

I. Meeting Packet



State of Florida
Public Service Commission
INTERNAL AFFAIRS AGENDA

Wednesday, July 30, 2014

~~9:30 am~~ 11:00 am

Room 105 - Gerald L. Gunter Building

REVISED TIME

1. Federal Energy Regulatory Commission (FERC) Order on Rehearing and Compliance Filings for the Southeastern Regional Transmission Planning (SERTP) region. Guidance is sought.
2. Briefing on Proposed Implementation Plan for 2014 Legislation.
3. Legislative Update. (No Attachment)
4. Executive Director's Report. (No Attachment)
5. Other Matters. (No Attachment)

BB/mj

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



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: July 22, 2014

TO: Braulio L. Baez, Executive Director

FROM: Samantha M. Cibula, Attorney Supervisor, Office of the General Counsel *SMC*
Benjamin Crawford, Public Utility Analyst II, Office of Industry Development & Market Analysis *BC*
David L. Dowds, Public Utilities Supervisor, Office of Industry Development & Market Analysis *DD*

RE: Federal Energy Regulatory Commission (FERC) Order on Rehearing and Compliance Filings for the Southeastern Regional Transmission Planning (SERTP) region

Critical Information: Please place on the July 30, 2014, Internal Affairs. Direction is sought regarding FERC order. The deadline for appellate court review is August 18, 2014.

On June 19, 2014, the Federal Energy Regulatory Commission (FERC) issued a 246-page Order on the Compliance Filings for the Southeastern Regional Transmission Planning (SERTP) utilities (FERC's Second Compliance Order), which granted in part and rejected in part the SERTP utilities' Second Compliance Filings and granted in part and denied in part requests for rehearing and clarification of FERC's First Compliance Order. The SERTP utilities were directed to submit to FERC additional compliance filings by August 18, 2014.

The SERTP region is quite large and includes Louisville Gas and Electric Company and Kentucky Utilities Company; Alabama Power Company, Georgia Power Company; Gulf Power Company and Mississippi Power Company (collectively, Southern Companies); Ohio Valley Electric Corporation; and Duke Energy Carolinas, LLC and Duke Energy Progress, Inc. The remainder of the SERTP region is composed of FERC nonjurisdictional entities, such as the Tennessee Valley Authority. Gulf Power Company's service territory is the only part of the SERTP region within the FPSC's jurisdiction.

Staff identified concerns with FERC's Second Compliance Order which impact the Florida Public Service Commission's (FPSC) transmission planning, siting, and reliability jurisdiction. The Office of General Counsel filed a request for rehearing of the Second Compliance Order on behalf of the FPSC on July 21, 2014. A copy of the request for rehearing is appended as Attachment A.

Pursuant to APM 3.06(C), staff is seeking the Commission's approval of the filing of the request for rehearing. The request for rehearing can be withdrawn at the Commission's direction.

The Commission will have the opportunity to request review by the court of appeals once the request for rehearing filed on July 21, 2014, is resolved by FERC. If, however, the Commission wishes to appeal the Second Compliance Order now, the notice of appeal must be filed by August 18, 2014, and the request for rehearing currently pending before FERC will need to be withdrawn. Staff seeks the Commission's guidance on whether it wishes to appeal FERC's Second Compliance Order at this time.

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 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. FERC approves, modifies, or rejects the compliance plans. State commissions are allowed to participate in the process but 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 were filed on September 25, 2013. Oral argument was held on March 20, 2014. We are awaiting the D.C. Circuit Court's decision on the appeal.

FERC's Decision on FPSC's Request for Rehearing of FERC's First Compliance Order

Notwithstanding the pending appeal, the SERTP utilities were required to make compliance filings pursuant to Order No. 1000, on February 8, 2013. FERC issued its 128-page Order on the SERTP utilities' First Compliance Filings on July 18, 2013 (First Compliance Order), wherein it largely rejected the compliance filings and directed the SERTP utilities to submit further compliance filings to comport with FERC's decision.

The SERTP utilities submitted the further compliance filings as directed by FERC. In addition, the SERTP utilities, the FPSC, the National Association of Regulatory Commissioners (NARUC), the Alabama Public Service Commission, the Georgia Public Service Commission, the North Carolina Utilities Commission, and LSP Power Transmission filed requests for rehearing and clarification of FERC's First Compliance Order. The FPSC identified three issues in its request for rehearing:

- (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 role in transmission planning.
- (2) The FERC erred by creating an overarching framework that pushes the utilities to form an inefficient Regional Transmission Organization (RTO)-like structure, without authority or sufficient justification to do so.
- (3) The FERC erred by violating its Order Nos. 1000 and 1000-A directive which committed to regional flexibility. See, e.g., Order No. 1000 at Paragraphs 61, 604, 624 and 745. Rejection of regional flexibility does not reflect reasoned decision making.

As mentioned above, on June 19, 2014, FERC issued a 246-page Order on the Compliance Filings for the SERTP utilities (FERC's Second Compliance Order) that granted in part and rejected in part the SERTP utilities' Second Compliance Filings and granted in part and denied in part requests for rehearing and clarification of FERC's First Compliance Order. The SERTP utilities were directed to submit to FERC additional compliance filings by August 18, 2014.

In the Second Compliance Order, FERC did not respond directly to any of the issues raised by the FPSC in its request for rehearing. FERC recognized that the bottom-up planning process could continue; however, it continued to mandate a top-down planning process in compliance with Order No. 1000. FERC did not address concerns that this requirement could result in duplicative planning processes and inefficiencies in conforming to both state and FERC processes.

FPSC's Request for Rehearing of FERC's Second Compliance Order

Requests for rehearing of the Second Compliance Order were due on July 21, 2014. To protect the Commission's interests in the case, the Office of General Counsel filed a Request for Rehearing of the Second Compliance Order. A copy of the request is appended as Attachment A. The request may be withdrawn at the direction of the Commission.

The Request for Rehearing identified two issues:

- (1) FERC erred by exceeding its authority under the Federal Power Act and infringing on the Florida Commission's role in transmission planning, siting, and reliability.
- (2) FERC erred by creating an overarching framework that pushes the utilities to form a duplicative and inefficient Regional Transmission Organization (RTO)-like transmission planning process, without authority to do so.

The SERTP utilities and LS Power Transmission, LLC, also filed requests for rehearing.

