I. Meeting Packet

State of Florida

Public Service Commission

INTERNAL AFFAIRS AGENDA

Tuesday – August 3, 2010

Immediately Following Agenda Conference

Room 140 - Betty Easley Conference Center

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1. Approve July 13, 2010, Internal Affairs Meeting Minutes. (Attachment 1)

2. FPSC Draft Letter to the Florida Congressional delegation regarding the Department of Energy's Yucca Mountain Repository Actions. Approval of letter is sought. (Attachment 2)

3. FPSC Draft Reply Comments to FCC regarding reform to the federal universal service high-cost program in the context of the National Broadband Plan. Approval of comments is sought. Reply comments are due August 11, 2010. (Attachment 3)

4. Report on Federal Energy Regulatory Commission activities for June 2010. For informational purposes and discussion. (Attachment 4)

5. Other matters, if any.

TD/sa

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

Attachment 1

Attachment 1

State of Florida
Public Service Commission
INTERNAL AFFAIRS MINUTES

Tuesday – July 13, 2010
11:00 am – 11:07 am
Room 140 - Betty Easley Conference Center

COMMISSIONERS PRESENT: Chairman Argenziano
Commissioner Edgar
Commissioner Skop

STAFF PARTICIPATING: Devlin, Hill, Kiser, Casey, Pennington

1. Approve June 29, 2010, Internal Affairs Meeting Minutes.

   The minutes were approved.

   Commissioners participating: Argenziano, Edgar, Skop

2. Draft Comments in Response to the Federal Universal Service Joint Board Request for Comments on the FCC Lifeline and Link-Up Referral Order. Comments are due July 15, 2010. Commission Approval of Comments is Sought.

   The Commissioners approved the draft comments.

   Commissioners participating: Argenziano, Edgar, Skop

3. Other matters, if any.

   Ms. Pennington advised the Commissioners that the Governor has scheduled a Special Legislative Session. She discussed two potential Interim Projects that may be addressed: Repealing and revising some of the telecommunications statutes, Beth Salak will be the contact for this issue; and Renewable energy, Mark Futrell will be the contact for this matter.

   In response to Commissioner Skop's inquiry, Ms. Pennington advised she had not heard anything concerning the PSC ethics reform bill, presented by Senator Fasano, concerning strengthening the ex-part communications rule to be consistent with the 1992 Grand Jury findings.

   Commissioners participating: Argenziano, Edgar, Skop

Attachment 2

State of Florida

Public Service Commission

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

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

DATE: July 23, 2010

TO: Timothy J. Devlin, Executive Director

FROM: S. Curtis Kiser, General Counsel SCK

RE: Draft FPSC Letter to the Florida Congressional delegation regarding the Department of Energy's Yucca Mountain Repository Actions

CRITICAL INFORMATION: Please place on August 3 Internal Affairs. FPSC approval of letter is sought.

As discussed at the April 6, 2010, Internal Affairs, the U.S. Department of Energy petitioned the Nuclear Regulatory Commission (NRC) to withdraw, with prejudice, the Yucca Mountain nuclear waste repository licensing application. Several entities challenged the action. The FPSC filed as amicus curiae in opposition to the withdrawal. On June 29, 2010, the NRC Atomic Safety and Licensing Board denied DOE's motion to withdraw the application. However, the full NRC is considering whether to review that decision.

We suggest that the attached draft letter be considered to send to the Florida delegation. (Attachment A).

Meanwhile, a bi-partisan group of 91 Congressional members sent a letter July 6, 2010, telling the Department of Energy Secretary Steven Chu to immediately halt all actions to dismantle operations at Yucca Mountain at least until legal action regarding the withdrawal of the application is resolved. (Attachment B). There are also pending Court cases in the D. C. Circuit Court of Appeals. However, it is reported that the DOE is stopping all action on Yucca Mountain even before these cases are resolved.

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

STATE OF FLORIDA

GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

August, 2010

DRAFT **DRAFT** **DRAFT**

To Florida Delegation

Re: Department of Energy Actions regarding Yucca Mountain Nuclear Waste Repository

Dear :

On June 29, 2010, the Nuclear Regulatory Commission Atomic Safety and Licensing Board denied the Department of Energy's petition to withdraw the application for the Yucca Mountain nuclear waste repository. The Florida Public Service Commission was pleased to see the ruling and had filed as amicus curiae in opposition to the Department of Energy's application withdrawal. The matter is now pending before the full Nuclear Regulatory Commission.

We believe this is an important issue that merits Congress's attention. We appreciate that 91 Members of Congress have sent a letter to the Department of Energy Secretary Steven Chu urging the Administration to immediately halt all actions to dismantle operations at Yucca Mountain, at least until legal action regarding the withdrawal of the application is resolved. We commend Senator George Lemieux, Representative Cliff Stearns and Representative Thomas Rooney for support of the letter. We believe that the more actions taken to oppose closing the Yucca Mountain repository and the more focus on making sure the Department of Energy follows the law, the better.

