilities (infrastructure); (5) allow utility rates to increase or decrease without hearing upon 45 days' notice for enumerated expenses; (6) prohibit rate case expenses for staff-assisted rate cases except in the case of intervention by Public Counsel or other parties; and (7) eliminate "stacking" of rate case expenses.

SB 1386 died in its first committee of reference, the Senate Communications, Energy, & Public Utilities Committee.

Commission Specific

HB 447 by Representative Dudley and SB 1744 by Senator Bullard – Relating to Public Service Commission

HB 447 and SB 1744 proposed the nonpartisan election of FPSC Commissioners and limited the number of years that a Commission could serve. The bills would also have prohibited commissioners from accepting contributions from certain entities. Additionally, the bills required the FPSC to consult with the Public Counsel prior to ruling on any change of rates.

Both bills died in their first committees of reference, the House Energy and Utilities Subcommittee and the Senate Communications, Energy, and Public Utilities Committee.

KAP/nah

cc: Braulio Baez

Charles H. Hill

Curt Kiser

Roberta Bass

Katherine Fleming

Diana Caridad

Baldwyn English

Jim Varian

Steve Stolting

Mary Anne Helton

Adam Teitzman

Jennifer Crawford

Marshal Willis

Beth Salak

Tom Ballinger

Dale Mailhot

Apryl Lynn

Dan Hoppe

Bev DeMello

Rhonda Hicks

Mark Futrell

Greg Shafer

Cindy Muir

Cheryl Bulecza-Banks

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

***OUTSIDE PERSONS WHO WISH
TO ADDRESS THE COMMISSION AT***

INTERNAL AFFAIRS

June 25, 2013

<u>Speaker</u>	<u>Representing</u>	<u>Item #</u>
Dr. Jennifer L. Languell	Trifecta Construction Solutions	1
Susan Clark	Florida Power and Light	4

III. Supplemental Materials Provided During Internal Affairs

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

IV. Transcript

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**STATE OF FLORIDA
PUBLIC SERVICE COMMISSION**

Internal Affairs Meeting
Tuesday, June 25, 2013
Betty Easley Conference Center, Room 140

P R O C E E D I N G S

1
2 **CHAIRMAN BRISÉ:** Good morning, once again, and
3 we are going to begin our Internal Affairs. Today is
4 June the 25th. And so we have a few items on the agenda
5 today, and so we're going to go ahead and begin with
6 Item 1.

7 **MR. BAEZ:** Good morning, Commissioners. This
8 morning we have a special presentation. We are joined
9 by Doctor Jennifer Languell, who is kind enough to join
10 us. She is a nationally recognized leader in educating
11 construction industries about the benefits of green
12 building and sustainable development, and she recently,
13 most recently collaborated with Florida's first
14 affordable high-rise residence which received the
15 Florida Green Building Coalition certification. She
16 also works with governments and municipalities that are
17 currently moving towards sustainable and fiscally
18 prudent operating and management practices, and she also
19 is a frequent guest on national and international
20 conferences, speaking to professionals and consumers
21 about environmental and cost benefits of building green.

22 She has a Ph.D. in Civil Engineering -- I'm
23 sure that will sit well with some of our members -- and
24 we are very pleased to have her today.

25 Welcome, Doctor Languell.

1 **DOCTOR LANGUELL:** Thank you.

2 I was asked to come and speak. There were a
3 few different topics, one of which was about the
4 different certification options that are available, the
5 benefits. But I would like to just say, if you have any
6 questions or specific details that you are looking for
7 information on, please feel free to ask.

8 I did prepare a bit of a quick presentation.
9 Just so you know where I'm coming from, as an engineer,
10 I'm the return-on-investment type of mind-set. So I'm
11 not the tree-hugging, whale-kissing,
12 Birkenstock-wearing, granola-eating green person.

13 (Audience laughter.)

14 **DOCTOR LANGUELL:** I'm the does this make
15 financial sense green person. I do eat granola. I
16 can't really say that I don't do that. But, in general,
17 I really look to does this make good sense, are we doing
18 the best thing for the environment as well as for the
19 community. And I think I may have included some
20 information in here. We did a big study for the Army
21 Corp and found that in a lot of instances, depending on
22 where you're located, it quite honestly is cheaper to
23 buy power than it is to put the money into a
24 super-efficient building. So there is a good break-even
25 point. That's really what I look at, and that's what I

1 help local governments and private clients find.

2 And so my background, again, engineering. I
3 was an aircraft carrier engineer for Newport News Ship
4 Building before I really transitioned more into building
5 type construction and land development. I know the
6 Gator thing is, like, enemy territory up here, but I am
7 a Gator. Bear with me on that one, okay. All right.

8 My background, again, I do have a Ph.D. in
9 engineering, but I'm also a contractor. So I'm very
10 boots on the ground. So you will see pictures in here,
11 and that's because I'm out in the field, and I like, you
12 know, walking around and tramping around on job sites.
13 But, again, we have certified using all of the programs
14 out there, whether it's residential, commercial,
15 high-rise, LEED, which is USGBC, Florida Green Building
16 Coalition, Green Globes.

17 I'm active on the boards. I was lucky enough
18 to do a stint with the Discovery Channel and host a
19 series called Project Earth. And so I have traveled
20 quite a bit, and I know what's going on globally in this
21 topic.

22 This is just a representation of different
23 projects that we have done. In the bottom right corner
24 is Babcock Ranch. I have been working with those guys
25 now for close to eight years planning this community.

1 The top right is Progressive Point, which is
2 an affordable housing project. So that is a high-rise
3 affordable housing. It came in two million dollars
4 under budget. It was finished two months ahead of time,
5 and it was at 100 percent leased within -- two months
6 prior to them being expected for the project to be
7 leased. And at the actual ribbon cutting there was an
8 18-year-old gentleman there, and he was so thrilled
9 about his energy bill. He was telling people in the
10 elevator going to the ribbon-cutting about his energy
11 bill.

12 He was a foster care child; he was special
13 needs. And the fact that his electric bill was about
14 \$26 a month, and that's really what we designed this to
15 do, meant that he could afford to be living out on his
16 own now and transition out of his foster parents' house,
17 and he was in community college. So he was absolutely
18 thrilled and was telling anyone who would listen. And I
19 was, like, that's the story for this project. You know,
20 as great as this building is, we can build buildings all
21 day long. But the fact that we are helping this member
22 of our society transition affordably and be able to
23 afford living on his own to me was the great story.

24 And so, again, you see affordable housing all
25 the way up to the top middle project is a zero-energy

1 home, and that's in Treasure Island, which is close to
2 St. Pete. So that's a not-affordable project. But this
3 woman was from Germany, and she wanted to be zero
4 energy, and that was what drove her on that project in
5 particular.

6 Just some crazy pictures from the Discovery
7 Channel. So if any of you watch Shark Tank, Kevin
8 O'Leary is the middle shark on Shark Tank, and he was
9 one of the co-hosts with me, and he is as crazy as he
10 seems. So this is us, you know, in Greenland on the ice
11 sheet measuring melt rates for the ice, and trying to
12 see what we could do to preserve ice, if we needed to.
13 So I have both sides, financial as well as the
14 environmental to back me up.

15 A couple of programs we'll talk about very
16 briefly. USGBC, which is the LEED program. Most people
17 have heard of LEED, and they have because the USGBC has
18 about a \$30 million marketing budget annually, so they
19 spend a lot of money making sure you know their name.

20 The Florida Green Building Coalition is your
21 statewide organization that has comparable standards.
22 The main difference is they are more affordable and they
23 are detailed and specific to this climate. So they
24 address hot, humid climates. They address the fact that
25 we have disasters in this area, so they look at

1 hurricane mitigation and flooding and wildfires.

2 And then Green Globes is an up-and-coming
3 competitor nationally and globally to the USGBC. It's a
4 much more user friendly process than the LEED process.

5 And so, again, to give you just a mindset of
6 where I come from, we had two different clients, they
7 were both big box retailers, and they had similar
8 missions and wanted to go green. However, one of them,
9 the one on the left -- and I've changed the names of who
10 they are so, they wanted to be protected for whatever
11 reason -- but the one on the left said we'll listen to
12 what you want, and please help us save energy. That was
13 their goal. Save energy; we want to go green.

14 And so we started looking at their building
15 envelope and what could be done, and we found some major
16 points of infiltration. And for basically about \$9,000
17 we were able to modify their building. The other 9,000
18 went into data collection. And there were rebates
19 available from the local utility at the time. There
20 were some \$9,000 rebates for air barriers. And so the
21 bottom line was they had a one-year payback, and they
22 were able to save 75,000 kilowatt hours.

23 The second client, their idea of going green
24 was buying photovoltaics. That is what going green
25 meant to them. They didn't care if they had a leaky

1 building; they didn't care if they had inefficient light
2 bulbs. Their idea of going green was photovoltaic
3 panels. And so for \$250,000 we were able to install a
4 bunch of photovoltaic panels which produced 82,000
5 kilowatt hours per year, which gave them a 27-year
6 payback. And so we usually go in and say, look, spend
7 your \$9,000 and you can basically save as much as these
8 guys generated for \$250,000.

9 But that's my approach on the left. We will
10 do what's on the right if we have a client who says they
11 want to do it, but we are going to try and get people to
12 do what is on the left first, which is conserve, tighten
13 up their envelope, and do things that have a very low
14 payback before they do something with a 27-year payback.

15 So USGBC, most of their -- their biggest
16 client is the federal government because there was an
17 Executive Order, 13514 and 13423, that basically said
18 you will certify LEED and you will do LEED Silver. And
19 so a lot of their business is from the federal
20 government.

21 Now, that being said, we, as a part of that
22 Army Corp study, started poking holes through that whole
23 process, and found out that by pursuing what the
24 executive orders are pursuing, they are making us, as
25 taxpayers, do things that have up to a 492-year return

1 on investment. And so I had to give a briefing at the
2 Pentagon and basically said you are wasting my money.
3 As a taxpayer, a 492-year return on investment is not
4 acceptable.

5 So they are starting to look at certification
6 versus performance. And I always will tell them to
7 pursue the performance, not the paper. And it has
8 turned into pursuing the paper, the certification, the
9 certificate versus an actual good-performing building.

10 And so these are all third-party administered.
11 They have boards of directors. I know you'll have
12 access to this, so I'm not going to read it to you.
13 There's many different certification types for different
14 building types. Many different categories. So the goal
15 is a well-balanced, well-performing building. Looking
16 at the site, the water, the energy, the materials, the
17 indoor air quality, and you achieve enough points, you
18 get certified. That's the gist of all of the
19 certification programs.

20 The membership fees and the cost of
21 certification includes both hard and soft costs. So
22 there's hard costs associated with I have to pay these
23 fees to be a member, I have to pay these fees to get my
24 certificate and my project reviewed, but there are soft
25 costs associated with it takes a lot of manhours to

1 document all of the paperwork they want to see.

2 And so certification fees, again, range,
3 depending on size of building. I did an example of a
4 250,000 square foot building so you could see the
5 different costs with the different standards. The
6 250,000 square foot building here, assuming you were a
7 reasonable-sized contractor, you would be anywhere from
8 about \$13,000 to \$15,000 in just costs to certify the
9 project. That's the hard cost fee that you are paying
10 the organization.

11 Depending, again, whether you are a member or
12 a non-member. If you are a non-member it is a little
13 bit more than that. So the price goes up a couple of
14 thousand if you are a nonmember. The challenge is, of
15 course, when you look at certification and/or the
16 process, not all of the credits or points that you chase
17 have payback. And so 20 percent of those credits are
18 just good design, people should be doing them anyway;
19 33 percent or so are low cost, meaning a small premium,
20 negligible price.