Internal Affairs Memorandum
July 22, 2014

Possible Appeal of FERC's Second Compliance Order

The Commission has the option to appeal the Second Compliance Order to the United States Court of Appeals. Section 825 of 16 U.S. Code provides 60 days for a party to appeal a decision after an order of the FERC on rehearing is issued.

The Commission will have the opportunity to request review by the court of appeals once the request for rehearing filed on July 21, 2014, is resolved by FERC. If, however, the Commission wishes to pursue the option to seek appellate review now, the Commission must file a notice of appeal by August 18, 2014, and will have to withdraw the request for rehearing currently pending before FERC.

Staff seeks the Commission's guidance on whether it wishes to withdraw the request for rehearing or appeal FERC's Second Compliance Order.

cc: Curt Kiser
Mary Anne Helton
Lisa Harvey
Mark Futrell

II. ARGUMENT

Florida retains a vertically integrated, state regulated approach to the electric industry, whereby the Florida Commission holds substantial authority to ensure an adequate and reliable bulk power grid. The Florida Commission's oversight of transmission planning in Florida serves to protect ratepayers in Gulf Power Company's territory and to ensure that local planning regions are not unfairly or unreasonably burdened by transmission plans that result in allocated costs to ratepayers for which they receive little benefit. The Florida Commission continues to be concerned that FERC's approach to transmission planning and cost allocation would infringe on state authority and establish a duplicative and inefficient transmission planning process that imposes additional costs on Florida consumers without corresponding benefits.

1. **FERC erred by exceeding its authority under the Federal Power Act and infringing on the Florida Commission's role in transmission planning, siting, and reliability.**

While it was unclear in the First Compliance Order, issued July 18, 2013, the process FERC would impose to implement FERC Order 1000, FERC now states in paragraphs 85 and 452 of the Second Compliance Order that it intends to allow for a state level transmission planning process and a separate federal level process. If FERC were to make a decision based on the federal process that overrules and conflicts with a decision made by the Florida Commission in its transmission planning process, this would infringe upon and effectively undermine the Florida Commission's transmission planning process authority in contravention of the Federal Power Act, 16 U.S.C. § 824.

The United States Court of Appeals for the District of Columbia Circuit's recent decision in *Electric Power Supply Association v. Federal Energy Regulatory Commission*, 2014 U.S.

App. LEXIS 9585 (D.C. Cir. 2014), supports the Florida Commission's position that FERC has erred in the Second Compliance Order. In *Electric Power Supply Association*, the Court stated:

The limits of §§ 205 and 206 [of the Federal Power Act] are best determined in the context of the overall statutory scheme. Congressional intent is clearly articulated in § 201's text: FERC's reach "extend[s] only to those matters which are not subject to regulation by the States." States retain exclusive authority to regulate the retail market. Absent a "clear and specific grant of jurisdiction" elsewhere, the agency cannot regulate areas left to the states.

Id. at *11 (internal citation omitted). The Court concluded in *Electric Power Supply Association* that FERC cannot regulate the retail market because FERC's authority under §§ 205 and 206 is limited. *Id.* at *11-*12. The Court's rationale in *Electric Power Supply Association* applies to the matter at hand and prevents FERC from mandating the transmission planning arrangement set forth in the Second Compliance Order.

States have explicit transmission planning authority. Section 186.801, Florida Statutes, establishes a ten-year site plan process in Florida. These ten-year site plans, which address integrated resource planning, are submitted by utilities in the state. The statute sets out a "bottom-up" process for each utility in Florida to submit to the Florida Commission a plan for approval. In the ten-year site plan, each electric utility, including Gulf Power, must submit to the Florida Commission its estimated power-generating needs and the general location of its proposed power plant sites, including needed transmission additions, over the next ten years. These plans address reliability, economic and public policy considerations. The Florida Commission then must deem each plan as "suitable" or "unsuitable" and may suggest alternatives to the plan. Then, when a transmission line siting application is filed pursuant to the Florida Transmission Line Siting Act in Chapter 403, Florida Statutes, the ten-year site plan will be considered in determining the need for the line. When the Florida Commission receives a petition for determination of need for a transmission line, pursuant to Section 403.537, Florida

Statutes, substantially affected parties may challenge the project. The Florida Commission then approves or denies that project.

Moreover, 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 assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further 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 also 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 Florida Commission may require installation or repair of necessary generation or transmission facilities, whereby mutual benefits will accrue to the electric utilities involved. *Id.* Furthermore, costs associated with infrastructure repairs or additions must be distributed in proportion to the benefits received. *Id.*

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.

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.¹ 16 U.S.C. § 824. Section 215 of the Federal Power Act, 16 U.S.C. §824o, grants the FERC jurisdiction to approve and enforce compliance with bulk transmission reliability standards. However, nothing in Section 215 of the Federal Power Act 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. Section 217 of the Federal Power Act allows FERC to "facilitate" planning, not to direct it.

FERC's ability to ultimately make a decision based on the regional planning process established by the Second Compliance Order that could conflict with a decision made by the Florida Commission shows that FERC's Second Compliance Order exceeds the authority granted to it under the Federal Power Act. *See* 16 U.S.C. § 824. As *Electric Power Supply Association*, 2014 U.S. App. LEXIS at 9585, makes clear, FERC cannot directly regulate that which the Federal Power Act has left to state regulation.

2. FERC erred by creating an overarching framework that pushes the utilities to form a duplicative and inefficient Regional Transmission Organization (RTO)-like transmission planning process, without authority to do so.

While some states have ceded some authority to FERC due to the creation of Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs), the Florida Commission has 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 express authority to make decisions with respect to determining the need for transmission projects and for the recovery of costs through retail rates. The parallel state and

¹ 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.

federal transmission planning processes set forth in paragraphs 85 and 452 of the Second Compliance Order appear to create an overarching framework that pushes the SERTP utilities to form a duplicative and inefficient RTO-like transmission planning process.

FERC's directives also diverge from the Florida Commission's own experience. 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. PUC LEXIS 243 (2006), in which the 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.