In Florida, since the Nuclear Waste Policy Act (NWPA) was enacted in 1982, Florida ratepayers have paid a total of $787.6 million into the Nuclear Waste Fund. When interest is taken into account, the federal government's obligation to Florida ratepayers totals over $1.4 billion. In 2009 alone, Florida's ratepayers paid over $25 million into the Nuclear Waste Fund.

As of December 31, 2008, nuclear generation composed 13.3 percent of the electric generation in Florida. The five existing nuclear generating units located in Florida have a total summer capacity of 3,915 megawatts (MW), four of these generating units are owned by Florida Power & Light Company (FPL) and one unit is owned by Progress Energy Florida, Inc. (PEF). Currently, a total of 2,654 metric tons of uranium in spent fuel pools are stored on site at these facilities. FPL has a total of 2,145 metric tons of uranium in spent fuel pools, while PEF has 509 metric tons of spent fuel.

The Florida Public Service Commission has recently approved the need for approximately 5,000 MW of additional nuclear capacity, including four new nuclear generating units and uprates at all five existing nuclear facilities. Progress Energy Florida's planned Levy

Units 1 and 2 will mark the first construction of new nuclear generation in Florida in more than 20 years. These units have been fully certified under Florida Statutes, with Florida's Governor and Cabinet unanimously approving PEF's site request for the Levy Units on August 11, 2009. PEF's Levy units will provide approximately 1,100 MW of capacity each. FPL's Turkey Point Units 6 and 7 will also provide approximately 1,100 MW of capacity each. Certification of the Turkey Point generating units has not yet been addressed by Florida's Governor and Cabinet. Thus, the Department of Energy's attempt to withdraw the Yucca Mountain nuclear waste repository application could have a major impact. The Nuclear Waste Policy Act provides for a federal centralized storage, yet this has not occurred.

Florida ratepayers, along with ratepayers across the nation, continue to pay into a fund, yet there has been no centralized storage developed. This is a violation of the Nuclear Waste Policy Act, and the Department of Energy should not be allowed to abandon the actions required by the Act. Please do not hesitate to call our General Counsel, Curt Kiser, at 850-413-6199 if you have questions or would like to discuss this further. We appreciate your attention. Thank you for this opportunity to raise this issue.

Sincerely,

Nancy Argenziano
Chairman

Lisa Polak Edgar
Commissioner

Nathan A. Skop
Commissioner

Art Graham
Commissioner

Ronald A. Brisé
Commissioner

SCK:md
Attachment

Congress of the United States
Washington, DC 20510

July 6, 2010

Secretary Stephen Chu
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-0002

Dear Secretary Chu:

We write today to request that the Department of Energy immediately halt all actions to dismantle operations at Yucca Mountain at least until legal action regarding the withdrawal of the application is resolved by the DC Circuit Court and the Nuclear Regulatory Commission.

The DC Circuit Court has taken the important step of approving the motion to expedite legal actions and has combined the cases involving the State of Washington, State of South Carolina, Aiken County, and Tri-Cities, Washington community leaders. This is a clear demonstration by the Court that the merits of the case must be heard and ruled upon prior to further action by the Department of Energy to shut down Yucca Mountain.

On June 29, 2010, the Nuclear Regulatory Commission's Atomic Safety and Licensing Board denied the Department's motion to withdraw its license application for Yucca Mountain, a clear statement that the Department does not have the authority under the Nuclear Waste Policy Act to unilaterally terminate Yucca Mountain.

In light of the recent legal and regulatory actions, we are deeply troubled that the Department continues to move forward with terminating the project regardless of this decision. We are also concerned that the Department is using its budget proposal in an attempt to justify the termination of Yucca Mountain.

As you know, the Nuclear Waste Policy Act designated Yucca Mountain as the only candidate site for the national repository. Congressional intent is clear – Congress has voted several times to retain Yucca Mountain as the national repository. We are deeply disappointed that DOE has overstepped its bounds and has ignored congressional intent without peer review or proper scientific documentation in its actions regarding Yucca Mountain.

We ask that you recognize the letter and spirit of the law, honor the timeline set by the court, and halt all efforts to reprogram funds or terminate contracts related to Yucca Mountain.

Thank you for your consideration and we look forward to your timely response.