21 A significant amount are driven by the owner.
22 If you pick a site for your project in the middle of
23 nowhere, and you don't have access to bus lines, you
24 don't have bike trails, that's nothing that you can
25 control as a contractor or a designer. That's

1 independent of the site. And then looking at things
2 that are moderate and high cost, not all of those have
3 paybacks. So some have a good payback, some don't.

4 And, unfortunately, a lot of people just are
5 chasing the credits to get the certification and not
6 looking at payback. And so I know you can't read this,
7 I can make the report available to you, but this was
8 looking at the soft and hard costs. Soft costs being
9 anywhere, and this is directly from the USGBC. They are
10 telling you twenty to \$60,000 in soft costs is what you
11 are going to pay for the manhours associated with the
12 paperwork.

13 What we found on projects was that the average
14 was about 4.11 percent of your project cost is what you
15 are paying to just certify. That's not necessarily
16 doing anything better for the building, that is getting
17 the piece of paper. So you have to offset that, again,
18 by the performance in the building.

19 Green Globes, again, not quite as many
20 certified. Again, it's a newer program, newer in the
21 states. It's coming out of Europe. Same setup. You
22 have a board, you have third-party verification, you
23 have different categories you have to achieve points in.
24 This one I find to be a little bit less black and white.
25 LEED is do all of these things and get the points.

1 Green Global says does this make sense for your project?
2 If so, then we'll reward you for doing the right thing.
3 So a little bit more flexibility in the criteria as well
4 as in the evaluation process.

5 Looking at fees. Again, it's broken into size
6 of building. It depends on how large the building is.
7 It also depends if you are a member or nonmember. And
8 that same 250,000 square-foot building would cost you
9 about \$9,500 in the certification cost. So a little bit
10 less than the USGBC, but you can see still -- still
11 something you would have to pay for. And, again, there
12 is documentation and manhours, but no data, no
13 significant data on exactly how much that takes.

14 The Florida Green Building Coalition, again,
15 Florida-based standard. Looking at the board,
16 consistent board, third-party verification for
17 certifications, currently endorsed by the different
18 organizations you see presented, and also broken into
19 several different categories, project management,
20 energy, water, site, health materials. And the only
21 category or the only standard that has a disaster
22 mitigation category. Organization fees, significantly
23 lower than the other organizations.

24 And then if you look at the cost of
25 certification, the largest breakpoint is a 50,000

1 square-foot building. This was really designed looking
2 at those smaller projects that couldn't afford to pursue
3 the national standards. The maximum cost is \$6,000.
4 So, yes, again, there are fees associated with
5 documentation, but not as significant as the previous
6 two.

7 We talk a lot about ASHRAE and Energy Calcs,
8 and I get this all the time. The bottom line is this is
9 software, and you can manipulate this software to get a
10 building performance. And what we found was that in a
11 building, and this one is specifically up in the
12 panhandle area, you know, your average building, looking
13 at an ASHRAE 90.1 baseline, you're broken into a quarter
14 cooling, a quarter plug load, you have got a significant
15 amount of lighting, and you have some heat associated
16 with heating the buildings.

17 Once we optimize the building as much as we
18 possibly could, threw everything at it, including the
19 kitchen sink, went up to R-70 in the walls. So
20 insulating the crap out of the building envelope and
21 adding the best equipment we possibly could, what we
22 found was that the building envelope no longer drove
23 energy use. It actually was the plug load. So what we
24 found over time is what's driving the energy use in the
25 buildings is us. It's us on the computers, and us with

1 charging our cell phones, and our iPads, and our
2 laptops, and all the printers we have. It's not the
3 building itself. So 40-plus percent of that energy use
4 was us.

5 So that was part of our challenge. We see the
6 same breakdown for different types of buildings. And,
7 again, we know that we can manipulate the ASHRAE
8 baseline. So, unfortunately, what we have found is a
9 lot of times in buildings that are saying, I'm
10 performing 25 percent or 30 percent better than ASHRAE,
11 what they did was they actually made the baseline
12 building perform worse to make their same design appear
13 to perform better. And that was able to gain them
14 additional LEED points. We actually went through this
15 process in the Mobile Office of Army Corp, and found for
16 about \$1,500 of engineering time we could get what
17 appeared to be almost eight additional points towards
18 certification without actually improving the building.
19 All we did was we made the building we were comparing
20 ourselves to worse.

21 So that's something now that we are starting
22 to look, and you hear people saying, well, I built this
23 green building and it's using more energy. Well, it's
24 using more energy because all of a sudden we are adding
25 more components into it, automated systems, et cetera,

1 and not accounting for those.

2 So important to note that, you know, this is
3 software as is the Flacon (phonetic) software, and there
4 are buttons you can push and numbers you can put in to
5 manipulate that software and performance. And so in
6 this instance this is just some of those paybacks we
7 found. Insulating to the ASHRAE baseline cost us
8 177,000 on this particular building. Improving the
9 insulation to R-38 was a \$28,000 price bump. The annual
10 savings was \$61 a year, so the payback there was 471
11 years. So the ASHRAE baseline insulation was fine. We
12 didn't have to go above that. We could, but we are
13 looking at paybacks in the 400-year span.

14 The same thing with the walls. The ASHRAE
15 baseline wall insulation, improving it to R-38, the
16 annual savings \$609 a year, or a \$216 (sic) payback.
17 And we took this building and moved it throughout the
18 country. And the only place that we were starting to
19 get reasonable break-even points was in Alaska. So just
20 keep in mind in our very mild climate, there is a reason
21 that these baselines are put where they are, and so this
22 is just more detail than you would every want to know.

23 When we started manipulating and moving this
24 around. So you can, again, see Alaska was the only
25 place that it made sense to do any of the improved

1 efficiencies.

2 More data than you want because I'm a nerd and
3 an engineer. So rating systems, again, they have
4 different ranges whether you are certified silver, gold,
5 or platinum; four stars, four globes. Again, lots of
6 different options out there.

7 They are all broken into categories. They
8 are, I don't want to say equal, but from a point of
9 building a more efficient, healthy structure, they are
10 all educating you and pushing you in the same direction.
11 How they go about scoring it, the costs associated with
12 it, and whether or not it's climate specific is what
13 varies by the different certification programs.

14 The costs, as well, as I mentioned. They do
15 have existing building certifications floating around
16 out there. Existing buildings, in my opinion, much more
17 challenging than new construction. We can build new
18 buildings efficient very easy. Going into an existing
19 structure and trying to improve it so it's not a giant
20 energy-sucking vortex is the largest challenge.

21 And I will end there and let you ask whatever
22 questions you might have.

23 **CHAIRMAN BRISÉ:** Thank you.

24 If we could have the lights back on.

25 And are there any questions?

1 Commissioner Brown.

2 **COMMISSIONER BROWN:** Thank you so much for
3 presenting to us today. This is was area of interest to
4 me in my previous professional life, and an area that I
5 thought was a growing trend. But, you know, the payback
6 period seems to be somewhat tenuous there. And I have
7 always been curious about the growing trend of these
8 green buildings and these LEED certifications. And it
9 seems that only governmental agencies that have access
10 to different types of grant money really kind of take
11 advantage of utilizing that and the new technology.

12 What trends are you seeing right now?

13 **DOCTOR LANGUELL:** We still do see a trend for
14 local governments pushing this, and a lot of funding
15 coming out of D.C. requiring green. So it still
16 definitely is a trend, but when I had to go speak in
17 front of the guys at the Pentagon and General Baer
18 (phonetic) said what are you telling me my payback is,
19 and this doesn't make sense. And then you had a bunch
20 of people with red faces because they had been drinking
21 the Kool-Aid. And I said this is what I'm telling you:
22 We need to build healthy; we need to build efficient; we
23 don't need to waste taxpayer dollars.

24 We're lucky enough that we have very
25 affordable electricity. Now, if I'm in Hawaii and it's

1 54 cents a kilowatt hour, then my break-even point is
2 significantly different. But if I'm someplace where
3 it's less than 14 or 15 cents a kilowatt hour, which is
4 where we live for the most part, financially there is a
5 breakpoint and the breakpoint is lower than these
6 standards tend to require.

7 So what we found was LEED wants a 30 percent
8 better than ASHRAE. The best-case scenario in a
9 life-cycle cost scenario was 19 percent better than
10 ASHRAE. And so you have to look at life-cycle costs
11 efficiency, and around that 19, 20 percent better than
12 ASHRAE is where we find the breakpoint is.

13 Now, Florida code happens to sit right about
14 there. So when you start looking at Florida Energy
15 Code, Florida Energy Code is different than ASHRAE 90.1.
16 They have taken ASHRAE 90.1 and tweaked it a bit. And
17 we kind of sit at that point, and that's why we sit at
18 that point, because we have crunched numbers to say this
19 is where Florida code should be to give kind of the
20 optimal payback.

21 So as soon as we start pushing more efficient
22 than Florida energy code, we start losing payback. So
23 the first few steps you take to get a good payback are
24 very, very easy, but the more things you do to improve
25 the efficiency of the building, the harder it is to get

1 a good return on investment.

2 **COMMISSIONER BROWN:** Right. Well, I
3 appreciate that. But you're seeing, really, from your
4 perspective in your industry, it's really just the
5 governmental, the municipalities that are taking
6 advantage of this. And they are doing it really because
7 they are also getting grant money to go ahead and build
8 these new green buildings that are more energy
9 efficient, because the payback is somewhat extensive.

10 **DOCTOR LANGUELL:** I don't know that they are
11 getting grant money. I do know that they are getting
12 access to funding, and that funding is tied to green in
13 some way, shape, or form. We do have a lot of private
14 clients, but those private clients tend to be driven by
15 either a corporate culture that says this is how we are
16 going to be -- so, for example, TECO's corporate
17 headquarters just certified, or as of yesterday I sent
18 the information back to the agency and said you're good.

19 **COMMISSIONER BROWN:** In Fort Myers, Florida.

20 **DOCTOR LANGUELL:** You have achieved all of
21 everything you needed to do. We look at Babcock Ranch,
22 for example, and they said this is what we are going to
23 do, or even Publix and Kohl's. And you have a lot of
24 corporate cultures out there that say this is what we
25 are going to do; it's the right thing to do. And

1 there's nothing wrong with that. But we have lots of
2 large clients, for example, in Miami that are doing it
3 because there's Miami 21. And Miami 21 says anything
4 over 50,000 square feet will be certified green.

5 Now, the challenge is, you know, is that
6 helping the environment? And I would argue no. You
7 saying certify this green is not improving what we are
8 doing for the environment. Because now you're chasing a
9 certification, and people are trying to figure out what
10 to do to get points versus focusing on a good efficient
11 design.

12 **COMMISSIONER BROWN:** Right.

13 **DOCTOR LANGUELL:** So if you tell people do
14 this, reduce your energy by 10 percent, or reduce water
15 consumption by so many thousands of gallons, then we
16 have a very solid quantifiable savings versus a chase
17 this certification. You may pick points that have
18 nothing to do with saving energy or saving water or
19 saving resources. So I appreciate the fact that
20 Paperstone, which is a trim that you would put around
21 doors, is made from recycled materials. It's \$80 a
22 linear foot. It doesn't make me more productive; it
23 doesn't save the environment; it doesn't make me breathe
24 better. It's a recycled content material.

25 Globally it's a great thing to do, but it's

1 not -- it's \$80 a linear foot versus a dollar a linear
2 foot, so it's a very expensive trim. So the challenge
3 is -- there's a much bigger picture to these
4 certifications, and I don't know that it's achieving our
5 save energy, save resources, save water, I don't know
6 that it's achieving that specific goal. So if the goal
7 is that criteria, then we just need to say that's what
8 you need to do, because there's costs associated with
9 the certifications.