From 2001 to 2006, the Florida Commission extensively studied this issue in response to FERC Order No. 2000. Following numerous workshops, technical conferences, and related hearings, the Florida Utilities involved in the GridFlorida proposal, which are the same FERC-jurisdictional utilities that make up the FRCC region, hired ICF Consulting to conduct an analysis of the costs and benefits of an RTO in Florida. ICF Consulting characterized the prospects of such a structure as "bleak," finding that one proposal would have costs exceeding benefits by more than \$700 million dollars over the first 13 years of operation, while a "more advanced" proposal would have costs exceeding benefits by \$285 million over the same period. After the release of that study, the Florida Commission accepted the withdrawal of the GridFlorida proposal, finding that it did not appear to be in the best interests of the people of the State of Florida.

The states included in the Southeastern Regional Transmission Planning (SERTP) footprint include Alabama, Georgia, Indiana, Iowa, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, and Virginia, as well as Florida. Florida is not directly interconnected

with many of the states. As part of Southern Company, Gulf Power Company connects with most of Georgia and Alabama and much of Mississippi, but has very limited ability to transmit or receive power from elsewhere in the SERTP. Thus, this increases the Florida Commission's concern that, as a result of the imposition of the inefficient and duplicative RTO-like transmission planning process set forth in the Second Compliance Order, Florida ratepayers may be asked to incur additional wholesale costs without commensurate benefits from such a process.

III. CONCLUSION

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

Respectfully submitted,

/s/ Samantha M. Cibula

Samantha M. Cibula

Office of the General Counsel

FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399-0850

(850) 413-6202

scibula@psc.state.fl.us

DATED: July 21, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties identified on the Commission's official service list compiled by the Secretary in this proceeding.

Dated at Tallahassee, Florida, this 21st day of July 2014.

/s/ Samantha M. Cibula
Samantha M. Cibula
Office of the General Counsel

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6202
scibula@psc.state.fl.us

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: July 23, 2014
TO: Braulio L. Baez, Executive Director
FROM: Office of Industry Development and Market Analysis (Bloom, Dowds, Futrell) ^{BS} ^{LE} ^{MA}
Office of the General Counsel (Gervasi) ^{SS} ^{S.M.C.}
Division of Engineering (Vickery, King, Ballinger) ^{JK} ^{TBA}
RE: Briefing on Proposed Implementation Plan for 2014 Legislation

CRITICAL INFORMATION: Please place on July 30, 2014 Internal Affairs.
Direction from the Commission is sought.

The 2014 Florida Legislature passed Senate Bill 272, creating Sections 367.072 and 367.0812, Florida Statutes (F.S.). The bill became law on July 1, 2014. Chapter 2014-68, Laws of Florida, is included as an attachment. Section 367.072, F.S., creates a petition process through which customers of a water utility subject to Florida Public Service Commission (FPSC) jurisdiction may petition for revocation of the utility's operating certificate based on quality of service issues. Section 367.0812, F.S., includes secondary water quality standards, established by the Department of Environmental Protection, as a component in determining just, reasonable and compensatory rates.

This memorandum provides a summary of the legislation and describes the proposed plan to implement the requirements of the bill. Staff seeks approval from the Commission on the proposed implementation plan.

Attachment

cc: S. Curtis Kiser, General Counsel
Lisa Harvey, Deputy Executive Director, Technical
April Lynn, Deputy Executive Director, Administrative

Section 1

Section 367.072, F.S., provides:

- A process whereby 65 percent of the customers of an investor-owned water utility may petition the Florida Public Service Commission (FPSC) to revoke its certificate of authorization to provide water service for the utility. The bill sets forth a procedure for customers to file the petition, for the FPSC to evaluate the petition and dismiss the petition, require corrective action by the utility, or revoke the utility's certificate of authorization.
- A customer petition must state with specificity each issue that customers have with the quality of water services provided by the utility, including each time the issue was reported to the utility, and how long each issue has existed. The petition must be signed by at least 65 percent of the customers in the utility's service area. A customer is defined by the statute as an individual whose property is served by a single meter or a person whose name appears on the bill for a master meter.
- If the petition supports a reasonable likelihood that the water utility is failing to provide quality of water service, the utility is prohibited from filing a rate case until the Commission issues a final order that addresses the issues identified in the petition.
- The utility must provide a response to the FPSC to address the issues identified in the petition using the following criteria: (1) federal and state primary water quality standards or secondary water quality standards pursuant to Section 367.0812, F.S., and (2) the relationship between the utility and its customers, including each complaint received regarding the quality of water service, the length of time each customer has been complaining about the service, the resolution of each complaint, and the time it has taken to address each complaint.
- The Commission must evaluate each issue identified in the petition and the utility's response regarding its quality of water service.

Implementation

To comply with this aspect of the legislation, staff has developed correspondence for customers who express an interest in the process, detailed instructions for customers who elect to pursue a petition initiative, petition forms, and internal planning documents. An emphasis has been placed on having plans in place should a petition be received prior to the completion of rulemaking.

The statute requires the FPSC to adopt by rule the format and requirements of the petition, and gives the FPSC permissive authority to adopt rules to administer this section. Staff is developing a draft of a new rule to implement this section. It is anticipated that a draft rule will be brought to the Commission to consider and propose by the end of 2014.

Section 2

Section 367.0812, F.S., provides:

- The Commission shall consider the extent to which a water utility provides water service that meets secondary water quality standards as established by the Department of Environmental Protection when fixing rates that are just, reasonable, compensatory, and not unfairly discriminatory.
- Requires the Commission to specifically consider: (1) testimony and evidence provided by customers; (2) the results of previous tests by a county health department or the Department of Environmental Protection (DEP); (3) complaints filed with the Commission, the DEP, a county health department or a local government for the past five years; and (4) the results of any tests deemed necessary by the Commission. The water utility must identify solutions to the water quality issues, provide cost estimates of the solutions, meet with customers to discuss the options, and inform the Commission if the parties agree on a solution or prefer a different solution. The Commission may require the utility to implement a solution that “is in the best interest of the customers.”
- Authorizes the Commission to prescribe penalties for a utility that fails to resolve each quality of water service issue as required. Penalties may include a reduction of up to 100 basis points on return on equity, the denial of all or part of a rate increase for a water utility’s system or part of a system if the quality of water service is less than satisfactory, or the revocation of the utility’s operating certificate.

Implementation

Secondary water quality characteristics refer to aspects of drinking water that typically have no known adverse health effects but are associated with aesthetic concerns. The DEP has established maximum allowable levels in 14 categories, including pH, color, odor, trace minerals, and total dissolved solids. Monitoring of secondary water quality characteristics by DEP consists of a three-year schedule of sampling water systems statewide that serve more than 25 people per day. Sampling is conducted at either the water plant or its connected distribution system.

