

# I. Meeting Packet



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

Tuesday, July 9, 2013

Immediately following Commission Conference  
Betty Easley Conference Center, Room 140

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1. Federal Energy Regulatory Commission (FERC) Order on Compliance Filings by Tampa Electric Company, Duke Energy Carolinas, LLC, and Florida Power & Light Company. Guidance is sought. (Attachment 1)
  2. Executive Director's Report. (No Attachment)
  3. Other Matters. (No Attachment)

BB/css





## 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-**

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**DATE:** July 2, 2013

**TO:** Braulio L. Baez, Executive Director

**FROM:** Cindy B. Miller, Senior Attorney, Office of the General Counsel *CM S.M.C.*  
Benjamin Crawford, Public Utility Analyst II, Office of Industry Development & Market Analysis *for BC*  
Mark A. Futrell, Director, Office of Industry Development & Market Analysis *MA*  
Thomas E. Ballinger, Director, Division of Engineering

**RE:** Federal Energy Regulatory Commission (FERC) Order on Compliance Filings by Tampa Electric Company, Duke Energy Carolinas, LLC, and Florida Power & Light Company

**Critical Information:** Please place on July 9, 2013, Internal Affairs. Direction is sought regarding rehearing of the FERC order. The deadline for filing requests for rehearing is July 22, 2013.

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On June 21, 2013, the Federal Energy Regulatory Commission (FERC) issued its 127-page Order on the Compliance Filings for Duke Energy Carolinas, LLC, Tampa Electric Company, Florida Power & Light Company, and the Orlando Utilities Commission (Compliance Order). FERC found that these utilities have partially complied with the requirements of Order No. 1000. The utilities were directed to submit to FERC additional compliance filings within 120 days of the date of the Order.

Staff has identified concerns with the Compliance Order which impact transmission planning and the Florida Public Service Commission's (FPSC) jurisdiction, and recommends that the FPSC seek rehearing of the Order. Requests for rehearing must be submitted to FERC by July 22, 2013.

### Background

FERC Order No. 1000, issued on July 21, 2011, adopted new regional and interregional processes nationwide for transmission planning and cost allocation. The FPSC was among dozens of states, utilities, and other stakeholders requesting that FERC rehear and clarify its Order. In its request for rehearing and clarification of FERC Order No. 1000, the FPSC raised three issues:

- (1) FERC infringed on state jurisdiction in the transmission planning sections;
- (2) FERC infringed on state jurisdiction in the cost allocation sections; and



- (3) FERC should address the lack of clarity in FERC Order No. 1000, should define “benefits,” and clarify that benefits must be quantifiable pursuant to existing state and federal law.

In the 593-page Order No. 1000-A, issued May 17, 2012, FERC denied rehearing and chose not to clarify the ambiguities. FERC argued that, regardless of the effects of its order on cost allocation, it did not infringe on state jurisdiction because the states still retained jurisdiction over retail rates. Additionally, FERC elected not to clarify the definition of benefits or to require benefits to be based on existing state or federal law. Instead, FERC stated that each region should define benefits based on whatever parameters it deems appropriate.

Both Order Nos. 1000 and 1000-A establish a new paradigm for addressing regional transmission. Transmission stakeholders are placed in the role of developing plans to comply with FERC’s new requirements. Then, FERC approves, modifies, or rejects the compliance plans. State commissions are allowed to participate in the process only as stakeholders, and the compliance plans ultimately go to FERC for review.

A number of entities, including the Alabama Public Service Commission, appealed Order Nos. 1000 and 1000-A to the D.C. Circuit Court of Appeals. The FPSC intervened in support of the Alabama Commission in the appeal before the D.C. Circuit Court. The joint initial briefs of the petitioners and intervenors, including the FPSC, were filed on May 28, 2013. FERC’s answer briefs are due on September 25, 2013. The appeal will not be decided until 2014, with final briefs due in December 2013.

### **FERC’s Order On Florida Parties’ Compliance Filings**

Notwithstanding the pending appeal, utilities were required to make compliance filings pursuant to Order No. 1000, due October 11, 2012. FERC has begun issuing orders regarding compliance with Order No. 1000. As stated above, FERC issued its 127-page Order on the Compliance Filings for Duke Energy Carolinas, LLC, Tampa Electric Company, Florida Power & Light Company, and the Orlando Utilities Commission on June 21, 2013. Gulf Power is part of SERTP, and the FERC has not yet issued a Compliance Order on the SERTP filing

Staff has identified concerns with the Compliance Order which may impact transmission planning in Florida. First, FERC challenges the long-standing approach to transmission planning in Florida, which begins with individual utility ten-year site plans that are then used to develop regional plans for the Florida Reliability Coordinating Council (FRCC) region. In paragraphs 54-56 of the Compliance Order, FERC states that when the utilities implement a regional plan, it is not sufficient for a transmission planning region to merely “roll-up” local transmission plans without analyzing whether the region’s needs, when taken together, can be met more efficiently or cost-effectively by a regional transmission solution.

FERC concludes, in paragraph 56, that, as protesters (Seminole Electric Cooperative, Inc., Florida Municipal Power Agency, and LS Power) suggested, the utilities’ proposed regional planning process is deficient because “it does not require that the transmission providers in the FERC region develop a single transmission plan for the region that reflects their determination of the set of transmission facilities that more efficiently or cost-effectively meet



Memorandum  
July 2, 2013

the region's transmission needs." Section 186.801, Florida Statutes, however, requires each utility to submit a separate ten-year site plan. Also, Sections 366.04(2)(c), 366.05(8), 366.055(1), 366.055(3), and 366.05(8), Florida Statutes, address FPSC authority over grid reliability and integrity. Thus, FERC's directive appears to be in conflict with Florida law.

Second, FERC applies an overarching framework for the compliance filing that infringes on the FPSC's authority over transmission planning and reliability. In paragraph 197 of the Compliance Order, FERC states:

While we encourage state entities or regional state committees to consult, collaborate, inform, and even recommend a developer that is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation or a transmission project, the public utility transmission providers in a transmission planning region must make the selection decision with respect to the transmission developer and transmission project.

The FERC also directs the utilities to remove provisions relating to the Florida Reliability Coordinating Council's (FRCC) dispute resolution process in paragraphs 41-42 and the Florida Transmission Line Siting Act criteria in paragraphs 64-69. Thus, staff is concerned that the FPSC is relegated to a mere stakeholder role and that the Compliance Order goes beyond FERC Order No. 1000.

Third, FERC's challenge in paragraph 56 to Florida's statutory-based transmission planning construct raises the specter of an Regional Transmission Organization-like framework in order to meet FERC's expectations. The FPSC rejected the notion of an RTO in Order No. PSC-06-0388-FOF-EI, In re: Review of Grid Florida Regional Transmission Organization Proposal.