10 **CHAIRMAN BRISÉ:** All right.

11 Any further questions?

12 Thank you very much for your presentation.

13 **DOCTOR LANGUELL:** You are welcome.

14 * * * * *

15 **CHAIRMAN BRISÉ:** Moving on to Item Number 2.

16 **MS. COLE:** Good morning.

17 **CHAIRMAN BRISÉ:** Good morning.

18 **MS. COLE:** Afternoon; morning.

19 Okay. I just wanted to tell you all some
20 progress that we have made in the Clerk's Office. The
21 Clerk's Office has been accepting e-filings for over ten
22 years now in the form of e-mail attachments which are
23 limited to 100 pages. The official filing is the one
24 that's printed, document numbered, and placed in the
25 docket.

1 Three years ago, the Clerk's Office deemed the
2 electronic dockets the official record, and we
3 discontinued creating and maintaining file folders, but
4 still borne digital e-filings have to be printed and
5 mechanically stamped and scanned in order to be
6 processed. So over time we started working with IT to
7 automate our document numbering system and develop
8 web-based electronic filing.

9 The Clerk's Office decided to adopt the
10 standard of other courts, including the Division of
11 Administrative Hearings and the First DCA. We will be
12 accepting filings in Adobe PDF format only with a 5,000
13 page limit, depending on the size of the file. For
14 comparison, both the Supreme Court and the Division of
15 Administrative Hearings limit is 250 pages.

16 The requirement to file an original and seven
17 copies is waived for those wishing to use the new
18 e-filing portal. The benefit to e-filers in paper
19 reduction, postage savings, and delivery cost is
20 substantial. Our current method of e-filing will remain
21 available until further notice, and many things will
22 remain the same in both systems. The electronic
23 signatures are still acceptable; 8:00 a.m. to 5:00 p.m.
24 filing hours will still apply; confidential documents
25 are not allowed, and e-filing can be restricted in the

1 order establishing procedures.

2 With Cathi's help, I'd like to give you a
3 brief demonstration of our new web-based e-filing
4 portal, which will be available to the public on
5 July 1st from the website's Clerk's Office page.

6 So Cathi will be entering her name, her e-mail
7 address, and the docket number selection that best
8 applies.

9 Next she'll enter a test number and
10 description of the document being filed, and then she'll
11 attach the PDF document.

12 If she's satisfied with the filing, she'll go
13 ahead and click the submit button.

14 And Cathi will receive a message confirming
15 that the document has been received by the Clerk's
16 Office.

17 And then once processed, the filers will
18 receive another e-mail giving them the link to the
19 official filing, or notifying them that the document
20 submitted does not meet the filing requirements and why.

21 So, that's it. E-filing is not mandatory, and
22 filings will continue to be accepted over the counter or
23 by mail.

24 And, also, effective July 1st, we will be
25 accepting internal e-filings from staff, and an internal

1 Clerk's Office link will soon be available for that
2 purpose. So, major milestone.

3 **CHAIRMAN BRISÉ:** Thank you.

4 **MR. BAEZ:** Welcome to the 21st century.

5 **MS. COLE:** Yes, welcome to the 21st century.

6 **CHAIRMAN BRISÉ:** Commissioners, any questions
7 or comments?

8 Commissioner Edgar.

9 **COMMISSIONER EDGAR:** Thank you. Just a brief
10 comment.

11 Thank you for your good work.

12 I was the only one of the five of us who was
13 here when we recruited and hired Ann for this role, and
14 there were many reasons why she was the best person for
15 the job at the time and now, but one was her experience
16 at DOAH doing similar things. And part of that was her
17 experience working with them helping to electronically
18 take advantage of some of the technical advances,
19 technological advances at the time. So, thank you.

20 **MS. COLE:** Thank you.

21 **CHAIRMAN BRISÉ:** Commissioner Balbis.

22 **COMMISSIONER BALBIS:** I just wanted to make a
23 brief comment. It's always good to see you and to put a
24 face to the name that signs everything. It has been a
25 while since I've seen you, so thank you very much and

1 congratulations on this major milestone.

2 **MS. COLE:** Thank you.

3 **CHAIRMAN BRISÉ:** Commissioner Brown had a
4 question.

5 **COMMISSIONER BROWN:** Thank you.

6 And I'm excited that we are moving into the
7 21st century here at the Commission.

8 **MS. COLE:** I am, too.

9 **COMMISSIONER BROWN:** It's a great thing. It
10 saves a lot of money for a lot of the parties. But I
11 really kind of wanted to know what, then, would be
12 eligible. And I appreciate this and everything else.
13 So I'm thinking motions -- do you have, like, a list of
14 examples of documents that would be eligible for filing?
15 I know we have a limitation on Adobe, 500 megabytes, so
16 it wouldn't be rate case filings.

17 What do you foresee as being eligible under
18 the criteria?

19 **MS. COLE:** Everything. Yes, everything --

20 **COMMISSIONER BROWN:** Except?

21 **MS. COLE:** -- with that limitation except
22 anything that is confidential, anything that's over 500
23 megabytes. Anything restricted in the order
24 establishing procedures.

25 **COMMISSIONER BROWN:** Do you think folks are

1 going to really utilize this?

2 **MS. COLE:** I'm hoping so. What we're going to
3 do is keep statistics, and we can keep y'all informed --
4 how many filings we receive over the counter, how many
5 filings we receive through electronic filing. And
6 hopefully people will find it so easy to file and that
7 it reduces their costs that they'll use it more.
8 Because this e-mail attachment thing with a 100-page
9 limitation limits what they can do electronically, and
10 we're hoping to open it up to the public a little bit
11 more. And if it's made easier, maybe it will be used
12 more.

13 **COMMISSIONER BROWN:** Thank you, again, for
14 your work on it.

15 **MS. COLE:** That's okay. That's all right.

16 **CHAIRMAN BRISÉ:** Commissioner Balbis.

17 **MR. BAEZ:** I'm sorry, Chuck just briefly --
18 Chuck just whispered in my ear. In answer, a more
19 practical answer, probably everything but MFRs, really,
20 is what more than likely will fall into that. So we're
21 actually able to capture a great deal of our work.

22 **CHAIRMAN BRISÉ:** Commissioner Balbis.

23 **COMMISSIONER BALBIS:** Yes. A quick question
24 on this example that you just went through. It seemed
25 like an instantaneous response, so it does not require

1 any human interaction to --

2 **MS. COLE:** No, it's automatic.

3 **COMMISSIONER BALBIS:** -- complete, so it's
4 pretty much instantaneous. Because I know there was an
5 issue of a few minutes here and there on a certain
6 document; that would be eliminated?

7 **MS. COLE:** It's instantaneous. Yes, it is.
8 There's no manual intervention.

9 **MR. BAEZ:** That perhaps could be the greatest
10 feature.

11 **CHAIRMAN BRISÉ:** Thank you for your work on
12 this. I certainly hope that this moves us further along
13 in the movement towards us having tablets and being able
14 to offer that process and make it efficient for staff
15 across the building to be able to work off tablets.

16 So, thank you.

17 **MS. COLE:** Thank you.

18 * * * * *

19 **CHAIRMAN BRISÉ:** Moving on to Item Number 3,
20 status of competition in the Telecom Act.

21 **MR. FOGLEMAN:** Good morning, Commissioners.
22 Greg Fogleman, Commission Staff.

23 The draft before you is the 17th Annual Local
24 Competition Report for your consideration. The report
25 is to the Governor and the Legislature by August 1st, as

1 required by Florida Statute.

2 The report notes that a majority of CLECs
3 reported no barriers to competition, and that consumers
4 are able to obtain functionally equivalent services at
5 comparable rates, terms, and conditions. A few of the
6 key statistics in the report include that incumbent
7 landlines decreased 17 percent for both residential and
8 business users. By comparison, CLEC lines increased by
9 19 percent on the business end. They declined 2 percent
10 for residential users. Residential interconnected VoIP
11 subscribers increased by approximately 12 percent over
12 last year, and wireless-only households increased by
13 4 percent.

14 Since you received the draft, there was a new
15 report from the Centers of Disease Control. I believe
16 you received a memo yesterday that outlines some of the
17 changes that we would recommend, and there was also a
18 few corrections, a few typos that we had caught. To the
19 extent you would like to move forward with this draft,
20 staff would request editorial privileges to make any
21 minor nonsubstantive corrections, such as to the html
22 links, or any other minor corrections.

23 With that, staff is available for your
24 questions.

25 **CHAIRMAN BRISÉ:** All right. Thank you.

1 Commissioners? Commissioner Balbis.

2 **COMMISSIONER BALBIS:** Yes. I just have one
3 comment. I mean, I was surprised to see in Figure 3-7
4 at Page 20, that Florida lags from the nation from a
5 phone penetration standpoint, and it seems to be a trend
6 that has continued for quite sometime. And we talked a
7 little bit about it in our briefing, but I don't know if
8 you would like to elaborate on why Florida seems to be
9 lagging, and is that cause for concern, is that
10 something that we need to look at, or is that something
11 just specific to the state?

12 **MR. FOGLEMAN:** I think it's a little specific
13 to the state. But I think if you looked further back,
14 you would have seen that the gap was even higher back
15 in -- what did you say, Mark, in the '80s, I think?

16 **MR. LONG:** Going back to the mid-'80s, I think
17 it was around 5 percent. And it has hovered between 5
18 and less than 1 ever since divestiture. But I don't
19 think we have ever spent any time over the national
20 average. It has always been a little bit under.

21 **MR. FOGLEMAN:** Yes. And I think some of the
22 gap, I mean, is a function of, you know, the scale. How
23 we have scaled the graph, you know, we have kind of
24 zoomed in a little bit, you know, from 99 to 89 percent.
25 So while we do lag behind the national average, I don't

1 necessarily see that as a cause for concern.

2 **COMMISSIONER BALBIS:** Okay.

3 **CHAIRMAN BRISÉ:** All right.

4 Commissioners, any other questions?

5 Okay. Well, I thank you for working on this
6 report. A couple of things that stood out to me that we
7 have no control over, but they just stood out, the rural
8 health care component that we are now taking -- it seems
9 like our state is not taking as much advantage as we
10 possibly could of those dollars, and sitting on USAC,
11 and looking at those dollars is -- it's just painful to
12 see how much money is not coming to Florida.

13 **MR. FOGLEMAN:** Right. Yes. The federal
14 health care program, I believe half of that actually
15 goes to Alaska. So I kind of look at that as almost an
16 Alaska program, but, yes, you're absolutely right.

17 **MR. LONG:** They are significantly revamping it
18 and kind of relaunching it in January, and so there's a
19 new application process. And we are hoping that the
20 makeup of the recipients will change a little bit, and
21 that DMS through the federal grant, broadband grant is
22 aggressively pursuing the state agencies, Department of
23 Health, Department of Corrections, FSU's Med School --
24 apparently, FSU's Med School is unique in that it has
25 some rural facilities. All the other med schools will

1 be considered urban. And so every agency that they can
2 get to urge them, and apply for them, and whatever they
3 can do to try to maximize their participation in it. So
4 they are trying hard.

5 **CHAIRMAN BRISÉ:** All right. Thank you.

6 Any further comments?

7 Okay. I guess we have to approve this report
8 and give you all the authority to make -- what do you
9 call that?

10 **COMMISSIONER BROWN:** Editorial changes.

11 **CHAIRMAN BRISÉ:** Editorial changes. Thank
12 you.

13 **COMMISSIONER BROWN:** Nonsubstantive in nature.

14 **CHAIRMAN BRISÉ:** Perfect.

15 **COMMISSIONER BROWN:** So moved.