This section of the statute is not expected to require creation of any new documents or procedures. Staff is evaluating existing rules to determine which of them may need to be amended to reflect the new statute and will proceed with rulemaking as necessary. The statute authorizes the FPSC to adopt new rules to implement this section of the statute if it appears necessary.

Section 3

The law appropriates \$212,521 in recurring funds and \$12,012 in nonrecurring funds from the General Revenue Fund to the FPSC and authorizes three full-time equivalent positions for the 2014-2015 fiscal year to implement the legislation.

Implementation

The three positions are being allocated to the Office of the General Counsel, the Division of Engineering, and the Office of Industry Development and Market Analysis. Position descriptions are being developed and job advertisements are expected to be released in the next sixty days.

CHAPTER 2014-68

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 272

An act relating to water utilities; creating s. 367.072, F.S.; providing legislative findings; defining the term “customer”; authorizing the Florida Public Service Commission to revoke a certificate of authorization upon receipt of a petition; providing criteria for such petition; authorizing the commission to adopt rules; creating s. 367.0812, F.S.; requiring the commission to consider the quality of water service when fixing rates; providing criteria that the commission must consider in making its determination; requiring the utility to meet with its customers to discuss the costs and benefits of plausible solutions if the commission finds that the utility has failed to meet certain quality of water standards; prohibiting a customer from petitioning the commission to revoke the certificate of authorization of a utility under certain circumstances; authorizing the commission to prescribe penalties for certain failures of the utility; requiring the commission to adopt rules; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 367.072, Florida Statutes, is created to read:

367.072 Petition to revoke certificate of authorization.—The Legislature finds that it is in the public interest that water service be of good quality and consistent with the standards set forth in this chapter. Therefore, a utility’s certificate of authorization to provide water service may be revoked if, after its customers file a petition with the commission, the commission finds that revocation is in the best interest of the customers in accordance with this section. As used in this section, the term “customer” means an individual whose property is serviced by a single meter or a person whose name appears on the bill for a master meter.

(1)(a) If the commission receives a letter from the customers of a utility stating their intent to file a petition pursuant to this section, the commission staff, within 10 days after receipt of the letter, shall notify the utility of the customers’ intent to file a petition.

(b) Commission staff shall send to the customers instructions regarding the information required on the petition and the subsequent process the commission will follow. The petition must be filed within 90 days after the receipt of the instructions. Commission staff shall review the petition and notify the customers within 10 days after receipt of the petition that the petition is sufficient for the commission to act or that additional information is necessary. The customers must file a cured petition within 30 days after receipt of the notice to cure and provide a copy of the petition to the utility. If the customers fail to file or refile a petition within the allotted time, the

commission shall dismiss the petition with prejudice, and the customers may not file another petition for 1 year after the dismissal.

(2) A petition must:

(a) State with specificity each issue that customers have with the quality of water service, each time the issue was reported to the utility, and how long each issue has existed; and

(b) Be signed by at least 65 percent of the customers of the service area covered under the certificate of authorization. A person whose name appears on the bill for a master meter may sign a petition if at least 65 percent of the customers, tenants, or unit owners served by the master meter support the petition, in which case documentation of such support must be included with the petition.

(3) If the petition is in compliance with this section and the issues identified within the petition support a reasonable likelihood that the utility is failing to provide quality of water service, the utility shall thereafter be prohibited from filing a rate case until the commission has issued a final order addressing the issues identified in the petition. The utility shall use the following criteria in preparing a response to the commission, addressing the issues identified within the petition and defending the quality of its water service:

(a) Federal and state primary water quality standards or secondary water quality standards pursuant to s. 367.0812; and

(b) The relationship between the utility and its customers, including each complaint received regarding the quality of water service, the length of time each customer has been complaining about the service, the resolution of each complaint, and the time it has taken to address such complaints.

(4) The commission shall evaluate the issues identified in the petition, the utility's response as to whether it is providing quality of water service, and any other factor the commission deems relevant.

(5) Based upon its evaluation, the commission shall:

(a) Dismiss the petition, in which case the decision must be supported by clear and convincing evidence and is subject to ss. 120.569 and 120.57;

(b) Require the utility to take the necessary steps to correct the quality of water service issues identified in the petition. The commission shall set benchmarks within a timeframe, not to exceed 3 years, and may require the utility to provide interim reports describing its progress in meeting such benchmarks. The commission may extend the term 3 years for circumstances that delay the project which are not in the control of the utility, such as natural disasters and obtaining permits necessary for meeting such benchmarks; or

(c) Notwithstanding s. 367.045, revoke the utility's certificate of authorization, in which case a receiver must be appointed pursuant to s. 367.165 until a sale of the utility system has been approved pursuant to s. 367.071.

(6) The commission shall adopt by rule the format of and requirements for a petition and may adopt other rules to administer this section.

Section 2. Section 367.0812, Florida Statutes, is created to read:

367.0812 Rate fixing; quality of water service as criterion.—

(1) In fixing rates that are just, reasonable, compensatory, and not unfairly discriminatory, the commission shall consider the extent to which the utility provides water service that meets secondary water quality standards as established by the Department of Environmental Protection. In determining whether a utility has satisfied its obligation to provide quality of water service that meets these standards, the commission shall consider:

(a) Testimony and evidence provided by customers and the utility;

(b) The results of past tests required by a county health department or the Department of Environmental Protection which measure the utility's compliance with the applicable secondary water quality standards;

(c) Complaints regarding the applicable secondary water quality standards filed by customers with the commission, the Department of Environmental Protection, the respective local governmental entity, or a county health department during the past 5 years; and

(d) If the commission deems necessary, the results of any updated test.

(2)(a) In determining the quality of water service, the commission shall consider a finding by the Department of Environmental Protection as to whether the utility has failed to provide water service that meets the secondary water quality standards of the department.

(b) The utility shall create an estimate of the costs and benefits of a plausible solution to each issue identified by the commission.

(c) The utility shall meet with its customers within a time prescribed by the commission to discuss the estimated costs and benefits of and time necessary for implementing a plausible solution for each quality of water service issue identified, and the utility shall report the results of such meetings to the commission.