It is noteworthy that FERC Commissioner Tony Clark issued a concurring statement that questioned the benefit of Order No. 1000 in regions like Florida that have not organized themselves into functioning RTOs and Independent System Organizations (ISOs). He states, "But in a region like Florida, I cannot help but ask if the bureaucracy imposed by Order No. 1000 may outweigh the benefits to be gained." He adds:

The FERC jurisdictional utilities that serve Florida are vertically-integrated, monopoly utilities whose planning and operations are comprehensively regulated by the State of Florida. Integrated resource planning and facility siting, as approved by the state, ensures that generation and transmission decisions are viewed and approved holistically. The Florida utilities' integration with the rest of the greater southeast region is limited physically due to Florida's unique geography. There is no central dispatching entity and no LMPs to reflect local congestion. Florida utilities have exercised their right to retain control of their transmission by not choosing to join an RTO/ISO. The Florida Parties state that there are no identified public policy requirements driving regional transmission needs. Thus, in large part, the rationale for Order No. 1000 is lacking in Florida.

Memorandum  
July 2, 2013

Therefore, I am not entirely sure what is accomplished by Order No. 1000 in such a region. On one hand, since a good deal of integrated resource planning is already happening, there is a chance the real net effect of these changes will fall somewhere between minimally and modestly beneficial. But I fear by shoehorning Order No. 1000 into a region with existing and extensive state-led planning, we could risk the creation of an expensive, potentially litigious, and time-consuming additional layer of unnecessary bureaucracy. If this happens, the counter-productive result will not be more cost-effective and timely built transmission, but less.

### **Request for Rehearing of FERC's Order**

Staff recommends that the FPSC request rehearing of the FERC's Order on Compliance Filings. Requests for rehearing must be filed within 30 days of the issuance date of the Order, which in this instance is July 22, 2013.

Section 385.713, Code of Federal Regulations, requires that any request for rehearing "state concisely the alleged error in the final decision or final order." The three errors staff believes should be raised in a request for rehearing are:

1. The FERC erred by exceeding the requirements of FERC Order No. 1000 and its authority under the Federal Power Act and by infringing on Florida's ten-year planning process when it required one regional plan rather than allowing individual utility plans.
2. The FERC erred by applying an overarching framework for the compliance filing that infringes on the Florida Commission's authority over transmission planning and reliability.
3. The FERC erred by imposing requirements that push the utilities to form an RTO-like framework, contrary to FPSC Order No. PSC-06-0388-FOF-EI, In re: Review of Grid Florida Regional Transmission Organization Proposal.

Staff notes that a number of other state commissions have filed rehearing requests on the compliance filings in their areas. For example, the New England States (Massachusetts, Rhode Island, Connecticut, New Hampshire, and Vermont) filed a rehearing request June 17, 2013. They assert that the compliance order abrogates the central role of the New England states over the implementation of their own state policies and by infringing upon state authority over the development of transmission facilities. The National Association of Regulatory Utility Commissioners (NARUC) filed in support of the New England states.

Attached is a draft rehearing request for the FPSC's consideration.

CBM:tf

cc: Curt Kiser  
Chuck Hill  
Lisa Harvey



**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Tampa Electric Company	)	Docket No. ER13-80-000
	)	
Duke Energy Carolinas, LLC	)	Docket No. ER13-86-000
	)	
Florida Power & Light Company	)	Docket No. ER13-104-000

**FLORIDA PUBLIC SERVICE COMMISSION'S  
REQUEST FOR REHEARING OF ORDER ON COMPLIANCE FILINGS**

Pursuant to Rule 713 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure, the Florida Public Service Commission (Florida Commission) hereby moves for rehearing regarding the FERC's infringement of the Florida Commission's jurisdiction and transmission planning and reliability authority by the FERC Order on Compliance Filings (Compliance Order), issued on June 20, 2013.

**I. STATEMENT OF ISSUES AND SPECIFICATION OF ERRORS**

**1. The FERC erred by exceeding the requirements of FERC Order No. 1000 and its authority under the Federal Power Act and by infringing on Florida's ten-year planning process when it required one regional plan rather than allowing individual utility plans.**

**2. The FERC erred by applying an overarching framework for the compliance filing that infringes on the Florida Commission's authority over transmission planning and reliability.**

**3. The FERC erred by imposing requirements that push the utilities to form an RTO-like framework, contrary to Florida Commission Order No. PSC-06-0388-FOF-EI, In re: Review of Grid Florida Regional Transmission Organization Proposal.**



## II. ARGUMENT

**1. The FERC erred by exceeding the requirements of FERC Order No. 1000 and its authority under the Federal Power Act and by infringing on Florida's ten-year planning process when it required one regional plan rather than allowing individual utility plans.**

In paragraph 54, FERC states that it is not sufficient for a transmission planning region to merely "roll-up" local transmission plans without analyzing whether the region's transmission needs, when taken together, can be met more efficiently or cost-effectively by a regional transmission solution. In paragraph 56, FERC requires the Florida Parties to develop a single transmission plan for the region that reflects their determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's transmission needs. The requirement to establish a single top-down plan exceeds the requirements of FERC Order 1000 and FERC's authority under the Federal Power Act and infringes on Florida's ten-year planning process.

### *FERC Order No. 1000 Requirements*

FERC Order No. 1000 allows for a bottom-up individual utility transmission plan approach. In this regard, paragraph 158 of Order No. 1000 states: "[W]e note that a public utility transmission provider's regional transmission planning process may utilize a "top down" approach, a "bottom up" approach or some other approach so long as the public utility transmission provider complies with the requirements of this Final Rule." Paragraph 321 also contemplates the "roll up" of transmission plans. Thus, the requirement in paragraph 56 of the Compliance Order for a statewide plan appears to be contrary to Order No. 1000 which contemplates that separate plans are acceptable. Also, paragraph 56 ignores that the plans are compiled and analyzed by the Florida Reliability Coordinating Council (FRCC) and ultimately result in the regional plan.

*Florida Commission's Authority Over the Transmission Grid*

The requirement in paragraph 56 for a regional plan also infringes on the Florida Commission's authority over the transmission grid. The Florida Commission has specific statutory authority relating to transmission. Pursuant to Section 366.04(2)(c), Florida Statutes, the Florida Commission has the authority to require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes. Section 366.04(5), Florida Statutes, grants the Florida Commission jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to ensure an adequate and reliable source of energy for operational and emergency purposes in Florida and to avoid uneconomic duplication of generation, transmission, and distribution facilities. Section 366.05(7), Florida Statutes, authorizes the Florida Commission to require reports from all electric utilities to ensure the development of adequate and reliable energy grids.