16 **COMMISSIONER BALBIS:** Second.

17 **CHAIRMAN BRISÉ:** All right. Moved and
18 seconded.

19 Are there any further comments on this?
20 Seeing none, all in favor?

21 (Vote taken.)

22 **CHAIRMAN BRISÉ:** Thank you.

23 * * * * *

24 **CHAIRMAN BRISÉ:** Going on to Item Number 4.

25 **MR. FUTRELL:** Good morning, Commissioners.

1 Mark Futrell with Staff.

2 Item 4 includes two items. In part one we are
3 seeking your approval of the implementation plan for
4 Senate Bill 1472, and in part two we are providing you
5 some information on the feasibility analysis in the
6 nuclear cost-recovery docket.

7 Senate Bill 1472 was signed into law by the
8 Governor on June 14th, shortly after this item was
9 submitted, but all components of the bill will certainly
10 have to be implemented through revisions to the
11 Commission's existing rule on nuclear cost-recovery, and
12 staff will be initiating that process. A significant
13 change in the statute addressed the allowance for fund
14 use during construction, the rate used to calculate
15 carrying charges that are eligible for recovery through
16 the nuclear cost-recovery clause. That change in the
17 statute is being reviewed by Staff in the nuclear
18 cost-recovery docket.

19 In an abundance of caution, staff has
20 propounded discovery on Duke and Florida Power and Light
21 to estimate the effects of this change on the costs that
22 are proposed for the balance of 2013, July 1st through
23 December 31st of 2013, as well as the projected costs in
24 2014. And so we are gathering that information
25 currently, but that will be looked at it in the context

1 of that docket.

2 The other aspects of the bill, and I will be
3 glad to answer any questions about the components of the
4 changes, but, again, those aspects would be addressed
5 within the rulemaking proceeding, which we'll be
6 initiating shortly. So we are seeking your approval of
7 that proposed plan.

8 In part two, we are providing you some
9 information on some factors that staff is going to
10 highlight and address within the context of the
11 feasibility study that is conducted annually by the
12 utility and analyzed by the Commission in the nuclear
13 cost-recovery docket. Upon granting the need for the
14 nuclear projects, the Commission identified the
15 importance of continuing to review the feasibility of
16 completing the projects. That feasibility study is
17 memorialized in the Commission's rule, and the utility
18 annually conducts the feasibility analysis.

19 Staff analyses that, presents its analysis to
20 the Commission and the parties to the docket, or have
21 that information available to review and analyze; and,
22 if so, propose testimony addressing any concerns with
23 that feasibility analysis. It looks at a host of
24 qualitative and quantitative factors. And this year we
25 are suggesting that we are going to be highlighting a

1 couple of additional items that are -- that we think are
2 important to address. They may have additional
3 information of value, including looking at fuel
4 diversity, system reliability and integrity as far as
5 the impact of these nuclear projects on that, as well as
6 alternatives that may be available, including renewables
7 and conservation measures. So that's just some
8 additional information for you to be aware of as we go
9 through the nuclear cost-recovery process. And I'll be
10 glad to answer any questions.

11 **CHAIRMAN BRISÉ:** Thank you.

12 Questions, Commissioners?

13 **COMMISSIONER BROWN:** I have a couple.

14 **CHAIRMAN BRISÉ:** Sure.

15 Commissioner Brown.

16 **COMMISSIONER BROWN:** Thank you.

17 Thanks, Mark, for preparing it in an
18 easy-to-read format and everything. My focus is really
19 on part two, the additional factors. My understanding
20 is that these factors currently are the feasibility
21 factors, these additional ones are in a need
22 determination. They're not necessarily -- we are not
23 analyzing them right now in the NCRC, is that right?

24 **MR. FUTRELL:** Well, these factors have been --
25 are looked at, certainly, as part of the load and energy

1 forecast that the utility identifies in the feasibility
2 study. And the load and energy forecast is really part
3 of the ten-year site plan process that the utility
4 conducts. And so these factors are really rolled up all
5 within the load and energy forecast. And so what we are
6 proposing to do here is to really highlight how these
7 factors are specific to these particular proposed
8 facilities. And whereas really it's all part of our
9 current roll-up, we are going to kind of pull these out
10 and identify them specifically.

11 **COMMISSIONER BROWN:** Can I ask in a very frank
12 manner, why? What is the genesis? I mean, I know this
13 is all in relation to Senate Bill 1472 and the
14 implementation of Senate Bill 1472. This is a caveat or
15 a side -- here are some additional factors to consider,
16 that we will consider. Why are we --

17 **MR. FUTRELL:** Right. Well, this is really not
18 connected to 1472. This is not a requirement of Senate
19 Bill 1472. But as the Commission noted in granting the
20 need for these units, that feasibility is an important
21 factor to continue to look at annually. And it's part
22 of an evolving process, too, as the utility space,
23 change in market conditions, changing regulatory
24 requirements, they have to react to those changes. And
25 it's really -- the analysis has to reflect that evolving

1 nature of the environment the utilities are facing in
2 trying to develop these projects.

3 And so we feel like it's important to
4 highlight these additional items to note changing
5 circumstances, to, you know, highlight and bring some
6 more clarity and specificity to the Commission's
7 analysis of feasibility that's done on an annual basis.

8 **COMMISSIONER BROWN:** So this wasn't -- this
9 didn't come about as a result of the different
10 legislative drafts, this came about -- you said a team,
11 you said that a team came up with these recommendations?

12 **MR. FUTRELL:** Staff has got together and
13 considered, you know, whether it would be appropriate to
14 consider some enhancements to the feasibility analysis,
15 and these are some items that we developed and felt
16 would be important to highlight in addition to the
17 traditional factors that are analyzed and brought to the
18 Commission's attention.

19 **COMMISSIONER BROWN:** Would this result -- I
20 mean, would this require some rule changes?

21 **MS. CIBULA:** Potentially.

22 **COMMISSIONER BROWN:** Mark, if you don't mind,
23 I will ask Mary Anne.

24 **MR. FUTRELL:** I'm sorry.

25 **MS. HELTON:** I don't know right now. Samantha

1 just said potentially it could.

2 **COMMISSIONER BROWN:** I looked at the rule, and
3 I looked at the orders that granted the so-called
4 flexibility of the feasibility analysis, and I'm just
5 curious if this would trigger -- I don't know if I see
6 that flexibility that I believe that staff is
7 recommending that we have to consider these additional
8 factors. I'm not there yet. So I don't know if this
9 would require some rule changes, and I would like to err
10 on the side of caution, of course.

11 **MS. CIBULA:** And that's something we could
12 look at in the rulemaking that we do, whether or not we
13 need to include that in the rulemaking.

14 **COMMISSIONER BROWN:** Okay. Thank you.

15 **CHAIRMAN BRISÉ:** Before we move on, I think we
16 had someone who wanted to address us on this issue, so
17 we will do that and continue with the questions.

18 Ms. Clark.

19 **MS. CLARK:** Yes. Thank you, Mr. Chairman. I
20 just had a brief comment on part of the proposed plan
21 dealing with the AFUDC rate. And, Mark, I think, has
22 addressed that. To my understanding, nothing you are
23 doing here today debates or decides that issue. It will
24 be decided in the ongoing docket.

25 That's all I had. I'm here on behalf of FPL,

1 I'm sorry.

2 **CHAIRMAN BRISÉ:** All right. Thank you.

3 Commissioner Balbis.

4 **COMMISSIONER BALBIS:** Thank you. And I had
5 concerns, as well, on section two of this document. I
6 mean, you indicate that it's not a part of this new
7 Senate bill, or Senate Bill 1472, although it is
8 included in the same memorandum.

9 And, Mr. Baez, you nodded your head or shook
10 your head that it wouldn't require a rule change. My
11 concern is that these requirements are not included in
12 the statute. And the only section that deals with the
13 long-term feasibility plan is included in the rule. And
14 you're recommending, and I assume you're leading the
15 team, that these changes be made, although you're
16 forgoing the rule development process. And so what
17 prompted staff to make these recommendations in the
18 current proceeding, absent statutory authority or the
19 rulemaking process?

20 **MR. BAEZ:** I think what you heard,
21 Commissioner, what you heard Mark say was that that
22 was -- we had propounded discovery which essentially is
23 requesting information. I think you also heard him say
24 that it's an evolving process, and that's really -- your
25 authority isn't exactly limited as to the information

1 that you can require. And breaking from the -- from the
2 starting point of trying to provide you as part of an
3 evolving process with as much information as possible to
4 help you do this feasibility analysis that's done on a
5 yearly basis, we approached it from the standpoint of,
6 okay, here we have got a lot of conversation and
7 certainly a lot of evidence in the ether, right, that
8 there have been -- that there are changing circumstances
9 or there may be changing circumstances. And how do we
10 address through our process our ability to get you the
11 best information possible.

12 In my estimation, I don't believe that the
13 statute necessarily ties us to the information that we
14 can request and make part of the record. You didn't
15 hear Mark present these three additional factors as on a
16 par with -- on a par with the references you made that
17 are in the statute, the factors that have to get better
18 enumerated, and that's not the way that I believe staff
19 is proposing to provide them to you.

20 What they become is data points and
21 information that gets rolled up as part of your record
22 to evaluate the feasibility, the ongoing feasibility of
23 the projects in recognition that there are -- that there
24 are or may be changed circumstances. Really, all this
25 is is trying to make more --

1 **COMMISSIONER BALBIS:** So what has changed the
2 process, then? You keep mentioning changed
3 circumstances. What has changed --

4 **MR. BAEZ:** There are or may be -- really, this
5 is an information-gathering exercise. I mean, if Legal
6 believes that there are rule changes that are necessary,
7 I defer to them. It is not my understanding that this
8 rises to the level of us having to change a rule when
9 all we are doing is propounding discovery to the
10 utilities in order to get better information for the
11 Commission to be able to make an assessment of the
12 ongoing feasibility of these projects. I see those as
13 two different things.

14 **COMMISSIONER BALBIS:** Well, it's one thing if
15 staff requests additional information, which they issue
16 discovery requests countless throughout the process, but
17 my greatest concern is the statement included in the
18 memorandum where it says staff believes that it would be
19 beneficial to evaluate additional factors as part of the
20 feasibility analysis in the current proceeding. And the
21 feasibility analysis is included in the rule. So you
22 are -- I read that as you are adding additional factors
23 to the rule without going through the rulemaking
24 process.

25 **MR. BAEZ:** I think we still have the -- I

1 think we still have the flexibility because of the
2 context of gathering more information. I don't think --
3 first of all, I don't think this document necessarily
4 has the effect of creating new factors. I think that is
5 maybe where we are running up against the semantics of
6 it. And if that is what is suggesting that there may be
7 rule amendments necessary in order to formalize them, we
8 can have a conversation about that.

9 The intent of highlighting this additional
10 information that is being requested is merely to provide
11 the Commission the best information available for you
12 all to accommodate whatever circumstances may be
13 relevant to your decisions going forward, and that's
14 really the intent of it.

15 If there is some interpretation that this is,
16 in fact, creating changes to factors, whatever the word
17 means in this context, then perhaps we need to clarify
18 that. It wasn't our intent to be changing the rule, or
19 changing the statute, or the decisions that you have to
20 base it on. As a matter of fact, throughout our
21 conversation it was made clear that this really is
22 information that gets rolled up into the factors. And
23 if you really look at them closely, they are things that
24 fit squarely within already the enumerated criteria for
25 evaluation.

1 **COMMISSIONER BALBIS:** What are the enumerated
2 criteria?

3 **MR. BAEZ:** I don't have them in front of me.