Sincerely,

Thad Cochran

John Barrasso

Sam Brownback

John Spratt

Eric Cantor

Joe Barton

Fred Upton

Mike Pence

D. [illegible]

Rick Larsen

Joe Wilson

Bob Inglis

Mike Crapo

Susan Collins

Norm Dicks

James E. Clyburn

Jerry [illegible]

Lincoln Davis

R. [illegible]

Cathy McMorris Rodgers

[illegible]

[illegible]

Henry E Brown Jr

Bart Stupak

Paul C Broun

Parker Griffith

Steve Scalise

Pete Olson

Mark Kirk

John Kline

Steve Pearce

Lynn Jenkins

[illegible]

Brett Guthrie

[illegible]

Ginny Brown-Waite

[illegible]

John Shadegg

John Linder

Judy Biggert

Zach Wamp

[illegible]

Blaine Luetkemeyer

Robt E. Ander

Bob Goodlatte

John [illegible]

Paul E. Kanjorski

Ken Calvert

John J. Duncan

[illegible]

[illegible]

Pete Sessions

Jo Bonner

Lee Terry

[illegible]

Greg Walden

Jack Kingston

[illegible]

Ralph M. Hall

Harold Rogers

Joe Courtney

[illegible]

Denny Rehberg

Jim Sensenbrenner

[illegible] IX-19

Michele Bachmann

[illegible]

[illegible]

Sue Myrick

[illegible]

Ed Whitfield

Attachment 3

State of Florida

Public Service Commission

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

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

DATE: July 26, 2010

TO: Tim Devlin, Executive Director

FROM: Division of Regulatory Analysis (Fogleman, ~~Friend~~, Shafer)
Division of Economic Regulation (Dowds)
Office of the General Counsel (Miller)

RE: Draft Reply Comments to FCC regarding reform to the federal universal service high-cost program in the context the National Broadband Plan.
Critical Information: Please place on August 3rd Internal Affairs. Approval of Comments is sought. Reply Comments are Due August 11th.

On April 21, 2010, the Federal Communications Commission (FCC) issued a Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM)[1] seeking comment on reforms to the federal universal service high-cost programs. These proceedings are related to the implementation of the National Broadband Plan released by the FCC in March 2010. The NOI seeks comment on whether the FCC should use a model to help determine universal service support funding in areas where there is no private sector business case to provide both broadband and voice service. The NOI also seeks comment on the best way for the FCC to create an accelerated process to target funding towards deployment of new broadband networks in unserved areas, while developing final rules regarding the Connect America Fund. The Connect America Fund is intended to achieve its goal of increasing broadband deployment to unserved and under served areas of the U.S. without increasing the size of the Universal Service Fund over the current baseline projection. The accompanying NPRM requests comment on specific reforms such as capping the size of the high-cost fund and reallocating inefficient support in the legacy high-cost support mechanism towards broadband communications.

The high-cost program represents 63 percent of the $7.1 billion federal universal service program for 2008. Florida is the largest net contributor to the federal universal service programs. In 2008, consumers in Florida contributed close to $297 million into the high-cost program, while only $77 million was redistributed to eligible carriers providing service in Florida.

Staff seeks approval of the attached draft reply comments (Attachment A). The primary positions of the draft reply comments that have been filed in prior FPSC comments are:

[1] FCC, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58, WC Docket Nos. 10-90 & 05-337, GN Docket No. 09-51, Released April 21, 2010.

- The FCC should consider revenues from improvements in infrastructure necessary to provide broadband when determining how much support is needed.
- The FCC should establish a cap on the entire high-cost fund for all carriers.
- Should the FCC wish to explicitly provide high-cost support to deploy broadband services, it should do so within the current program size.

The primary issues within the proposed reply comments that have not been previously addressed by the Florida Public Service Commission include:

- Recommendation that the FCC should focus further model refinements on the National Broadband Plan model as opposed to the FCC's outdated universal service support model.
- The FCC should exercise care in the development of an expedited process to distribute broadband support before rules for the Connect America Fund are established.

Attachment
cc: Charles Hill

Attachment A

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	

DRAFT

REPLY COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

COMMISSIONER NANCY ARGENZIANO

COMMISSIONER LISA POLAK EDGAR

COMMISSIONER NATHAN A. SKOP

COMMISSIONER ART GRAHAM

COMMISSIONER RONALD A. BRISÉ

August 11, 2010

INTRODUCTION

The Florida Public Service Commission (FPSC) submits these reply comments in response to the Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) released by the Federal Communications Commission (FCC) on April 21, 2010.[2] In general, the FPSC is supportive of many of the reforms proposed within this notice, so long as the size of the high-cost programs is held in check. The FPSC strongly supports capping the program as proposed in the associated NPRM. We believe that left unchecked, continued unrestricted growth in the fund will threaten the affordability of service to all consumers.

MODELS

The FCC asks for comments on whether it should develop a nationwide broadband model to estimate necessary high-cost support levels for broadband and voice services in areas that are currently served by broadband with the aid of legacy high-cost support, as well as areas that are unserved. The FCC states that a federal model could provide a more uniform and equitable basis for determining support than individual carrier cost studies or models submitted by interested parties. The FCC further notes that a uniform federal model could provide a mechanism for determining support levels based on the geographic characteristics of the areas served. Currently, there are two models on which the FCC seeks comment. The first model, the Hybrid Cost Proxy Model (HCPM), is currently used to calculate high-cost support in non-rural study areas. The second model was developed by CostQuest Associates for the FCC staff in association with the development the National Broadband Plan. This National Broadband Plan model was used to estimate the size of the broadband availability gap for the FCC's report to Congress.