The Florida Commission has authority under Section 366.05(8), Florida Statutes, to hold proceedings if there is probable cause to believe that inadequacies exist with the grid. The Commission may require installation or repair of necessary generation or transmission facilities, whereby mutual benefits will accrue to the electric utilities involved. Furthermore, costs associated with infrastructure repairs or additions must be distributed in proportion to the benefits received.

Section 366.055(1), Florida Statutes, requires the Florida Commission to ensure that energy reserves of all utilities in the Florida grid are available at all times to maintain grid reliability and integrity. Pursuant to Section 366.055(3), Florida Statutes, the Florida Commission has the authority to require an electric utility to transmit electrical energy over its transmission lines from one utility to another or as a part of the total energy supply of the entire grid, in order to ensure the efficient and reliable operation of Florida's energy grid. The



requirement for a single regional plan hampers the Florida Commission's ability to evaluate the sufficiency of each individual utility's plan for transmission.

*Florida's Ten-Year Planning Process*

Section 186.801, Florida Statutes, establishes a ten-year site plan process in Florida. It sets out a bottom-up process for each utility to submit to the Florida Commission a plan for approval. In the ten-year site plan process, each electric utility must submit to the Florida Commission a ten-year site plan estimating its power-generating and transmission needs and the general location of its proposed power plant sites. The Florida Commission then must classify each plan as "suitable" or "unsuitable" and may suggest alternatives to the plan. Then, when there is a transmission line siting application filed under Chapter 403, Florida Statutes, this plan will be considered in determining the need for the line. When the Florida Commission receives an individual utility project filing for a certification of need for a project, pursuant to Section 403.537, Florida Statutes, the parties may challenge the project as not being the most cost-effective solution. The Florida Commission then approves or denies that project. By foreclosing a "roll-up" of local transmission plans without additional steps, the FERC Compliance Order appears to impede the companies' and the Florida Commission's ability to implement Florida law.

*FERC's Jurisdiction Under the Federal Power Act*

The requirements of the Compliance Order indicate that the FERC is not doing what it claimed it would do in Order No. 1000, which is to grant flexibility to regions. See paragraph 745 in Order No. 1000. Pursuant to Section 201(a) of the Federal Power Act (FPA), the FERC's regulation of interstate transmission and wholesale power sales is limited to only those matters



which are not subject to regulation by the states.<sup>1</sup> Section 215 of the FPA, 16 U.S.C. Sec. 824o, grants the FERC jurisdiction to approve and enforce compliance with bulk transmission reliability standards. However, nothing in Section 215 of the FPA preempts the authority of the Florida Commission to take action to ensure the safety, adequacy, or reliability of electric service within our state, as long as such action is not inconsistent with any bulk power reliability standard. As illustrated above, Florida has well-established processes and state authority that are not being honored.

**2. The FERC erred by applying an overarching framework for the compliance filing that infringes on the Florida Commission's authority over transmission planning and reliability.**

While some states might have ceded some authority to the FERC due to the creation of RTOs/ISOs, the Florida Commission retained this authority. Florida remains a state with vertically integrated utilities, and no part of the state is a member of an RTO or ISO. Florida law provides the Florida Commission with authority to make decisions with respect to the transmission developer and transmission project.

Contrary to our authority over transmission planning, the Florida Commission is relegated to a stakeholder role by the terms of the Compliance Order. For example, paragraph 197 of the Compliance Order states:

While we encourage state entities or regional state committees to consult, collaborate, inform, and even recommend a developer that is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation or a transmission project, the public utility transmission providers in a transmission planning region must make the selection decision with respect to the transmission developer and transmission project.

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<sup>1</sup> The FERC is provided limited backstop authority under the 2005 Energy Policy Act to site transmission when a National Interest Electric Transmission Corridor is established. No such corridor has been established in Florida.

## ATTACHMENT A

The Compliance Order goes beyond the requirements of Order No. 1000. Order No. 1000 encouraged transmission providers to find a role for state authorities. Yet, the Compliance Order ignores or diminishes the Florida Commission role.

Order No. 1000 also stated that the FERC will not intrude on state authority over transmission siting. Yet, in a number of ways, the Compliance Order appears to be in conflict. By negating the Florida Commission's role over the ten-year site planning process, as set out in Section 186.801, Florida Statutes, the FERC infringes on Florida authority over siting. As discussed above, the ten-year site plan process identifies transmission line projects which may be later subject to the FPSC siting authority under Section 403.537, Florida Statutes.

Paragraphs 41-43 also appear to remove or dilute the FRCC dispute resolution provision, which allows inter-utilities complaints to go to the FRCC and then to the Florida Commission, and instead directs a dispute resolution process via a FERC Section 206 complaint process. Order No. 1000, at paragraph 750, indicated that all of the regions' dispute resolution processes were in compliance with the Order No. 1000.

In paragraph 65 of the Compliance Order, the FERC requires that the utilities remove the reference to the Florida Transmission Line Siting Act (TLSA) from the section on minimum thresholds for projects. FERC states that it is unclear if the TLSA criteria could exclude from evaluation transmission facilities that provide benefits to the region. However, these are statutory criteria in Florida and they should not be superseded by a FERC-mandated set of criteria. Thus, the FERC should reconsider these requirements.



**3. The FERC erred by imposing requirements that push the utilities to form an RTO-like framework, contrary to Florida Commission Order No. PSC-06-0388-FOF-EI, In re: Review of Grid Florida Regional Transmission Organization Proposal.**

Paragraph 56 of the Compliance Order states:

Our review of Florida Parties' compliance filings indicates that as protestors suggest, the proposed regional transmission planning process does not go beyond Order No. 890's regional transmission planning requirements, as it does not require that the transmission providers in the FRCC region develop a single transmission plan for the region that reflects their determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's transmission needs. In order to comply with Order 1000's requirements, Florida Parties along with other transmission providers in the transmission planning region, must conduct a regional analysis themselves to identify whether there are more efficient or cost-effective transmission solutions to regional transmission needs, regardless of whether stakeholders, prospective transmission developers, or other interested parties propose potential transmission solutions for the region to consider. In conducting the regional analysis, Florida Parties may not rely exclusively on proposals from interested parties as the region's means to identify more efficient or cost-effective regional transmission solutions. To satisfy the requirements of Order No. 1000, we require Tampa Electric, Florida Power, and Florida Power & Light to submit OATT revisions that describe the process they will use to identify more efficient or cost-effective transmission solutions and explain how the region will conduct that regional analysis through power flow studies, production cost analyses, and/or other methods. Order No. 1000's affirmative obligation to identify more efficient or cost-effective transmission solutions applies to transmission needs driven by economic considerations just as it applies to transmission needs driven by public policy requirements or reliability considerations. Accordingly, we direct Tampa Electric, Florida Power, and Florida Power & Light, within 120 days of the date of issuance of this order, to revise their OATTs to set forth the affirmative obligation to identify transmission solutions that more efficiently or cost-effectively meet reliability requirements, address economic considerations, and meet transmission needs driven by public policy requirements.