4 **COMMISSIONER BALBIS:** Because the rule only
5 states that a long-term feasibility is provided. And
6 talking about last year's proceeding, because we do have
7 an open docket, FPL had a very different long-term
8 feasibility analysis than Progress Energy at the time.

9 **MR. BAEZ:** Sure.

10 **COMMISSIONER BALBIS:** Because I don't think it
11 is enumerated in the rule or the statute. And, again,
12 my concern is that staff has proceeded with something
13 that may or may not be a rule revision. There is
14 discussion as to whether or not it requires rule
15 revisions. And I'm just trying to figure out what
16 prompted this, or is this more appropriate during the
17 hearing process.

18 If these are additional factors that we can
19 cross-examine witnesses or whatever, question the
20 witnesses, that might be more appropriate. Because my
21 concern -- these are very specific factors that staff
22 has come up with that aren't in the statute, aren't in
23 the rule, and we just recently had our decision affirmed
24 by the Supreme Court on a strict interpretation of the
25 statutes. So I think in everything we do we have to be

1 very careful from a legal standpoint that we dot every i
2 and cross every t --

3 **MR. BAEZ:** I would agree.

4 **COMMISSIONER BALBIS:** -- because anything we
5 do is challenged.

6 **MR. BAEZ:** I would agree with you. I think if
7 you go back to the way that the item was presented, it
8 was -- we were not asked -- staff is not asking for
9 approval of this second item. The second item was
10 offered to you for information purposes. I think you
11 would agree that -- and I think you said yourself that
12 the Commission does have authority to propound discovery
13 questions or to gather information on the items that are
14 enumerated here, and they were offered for your
15 information only.

16 What we want to do -- so, I guess, the
17 question before you all, as I see it, is not whether we
18 should be engaging in these questions or not. I think
19 you have already agreed that the Commission does have
20 the authority to gather that information. If there was
21 a misstep at all, it would be to saying it out loud,
22 then by all means, my apologies. We are only engaged in
23 the effort to gather the best information available in
24 order for this Commission to make their best information
25 available. And if any of this gives you pause, then I

1 think it's great that we are discussing this.

2 **COMMISSIONER BALBIS:** Okay. What happens,
3 Mary Anne if -- Ms. Helton, I'm sorry -- if it requires
4 rule revisions? Do now we initiate the rule process?

5 **MS. HELTON:** Well, I guess it -- I did not
6 participate in the drafting of this document, so let me
7 give you that caveat. If we are just asking discovery
8 on these questions, I don't think to ask discovery
9 requires any kind of a rule change. We have pretty
10 broad authority already in the statutes to ask
11 information that's relevant. Under the Rules of Civil
12 Procedure you can ask information that gets you to a
13 relevant place in the proceeding. If we are adding
14 additional factors, but it sounds like that's not really
15 what the intent of staff was --

16 **MR. BAEZ:** It certainly wasn't the intent, no.

17 **MS. HELTON:** It sounds like maybe that was
18 kind of a little bit of a misstatement there in the
19 memo. If we are not adding additional factors, then no
20 rulemaking is required. If the intent is to add
21 additional factors, then I think that we do need to
22 get -- it sounds to me as if that is something that
23 would need to go through the rulemaking process.

24 **COMMISSIONER BALBIS:** And then how does that
25 process work? Would it come back to the Commission to

1 authorize staff to start that process?

2 **MS. HELTON:** Well, there are several ways that
3 you can kick off the rulemaking. There are some
4 instances where staff will come to the Commission and
5 say, well, I think we want to start rulemaking. Then
6 there are some instances where staff goes ahead and
7 starts the process because they think it's something
8 that's noncontroversial or something that's needed. It
9 sounds like in this instance, this is something that you
10 all would want to have your hands on from the very
11 beginning, so it's something that we would come back
12 to -- come to you and say we want to do a notice of
13 proposed rule development. Is that --

14 **MS. CIBULA:** We are already, I guess, going to
15 do rulemaking to change this rule, we could always put
16 that into rulemaking that we --

17 **COMMISSIONER BALBIS:** And I don't know if that
18 is where we want to go. And I'm not saying these are or
19 are not good questions to ask. I'm concerned about the
20 process that these are additional factors, it even
21 states it has additional factors, when the factors
22 aren't listed in the rule, they are not listed in the
23 statute. And that's my main concern that we are not
24 following the proper procedures. And I'm not sure what
25 prompted this.

1 **MS. HELTON:** Well, we cannot -- staff does not
2 have any innate ability to adopt a rule without your
3 approval. We have to initiate or draft a -- I can't
4 remember what it's called -- a notice of rulemaking.

5 **MS. CIBULA:** Yes. We will do a notice of
6 rulemaking. But then before we can actually amend the
7 rule, the Commission amends the rule. Staff doesn't
8 amend it. We would have to come back to the Commission
9 and say add these factors into the rule, and you would
10 have to approve that, and then we'd propose the rule for
11 amending.

12 **MS. HELTON:** So there is the notice of rule
13 development, which would give an opportunity to request
14 a workshop or a hearing. Sometimes rulemakings are
15 presided over by staff. In this instance, this may be
16 one of those that the Commissioners may want to preside
17 over, any rulemaking proceeding that's requested by
18 someone, or you may want to decide to set it on your
19 own.

20 Once we have language that staff believes is
21 appropriate to propose, we would bring that to you. You
22 vote whether to propose the rule language suggested by
23 staff, or you make changes to that based on the
24 discussion from any proceedings we have had or at the
25 agenda conference.

1 You propose the rule, then interested persons
2 have an opportunity to request changes to that proposed
3 rule. So there's a lot of process through the
4 rulemaking process to give you an opportunity to
5 participate and to give anyone who's interested an
6 opportunity to participate. I mean, it's not something
7 staff can just go off and do on their own.

8 **COMMISSIONER BALBIS:** And, Mr. Chairman, I
9 appreciate the ability to interact back and forth. So I
10 understand the options if it requires rulemaking. If it
11 doesn't require rulemaking, then staff is just going to
12 proceed with this?

13 **MR. HILL:** Mr. Chairman?

14 **CHAIRMAN BRISÉ:** Go ahead, Chuck.

15 **MR. HILL:** And I apologize for this, too.
16 There does seem to be some misunderstanding. I
17 certainly participated in meetings with Mr. Futrell and
18 with those of the staff, and with Mr. Baez, and I even
19 brought up one or two of these things, and I was not
20 involved in the legislation. I know from my discussions
21 even last year with Mr. Laux and Mr. Breman and other
22 staff, we knew then and know now that this year coming
23 up was going to be a pretty important year in this
24 particular clause. And I know we have talked several
25 times about diversity, fuel diversity, and baseload, and

1 that, and so I was even one that said, you know, we
2 ought to be getting some questions, we ought to be
3 asking them and looking at some of this. It really
4 didn't have anything to do with any more than staff
5 needs to be looking at it.

6 And I think the way we presented it, and I did
7 look at this memo before it came, and I apologize, I
8 didn't view it with the eyes that you are. I looked at
9 this as this is what staff is doing. What you do when
10 you get to hearing is a whole different thing. And in
11 an effort to say this is our plan and what we're doing,
12 it may not have been worded exactly the way it could
13 have or should have. But there was no ulterior motive
14 or anything else that -- it was just, hey, we ought to
15 look at these things.

16 **COMMISSIONER BALBIS:** Well, I need to have an
17 off-line discussion. Because as Prehearing Officer for
18 the NCRC docket, I need to know do we need additional
19 issues. I mean, does this prompt that? There is a
20 whole other --

21 **MR. HILL:** And that will all happen.

22 **COMMISSIONER BALBIS:** -- set of issues, and I
23 don't want to use that word again, but that we need to
24 look at immediately if staff is proceeding in this
25 direction. So I want to have an off-line discussion,

1 how it affects this proceeding, and I'm still confused
2 as to what the result of this is, to be honest.

3 **CHAIRMAN BRISÉ:** Commissioners, any further
4 comment?

5 Commissioner Edgar.

6 **COMMISSIONER EDGAR:** Just a few general
7 comments, if I may, to hopefully round out and
8 contribute to the discussion. And even I'm tired of
9 hearing myself say this, but I'll say it at least one
10 more time today. I was the only one of the five of us
11 who was here when the statute originally was passed by
12 the Legislature, and the rule development and then
13 implementation process took place, and it is something
14 that I was very involved in. Not the legislation, but
15 the rule development process here. I was Chairman at
16 the time.

17 And I can tell you that, for instance, the
18 rule -- draft rule that was first proposed by our staff,
19 I did not feel at the time went far enough. It was not
20 prescriptive enough. And I asked that staff pull it
21 back and take another hard look at it, and we've added
22 some more process, and in my opinion at the time kind of
23 added more meat to the bones of what our annual review
24 process would be and our authority under the statute.

25 However, at that time we were well aware, and

1 I believe all the stakeholders were aware, and it was
2 discussed at the time from the bench at the agenda
3 conference where the rule was ultimately adopted that we
4 were implementing a brand new statute, and that we were
5 creating as part of that a brand new process for annual
6 reviews. And that as that process went forward that
7 probably the rule would need to be changed as we learned
8 and as any projects that would come forward to go
9 through that process would be moving forward.

10 And I forget when, and, Mark, maybe you do,
11 but I think approximately two years after that we did
12 make some changes to the rule as we learned, you know,
13 as the process went forward. As the projects have moved
14 through some of that site development and
15 preconstruction process, I would think it -- I would
16 fully expect that there may be times, whether changes to
17 the statute or not, that there may be times that we
18 would want to take another look at the rule and see if
19 there are things that we have learned and how to improve
20 the process. And so, you know, in addition to the
21 changes to implement, the changes to the statute, that
22 would be an ongoing review process, and I would expect
23 the staff and the Commissioners to do just as part of
24 what we do.

25 When I read this, and I met with Mark

1 yesterday, and I think some other staff a week or two
2 ago to discuss it, and I mentioned to Mark yesterday
3 that I found the format of the memo a little bit
4 confusing between Roman numeral I and Roman numeral II,
5 and he reminded me that in the overview memo it does say
6 specifically staff seeks approval from the Commission on
7 the proposed implementation plan, which is just Roman
8 numeral I. It's not Roman numeral II, and I know that
9 you pointed that out to us. But I did find the
10 combination a little confusing, but sitting down with my
11 aide and with Mark helped me understand, you know, how
12 it was laid out and why.

13 I also would point out that, Mary Anne, I know
14 that you said that -- Ms. Helton -- that you had not
15 participated. And I would say many attorneys, and you
16 don't need to have your fingers on absolutely
17 everything, but I would point out that it has been
18 signed by our General Counsel. So clearly it had gone
19 through some legal review prior to being put on the
20 agenda.

21 When I looked at this, and I read that
22 sentence and I have got it highlighted, as well, of
23 staff believes it would be beneficial to evaluate
24 additional factors. From the discussion I'm hearing, I
25 think maybe it sounds to me like a little different

1 definition is kind of being placed on the word factor.
2 You know, factor as in criteria within the statute or
3 rule has a certain legal connotation. And when I read
4 it, I read additional factors as synonymous with
5 additional information. And, you know, a good
6 discussion as to whether the factor that's not being a
7 legal document, but simply informational memo. That
8 emphasis on factor as a legal term or simply synonymous
9 with additional information, I think, is where part of
10 the discussion and different readings of it may be
11 occurring.

12 Through the annual review process that we have
13 done, through these two projects moving forward since
14 the need determinations were originally granted, it has
15 become very clear to me, and I think to many people,
16 that many ratepayers, many legislators, many advocates
17 on all sides of the particular project have perhaps some
18 confusion about what the statute does require and how
19 the statute works. And I think that's one of the things
20 that the Legislature was trying to address with the
21 changes that it's making.