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[2] FCC, Public Notice, DA 09-2419, GN Docket Nos. 09-47, 09-51, 09-137, released: November 13, 2009.

As noted in the FCC's notice, the National Broadband Plan (NBP) model has several advantages over the FCC's existing HCPM that reflect improvements in cost modeling. Specifically, the NBP model:

- relies on road and other rights-of-way data to route outside plant;[3]
- estimates the costs of multiple broadband technologies; and
- includes the costs of "middle mile" facilities.[4]

The FPSC has not fully explored all nuances of the NBP model. For the reasons noted here, however, the FPSC believes that the NBP model is a better starting point for developing a broadband cost model than the FCC's outdated HCPM model.

The FCC seeks comment on whether a model would be an important tool, even if it uses a market-based mechanism to identify entities to be supported and support levels under the Connect America Fund. For example, if the FCC uses a reverse auction to determine Connect America Fund support levels, it would be important to establish a "reserve price."[5] The FPSC agrees with the FCC that setting reserve prices could play a critical role in the effectiveness of the program in sending appropriate market signals to auction participants. The FPSC agrees that further refinement of a model would still be useful should the FCC adopt a market-based mechanism such as a reverse auction.

COST VS. COST AND REVENUES

The FCC seeks comment on whether it should consider revenues, as well as costs, in determining Connect America Fund support. The current forward-looking cost model used by the

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[3] Which is a more realistic method than HCPM's use of rectilinear distances.
[4] Whereas the only transport costs that HCPM estimates are the incumbent LECs' interoffice transport costs.
[5] A reserve price is a maximum subsidy level that participants would be allowed to place as a bid, since there may be few bidders in certain geographic areas.

FCC to determine support levels for voice telephony for non-rural carriers estimates only the costs to provide service, and does not consider revenues. By comparison, the National Broadband Plan model, in addition to estimating the incremental costs of deploying broadband in unserved areas, estimates the expected incremental revenues from the new customers and services resulting from the new broadband facilities.

The National Broadband Plan recommends that support should be based on forward-looking costs less revenues. It indicates that revenues should include all revenues earned from broadband-capable network infrastructure, including voice, data and video revenues. It would also take into account the impact of other regulatory reforms that may impact revenue flows, such as intercarrier compensation, and funding from other sources, such as Recovery Act grants.

The FPSC agrees with this approach and filed comments to that effect previously.[6] As broadband networks are deployed due to the availability of new funding, there will likely also be additional revenues from new services other than broadband, such as video. If a new broadband support mechanism were to consider all associated revenues from services that can now be provided due to upgraded facilities, we expect the amount of support needed to meet the obligations of universal service would be less than if all revenues were not acknowledged.

CAPPING HIGH-COST

The FCC recognizes that the first step toward redirecting universal service funds to support both broadband and voice service is to ensure that the size of the fund remains reasonable. To that end, the National Broadband Plan recommends that the FCC take steps to manage the high-cost fund so that its total size remains close to its current level to minimize the burden of increased universal

[6] Ex Parte Comments of the FPSC in response to NBP Public Notice #19, CC Docket No 96-45; WC Docket No. 05-337; WC Docket No 03-109; GN Docket Nos. 09-47, 09-51, and 09-137, filed December 15, 2009, p 3.

service contributions on consumers. In 2008, the FCC began efforts to control the overall size of the high-cost fund by adopting a cap on the amount of high-cost support competitive eligible telecommunications carriers (CETCs) could receive. This cap was intended to remain in place pending comprehensive USF reform.

In this NPRM, the FCC seeks comment on capping legacy high-cost support provided to incumbent telephone companies at 2010 levels. As proposed, this would create an overall ceiling for the legacy high-cost programs. The proposed cap would remain in place while the FCC determines how to redistribute funds to the Connect America Fund in an efficient, targeted manner.

The FPSC believes that the adoption of an overall cap is in the public interest and consistent with the recommendation of the Federal-State Universal Service Joint Board (Joint Board). The recommendation of the Joint Board urged the FCC to expand the definition of supported services to include broadband, within the confines of the existing amount of high-cost support. The FPSC continues to support this position. As the Joint Board stated:

> Despite our strong interest in providing adequate funding for broadband deployment, we also want to avoid significantly increasing the burden on those consumers. Therefore, we also recommend methods of transitioning from existing support mechanisms to the new funding structure, at approximately the current fund size. In addition, we recommend caps on the total amount of money distributed by the high-cost support mechanism and recommend measures that should lead to more efficient uses of existing funding.[7]

Florida's pro-rata contribution to the high-cost fund increased nearly $4 million in the year following the Joint Board's recommendation (the most recent available data).

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[7] FCC, Recommended Decision of the Universal Service Joint Board, FCC 07J-4, WC Docket No. 05-337, CC Docket No. 96-45, Released: November 20, 2007.