FERC's challenge in paragraph 56 to Florida's statutory-based transmission planning construct raises the specter of an RTO-like framework in order to meet FERC's expectation.

Florida is a non-RTO region. On May 9, 2006, the Florida Commission issued Order No. PSC-06-0388-F0F-EI, In re: Review of Grid Florida Regional Transmission Organization (RTO) Proposal, 2006 Fla. LEXIS 243 (2006), in which the Florida Commission declined to create an



RTO in Florida. That order stated that “continued development of GridFlorida does not appear to be cost-effective, and that it would not be prudent or in the public interest to continue the development of GridFlorida.” *Id.* at \*32. Significant efforts were devoted over an extended period of time to evaluate whether to establish an RTO in Florida.

The Compliance Orders’ evaluation criteria go beyond FERC order No. 1000 requirements. FERC Order No. 1000 contains no mandate that regions act to “identify and evaluate transmission solutions other than those proposed by qualified transmission developers” as required by paragraph 195 of the Compliance Order. Paragraph 328 of Order 1000 only establishes a mandate for regions to evaluate proposals that may either be superior to existing plans, or may provide economic or public-policy benefits beyond existing plans. FERC’s Compliance Order assumes an existing mandate not actually present in FERC Order No. 1000: that regions solicit or develop additional proposals beyond those in the regional transmission plan. As a result, FERC has not provided a justification either for rejecting the Florida Parties’ evaluation proposal or for requiring the inclusion of additional requirements that go far beyond those required in FERC Order No. 1000 or its later clarifying orders.

Like Commissioner Clark in his concurrence, we also question whether the bureaucracy imposed by Order No. 1000 may outweigh any benefits to be gained. As Commissioner Clark states:

FERC jurisdictional utilities that serve Florida are vertically-integrated, monopoly utilities whose planning and operations are comprehensively regulated by the State of Florida. Integrated resource planning and facility siting, as approved by the state, ensures generation and transmission decisions are viewed and approved holistically. The Florida utilities’ integration with the rest of the greater southeastern region is limited physically due to Florida’s unique geography. There is no central dispatching entity and no LMPs to reflect local congestion. Florida utilities have exercised their right to retain control of their transmission by not choosing to join an RTO/ISO. The Florida Parties state that there are no identified public policy requirements driving regional transmission needs. Thus, in large part, the rationale for Order No. 1000 is lacking in Florida.

## ATTACHMENT A

We also share Commissioner Clark's concern that "by shoehorning Order No. 1000 into a region with existing and extensive state-led planning," there is a risk of "the creation of an expensive, potentially litigious, and time-consuming additional layer of unnecessary bureaucracy." Thus, the Florida Commission asks the FERC to temper the imposition of its overarching Order No. 1000 structure on the Florida region so as to honor the Florida Commission's authority cited above.

### III. CONCLUSION

Wherefore, the Florida Commission respectfully urges the FERC to grant rehearing on the issues identified above, and honor state statutory authority over transmission planning, siting, and reliability.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire  
Office of the General Counsel

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DATED: July \_\_, 2013

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



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

***INTERNAL AFFAIRS  
July 9, 2013***

<b><u>Speaker</u></b>	<b><u>Representing</u></b>	<b><u>Item #</u></b>
Paul Lewis	Duke Energy	1
Ken Hoffman	Florida Power & Light Company	1

# 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, July 9, 2013

Betty Easley Conference Center, Room 148

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

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**CHAIRMAN BRISÉ:** At this time we will go ahead and convene the Internal Affairs agenda meeting today. And today is Tuesday, July 9th, still. And so at this time we're going to go ahead and move to Item Number 1.

Ms. Miller.

**MS. MILLER:** Thank you.

Commissioners, Cindy Miller with the Office of General Counsel, and Mark Futrell and Ben Crawford with the Office of Industry Development and Market Analysis.

Item 1 relates to the new Federal Energy Regulatory Commission compliance order which largely rejects most of the provisions in Order No. 1000 compliance filings by Tampa Electric Company, Florida Power and Light Company, and Duke Energy.

Utilities were given 120 days to submit new filings. We see concerns in the new compliance order which are similar to concerns that the Florida Commission raised in Order No. 1000, and yet we think that this new order even goes further. In particular, we see that the FERC order does not allow the individual utilities to make transmission plans such as set out in the Florida Commission's ten-year site planning process. Instead, the -- I'm sorry, the ten-year site plan process.

1           Instead, the utilities are directed to make  
2 one regional plan without submitting individual plans  
3 that are then rolled up into the one plan. Also, it  
4 appears that the order infringes on Florida Commission  
5 authority over transmission planning and reliability by  
6 continuing to relegate the Florida Commission to a mere  
7 stakeholder role rather than the Florida statutory role.

8           Lastly, we think the FERC is pushing the  
9 utilities to form a regional transportation organization  
10 type structure, which the Florida Commission  
11 specifically rejected in the 2006 docket on Grid  
12 Florida. The process is that we're recommending seeking  
13 rehearing of the order, this only entails the filing of  
14 a paper document and does not generally involve travel  
15 to Washington, D.C., or appearing before the FERC. It  
16 does not result in a stay. The companies will still be  
17 required to make new filings in 120 days.

18           We have noticed that a number of states have  
19 already been seeking rehearing of the compliance orders  
20 that have come out in their regions. We have noticed  
21 that South Carolina, Indiana, Illinois, Ohio, North  
22 Carolina, all the New England states -- Massachusetts,  
23 Rhode Island, Connecticut, New Hampshire, and Vermont --  
24 have sought rehearing on the orders that FERC has issued  
25 for their region. So we think there are concerns, and



1 we think a request for rehearing is the best avenue to  
2 raise those concerns. And if the Commission ever wanted  
3 to file a court challenge on it, then we're required to  
4 do a request for rehearing before you would seek that.  
5 And we have 30 days to file the request for rehearing  
6 from the date of the order.

7 **CHAIRMAN BRISÉ:** Thank you very much.

8 Commissioner Brown.

9 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

10 And, thank you, staff, for your work on this,  
11 and for keeping us informed. And I know it has been a  
12 short turnover, but I appreciate the summary you  
13 transmitted to us on Friday. So thank you very much.

14 That being said, what is the standard of  
15 review here for a motion for a rehearing?

16 **MS. MILLER:** Right. Thank you.