22 So when I look at this, I again see it as
23 these three itemized or listed -- enhancements was used?
24 I don't really think it's an enhancement. I think these
25 are things that we have looked at through the process.

1 Again, I have participated in more of those annual
2 reviews probably than my colleagues have, and fuel
3 diversity, and reliability, and what these projects
4 bring or how they could be -- how their intent could
5 otherwise be made to occur are factors that I think have
6 gone into the discussion and the analysis at hearing
7 through every -- pretty much every year that we have
8 gone through it, so I don't see it as anything brand
9 new. That's just my reading of it.

10 But anything that we can do that helps bring
11 greater understanding to the process for those people
12 who are very interested and are following it along, I
13 think is a good thing. And that was kind of the way I
14 read this.

15 **MS. HELTON:** If I could just say, when I said
16 I did not participate, Curt has participated, Jennifer
17 has participated, Samantha has been working with the
18 staff on how to do this. I just have not been part of
19 the day-to-day discussions, and I don't know that --
20 what I meant by that was I'm not the best person to be
21 answering some of these questions. There's more
22 people -- people in here that are more qualified than
23 me.

24 **MR. BAEZ:** Commissioners, the point was made,
25 and it was well made twice now, that these items have

1 all -- this type of information has all occurred and
2 been considered along a very lengthy process in
3 different contexts and in different forums. And one of
4 the guiding principles, the impetus of having them here
5 was to, as a practical matter, have that information
6 follow the project that's being considered, the
7 feasibility of which is being considered on a yearly
8 basis, and yet not be something completely new.

9 I mean, this information is familiar to you
10 all, it already exists; we had to consider how it is
11 that we present it and how it is that we bring fresh
12 information into the discussion, into your consideration
13 so that you can use it or not. I mean, really, I hate
14 to say it, but at its core really all it is is a
15 gathering of additional, or the importation of
16 information that probably already exists in some form or
17 another, and has, in fact, been considered by you all in
18 other forums. So it works on several levels for several
19 reasons.

20 If the suggestion or the use of the word
21 factors was in any way misleading, then I take
22 responsibility for it. Because it did not occur to me
23 that that was being using as a term of art for these
24 purposes, that it really was a word. And so my
25 apologies for that, I think it could have been much

1 clearer for you.

2 But just to drive the point home, the purpose
3 of this particular section of the memorandum is not
4 intended to function as a suggestion that there has to
5 be any rule amendments and that there have to be any
6 changes to our current rules, necessarily, unless, of
7 course, it is your pleasure to do so. It is not our
8 recommendation. It really wasn't a recommendation at
9 all. It was more on the order of informing you all that
10 we were seeking to bring in more information for your
11 use so that you can employ it in your decisions coming
12 up during the clause hearing.

13 **CHAIRMAN BRISÉ:** I'll add my two pieces here.

14 Section one is the actionable item --

15 **MR. BAEZ:** Yes.

16 **CHAIRMAN BRISÉ:** -- and I think we'll deal
17 with that. I think all of us sitting around this table
18 recognize that there's a lot of movement in this space.
19 There's a lot of conversation in this space, and we
20 cannot be tone deaf. I'll just put it bluntly, all
21 right? We cannot be tone deaf. And if we have
22 components that are all over the place that deal with
23 the issues that are associated with these projects, and
24 staff is seeking, not through rule, but just through
25 trying to figure out questions, answers to questions

1 that make sense to address the myriad of challenges that
2 come along with these projects, I don't find it
3 objectionable that through our normal process that those
4 questions are posed.

5 And I think that's what it boils down to, that
6 staff wants the ability to pose those questions. And I
7 think we need to do whatever we can to have the
8 questions answered and the information, the best
9 available information before us as we make decisions.
10 And we need to work with the Prehearing Officer to
11 ensure that that process goes the way it's supposed to
12 go so that there aren't surprises at any way -- any
13 point along the process.

14 So as stated before, section one is the
15 actionable item. Section two is informational. And I
16 think that some of the information that staff is talking
17 about is here, and now it's just making sure that we
18 deal with it in the proper forum.

19 Commissioner.

20 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

21 And I agree. I just want to be clear. My
22 concern is about the process. And upon reading this,
23 upon reading the statute and the rule, to me it leaned
24 very heavily toward rule revisions. And even your own
25 General Counsel staff seems to have a disagreement as to

1 whether it requires rule revision or not. I just want
2 to make sure we follow the process, and that everyone is
3 sure that the process that we follow is the proper one.
4 Because as we know, we need to cross every t, dot every
5 i to make sure that we do everything correctly.

6 I want as much information as possible, like
7 all the rest of my fellow Commissioners, but we just
8 need to make sure that the process we follow is correct.
9 So I'm glad this isn't actionable. And hopefully, Mr.
10 Baez, you'll get with legal staff and make sure it does
11 or does not require rule revision and move forward with
12 that.

13 **MR. BAEZ:** Sure. Thank you, Commissioner.

14 **CHAIRMAN BRISÉ:** Okay. With that, if there is
15 no further discussion on this item, we're ready to --

16 **COMMISSIONER EDGAR:** I move approval of Roman
17 numeral I.

18 **COMMISSIONER BALBIS:** Second.

19 **CHAIRMAN BRISÉ:** All right. Moved and
20 seconded. Any further comments?

21 All in favor.

22 (Vote taken.)

23 **CHAIRMAN BRISÉ:** All right, thank you.

24 * * * * *

25 **CHAIRMAN BRISÉ:** Number 5, legislative

1 updates.

2 **MS. PENNINGTON:** Good morning.

3 Attachment 5 is really just a summary of
4 legislation that passed the 2013 session that may be of
5 interest, that is of interest, is within our purview,
6 and other items that might simply be within the interest
7 of the Commission.

8 Most of these I have gone through with you
9 before. We have also just finished a pretty lengthy
10 discussion about 1472, so I really won't go back into
11 that.

12 This document is still in draft form simply
13 because there are still two bills that have not yet been
14 acted upon by the Governor. So once the Governor acts
15 on those two items, we will make this an official
16 document. As determined two years ago, this is not an
17 actionable item. It's here for your information and
18 will be part of the legislative history within the
19 Public Service Commission.

20 I would bring to your attention a couple of
21 items that we do expect to come back to us next year.
22 One of them is Representative Mayfield's interests,
23 which were expressed in House Bill 733 that she proposed
24 relating to municipal utilities that have jurisdiction
25 outside the city boundaries. I expect that issue in

1 some format to come back. She just really had not
2 worked out exactly how that process would work before.

3 The fracturing legislation kind of took on a
4 debate of its own about halfway through the legislative
5 session. The bill that was filed was a bill that would
6 require chemical registry of the chemicals that are
7 used, and that registry would be maintained by DEP. It
8 became a debate about bigger issues, and that
9 legislation did not pass. So I do expect that one to
10 return, as well.

11 Senator Hays, who filed many of the
12 recommendations of the Water and Wastewater Study
13 Committee, it did not get a House sponsor. But we have,
14 Curt and I have been told by Representative Pilon that
15 he is still interested in doing something next year, and
16 he's hoping that staff will do something in the interim,
17 and maybe parts of that, parts of those recommendations
18 could be picked up in legislation for 2014.

19 With that, if you have any questions, I'll be
20 happy to answer them. Otherwise, it's for information.

21 **CHAIRMAN BRISÉ:** Any questions, Commissioners?

22 **COMMISSIONER BROWN:** Thank you, Katherine. I
23 understand Curt is not available to be here today.

24 **MS. PENNINGTON:** Truck trouble.

25 **COMMISSIONER BROWN:** He worked on a couple of

1 these with you. So my question is regarding Senate Bill
2 0002, the Ethics Bill. I know that you are currently,
3 or General Counsel is currently deciding whether or if
4 changes are going to be needed that will be implemented
5 by our agency. What is your, I guess, cursory decision
6 on that? Do you have any?

7 **MS. PENNINGTON:** I don't believe it's going to
8 require any -- it's not going to require any rule
9 changes, but there is not a lot substantively that will
10 directly impact Commissioners in this legislation. And
11 we are still looking at if we need an implementation
12 plan for this bill or if it's a matter of the General
13 Counsel's Office and AIT communicating some technical
14 changes in the law. We are still taking a look at that.

15 **COMMISSIONER BROWN:** Please keep us informed
16 on that.

17 **MS. PENNINGTON:** We will. That was a pretty
18 hefty piece of legislation. But when we boiled it all
19 down, not a lot of it would change.

20 **COMMISSIONER BROWN:** Okay. Thank you.

21 **CHAIRMAN BRISÉ:** Any further questions or
22 comments?

23 Thank you.

24 **MS. PENNINGTON:** Thank you.

25 * * * * *

1 **CHAIRMAN BRISÉ:** Moving on to Item Number 6,
2 the Executive Director's report.

3 **MR. BAEZ:** Thank you, Mr. Chairman.

4 Commissioners, I have got a few items to go
5 over in the form of updates, mostly. I'd like to start
6 off by letting you know some of the things that we are
7 doing with the various reports that we received and were
8 finalized in the earlier part of the year.

9 Starting with the FEECA study that was done by
10 an independent contractor, NRRI, with the help of the
11 University of Florida, or maybe the other way around,
12 the University of Florida and NRRI, as you recall, their
13 study concluded that FEECA as an act, as a law remains
14 in the public interest, and that the customer-funded
15 conservation programs that you all have approved over
16 the years still provide positive net benefits, and that
17 they are -- that those costs are in line with similarly
18 situated states.

19 They did, the study did point out a couple of
20 areas for improvement that did not involve
21 recommendations in terms of changes to legislation, or
22 rulemakings, or anything of that sort, but really more
23 of the way we operate organically. One of them was to
24 improve on a perceived lack of transparency in terms of
25 knowing evaluation criterias in advance for performing

1 cost-effectiveness analyses.

2 And, secondly, access to data needed for
3 modeling and developing of underlying assumptions. And
4 I say this in the context of an upcoming goals docket
5 which is going to take place over not this summer, but
6 the next. So that docket is just getting sorted out.

7 In our efforts to address those two factors,
8 the staff met with the parties to improve the
9 transparency and certainty on the front end as this
10 docket is actually getting off the ground. And as a
11 second measure, in terms of providing more access to
12 data, the staff has already placed the various
13 utilities' conservation achievement reports onto our
14 website.

15 Our rules on conservation evaluation criteria
16 specified minimum filing requirements, excuse me, but
17 they do provide the flexibility to select criteria after
18 reviewing facts in the goal-setting proceeding. All of
19 this is to say as the goal docket is now just starting
20 to get underway, we have an opportunity to implement
21 these changes in terms of access and transparency.

22 I believe we have already had a meeting
23 June 17th to kick the ball off. We have been able to
24 address some issues that will actually make the process
25 a little bit more streamlined and efficient for all the

1 parties involved. We have made some real good strides
2 on that. But look for next year to really kick in on
3 the goals docket.

4 In addition, we performed -- our audit staff
5 audited the administrative efficiency of the utility
6 conservation programs of the various utilities, as well,
7 and found that a limited amount of information sharing
8 and collaborative efforts were taking place currently
9 among the IOUs in Florida and in other states. Staff is
10 continuing to monitor -- we made recommendations as part
11 of the audit staff report. We can make that available
12 to you at your pleasure -- but the staff is continuing
13 to monitor the IOUs responses to those recommendations
14 going forward. So, briefly, that's what's going on on
15 the FEECA, and we have some progress in terms of how we
16 are making it a little bit easier and a more inclusive
17 process.