Currently, the Universal Service Administrative Company (USAC) estimates the contribution factor for the third quarter of 2010 will have to be set at 13.6 percent in order to collect sufficient funding for all of the universal service programs.[8] Expansion of the programs to include support for broadband without additional reform of the high-cost program will further increase the contribution factor. The continued escalation of the size of the fund threatens the "affordability" criterion that the program was intended to safeguard. As the Tenth Circuit recognized, "excessive subsidization may affect the affordability of telecommunications services, thus violating the principle in §254(b)(1)."[9]

The FCC seeks comments on how to structure such a cap. Alternatives proposed include a simple overall cap such that the total amounts of the different high-cost programs do not exceed the current distributions amount, capping each high-cost support program at its current level, or establishing a per-line freeze for each carrier. The FPSC supports capping the overall size of the high-cost funds, which would afford the FCC and USAC needed flexibility to administer the high-cost fund while transitioning to the Connect America Fund.

REDUCTION IN LEGACY HIGH-COST SUPPORT

The National Broadband Plan recommends several reforms to the patchwork of high-cost programs and redirecting savings towards the new Connect America Fund. Specifically, the FCC proposes to reduce and eventually eliminate the two high-cost access replacement mechanisms: Interstate Common Line Support (ICLS) for rate-of-return carriers, and Interstate Access Support (IAS) for price-cap carriers. Both of these high-cost support programs were designed to ameliorate the impact of FCC reductions in interstate access rates. Carriers in today's competitive marketplace must adapt their business models based primarily on revenues from their consumers. The FPSC

[8] The assessment factor is applied to carriers interstate and international revenues. VoIP and wireless carriers generally are assessed based upon a safe harbor contribution factor.
[9] *Qwest Communications International v. FCC*, 398 F.3d 1222, 1234 (2005).

agrees with the comments of Verizon that the planned phase-down of access support programs should be addressed together given that both ICLS and IAS serve the same function for different classes of carriers.[10]

The National Broadband Plan also recommends the phase out of high-cost support for CETCs over a five-year period and the reallocation of the savings from the phase-out to the Connect America Fund. The FCC seeks comment on this proposal and how the transition should occur. The FPSC supports the recommended phase-out of high-cost support for CETCs over five years. Moreover, the FPSC believes that all support from IAS and ICLS that CETCs receive should be phased out in the first year. Both IAS and ICLS were created in order to offset a portion of a mandated interstate access charge reduction considered to be an implicit universal service fund subsidy. However, CETC interstate access rates are not regulated and CETCs were never subject to mandatory access reductions. Thus, CETCs have no need to receive access replacement-related universal service monies. Furthermore, the FCC concluded that wireless carriers (which make up the majority of CETCs) have no right to impose access charges.[11] For these reasons, the FPSC believes reallocating IAS and ICLS from CETCs to the Connect America Fund in an expedited manner is warranted. The remaining amount of non-access replacement CETC support could be reallocated to the Connect America Fund on a pro rata basis in the second through fifth year on a state-by-state basis.

EXPEDITED PROCESS FOR BROADBAND SUPPORT

The National Broadband Plan recommends that the FCC establish a fast-track program within the Connect America Fund for providers to receive targeted funding for new broadband construction

[10] Comments of Verizon & Verizon Wireless in WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337, filed July 12, 2010, p. 3.
[11] Declaratory Ruling, Petition of Sprint PCS and AT&T Corp. for Declaratory Ruling CMRS Access Charges, WT Docket No. 01-316, released July 3, 2002, at ¶¶ 1, 8-9.

in unserved areas. This funding could be provided to areas identified as "unserved" once the Broadband Data Improvement Act mapping is completed in February 2011. The FCC seeks comment on how to create an accelerated process to distribute funding to support new deployment of broadband-capable networks in unserved areas while it is considering final rules to fully implement the new Connect America Funding mechanism. In particular, the FCC seeks comment on whether there is an efficient method for delivering a set amount of support, which does not require the use of a model. Specifically, the FCC requests comment on whether some form of competitive procurement auction could be an efficient mechanism to determine subsidies for the extension of new broadband-capable infrastructure in unserved areas.

The FPSC would urge caution in implementing this aspect of the National Broadband Plan. The use of an accurate model is highly desirable in establishing a reserve price to select an efficient provider and minimize wasteful distribution of support. This position is consistent with the comments filed on behalf of the National Association of State Utility Consumer Advocates.[12] Regarding the ability of a competitive procurement process to address these concerns, we believe that it is highly dependent on the number of carriers that participate in the auction.