17 They have a rule on that, Rule 713, and it's  
18 not as strict as the standard that you all have, the  
19 mistake of fact or law. Their standard is a little more  
20 liberal on it. It just says that you have to set out  
21 the issues. So it's Rule 713, request for rehearing,  
22 and it says you have got to state concisely the alleged  
23 error and you have got to set forth the matters upon  
24 which you are requesting rehearing. And it does not put  
25 in a specific standard. What we saw in the

1 Order No. 1000 round, I guess I'll call it, is that, I  
2 would say, over 100 entities sought rehearing on that  
3 order, and they denied every request for rehearing.  
4 They did make a couple of clarifications to petitions  
5 for clarifications. But, in general, they just rejected  
6 every single one.

7 **COMMISSIONER BROWN:** And that was kind of the  
8 gist of the question. Are we tailoring our requests for  
9 rehearing in a way for actual reconsideration that would  
10 be in compliance with their standard of review so that  
11 it would be a viable consideration?

12 I know we're trying to hold a standing here  
13 for a future challenge, but -- and I understand the  
14 three errors that staff is recommending that we  
15 consider. And I think they are good, I think they are  
16 viable, but are they -- should they be expanded a little  
17 bit more so that they could actually be viable reasons  
18 for consideration?

19 I mean, you know, the first one that we are  
20 looking at I completely agree with. It is an  
21 infringement on what we currently do in Florida under  
22 our ten-year site plan, but it almost seems that this  
23 compliance plan is ordering the states to have an -- you  
24 know, have an RTO here, even though they are saying it's  
25 not. They're not requiring it, but it seems like

1 they're kind of requiring it.

2 **MS. MILLER:** I did want to ask permission to  
3 add a few case cites, if you all decide to move forward  
4 with the request for rehearing, which will bolster it a  
5 bit. But I will be honest, I'm not optimistic that they  
6 are going to entertain these issues. We were very  
7 encouraged by Commissioner Tony Clark's concurrence. It  
8 was like a breath of fresh air, you know, as he said  
9 that he just didn't see why this was really beneficial  
10 to an area like Florida.

11 **COMMISSIONER BROWN:** I would concur with his  
12 concurrence.

13 **MS. MILLER:** Yes. And so we were very  
14 encouraged by that. But, in general, in view of them  
15 rejecting all of those filings, and those were done by  
16 the most knowledgable people in the field, you know, in  
17 terms of coming up with those rehearing requests.

18 You know, I think it would be a good idea, and  
19 we have some ideas on adding some things, but, in  
20 general, I'm not optimistic that we're going to change  
21 their minds.

22 **COMMISSIONER BROWN:** So is the basis, then,  
23 for the motion for rehearing here to place a  
24 stakeholder, I guess, for future appeals?

25 **MS. MILLER:** That's it. I mean, it's to get



1 the concerns out there and express them, and also to  
2 protect the Commission, the Florida Commission, that if  
3 you ever did want to challenge it that you could.

4 Because of the outcry of so many states now,  
5 maybe there will be a little bit of a shift, but I still  
6 am doubtful. And --

7 **COMMISSIONER BROWN:** NARUC has filed a motion  
8 for reconsideration, but just on behalf of the New  
9 England states or on behalf of --

10 **MS. MILLER:** Oh, thank you. And on that, and  
11 NARUC, the last week before the briefs were due in the  
12 appeal, did get into the court case. They had not  
13 earlier. And I think one of the things that perhaps  
14 moved the organization to getting involved was seeing  
15 what's coming out in these compliance orders, because  
16 some of those were coming out earlier. But -- let me  
17 see, what was your question?

18 **COMMISSIONER BROWN:** I don't --

19 **MS. MILLER:** Oh, NARUC. Yes. And also we  
20 can -- if the Commission, Florida Commission wishes to,  
21 the Commission can send a request to NARUC to intervene  
22 on this one. I did want to mention they have intervened  
23 on MISO's region and PJM's. And they actually did not  
24 intervene on New England states, but only because they  
25 hadn't been requested, is my understanding.

1                   **COMMISSIONER BROWN:** Thank you for that  
2 clarification.

3                   Mr. Chairman, I was curious if this would be  
4 appropriate for the parties to possibly -- if they want  
5 to speak, if this would be an opportune time for them to  
6 speak.

7                   **CHAIRMAN BRISÉ:** Sure. The parties are always  
8 welcome to speak if they have an interest in expressing  
9 an opinion on this. So you are welcome to come and take  
10 your seat.

11                   **MR. LEWIS:** Good morning, Commissioners,  
12 Chairman.

13                   I can generally represent that all three IOUs  
14 that Cindy mentioned earlier are in concurrence with  
15 what she shared with you this morning. Clearly we have  
16 similar concerns with the FERC order. The companies  
17 haven't made a final decision as to whether we'll file  
18 comments yet or not. Our management is considering, you  
19 know, those options now.

20                   I think it's likely that at least some of the  
21 companies will file. We'll know more about that in the  
22 next few days I suspect. But at any rate, we truly do  
23 support what Cindy is proposing to you this morning.

24                   **COMMISSIONER GRAHAM:** For the record, who are  
25 you?

1           **MR. LEWIS:** Pardon me?

2           **COMMISSIONER GRAHAM:** For the record, who are  
3 you?

4           **MR. LEWIS:** I'm sorry. Paul Lewis, Duke  
5 Energy.

6           **CHAIRMAN BRISÉ:** Thank you.

7           Commissioner Balbis.

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

9           And I want to echo some of the comments that  
10 Commissioner Brown made specifically, and I specifically  
11 wanted to state where my thoughts were on this. I think  
12 we need to continue to fight this order. And if we can  
13 beef up our requests for rehearing, as Commissioner  
14 Brown indicated, so that we may have a better outcome  
15 than we did last time, I'm certainly in support of that.

16           I, too, was encouraged by Commissioner Clark's  
17 comments. I think if there's any way we can have him  
18 argue our request for rehearing, I agree certainly with  
19 all of his comments. I do believe that we need to  
20 continue to fight this. Florida is unique in that it's  
21 a peninsula. And especially from a reliability  
22 standpoint, we get hit from hurricanes from all sides,  
23 and we have vertically integrated companies that we work  
24 closely with to make sure we maintain reliability, and I  
25 think we need to continue to do that.

1           The possibility of adding an additional layer  
2 of bureaucracy that may slow down a transmission  
3 planning process is very concerning to me, along with  
4 the possibility that the cost allocation methodology  
5 will change, and then suddenly Florida will be, once  
6 again, paying for projects that are outside of this area  
7 and where we have little, if any, interconnection. And  
8 that's another concern that I have with this order.

9           So I want to be very clear, and hopefully I  
10 have, that I support the request for rehearing. I think  
11 we need to make it as robust a request as possible.  
12 This order concerns me. I do not think it applies to  
13 the State of Florida, and I'm glad to see that at least  
14 one FERC Commissioner agrees.