18 The second item I wanted to update you on is
19 the Water Study Committee. As you recall, there was
20 many months and many meetings and a lot of good work and
21 a lot of good recommendations that came out of that
22 report, a few of which were actually available to us as
23 an agency without, you know, that we could implement
24 ourselves without having to wait for legislation or
25 other changes. And the main bin that it fell into is

1 how we function and interact with our sister agencies on
2 common issues. So, you know, we talked about it, how
3 best to go about it, and I just wanted to update you on
4 a few of the things that we are doing at this point.

5 For starters, we are -- our staff is currently
6 working on an interagency initiative with DEP to improve
7 DEP's capacity development program. Now, as part of
8 DEP's initiative, they're going to be taking up one of
9 the recommendations, which was to expand the access of
10 the state revolving fund to fund water and wastewater
11 utilities. So we have reached out to DEP, become
12 involved as a participant on the initiative, and we will
13 be offering our assistance and our participation on how
14 best to make that state revolving fund better accessible
15 to our utilities.

16 In addition, we have also touched base with
17 DMS to, again, offer our assistance as they decide to
18 move forward with one of the committee's recommendations
19 to amend DMS rules, and thereby allow water and
20 wastewater utilities to take advantage of the state
21 purchasing contracts. This was viewed as a cost-saving
22 measure for many of our utilities, a possible
23 cost-saving measure for many of our utilities, and we
24 have reached out and offered our assistance should they
25 decide to go forward with that.

1 Next, we are also -- we are currently revising
2 our memorandum of understanding with DEP again, which is
3 a MOU that has existed for many, many years. But to the
4 specific point of our exchange of information concerning
5 service complaints and -- customer complaints and
6 quality of service complaints, we traditionally exchange
7 information, as necessary, when the form gets created.

8 For us what does that mean? We get
9 information input from DEP when there is a rate case
10 before us. What we are trying to work on is changing
11 the MOU so that the flow of information takes place on a
12 more realtime basis with the hopes that having that
13 information sooner without the context of a rate case
14 necessarily can help us get ahead of the problems as
15 they were occurring, and maybe solve them a little
16 sooner, or flatten the controversy curve, if you will,
17 so that we are not only dealing with quality of service
18 complaints whenever there is a rate case, because the
19 temperature can get kind of hot in those contexts. If
20 we can address them a little sooner, I think that works
21 well for everybody.

22 And, lastly, not a sister agency, necessarily,
23 but we are and have been working with the Florida Rural
24 Water Association, I forget -- the alphabet soup muddles
25 the brain. But we are offering them support through our

1 platform, through our website, et cetera, in order for
2 them to better get the word out on an on-line equipment
3 exchange that they are trying to move forward.

4 So we're, in essence, making our platform
5 available to them in whatever way is appropriate in
6 order to get better circulation on information, as well.
7 Because it is a pretty good program that they are trying
8 to move forward, and we are just lending our help that
9 way. So those are the things that we are doing
10 currently with other agencies and other entities
11 actively.

12 The other bin that I refer to comes in the
13 form of staff projects. I know you're aware that on the
14 staff we have implemented a leadership training program
15 which we are continually getting prouder and prouder of,
16 because we are getting good participation and great
17 input. And we saw some of the recommendations in the
18 Study Committee's report as good opportunities to -- and
19 I'll use the term farm out, although that's not quite
20 accurate, but certainly to make them available as
21 opportunities for our trainees to, you know, take up as
22 initiatives.

23 We have, I think it's three of them right now.
24 One of them is working on the development of a water and
25 wastewater outreach program to better engage our

1 regulated utilities on issues such as available funding,
2 educational resources, things like that, training
3 webinars, and we'll have an opportunity to get creative
4 there.

5 We also are exploring, have one team exploring
6 the use of technology to make it easier for these
7 utilities to, for instance, provide their reports
8 electronically, and to use our technology platform to
9 file reports and other forms and so forth.

10 And, lastly, we have got a plan to take one of
11 the teams to look at the development of metrics to aid
12 the staff in evaluating utility operations. This is
13 something that has been floating around the Commission
14 for many, many years as we try to address how we react
15 as an agency going forward to, you know, more of our
16 larger utilities kind of transitioning out of our
17 jurisdiction in one way or another, and how to address
18 more -- how a growing concentration of our regulated
19 utilities are smaller in nature and how to get them --
20 how to regulate them more effectively and efficiently as
21 well. And this will also include, perhaps, the
22 evaluation of customer service benchmarks. So those are
23 three projects that we are excited about and made them
24 available to our leadership trainees, and we are very
25 excited and anxious to get -- to see what comes of it.

1 But that's how we are addressing some of the ready-made
2 recommendations to the Water Study Committee.

3 If you have any questions, we would be glad to
4 brief you in greater detail on it. There's a broader
5 implementation program, but these are just the
6 highlights.

7 **COMMISSIONER EDGAR:** Does it require
8 rulemaking?

9 **MR. BAEZ:** I'm sorry?

10 (Laughter.)

11 **MR. BAEZ:** I started off by saying these are
12 the ones that don't require it. Low-hanging fruit.

13 The next item I wanted -- this is called the
14 pardon-our-dust part of the presentation. You have
15 seen, you have heard the rattling and you have heard the
16 drilling and the hammering and whatever else, other
17 power tools have been used along this process.

18 As you recall, several months ago, we have
19 been talking about how we are consolidating our space
20 and making better use of it. And one of the things, we
21 have got now three projects undergoing that provides for
22 a lot of dust. But certainly on the first floor you can
23 see construction going on, a build-out going on as you
24 enter the building from the south side, the main
25 entrance, the Clerk's Office is moving to the front left

1 of the building as you walk out. So it's going to have
2 a reception window, and we're kind of outfitting them to
3 be well accessible to anyone that's coming to make a
4 filing, so we are excited about that. They will be
5 vacating from the Easley Building.

6 And then, secondly, the other major project
7 that you have seen is there has been a big hole blown
8 out where your fine pictures once hung, and that's going
9 to be the entrance to the new Internal Affairs Room. So
10 I think by the end of the summer -- Apryl, is that --

11 **MS. LYNN:** Uh-huh.

12 **MR. BAEZ:** Okay. So by the end of the summer,
13 a short time now, we will be transitioning this
14 gathering to new space in the Gunter Building, so we are
15 excited about that. It will provide less hallways to
16 have to negotiate, and clearly access from the main
17 entrances to the building, so we are excited about that.
18 It should be done by the end of the summer. That's some
19 of the construction that's going on. So, again, pardon
20 our dust.

21 And lastly, there was a personnel matter that
22 I wanted to --

23 **COMMISSIONER BALBIS:** What was the third
24 project? I'm sorry.

25 **MR. BAEZ:** Oh, the third project. Well, that

1 one probably isn't underway yet, but the Print Shop is
2 also -- Support Services is also moving out of the
3 Easley Building, as well, and is going to be residing
4 down the hall on the northeast -- no, northwest corner
5 of the Gunter Building where AIT is, so there's a
6 swapping. The Internal Affairs space is also going to
7 house -- the back of the new space is going to house
8 AIT.

9 **COMMISSIONER EDGAR:** And we'll have lease fee
10 reductions as a result of those?

11 **MR. BAEZ:** That's the name of the game. By
12 vacating Easley, we are gaining some savings in terms of
13 rent. We don't own our buildings as we once did, so we
14 do have a landlord that charges us a fair price.

15 **COMMISSIONER EDGAR:** The state.

16 **MR. BAEZ:** But -- well, yes. Chuck made the
17 none-too-subtle point that the better use we make of our
18 existing space and the more consolidation that we can
19 have the more the Gunter Building continues to be the
20 PSC and not the PSC/something-else. You know the
21 implication is we get to keep our building for our folks
22 exclusively, so there's that, as well.

23 **CHAIRMAN BRISÉ:** Commissioner Balbis has a
24 question.

25 **MR. BAEZ:** Yes.

1 **COMMISSIONER BALBIS:** Thank you.

2 And I do recall the discussions on
3 consolidating, and I'm glad to hear that there has been
4 some savings. And I think after hearing Doctor
5 Languell's presentation, what would be the payback
6 period on that? How much are we going to save, and how
7 much is it going to cost?

8 **MR. BAEZ:** Funny you should mention that.
9 Now, while I have been well counseled by others at the
10 table that perhaps a discussion of numbers not -- I'll
11 put it this way, Commissioner. We get payback in less
12 than a year for all three projects. Our payback is less
13 than a year from the savings that we are realizing on a
14 yearly basis compared to the cost of the projects. I
15 can discuss the numbers with you off-line, if you'd
16 like.

17 **COMMISSIONER BALBIS:** No, I think here is
18 fine. As far as the payback period, I'm glad to hear
19 it's less than a year. So the rent savings that we are
20 going to realize is --

21 **MR. BAEZ:** I can tell you --

22 **MR. HILL:** It's huge.

23 **MR. BAEZ:** The totality of the projects is
24 something that Doctor Languell can endorse
25 wholeheartedly. If nothing else, from a financial

1 standpoint.

2 **COMMISSIONER BALBIS:** So, Doctor Languell,
3 would you like to --

4 **DOCTOR LANGUELL:** Absolutely fine with less
5 than a year.

6 (Laughter.)

7 **MR. BAEZ:** I didn't mean to put you on the
8 spot here.

9 **COMMISSIONER BALBIS:** Well, if Doctor Languell
10 says it's okay --

11 (Laughter.)

12 **COMMISSIONER BALBIS:** No, I'm glad to hear
13 it's less than a one-year payback.

14 **MR. BAEZ:** It is. I think it was -- I mean,
15 it was a good deal for, you know, for so many reasons,
16 too good to not go forward with.

17 **COMMISSIONER GRAHAM:** That doesn't even count
18 the utility costs, either.

19 **MR. BAEZ:** That does not count -- you're
20 exactly right. On a rent-only basis. On a rent-only
21 basis we make our money back.

22 **COMMISSIONER BROWN:** Thank you, Braulio. I
23 know we have talked about this for a year about
24 consolidating spaces, so I really appreciate you
25 specifying those locations, and especially the folks in

1 the audience that know that the Internal Affairs Room
2 will not be here in July, at the end of July.

3 **MR. BAEZ:** We will have nice new signs, and it
4 will be well publicized.

5 **COMMISSIONER BROWN:** Who will be occupying
6 this; do we know yet?

7 **MR. BAEZ:** DMS hasn't told us. I think we'll
8 be the last to know.

9 **COMMISSIONER BROWN:** Well, thank you for being
10 proactive.

11 **MR. BAEZ:** Thank you, Commissioners.

12 And the last item I wanted to bring up is both
13 sweet and bitter at the same time. As all of you know,
14 our resident know-it-all, Chuck Hill, has decided to
15 ride off into the sunset later this year. I believe at
16 the end -- sometime in October.

17 **MR. HILL:** Yes, I think.

18 **MR. BAEZ:** The time has come to discuss with
19 you all or at least present to you all who my choice is
20 to replace him once that sad day remains. And I am very
21 excited about the decision that we have come to
22 collectively with a lot of good input from a lot of
23 people.

24 I wanted to submit Lisa Harvey's name to you
25 all. I know that you have gotten to know her a little

1 bit as of the re-org. She moved up into a docket
2 manager's spot, in large part to be able to get the kind
3 of exposure that we need -- that I need her to have to
4 our process from that level anyway.

5 But a little bit about Lisa. She joined the
6 Commission in 1984, and she, through her work from the
7 audit shop, she has had vast experience and contact with
8 all the divisions of the PSC. She is a proud recipient
9 of the Gunter Award in 2002. And most notably the way
10 she shepherded the telecommunications interconnection
11 standards efforts of this Commission via what you
12 will -- you know, words that you probably will never
13 hear again, so I'm here to bring a little bit of history
14 back, the OSS, the operator services systems was
15 perhaps -- we sit here and we talk about nuclear plants
16 and how complex these dockets are, and need
17 determinations, and rate cases, and all of this stuff.
18 I can tell you this OSS docket lasted, I'd say, about
19 ten years. It may not even -- you know, I don't even
20 know that someone has driven a stake through it.