CONCLUSION

The FPSC believes that any expansion of the universal service programs must balance both the public benefit of increased broadband availability with the additional costs that will ultimately be borne by consumers. As we have stated repeatedly over the years, we oppose further growth in the size of the fund. To that end, the FPSC is strongly supportive of establishing a permanent cap on the

[12] Comments of the National Association of State Utility Consumer Advocates, The Maine Office of Public Advocate, Office of the Ohio Consumers' Counsel, Pennsylvania Office of Consumer Advocate, and the Utility Reform Network in WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337, filed July 12, 2010, p. 24.

overall size of the high-cost fund for all carriers. Redirecting support from the legacy high-cost support mechanisms to a new Connect America Fund is consistent with the position the FPSC has taken.

Improvements in infrastructure necessary to provide broadband ubiquitously will, in many instances, allow for the provision of new services in addition to those for which the universal service funding was expressly intended. It is reasonable for the FCC to consider these revenues when determining the necessary amount of support a carrier may need to provide broadband and voice services in high-cost areas.

The FPSC believes that there is benefit in refining a model, either to calculate high-cost support or in establishing a reserve price. Of the two models presented, the National Broadband Plan model appears to have addressed several of the shortcomings of the FCC's current model. This should not be read as a complete endorsement of the current National Broadband Plan model, but only a recommendation of where refinements should begin.

In addition, the FPSC supports the proposed elimination of high-cost support for CETCs over a five-year period and further recommends that IAS and ICLS funding be phased out in the first year.

While there is a strong desire to move expeditiously to ensure the ubiquitous deployment of broadband services, the FPSC is concerned that moving too quickly may result in providing support that could be better used either in more needier unserved areas, or through more efficient technology. To that end, the FCC should exercise care in the development of an expedited process to distribute broadband support before rules for the Connect America Fund are established. While a competitive bidding process may prevent inefficient support from being awarded, a succesful bidding process would likely be contingent on the number of carriers participating in such an auction.

Attachment 4

Attachment 4

State of Florida

Public Service Commission

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

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

DATE: July 23, 2010

TO: Timothy J. Devlin, Executive Director

FROM: Mark Futrell, Division of Regulatory Analysis MF
Benjamin Crawford, Division of Regulatory Analysis BC

RE: Report on Federal Energy Regulatory Commission activities for June 2010
Critical Information: Please place on the August 3, 2010 Internal Affairs - for informational purposes and discussion

A monthly report on activities of the Federal Energy Regulatory Commission (FERC) is compiled and distributed to Commissioners by staff. This report provides a summary of FERC actions that affect Florida electric and natural gas utilities on a number of matters including: (1) regulation of the transmission and wholesale sale of electricity in interstate commerce, (2) regulation of the transmission and sale of natural gas for resale in interstate commerce, (3) siting for interstate natural gas pipelines and liquefied natural gas facilities, (4) enforcement of electric reliability standards for interstate transmission, and (5) energy market monitoring and information dissemination.

The attached report documents the FERC's activity for June 2010. The following are notable actions. First, FERC issued a Notice of Proposed Rulemaking (NOPR) on electric transmission planning principles. The FERC proposes that public utilities must take into account needs driven by public policy requirements established by state or federal laws or regulations in transmission planning. Also, transmission planning regions must improve coordination in assessing the electrical impacts of proposed facilities. Second, FERC issued its final *National Action Plan for Demand Response*. This report describes a framework for a public-private coalition intended to develop cost-effective electrical demand response programs. FERC noted the significant demand response activity of Florida electric utilities.

FERC Monthly Activities Report –June 2010

Docket: RM10-23-000
Stakeholders: Transmission Planners and Providers
Activity: Notice of Proposed Rulemaking
Priority: A
FPSC Action: Comment, if appropriate

On June 17, 2010, FERC issued a notice of proposed rulemaking (NOPR) on transmission planning principles. The NOPR intends to build on FERC's most recent revision to its open access transmission tariff (OATT) in FERC Order No. 890. FERC proposes that:

- Transmission planning must take into account needs driven by public policy requirements established by state or federal laws or regulations;
- Neighboring transmission planning regions must improve their coordination with respect to facilities that are proposed to be constructed in two adjacent regions and whether these facilities could address transmission needs more efficiently than separate intraregional facilities;
- Provisions be removed from FERC-approved tariffs or agreements that provide an undue advantage to an incumbent developer so that sponsors of transmission projects have the right, consistent with state or local laws or regulations, to build and own facilities selected for inclusion in regional transmission plans; and
- Transmission providers must establish a closer link between cost allocation and regional transmission planning by identifying and establishing cost allocation methods for beneficiaries of new transmission facilities.

FPSC staff prepared an initial, more extensive summary, which it distributed to Commissioners on July 2, 2010. Comments are due on August 30, 2010. Staff will continue to review the NOPR to determine whether to recommend filing comments.

National Action Plan on Demand Response (AD09-10-000)

On June 17, 2010, FERC issued the final draft of the 2010 National Action Plan on Demand Response. This report describes a framework for a public-private coalition intended to develop cost-effective electrical demand response programs. It is the work product of over two years of stakeholder input required by the 2007 Energy Independence and Security Act.