(d) The utility shall inform the commission, if:

1. The customers and the utility agree on a solution for each quality of water service issue identified, of each agreed on solution and the cost of each solution; or

2. The customers and the utility prefer a different solution to at least one of the quality of water service issues identified, of the preferred solutions by each and the cost of each solution.

(e) The commission may require the utility to implement a solution that is in the best interest of the customers for each quality of water service issue. The utility may recover its costs in implementing the solutions ordered by the commission. The commission may establish the necessary benchmarks that a utility must meet for each solution and require the utility to report periodically until each solution is completed.

(3) Notwithstanding s. 367.072, customers may not petition the commission to revoke the certificate of authorization of a utility if it is the subject of a proceeding under this chapter.

(4) The commission may prescribe penalties for a utility's failure to adequately resolve each quality of water service issue as required. Penalties may include penalties as provided in s. 367.161, a reduction of return on equity of up to 100 basis points, the denial of all or part of a rate increase for a utility's system or part of a system if it determines that the quality of water service is less than satisfactory until the quality of water is found to be satisfactory, or revocation of the certificate of authorization pursuant to s. 367.072.

(5) The commission shall adopt rules to assess and enforce compliance with this section.

Section 3. For the 2014-2015 fiscal year, the sums of \$212,521 in recurring funds and \$12,012 in nonrecurring funds from the General Revenue Fund and three full-time equivalent positions with an associated salary rate of 131,235 are appropriated to the Florida Public Service Commission to implement the provisions of this act related to the regulation of the quality of water service.

Section 4. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.

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

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

III. Supplemental Materials Provided During Internal Affairs

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

IV. Transcript

1 BEFORE THE
2 FLORIDA PUBLIC SERVICE COMMISSION

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6 PROCEEDINGS: INTERNAL AFFAIRS

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8 COMMISSIONERS
9 PARTICIPATING: CHAIRMAN ART GRAHAM
10 COMMISSIONER LISA POLAK EDGAR
11 COMMISSIONER RONALD A. BRISÉ
12 COMMISSIONER EDUARDO E. BALBIS
13 COMMISSIONER JULIE I. BROWN

14 DATE: Wednesday, July 30, 2014

15 TIME: Commenced at 11:00 a.m.
16 Concluded at 11:23 a.m.

17 PLACE: Gerald L. Gunter Building
18 Room 105
19 2540 Shumard Oak Boulevard
20 Tallahassee, Florida

21 REPORTED BY: LINDA BOLES, CRR, RPR
22 Official FPSC Reporter
23 (850) 413-6734
24
25

P R O C E E D I N G S

1
2 **CHAIRMAN GRAHAM:** Well, my watch or my phone
3 says it's 11:00. So we'll call this meeting to order.
4 Let the record show this is Internal Affairs. It is
5 Wednesday, July 30th, at 11:00. And, Commissioner
6 Brisé, do we have you?

7 **COMMISSIONER BRISÉ:** Yes, I'm on the phone.

8 **CHAIRMAN GRAHAM:** Sounds good. Glad to have
9 you.

10 Okay. Let's start for item number 1.

11 **MS. CIBULA:** Samantha Cibula and Ben Crawford
12 with Commission staff. I'm going to start with a little
13 background. In 2011, the Federal Energy Regulatory
14 Commission issued Order 1000 addressing regional
15 transmission planning. Order 1000 required transmission
16 stakeholders to develop plans to implement the order.
17 FERC must approve the plans.

18 In July 2013, FERC largely rejected the plans
19 submitted by the Southeastern Regional Transmission
20 Planning utilities and directed the utilities to submit
21 further compliance filings. The utilities and this
22 Commission requested rehearing of FERC's July 2013
23 decision. Notwithstanding the request for rehearing,
24 the utilities still had to submit their further
25 compliance filings.

1 On June 19th, 2014, FERC issued an order
2 denying the Commission's request for a rehearing and
3 directed the utilities to file additional compliance
4 filings. On July 21st, the Office of General Counsel,
5 on behalf of the Commission, filed a request for
6 rehearing of the June order.

7 Staff is seeking the Commission's approval of
8 the request for a rehearing filing. The filing can be
9 withdrawn if the Commission so wishes. The Commission
10 will have the opportunity to request appellate review
11 once the request for a hearing is resolved by FERC.
12 However, if the Commission wishes to pursue appellate
13 review now, then a notice of appeal must be filed by
14 August 18th. And staff is seeking the Commission's
15 guidance as to whether it wishes to stick with the
16 rehearing filing or whether it wishes to pursue other
17 options.

18 **CHAIRMAN GRAHAM:** Thank you, Samantha.

19 Commissioners, questions of staff.

20 Commissioner Balbis.

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

22 And thank you for the report. I fully support
23 requesting a rehearing on this matter. I'm disappointed
24 that the EPA did not address any of our issues we raised
25 in our first request for rehearing, so hopefully they

1 will listen to us at this time. I firmly believe that,
2 you know, Florida is unique in its geography with very
3 little interconnection, we have a transmission planning
4 process that we have used, and having a top-down
5 approach may limit our flexibility or result in
6 additional costs to customers. So I fully support the
7 request for rehearing in this matter.

8 **CHAIRMAN GRAHAM:** Commissioner Brown.

9 **COMMISSIONER BROWN:** Thank you. Samantha, if
10 we keep the rehearing request as staff has pursued, can
11 we ultimately then appeal that after the decision is
12 made or are we foreclosed?

13 **MS. CIBULA:** Actually FERC requires that you
14 ask for rehearing in order to appeal. We've already had
15 the one rehearing request, so we can appeal now. We
16 filed the second one, so we should be able to request
17 appeal, prevent that one once they resolve the issue.

18 And also just to keep in mind is that there's
19 also the issue pending with the D.C. Circuit Court of
20 Appeals at this point, and we have raised the issue
21 about the state jurisdiction versus FERC jurisdiction in
22 that matter. So this could all be resolved by that
23 court any day now. Oral argument has been held in that,
24 so we're awaiting their decision. So we are
25 anticipating that we might get a decision soon in that

1 regard, too.

2 **COMMISSIONER BROWN:** Any insight into what
3 that decision might be?

4 (Laughter.)