21 Having said that, she took the point on that
22 and managed to, from our standpoint, create a product
23 that received accolades not just from FCC, but from the
24 Department of Justice, as well, and it stands as one of
25 our shining moments in the Commission, and she had

1 everything to do with it. And I think she is well
2 equipped with skills and experience to, candidly, not
3 quite fit into Chuck Hill's shoes, but to grow her own.
4 And I would submit her to you for your blessing, and
5 then I'm hoping you will do so.

6 **CHAIRMAN BRISÉ:** Commissioners?

7 Commissioner Graham.

8 **COMMISSIONER GRAHAM:** This comment is nothing
9 against Lisa, by any means, but I make a motion that
10 Chuck Hill can't retire.

11 **MR. BAEZ:** Commissioner, no motion you could
12 make can compare to the begging and pleading and the
13 crying and the weeping that has gone on. But, candidly,
14 I'm over him, frankly.

15 (Laughter.)

16 **CHAIRMAN BRISÉ:** Commissioner Edgar.

17 **COMMISSIONER EDGAR:** I'm trying to remember
18 the language in the APM which I know we revised a few
19 years ago, but does the hiring of a new Deputy Executive
20 Director require a vote by us or not?

21 **MR. BAEZ:** Chuck, you're an APM expert. I
22 believe --

23 **MR. HILL:** I think it requires your
24 confirmation.

25 **MR. BAEZ:** Yes. I think it's more --

1 **MR. HILL:** But we can change that APM.

2 (Laughter.)

3 **COMMISSIONER EDGAR:** I just wasn't sure if
4 that was required or not. It is for some senior
5 positions, and it isn't for others.

6 **MR. BAEZ:** It is one of those, Commissioner.
7 It's important enough, clearly.

8 **COMMISSIONER EDGAR:** Well, then, if I may very
9 briefly. First of all, I would like to commend our
10 Executive Director for a number of the steps that he has
11 taken. We have talked about some cost-saving measures,
12 but also the leadership training and succession planning
13 that -- looking at our current needs and future needs,
14 planning for the agency, and that includes the
15 realignment, looking again at current workload and
16 projected workload. And so thank you for taking care of
17 all of us in that way, and for the future of the agency,
18 and with the staff training so that --

19 **MR. BAEZ:** It takes a village, Commissioner,
20 but, thank you.

21 **COMMISSIONER EDGAR:** -- so that the Commission
22 in the future is well equipped to take on the issue.
23 And I move approval of our Executive Director's
24 personnel recommendation.

25 **CHAIRMAN BRISÉ:** Okay. Before we deal with

1 that, Commissioner Balbis has a comment.

2 **COMMISSIONER BALBIS:** Yes, I have some
3 questions for Mr. Baez. You implemented a
4 reorganization plan.

5 **MR. BAEZ:** Yes.

6 **COMMISSIONER BALBIS:** And one of the things
7 that you brought to us was, one, to look at succession
8 planning, looking at doing things better, et cetera.
9 And one of the things that you either mentioned then or
10 you mentioned in subsequent discussions with me is
11 opportunities for career advancement and encouraging
12 folks to perform well so that they have an opportunity
13 to advance.

14 **MR. BAEZ:** Yes, sir.

15 **COMMISSIONER BALBIS:** And I want to focus on
16 the process and, you know, not the person itself. But
17 this position is the Technical Executive Director
18 position that oversees the four technical divisions.
19 Did you go through an open process so that all those in
20 the agency who have the opportunity to be considered for
21 opportunities to advance, or was this just an
22 appointment process and you felt it was the best
23 candidate? And how will that affect morale, going
24 through that process?

25 **MR. BAEZ:** Good questions, and I'll try to

1 answer them as -- I mean, there is no simple answer.
2 You asked if there was an open process, and I will go
3 back to how the appointment comes. The Deputy Executive
4 Directors, the nomination is at the discretion of the
5 Executive Director. So the honest answer is that an
6 open process, as I think you are suggesting, doesn't
7 take place.

8 But to the extent that it is a decision that I
9 make as Executive Director, taking into account the best
10 interests not just of the agency, but certainly and
11 selfishly what my needs in a deputy are, in that sense
12 there was an open process in the sense that I did
13 consider on my own, to myself, for myself, everyone that
14 we had available at this agency.

15 There are a number of criteria; we need
16 institutional memory, we need experience and we need
17 exposure and we also need character and skills of a
18 nature that are, to my mind, are intangible. Taking all
19 of that into account, and, again, keeping an open mind,
20 so I guess I would say my process was open, but it was
21 mine, and it is my decision. So I hope that answers or
22 at least tries to answer the open process question.

23 In terms of succession, I don't intend, and I
24 think -- succession is a tricky concept. I appreciate
25 what you might be implying, and how to provide

1 opportunities for advancement to everyone. And I tend
2 to -- I'm of two minds on the issue.

3 I think succession has to be planned for. I
4 think opportunities for advancement have to be made
5 available and be paid attention to. However, I think
6 that where the two start touching is a dangerous place,
7 because that has a habit of creating entitlement.

8 And I would say this, and I know there's a lot
9 of people listening here. I'm not in the business of
10 creating entitlement, and I'm not in the business of
11 creating expectations except that if you work to the
12 best of your ability, and if you use your skills to the
13 best of this Agency's interest, it will get noticed.
14 And it doesn't matter whether you have just walked
15 through the door or you have been here 30 or 40 years,
16 the right person for the job is a responsibility that I
17 take seriously above and beyond whatever expectations or
18 entitlements may be inherent in these words, like
19 succession and upward, you know, career advancement.

20 So I think it's much more than that. I think
21 it's a much fuzzier equation than that. I still believe
22 that those interests have been served, you know, by my
23 decision.

24 **COMMISSIONER BALBIS:** And that answers my
25 question on the process standpoint. I'm surprised that

1 we do have to vote on it, to be honest. But as long as
2 he has considered all the factors, that's all the
3 questions I have.

4 **CHAIRMAN BRISÉ:** Okay. Any further comments?
5 Commissioner Brown.

6 **COMMISSIONER BROWN:** It was also my
7 understanding that we didn't necessarily need to vote on
8 it, but it was a courtesy that you were giving to us to
9 consider.

10 **MR. BAEZ:** I'm willing to operate in any way
11 that you see fit.

12 **COMMISSIONER BROWN:** Braulio, in that same
13 vein, I do think, you know, you have a lot of
14 discretion. Your second-hand person is your pick. You
15 know, in other state agencies, in other local
16 governments, you know, the number one guy or girl picks
17 the number two guy, so I'm going to give you a lot of
18 deference here --

19 **MR. BAEZ:** I appreciate it.

20 **COMMISSIONER BROWN:** -- and confidence. And I
21 haven't had an opportunity to work very closely with
22 Lisa, but I look forward to it. I have worked closely
23 with Chuck and have a great deal of respect, and I know
24 that they would not be selecting you if they didn't have
25 the utmost confidence in you. So that being said, I

1 will support Mr. Baez' pick --

2 **MR. BAEZ:** Thank you, Commissioner.

3 **COMMISSIONER BROWN:** -- and I look forward to
4 getting to know you a little better.

5 **MR. BAEZ:** I just have one clarification. I'm
6 not the number one guy.

7 (Laughter.)

8 **COMMISSIONER BROWN:** No, you're not.

9 **MR. BAEZ:** Allow me a moment of
10 obsequiousness. There are five number ones. And I
11 appreciate your comments, Commissioners. You know, no
12 matter the level of discretion, I think it's important
13 that everyone understands the logic behind some of the
14 decisions that have been made, you know, even if the
15 process provides otherwise. So I do appreciate that.

16 **CHAIRMAN BRISÉ:** Commissioner Balbis.

17 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
18 I think we cannot pass on this opportunity to
19 bring her up to the table now and say a few words and --

20 (Laughter.)

21 **CHAIRMAN BRISÉ:** Well, let's finalize her
22 first, right?

23 (Laughter.)

24 **CHAIRMAN BRISÉ:** I'll make my comments before
25 we go into the voting. You can come to the table, if

1 you'd like.

2 My take on these type of things is
3 proverbially it's your head on the table. I mean,
4 that's the reality, right?

5 (Laughter.)

6 **MR. BAEZ:** Yes, it is.

7 **CHAIRMAN BRISÉ:** And so you live or die by
8 your decision. And so you select the people you trust
9 and select the people that you feel will work in your
10 best interest and in the best interest of the agency,
11 and all of that works together. And we have put,
12 collectively, our confidence in you, and so therefore
13 this is an extension of that confidence. And we trust
14 that --

15 **MR. BAEZ:** I do appreciate it.

16 **CHAIRMAN BRISÉ:** -- as you have done thus far,
17 you have done well with the trust that we have provided
18 to you. So I suppose that I'm speaking just for me, and
19 maybe for all of us, that you will continue to do so by
20 your selection.

21 **MR. BAEZ:** Thank you, Chairman.

22 **CHAIRMAN BRISÉ:** Do you have a question for
23 Lisa?

24 (Laughter.)

25 **CHAIRMAN BRISÉ:** So with that, I think we will

1 entertain a motion.

2 **COMMISSIONER EDGAR:** So moved.

3 **CHAIRMAN BRISÉ:** Okay. Is there a second?

4 **CHAIRMAN GRAHAM:** Second.

5 **CHAIRMAN BRISÉ:** It has been moved and
6 seconded.

7 Any further comments?

8 Okay. Seeing none, all in favor.

9 (Vote taken.)

10 **CHAIRMAN BRISÉ:** All right.

11 **MR. BAEZ:** Thank you, Commissioners.

12 **CHAIRMAN BRISÉ:** So, now, do you have any
13 comments?

14 **MS. HARVEY:** Thank you for your support, and I
15 look forward to working with each and every one of you.
16 And I'd like to perhaps meet with you in the next week
17 or so and just talk about your expectations for me,
18 and --

19 **CHAIRMAN GRAHAM:** Oh, they're huge.

20 (Laughter.)

21 **MS. HARVEY:** I'm looking forward to it.

22 Thank you.

23 **CHAIRMAN BRISÉ:** Thank you.

24 **MR. BAEZ:** Thank you, Commissioners.

25 **CHAIRMAN BRISÉ:** Moving on to -- is there

1 anything else that you have?

2 **MR. BAEZ:** We're done.

3 **CHAIRMAN BRISÉ:** Moving on to other matters,
4 is there anything on other matters?

5 I'd just like to take a moment of personal
6 privilege and thank the telecommunications staff. We
7 have been working on a few projects with the IAC with
8 USAC and with the federalism task force, and I'd like to
9 thank you all for your work.

10 It has been a lot of work over the last, I
11 don't know, several months of several papers and so
12 forth that we have been working on together. I want to
13 thank you all for your hard work. It's greatly
14 appreciated, and nationally you are appreciated for the
15 work that you have done. Okay.

16 Anything else for the good of the order?

17 All right. Seeing nothing else, Commissioner
18 Balbis moves we rise.

19 (The Internal Affairs meeting concluded at
20 12:15 p.m.)

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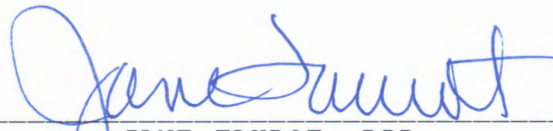
CERTIFICATE OF REPORTER

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, 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 8th day of July, 2013.



JANE FAUROT, RPR
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