The final version of the plan is similar to the draft version of the plan that was released in March. The plan consists of three major planks: 1) technical assistance to the states, 2) a national communications program, and 3) tools and materials to support demand response. FERC envisions a public-private coalition to coordinate the overall program, which has been consistent throughout the process.

Southern Company (Gulf's parent company) filed comments following the release of the draft plan. Southern argued for a more decentralized program, with individual states and regions having greater autonomy. No other Florida utility commented formally on the draft plan. The report notes these comments and states that the National Action Plan has been modified to allow coalition members to act collectively or individually to implement activities, rather than a more centralized approach. NARUC also commented, but its comments were restricted to an offer of support and request to participate as a coalition partner. The report did not note these comments. While the report alludes to FPL comments objecting to direct communication with the mass market, these comments are not present in the FERC docket file.

The final version of the plan still discusses Florida at length, describing FPL and Gulf demand response programs and characterizing the State as having high levels of demand response. These sections appear substantially similar to those that appeared in the draft report. The full report is available at: http://www.ferc.gov/legal/staff-reports/06-17-10-demand-response.pdf

RP10-21-000/001/002/003 – Florida Gas Transmission (FGT) – Rate Case – On June 9, 2010, FERC scheduled a settlement conference for June 22-23, 2010 to resolve outstanding conflicts in the FGT rate case. The remaining disputes between FGT and other parties in the case, including FPL and PEF, centered on gas quality issues. On July 2, 2010, FERC issued a certification of uncontested settlement on the rate case. FPL and PEF filed that they did not oppose certification of the settlement.

<u>Announcements and Press Releases:</u>

Senate Confirms FERC Nominees Philip Moeller and Cheryl LaFleur

On July 22, 2010, the U.S. Senate confirmed Philip Moeller and Cheryl LaFleur to FERC:

<u>Biography of Philip Moeller:</u> Commissioner Moeller was confirmed to a second term as a member of FERC. He joined the Commission in July 2006, and his new term will expire in 2015. Commissioner Moeller served as an energy policy advisor to U.S. Senator Slade Gorton (R-Washington) where he worked on electricity policy, electric system reliability, hydropower, energy efficiency, nuclear waste, energy and water appropriations and other energy legislation. He also was Staff Coordinator for the Washington State Senate Committee on Energy, Utilities and Telecommunications, where he was responsible for energy, telecommunications, conservation, water, and nuclear waste. Prior to his term at FERC, Commissioner Moeller headed the Washington, D.C., office of Alliant Energy Corporation, and also worked in the Washington office of Calpine Corporation.

<u>Biography of Cheryl LaFleur:</u> Cheryl LaFleur is a new member of FERC; her term will end in 2014. She has more than 20 years experience in the electric and natural gas industry. She retired in 2007 as executive vice president and acting CEO of National Grid USA, responsible for the delivery of electricity to 3.4 million customers in the Northeast. Her previous positions at National Grid and its predecessor New England Electric System included COO, president of New England distribution and general counsel. She helped lead the company through the deregulation of energy supply, the transition to performance-based ratemaking, and several mergers. She was also responsible for leading award-winning conservation and demand response programs for customers. She practiced law in Boston earlier in her career, and has been a community and nonprofit leader.

Undocketed Reports:

FERC Office of Enforcement Market Snapshot Report - Southeast Version – June 2010

FERC's Office of Enforcement held its monthly conference call on the Market Snapshot Report for the Southeast Region on June 9, 2010. As usual, the report used the previous month's market data to examine the natural gas and fuel markets, as well as the electricity markets, in the Southeastern United States.

FERC staff first discussed the Summer 2010 Energy Market and Reliability Assessment. This report, which provides FERC staff estimates for energy prices and reliability concerns for the summer, was discussed at greater length in last month's FERC activities report. Discussing the report, FERC staff noted that a large capacity "headroom" existed due to decreased demand from the recession. They also noted that FERC commissioners were more concerned with vegetation related outages than they had been in the past. In the report, FERC staff expressed the greatest concern with the West, where prices were significantly up due largely to drought conditions decreasing hydroelectric production. Elsewhere, prices were expected to be fairly flat, though even in the West they were expected to be lower than they were two years ago.

FERC staff then addressed the electricity markets. They noted that, due to high temperatures, demand and generation in the Southeast for April and May were at the high end of the five-year range. The South Central region had thus far faced a milder Spring, and was at the middle of the five-year range. Due to the end of drought conditions, hydroelectric generation in the Southeast was at high levels. Day-ahead on-peak prices are up slightly, but still low in historical terms. FERC staff also acknowledged Gainesville's Feed-in Tariff in discussing their map of renewable energy programs nationwide. In the Southeast Region, only North Carolina has a state-wide renewable energy standard, however.