5 **MS. CIBULA:** No. I did listen to the oral
6 arguments. There were some questions about whether it
7 might be ripe for review at this point since the plans
8 haven't been approved yet and how it all would work out,
9 and whether, based on the plan that's approved, whether
10 it would infringe on, you know, state jurisdictions, and
11 it might maybe be better to wait until the plans are
12 approved and then actually start to be implemented
13 before you need to raise the issue. But that's just
14 something that was discussed at the oral argument. That
15 doesn't mean that that's going to be the decision, so.

16 **COMMISSIONER BROWN:** Thank you. Thanks.

17 **CHAIRMAN GRAHAM:** Anything else,
18 Commissioners? So it looks like we're going to move
19 forward with staff's plan.

20 **MS. CIBULA:** Okay.

21 **COMMISSIONER EDGAR:** Sounds good. I agree.
22 Thank you.

23 **CHAIRMAN GRAHAM:** All right. Quick and
24 simple. I like that.

25 Number 2.

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

2 Mark Futrell and Rosanne Gervasi with staff.

3 In this item staff is seeking your approval of
4 the approach to implement the provisions of Senate Bill
5 272. As you heard at the previous Internal Affairs
6 meeting, the Governor signed the bill into law and it
7 became effective July 1st. The legislation prescribes a
8 process by which customers of a water utility may
9 petition the Commission to revoke the utility's
10 certificate of authorization.

11 Staff is developing a draft of a new rule to
12 implement this section and will bring a recommendation
13 to propose a rule by the end of the year. Should
14 customers of a water utility seek to initiate the
15 petition process before a rule is adopted, staff is
16 prepared to respond to the requirements of the statute.

17 Also, the legislation requires the Commission
18 to consider in a rate proceeding the extent to which a
19 water utility provides service that meets the DEP's
20 secondary water quality standards. This provision will
21 be addressed in a rate proceeding, and staff is
22 reviewing existing rules to determine if any revisions
23 are necessary.

24 Finally, the legislation provides general
25 revenue funding for three positions. Staff is in the

1 process of establishing those positions, and we expect
2 to advertise those positions in the next 60 days. We're
3 available to answer your questions.

4 **CHAIRMAN GRAHAM:** Commissioner Brown.

5 **COMMISSIONER BROWN:** Thank you, Mr. Futrell.

6 I have a few questions.

7 First, does this apply to all IOU class sizes?

8 **MS. GERVASI:** Yes, it does.

9 **COMMISSIONER BROWN:** It does. So small Class
10 Cs. Okay. So that 65 percent threshold applies across
11 the board.

12 Regarding the receivership issue, I know that
13 367.165 controls that, but, you know, the statute
14 doesn't really get into it too much. It just says on, I
15 guess it is subsection (5)(c), it says that a receiver
16 must be appointed pursuant to 367.165 until a sale. So
17 basically the Commission has the authority under this
18 new statute to require a utility to sell, and then they
19 would abide by the receivership statute, correct --

20 **MR. FUTRELL:** Correct.

21 **COMMISSIONER BROWN:** -- until that time
22 occurs?

23 **MR. FUTRELL:** Yes.

24 **MS. GERVASI:** It sounds that way, yes.

25 **COMMISSIONER BROWN:** Does that even apply for

1 marginal quality of service? Because it says, somewhere
2 in there it says anywhere -- anything that's not deemed
3 satisfactory. Would that even apply for marginal?

4 **MS. GERVASI:** I think the Commission would
5 probably need to make a determination that the service
6 is unsatisfactory, not simply marginal.

7 **COMMISSIONER BROWN:** That's what I think, but
8 that's not what the statute provides.

9 **MS. GERVASI:** In order to revoke the
10 certificate -- well, it doesn't say marginal though.

11 **COMMISSIONER BROWN:** It doesn't. It just says
12 anything not deemed satisfactory.

13 **MS. GERVASI:** Not deemed satisfactory.

14 **COMMISSIONER BROWN:** Which is kind of vague.

15 **MS. GERVASI:** I think it would be cleaner to
16 say unsatisfactory, but, you know, it's going to be --
17 we'll be trailblazing.

18 **COMMISSIONER BROWN:** Is this a pending
19 litigation? Is it being challenged? Do you know?

20 **MR. FUTRELL:** Not that we're aware of, no.

21 **COMMISSIONER BROWN:** A couple more questions,
22 Mr. Chairman.

23 From a staffing perspective, I know it
24 allocates three staffing personnel from three different
25 departments. And what is the purpose of that and who

1 will be the primary office of responsibility fielding
2 customer complaints, you know, the customer petition, et
3 cetera?

4 **MR. FUTRELL:** We've talked about that a little
5 bit. I think we're simply going to be, because this is
6 going to put us in the mode of, you know, revoking the
7 statute, revoking the certificate, we've thought about
8 that we'll have to bifurcate the staff and have a
9 prosecutorial staff, an advisory staff, so we'll have to
10 divide that. And our structure, our current
11 organization allows for that. And so there will be a
12 group of staff that will be prosecuting the case,
13 shepherding the customer groups, ensuring all that
14 testimony, conducting the hearing, and there will be a
15 separate staff that will evaluate the record and write a
16 recommendation, bring that to the Commission at an
17 agenda.

18 **COMMISSIONER BROWN:** So do you envision a
19 customer petition or a group of -- a petition occurring
20 during a pending rate case concurrently?

21 **MR. FUTRELL:** I believe, if I recall the
22 statute correctly, in a rate case I believe they're
23 precluded from bringing a customer petition, if I
24 remember that. I'll double-check that.

25 **CHAIRMAN GRAHAM:** So in a rate case means just

1 once they filed it.

2 **MR. FUTRELL:** Yes. It's in, it's actually
3 page 8 of the item, which is 367.0812(3).

4 **COMMISSIONER BROWN:** Yeah. I see that.

5 **MR. FUTRELL:** Customers may not petition the
6 Commission to revoke the certificate if it's subject to
7 a proceeding under this chapter, which is a rate
8 proceeding.

9 **COMMISSIONER BROWN:** Okay. Thank you. That
10 helps.

11 Getting back to the receivership issue, it
12 doesn't really talk about corrective measures under that
13 applicable section. It just -- so a utility does not
14 have the choice to cure whatever quality standards -- if
15 the Commission goes ahead and decides to put the, order
16 the utility to be placed into receivership, does the
17 utility have the option to cure the problems, and where
18 is that?