15           **CHAIRMAN BRISÉ:** All right. Thank you,  
16 Commissioner Balbis.

17           Commissioner Edgar.

18           **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.  
19 A couple of comments, and some questions, if I  
20 may.

21           **CHAIRMAN BRISÉ:** Sure.

22           **COMMISSIONER EDGAR:** First of all, Mr. Lewis,  
23 thank you for coming forward. And I recognize that just  
24 as our staff and as we individually as Commissioners are  
25 still reviewing the compliance order that came out very



1 recently, and also candidly, from my own standpoint,  
2 still trying to continue to educate myself about Order  
3 1000 and the potential impacts as it is implemented over  
4 time, therefore, I recognize that your company and  
5 others are still reviewing and need to take time to  
6 analyze.

7 But I would like, if I may, and I'm sorry to  
8 put you on the spot, if I am, but to take it just a  
9 little further, since this is the time that we have as a  
10 Commission for discussion prior to the deadline for  
11 filing on this point. We have had -- my memory is that  
12 we have had representatives from different utilities  
13 here in Florida on Order 1000 in different perspectives  
14 and saw some recommendations as to how best to interact  
15 with FERC relating to our concerns.

16 So I guess a question is, our staff has  
17 expressed a concern that the compliance order perhaps  
18 goes beyond the original Order 1000. Is that something  
19 that the utilities may take a position on vis-a-vis the  
20 compliance order?

21 **MR. LEWIS:** Yeah. Commissioner Edgar, I  
22 certainly can't speak for the other companies, but I can  
23 tell you that Duke has very serious concerns about that.  
24 My sense is that it's very likely that we will file and  
25 lay those issues out for the FERC in our filing for

1 rehearing. So, yeah, I think that's -- I mean, that's  
2 certainly a concern. I mean, clearly, our belief is  
3 that FERC has gone further than what the original order  
4 was intended to be, I think.

5 **COMMISSIONER EDGAR:** Or was interpreted as,  
6 interpreted to be, not to put words in your --

7 **MR. LEWIS:** Exactly.

8 **COMMISSIONER EDGAR:** Mr. Chairman, again, I  
9 thank Mr. Lewis for stepping forward when Commissioner  
10 Brown asked if there were comments. I would like to  
11 hear from FPL if that's at all possible. I know that  
12 former Chairman Kelliher on behalf of NextEra has  
13 addressed this Commission specifically on Order 1000,  
14 and generally in support of many of the provisions  
15 therein.

16 Is there an opportunity to hear from a  
17 representative from FPL or NextEra today in light of the  
18 comments that they have made on this general issue in  
19 the past to this Commission?

20 **CHAIRMAN BRISÉ:** Sure, if there's a  
21 representative from FPL.

22 **MR. HOFFMAN:** Mr. Chairman, Commissioner  
23 Edgar, Commissioners, my name is Ken Hoffman. I'm with  
24 Florida Power and Light Company.

25 We asked Mr. Lewis to essentially speak on our

1       behalf in terms of our general position on this and kind  
2       of where we are right now, Commissioner.

3               Let me just say that, number one, Florida  
4       Power and Light is sensitive to the Commission's  
5       concerns regarding its jurisdiction and the impact that  
6       both FERC Order 1000 and the compliance order from FERC  
7       may have on that jurisdiction. We are also mindful  
8       that -- and you heard Cindy talk about a number of  
9       motions for rehearing and how many were granted and how  
10      many were not. We are also mindful, and we are sort of  
11      going through the process of the risks that go,  
12      sometimes, with seeking rehearing, and that to the  
13      extent there may be wiggle room in the language of the  
14      order addressing the compliance filing, perhaps we are  
15      better off to use that wiggle room and do our best to  
16      preserve the Commission's jurisdiction through our  
17      compliance plan rather than take the risk that on  
18      rehearing FERC may be more prescriptive and eliminate  
19      what wiggle room we see in the language of the order.

20              So we've got to -- and we are kind of talking  
21      about sort of the pros and cons of all of that. So just  
22      by way of example, and I'm certainly not an expert on  
23      Order 1000, but it is my understanding that not with  
24      respect to Order 1000, but with respect to this  
25      particular order on the compliance filing, that FERC

1 essentially said, you know, do not just simply  
2 incorporate by reference the criteria from the  
3 Transmission Line Siting Act. Don't do that. But you  
4 can come back through your compliance plan and  
5 essentially justify essentially the substantive criteria  
6 that is in that statute. So that may be one way to  
7 arrive at the same place, and that's just by way of  
8 example.

9 We are continuing to look at whether we seek  
10 rehearing. We have been in communication with  
11 Mr. Lewis's company, as well as with Tampa Electric, and  
12 that's really kind of where we are right now,  
13 Commissioner.

14 **COMMISSIONER EDGAR:** May I?

15 **CHAIRMAN BRISÉ:** Sure.

16 **COMMISSIONER EDGAR:** Thank you.

17 Could I ask you to -- and maybe it's because  
18 I'm fighting, again, a summer cold, and maybe I'm not  
19 hearing well, but could you -- and, again, I recognize  
20 that it's still being evaluated, but your point just a  
21 moment ago about there may be another way to kind of  
22 address that with some wiggle room as pertains to the  
23 ten-year siting plan process. Could you go over that  
24 point for me again, generally.

25 **MR. HOFFMAN:** Generally, Commissioner, as I



1 understand it from those who have closely analyzed the  
2 language in FERC's order, there may be enough wiggle  
3 room to work with to continue to try to implement this  
4 Commission's jurisdiction as we have always supported  
5 through the compliance plan. And so I don't know all of  
6 the examples of that. I know that there has been  
7 discussion about top-down planning and other types of  
8 planning and how that all works.

9 The example that I'm aware of had to do,  
10 evidently, with the Transmission Line Siting Act itself,  
11 and I'll just say, subject to check, that the compliance  
12 plan filing just referenced it. And FERC's reaction to  
13 that was, essentially, well, we're not happy with you  
14 just referencing it, but there are actual criteria in  
15 that statute, and to the extent you wish to use that  
16 criteria in the transmission planning process, then, you  
17 know, we can still propose to use that criteria and try  
18 to justify it. But what we cannot do, and this is as I  
19 understand the order, is simply just reference it.

20 **COMMISSIONER EDGAR:** Thank you. And thank you  
21 for coming forward to talk about this in a little more  
22 detail. A couple of points and maybe some questions for  
23 staff.

24 **CHAIRMAN BRISÉ:** Sure.