19 **MR. FUTRELL:** You're speaking to the customer
20 petition process?

21 **COMMISSIONER BROWN:** Right. Yeah.

22 **MR. FUTRELL:** That's at the bottom of page
23 6 of the item, which is 367.072(5)(b), and the three
24 options that the legislation provides for the Commission
25 to consider is to dismiss the petition or to require the

1 utility to take necessary steps to cure the issues. The
2 third option is revoke the certificate. So there is
3 contemplation for some kind of a curing of issues.

4 **COMMISSIONER BROWN:** I guess really what I'm
5 getting at is does the utility have the ability to
6 appeal the decision to place the utility in
7 receivership? It doesn't seem to have --

8 **MS. GERVASI:** Yes. Once there's a final
9 order -- when the Commission issues a final order after
10 a hearing, that order will be reviewable on appeal.

11 **COMMISSIONER BROWN:** Okay. And last question,
12 and thank you, Mr. Chairman, for your latitude here.
13 The testimony portion on page 3, Section 2, it talks
14 about requiring the Commission to specifically consider,
15 and it delineates four different issues, and I notice
16 that it says and. So we must consider all four; is that
17 correct?

18 **MR. FUTRELL:** Yes.

19 **COMMISSIONER BROWN:** The question I'm getting
20 at, for a SARC or, let's say, really any utility, the
21 testimony of the customers and the evidence, I'm
22 assuming that's sworn testimony and that would probably
23 be conducted during, what, a service hearing, or how
24 would that process work?

25 **MR. FUTRELL:** I think we do contemplate that

1 it would be a service hearing. Whether it's sworn or
2 not, I'm not sure about that. But I think typically
3 SARCs -- we have some sort of a way of gathering public
4 testimony.

5 **COMMISSIONER BROWN:** I mean, the requirement
6 is to consider testimony and evidence but --

7 **MS. GERVASI:** Yeah, I agree with you. It's a
8 little bit nebulous because when you think of testimony
9 and evidence, you immediately assume that it's sworn.
10 But, again, we'll be trailblazing. It does seem like it
11 may be something a little bit looser than that such as a
12 service hearing where we take customer testimony;
13 whether it's sworn or not, it's recorded. We may be
14 able to consider that.

15 **COMMISSIONER BROWN:** I don't know. Given the
16 magnitude and implications of this and the Commission's
17 ability to assess penalties, I think it will probably be
18 prudent for it to be sworn testimony for appellate
19 purposes, but --

20 **MS. GERVASI:** Uh-huh. Uh-huh.

21 **COMMISSIONER BROWN:** No more questions.

22 **CHAIRMAN GRAHAM:** I have a couple of
23 questions. The first one, Commissioner Brown asked you
24 earlier that this, this is for all IOUs; correct?

25 **MR. FUTRELL:** Yes.

1 **MS. GERVASI:** Yes.

2 **CHAIRMAN GRAHAM:** So how does it control those
3 IOUs in the 31 counties that we don't control, how is
4 that dealt with?

5 **MS. GERVASI:** It would only be the IOUs that
6 the Commission has jurisdiction over.

7 **CHAIRMAN GRAHAM:** So is there anything that
8 the others IOUs, is there any mechanism here that allows
9 for them to do the same thing?

10 **MS. GERVASI:** It's not expressly stated in the
11 new legislation. So they just didn't address that.
12 It's going to be in section, it already is in Section
13 367, which is the Commission's operating statute, so.

14 **CHAIRMAN GRAHAM:** So there is no -- I guess
15 what do the other people do right now? They have to
16 just go before their specific county commissions and
17 deal with it there?

18 **MR. FUTRELL:** Correct.

19 **MS. GERVASI:** Yes, sir.

20 **CHAIRMAN GRAHAM:** Okay. It talks about the,
21 as they count the 65 percent, a single meter is
22 considered one vote, and it also says a master meter.
23 Is that considered one vote or is that considered
24 however different many units that one master meter is
25 feeding?

1 **MR. FUTRELL:** Well, certainly a master meter
2 customer can bring petitions forward as to the
3 65 percent of those who are customers, if you will, of
4 the master meter. And then that -- now whether that
5 counts as one vote or the totality of how that fits into
6 the total 65 percent, I'm not sure we've gotten that far
7 down the road as far as fleshing that particular
8 question out, but.

9 **MS. GERVASI:** Well, you know, the legislation
10 says that a person whose name appears on the bill for a
11 master meter may sign the petition if at least
12 65 percent of the customers, tenants, or unit owners
13 served by the master meter support the petition. So you
14 can have one person, if it's a master meter, signing the
15 petition for everybody, it sounds like, as long as they
16 have the support of 65 percent.

17 **CHAIRMAN GRAHAM:** I mean, but you can have a
18 utility that that master meter is half of what they
19 provide. And so I guess my question is are you
20 considering that 50 percent or are you only considering
21 that one vote?

22 **MS. GERVASI:** Oh.

23 **MR. FUTRELL:** I don't think we've gotten that
24 far in trying to -- and that's something I think will
25 definitely come up in rulemaking is trying to flesh out

1 some of those questions.

2 **CHAIRMAN GRAHAM:** Another question. Looking
3 in the legislation, actually looking on the sheet you
4 have, page 2, we'll just look at your sheet, the fourth
5 bullet down -- because I thought the whole purpose of
6 this was making sure that we are at a, they're pushing
7 for a secondary standard. But why does it say, if you
8 look at -- federal or state primary water quality
9 standards or secondary water quality standards?

10 **MR. FUTRELL:** I think that's part of the
11 information that the utility has to respond to the
12 Commission. If there is a customer petition, then
13 that's part of the documentation that they would provide
14 to make their case as to their, how they, their view of
15 their water quality service, and they would file
16 information on compliance regarding any federal/state
17 standards.

18 **CHAIRMAN GRAHAM:** But I thought, I thought one
19 of the key reasons why they, this legislation was even
20 proposed is because they wanted them to go further than
21 just a standard potable water standard. They wanted to
22 go to that secondary standard.

23 **MR. FUTRELL:** Right.

24 **CHAIRMAN GRAHAM:** And this makes it sound like
25 the utility comes back, all they have to do is say,

1 well, look we've met, we've met the federal potable
2 water standard. And so where does the whole proof of
3 that secondary standard come in?

4 **MR. FUTRELL:** DEP does have secondary water
5 quality standards and the utilities are required to
6 report every three years on their compliance with those
7 standards. So that would be a factor in the information
8 that the Commission would consider is compliance with
9 secondary standards that DEP administers.

10 **CHAIRMAN GRAHAM:** So this is -- this
11 legislation doesn't cause for them to do that secondary
12 standard anymore than what they're currently doing,
13 which is every three years.

14 **MR. FUTRELL:** It recognizes that DEP has,
15 administers secondary standards. The utilities report
16 to DEP. So it doesn't address whether or not DEP should
17 look at their standards or do anything. It just
18 recognizes that that's a factor and the information is
19 brought before the Commission in this process.

20 **CHAIRMAN GRAHAM:** So the three positions that
21 we get out of this statute, what are those three
22 positions going to be doing?

23 **MR. FUTRELL:** Well, certainly if we get one of
24 these petitions come in, it's going to be a full-time
25 effort, it's going to be a lot of work. And so these

1 people will be, you know, working on, like I say, with
2 prosecutorial staff, getting ready for the hearing,
3 working for customers, ensuring all the testimony is
4 lined up and ready to go, dealing with procedural
5 matters, working with legal on procedural matters, and
6 then the advisory staff will be monitoring what's going
7 on with evaluating the record, writing the
8 recommendation, so.

9 **CHAIRMAN GRAHAM:** So what do they do before we
10 get that?

11 **MR. FUTRELL:** Certainly there's going to be a
12 lot of training to get people up to speed on these
13 issues. There will be, you know, a lot of, we've got
14 institutional knowledge that needs to be shared with
15 these folks regarding situations that have come up in
16 the water industry, we've got experience on the Aloha
17 case, all kinds of details that we can -- we'll be
18 training these folks.

19 **CHAIRMAN GRAHAM:** So I assume any of these
20 people won't be doing any of the testing, so we'll have
21 to contract that out.

22 **MR. FUTRELL:** Well, certainly we'll be relying
23 on DEP and their reports. You know, if it comes to a
24 point where we feel like we need to do some testing,
25 then that may require some additional resources, but --

1 **CHAIRMAN GRAHAM:** But we don't have any
2 funding for that testing.

3 **MR. FUTRELL:** Correct.

4 **MS. GERVASI:** There will be a lot of work on
5 the front end for staff in ferreting through the
6 petitions because the statute is very specific about
7 what each petition must contain, and there will be a lot
8 of petitions that will come in. Each, each customer who
9 signs a petition will have to state whether or not
10 they've complained to the utility, how often, exactly
11 what the water quality issue is for each and every one.
12 And when you have 65 percent of a large utility, that's
13 a lot of petitions to go through. Just to determine the
14 facial sufficiency of the petition itself will take a
15 lot of time.

16 And then in looking at whether the company is
17 in compliance with the secondary standards, the DEP
18 secondary standards, is an important consideration but
19 it's only one of the considerations. So the staff and
20 then, of course, the Commission will also be looking at
21 the other considerations as well, the complaints, the,
22 the -- how the company interacts with the customers, do
23 they have good customer service, and the other
24 enumerated considerations that go beyond, you know, do
25 they meet secondary standards. That's not the only

1 thing that will determine whether to -- the Commission
2 should revoke a certificate or require remedial
3 measures.

4 **CHAIRMAN GRAHAM:** Commissioner Brown.

5 **COMMISSIONER BROWN:** Do you have or could you
6 provide to our offices the correspondence that you
7 developed and the instructions and the petition forms?
8 I'd like to see those. I'm sure the other Commissioners
9 would, too.

10 **MR. FUTRELL:** Sure.

11 **COMMISSIONER BROWN:** Also, I didn't know if
12 Katherine Pennington wanted to chime in here for any
13 reason or not.

14 **MS. PENNINGTON:** I'm good so far. Thank you.

15 **COMMISSIONER BROWN:** Okay. There you go.

16 **CHAIRMAN GRAHAM:** She ducked that one, didn't
17 she?

18 **COMMISSIONER BROWN:** Yeah. I wanted to bring
19 her up here.

20 **CHAIRMAN GRAHAM:** Anything else from
21 Commissioners? Okay. Thank you.

22 **MR. BAEZ:** Yeah, Mr. Chairman, I just want
23 to -- I'd like to chime in real quick here with regards
24 to the three positions. I mean, I think that was, it is
25 obviously very helpful to what you can see is going to

1 be a pretty hefty effort, but any implication that you
2 may take from, from just having three positions, three
3 additional positions, provided that that's all we are
4 going to dedicate to these types of matters, the one
5 doesn't have anything to do with the other. I hope you
6 know that.

7 **CHAIRMAN GRAHAM:** Yeah.

8 **MR. BAEZ:** There's a lot more people involved,
9 I guess is the point. Thank you.

10 **CHAIRMAN GRAHAM:** Okay. Thanks, guys.

11 All right. Legislative updates.

12 **MS. PENNINGTON:** I'm good. Thank you.

13 (Laughter.)

14 Unless there are questions. Thank you.

15 **CHAIRMAN GRAHAM:** Executive Director report.

16 **MR. BAEZ:** Commissioners, we are right now in
17 the process of closing our books for the previous fiscal
18 year, and hopefully by, at some point in August we'll be
19 able to visit with you individually and show you our
20 position.

21 **CHAIRMAN GRAHAM:** Okay.

22 **MR. BAEZ:** For the past, for the past year,
23 how it went. Thank you.

24 **CHAIRMAN GRAHAM:** Other matters? I like that.
25 That being said, we are adjourned. Thank you very much.

(Proceeding adjourned at 11:23 a.m.)

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

3
 4 I, LINDA BOLES, CRR, RPR, Official Commission
 Reporter, do hereby certify that the foregoing
 5 proceeding was heard at the time and place herein
 stated.

6
 7 IT IS FURTHER CERTIFIED that I stenographically
 reported the said proceedings; that the same has been
 transcribed under my direct supervision; and that this
 8 transcript constitutes a true transcription of my notes
 of said proceedings.

9
 10 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
 11 counsel connected with the action, nor am I financially
 interested in the action.

12 DATED THIS 12th day of August, 2014.

13
 14 *Linda Boles*

15
 16 LINDA BOLES, CRR, RPR
 FPSC Official Commission Reporters
 17 (850) 413-6734