25 **COMMISSIONER EDGAR:** First of all, I concur

1 with the comments of Commissioner Brown and Commissioner  
2 Balbis regarding supporting our staff's recommendation  
3 that we participate formally and preserve our rights as  
4 a Commission as we continue to evaluate what, if any,  
5 impact this order and other related federal orders have  
6 on Florida, on our Commission processes and orders, and  
7 even more importantly, potentially on our ratepayers as  
8 far as financial costs and burdens, and also any service  
9 or reliability impacts.

10 I also recognize, as Commissioner Brown  
11 brought out, that the formal legal mechanism is just,  
12 you know, one piece of the larger puzzle. An important  
13 one certainly, but just one piece of it. And so one of  
14 the things I talked about with staff in my briefing  
15 recently was asking them, and I'm not going to ask them  
16 to get into this now because this is very recent, but I  
17 have asked them to give some consideration that would  
18 help me analyze and potentially bring it forward for  
19 what other mechanisms, opportunities, lines of  
20 communication may or may not be available to us either  
21 formally as a Commission or individually in our capacity  
22 as independently appointed Commissioners, so that we can  
23 express our concerns in whatever means are available to  
24 us as is deemed appropriate.

25 On the draft specifically that is before us,

1 there are a couple of points in the language, and I have  
2 marked them, but I don't have it right now. I would  
3 just put this out. A couple of points in the draft  
4 language where there is a reference to an order, a FERC  
5 order, and it was unclear to me whether that was  
6 referencing Order 1000, Order 1000A on rehearing, or the  
7 compliance order. So I would just ask, perhaps, if we  
8 can go back and could maybe tighten up those references.

9 It's probably very clear for somebody who is,  
10 you know, dealing with this every day. But recognizing  
11 that we're referencing three different orders, at some  
12 points it was unclear to me which one specifically. So  
13 that would be one technical suggestion.

14 Also in the language where we refer to the  
15 region, or to Florida as part of a region, or a region,  
16 again, at some points it was unclear to me as if we were  
17 referring to just the FRCC, peninsular Florida as its  
18 own region under the FERC approach, or if by referencing  
19 Florida being part of a region, or a region whether it  
20 was referring to Florida perhaps for these purposes  
21 being subsumed into the larger southeast region. Again,  
22 for those who deal with this every day that may be very  
23 clear, but to me it was not clear, and I would just ask,  
24 perhaps, technically that that language could be  
25 tightened up to be made more clear.

1           I also discussed with staff that I, as I think  
2 I have heard from my colleagues, have concerns about  
3 what the impact would be on our implementation of the  
4 Legislature's will by virtue of the statutes that are on  
5 the book in Florida. Also, the fact that we have heard  
6 from many people here at the Commission and in other  
7 educational venues about the intent and implementation  
8 of Order 1000, but the potential that this is taking it  
9 further. So concerns about how it would impact our  
10 implementation of Florida law, the concern about the  
11 order -- the implementation orders of compliance going  
12 beyond the initial order.

13           But I also have, again, real concerns about  
14 what the impact potentially could be on Florida  
15 ratepayers by virtue of, perhaps, additional wholesale  
16 rate impacts with minimal, if any, benefit by virtue of  
17 our FRCC region being a separate region, and also then  
18 on reliability, as well.

19           So I discussed this with staff and asked them  
20 to consider maybe some language that makes that point a  
21 little stronger as would be appropriate in keeping with  
22 the integrity of the draft document. And if we would  
23 like to, as a Commission, go forward with this, I would  
24 ask that we consider beefing up that point as  
25 appropriate.



1                   **CHAIRMAN BRISÉ:** Okay. Mr. Kiser.

2                   **MR. KISER:** Thank you, Mr. Chairman.

3                   In addition to the approach that Mr. Hoffman  
4 raised, there's also, I think, a more political  
5 approach, and that is to make sure that our  
6 congressional delegation is completely informed about  
7 our situation and the difficulty we're having with  
8 working through this whole situation. And, you know,  
9 recently we've had a new congressman added that happened  
10 to be a member of this Commission. I think people like  
11 him and others may very well be sensitive to this, and  
12 we may need to be employing that kind of leverage as  
13 much as we can, as well.

14                   It certainly couldn't hurt to make sure that  
15 the whole delegation is made aware of this and the  
16 extent of it, how all the -- a number of other states  
17 are likewise concerned about this, and that may be  
18 something you want to, another arrow you want to put in  
19 your quiver in thinking about a whole frontal approach.

20                   From my perspective, our approach would be  
21 from the legal side to do everything we can to preserve  
22 every option available to us, including the final one,  
23 which would be to fully litigate, but protecting every  
24 option up to that point. And obviously those decisions  
25 would have to come from the Commission. But that's

1 where I'm coming from, that we just need to make sure  
2 that we have every avenue and we don't cut any of them  
3 off at this early stage. Thank you.

4 **CHAIRMAN BRISÉ:** Thank you very much.

5 Cindy.

6 **MS. MILLER:** We are starting to see -- Senator  
7 Wyden is somebody who is raising great concerns with  
8 what FERC is doing, so we are starting to see a little  
9 movement in Congress on that.

10 **CHAIRMAN BRISÉ:** Commissioner Balbis.

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

12 And if I could respond to Mr. Kiser's  
13 recommendation. I know this Commission did move forward  
14 with submitting our comments on proposed EPA regulations  
15 to our congressional delegation. And I think that's a  
16 good idea, as well, in this situation. I know we have a  
17 deadline fast approaching for this. And, Cindy, what is  
18 the deadline?

19 **MS. MILLER:** Yes. The deadline is July 22nd.  
20 So basically my plan is it would be nice if you all vote  
21 for the Florida Commission to seek rehearing. I'd like  
22 to send them out Friday, next Friday. But the letters  
23 to Congress could go at any time, and could attach, you  
24 know, the filing.

25 **COMMISSIONER BALBIS:** Okay. Thank you.

1           And I appreciate the comments from Mr. Hoffman  
2 on other avenues and possibly having wiggle room during  
3 the compliance aspect of it. My concern is that as what  
4 we have seen with the compliance order going above and  
5 beyond the actual order, I think if anything the wiggle  
6 room decreases the more latitude you give FERC. And so  
7 I would hate to rely on that avenue and exhaust all of  
8 the other avenues that we have. So I would like to  
9 proceed with the request for rehearing on this matter.

10           You know, just to repeat, I just think it's  
11 very concerning to me. I think that the possibility of  
12 adding another layer of bureaucracy to slow down the  
13 transmission planning process in Florida, and the  
14 possibility of increasing rates to customers to pay for  
15 transmission projects that Florida will receive no  
16 benefit, and also the further reduction in our authority  
17 is very concerning to me. So I would like to see us  
18 pursue all options in this matter.

19           **CHAIRMAN BRISÉ:** Okay. Thank you. Any  
20 further comments?

21           Commissioner Brown.

22           **COMMISSIONER BROWN:** Thank you. I concur with  
23 both Commissioner Edgar and Commissioner Balbis on  
24 bolstering the motion here.

25           Cindy, I know you are trying to get this out

1 by Friday. When could we have a draft that we could at  
2 least review before you transmit it with the language  
3 that was suggested by my fellow Commissioners, or Mark?

4 **MR. FUTRELL:** Commissioner Brown, that may be  
5 problematic. If you would like -- in the past we have  
6 had situations where the Commission has suggested some  
7 changes to a filing. Sometimes the Commission would  
8 designate a particular Commissioner, the Chairman, to  
9 work with staff and to make sure that the concerns that  
10 have been expressed by the Commissioners are reflected  
11 in that document. So that's one option that would be  
12 available to you. But circulating amongst the  
13 offices --

14 **COMMISSIONER BROWN:** Thank you. No, thank  
15 you. I appreciate you providing that. I know we are on  
16 a short time frame here, but I'd like to see it, though.

17 **MR. FUTRELL:** And just to clarify the timeline  
18 we are on, we are talking about the following Friday,  
19 not this coming Friday. So we do have a little time to  
20 work.

21 **COMMISSIONER BROWN:** Thank you.

22 **CHAIRMAN BRISÉ:** Yes. Part of the challenge  
23 that exists there is that if all of us were to take a  
24 look at it after the draft, then we would have to come  
25 back and have a decision made. So as we typically do,



1 we'll -- you know, we'll work through my office, and we  
2 will make the appropriate changes, and we'll make sure  
3 that the changes that are made reflect the will of the  
4 body as expressed today. Okay.

5 **COMMISSIONER BROWN:** Thank you.

6 **CHAIRMAN BRISÉ:** On the issue, generally, I  
7 think that it is very appropriate for us to move forward  
8 with this. In moving forward with this, I think we are  
9 seeking to protect the interests of the State of  
10 Florida, and that's what we are seeking to do as the  
11 Commission.

12 You know, every stakeholder has a different  
13 vantage point, and we need every stakeholder to take  
14 advantage of their position and their vantage point to  
15 the benefit of Florida and our collective constituents.  
16 So we will not only go through -- if the board elects to  
17 support this, that we will pursue this through the legal  
18 avenue, and I think it's a very good idea as we have  
19 done in the past to, after we have sent the -- or  
20 submitted our motion, or whatever we want to call it,  
21 then to pursue to contact our delegation to inform them  
22 that we have taken a step forward with this, and this is  
23 of great interest to us. And it may not be a bad idea  
24 for us to also inform the Governor and the Cabinet that  
25 we have expressed an interest in this, as well.

1           So those are steps that I think collectively  
2 we could sort of wrap that up into a motion, as steps  
3 that we are going to take with respect to this, and I  
4 think that that may be a good place for us to go.

5           **MR. BAEZ:** Mr. Chairman?

6           **CHAIRMAN BRISÉ:** Yes, sir, Mr. Baez.

7           **MR. BAEZ:** Forgive the interruption. Just to  
8 make sure that you have got all of your options on the  
9 table. If you think -- if the Commission's feelings are  
10 that -- if their pleasure is that they want to look at  
11 this one more time, our notice -- Mary Anne just let me  
12 know that our noticing requirements for an additional  
13 meeting in order to do this are still available, and we  
14 are still on time to do it, if you think it rises to  
15 that level. Not necessarily my suggestion, but in order  
16 to have it all before you as to how you want to proceed.

17           **CHAIRMAN BRISÉ:** I certainly appreciate that  
18 information.

19           All right. Commissioner Balbis.

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

21           And if it's appropriate, I'd like to make a  
22 motion on this matter. I move that we authorize staff  
23 to request rehearing on this matter, and authorize the  
24 Chairman to make the minor modifications that were  
25 discussed, and also to draft a cover letter for the

1 delegation, congressional delegation, as needed.

2 **CHAIRMAN BRISÉ:** All right. Is there a  
3 second?

4 **COMMISSIONER BROWN:** Second.

5 **CHAIRMAN BRISÉ:** All right. Any further  
6 discussion? Is the motion clear? All right. It  
7 reflects our intent?

8 All right. It has been moved and seconded.  
9 All in favor say aye.

10 (Vote taken.)

11 **CHAIRMAN BRISÉ:** Thank you. Moving on to the  
12 Executive Director's report.

13 **MR. BAEZ:** No report. Sorry.

14 **CHAIRMAN BRISÉ:** Okay. Anything on other  
15 matters?

16 All right. Seeing nothing on other matters.  
17 Looking around. Any lights? Anyone? All right.

18 Cindy.

19 **MS. MILLER:** Would you like staff to draft a  
20 letter to ask NARUC for their participation, as well?

21 **CHAIRMAN BRISÉ:** Commissioners?

22 **COMMISSIONER GRAHAM:** What was the question?

23 **CHAIRMAN BRISÉ:** Oh. The question is would we  
24 like to draft a letter to NARUC seeking their  
25 participation, as well?

1                   **CHAIRMAN GRAHAM:** Yes.

2                   **CHAIRMAN BRISE:** Okay. Commissioner Brown.

3                   **COMMISSIONER BROWN:** I'd like to hear from  
4 Commissioner Edgar since her involvement on NARUC is so  
5 prominent, and get your input on that.

6                   **CHAIRMAN BRISE:** Commissioner Edgar.

7                   **COMMISSIONER EDGAR:** Thank you, Commissioner  
8 Brown. I appreciate that question very much.

9                   And when Cindy raised that, I was just  
10 thinking do we need a letter or do we not? I don't know  
11 that we do, but recognizing that it would be an  
12 expression from the five of us coming through the  
13 Chairman, I think that that would be a good thing. And  
14 if I have my fellow colleagues' blessing to do so, it is  
15 something that I can bring up in the conference call  
16 with the executive committee, which I know other regions  
17 have also done. So thank you.

18                   **CHAIRMAN BRISE:** All right. So we will ask  
19 you to do that, and we will pursue that avenue, as well.  
20 Okay. With that, I think we stand adjourned. Thank  
21 you.

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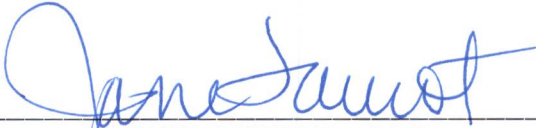
STATE OF FLORIDA        )  
                                  :  
                                  :        CERTIFICATE OF REPORTER  
COUNTY OF LEON        )

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 16th day of July, 2013.

  
\_\_\_\_\_  
JANE FAUROT, RPR  
Official FPSC Hearings Reporter  
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