FERC staff then discussed the natural gas markets. They noted that Henry Hub spot prices were slightly higher than last year, driven primarily by higher demand for electricity generation. Prices are still far below the 2004-2008 range, however. Supply is steady, with domestic production up and imports down. FERC staff made a point of noting that Florida City Gate pricing is the highest in the country, at about $7/MMBtu. They did note that this particular point has a very low volume, and thus is not a dependable index. They said pricing elsewhere in Florida was approximately $4.80/MMBtu, which is still higher than the $4.00 average elsewhere. FERC staff blamed congestion issues in Florida for this price disparity. They expressed hope that the Florida Gas Transmission expansion would ease these problems, though they did not seem optimistic that it would solve them. Gas storage continues to be above the five-year range, and is being added at a record pace.

FERC staff closed by discussing the coal market. They noted that coal stockpiles at generating facilities are above last year's record levels, and well above the ten-year average. They claimed that some stakeholders were beginning to adjust contracts to reduce the stockpiles. Prompted by a question about the effects of the oil spill on deliveries, FERC staff noted that the shutdown of certain oil facilities also shut down some gas production, but not a major amount. LNG deliveries have been uncommon enough that they have not been significantly affected. Coal deliveries by barge have been slowed slightly for cleaning of the barges. The next call has been scheduled for July 28, 2010. RAD staff will monitor.

Technical Conferences (AD):

Request for Comments –Treatment of Energy Storage Techniques (AD10-13-000)

On June 11, 2010, FERC announced that it was seeking comments regarding rates, accounting and financial reporting associated with services provided by electric storage technologies. In particular, newer storage technologies like flywheels and chemical batteries have recently achieved technological maturity and are well into successful pilot stages and, in some cases, commercial operation. Under appropriate circumstances, storage can act like any of the traditional asset categories, and also like load. Suggested business models range from traditional cost-of-service rates to competing in wholesale commodity trading; some are considering the possibility of multiple revenue streams which may blend both cost-of-service recovery for some costs with other costs being at risk in competitive wholesale market transactions. For all of these reasons, there is little case precedent to guide industry and a divergence in practice concerning how to develop rates and categorize electric storage costs for rate purposes.

Furthermore, FERC's accounting and financial reporting requirements currently do not contain specific accounting, functional classification, and related FERC Form No. 1 reporting requirements for new storage technologies. Under a cost-of-service ratemaking methodology, it is critical for companies to accurately and uniformly account and report financial information and data to facilitate the development and monitoring of rates. Without this information, it would be difficult for the FERC and others to determine the costs related to new storage technologies for cost-of-service rate purposes. In order to better understand the various ways electric storage can be used, where each of those uses would fall within established jurisdictional boundaries, and the appropriate rate treatment, accounting classification, and reporting requirements for those uses, FERC staff seeks comment regarding alternatives for categorizing and compensating storage services, and in particular ideas on how best to develop rate policies that accommodate the flexibility of storage, consistent with the Federal Power Act. In addition, staff welcomes comments about any other aspects of these storage issues. Comments are due approximately August 9, 2010.

Technical Conference – Reliability Standards Development and NERC and Regional Entity Enforcement (AD10-14-000)

On June 10, 2010, FERC issued a notice that it would hold a Commissioner-led Technical Conference on July 6, 2010 to address industry perspectives on certain issues pertaining to the development and enforcement of mandatory Reliability Standards for the Bulk-Power System. The conference focused on the Electric Reliability Organization's (ERO) standards development process; communication and interactions between the Commission, the ERO and Regional Entities; and ERO and Regional Entity monitoring and enforcement.

On June 18, 2010, FERC issued the agenda for the conference. It consisted of two panels: the first on the current state of mandatory reliability standards development and the second on the development process. On June 30, 2010, FERC issued a notice that three open reliability dockets, all concerning NERC, might be discussed at the conference.

Others:

ER10-1387-000 – Florida Power & Light – Filed June 2, 2010. Second Revised Sheet No. 174 et al and Correction to Transmittal Letter Regarding Revisions to Attachment C to Florida Power & Light's Open Access Transmission Tariff. The purpose of the revision to Attachment C of the FPL Open Access Transmission Tariff is necessary to accommodate FPL's implementation of "the Engine." FPL along with members of the FRCC is a member of the Florida Transmission Capability Determination Group ("FTCDG"). The FTCDG has adopted a software program developed by Open Access Technology International for the calculation of Available Transfer Capability, Total Transfer Capability, Existing Transmission Commitments, Transmission Reserve Margin, and Capacity Benefit Margin, generally referred to as the Engine. The Engine will enhance coordination among the transmission providers in the region. On June 3, 2010, FPL filed to correct errors to the above tariff sheets.

ER10-1423-000 – Tampa Electric Company – Filed June 11, 2010. Second Revised Sheet No.11. The revision reflects an amendment of Exhibit A to the Contract for Interchange Service between Tampa Electric and Progress Energy Florida dated July 21, 1977, to modify the description of an existing point of interconnection between the transmission systems of the two companies (Dade City Substation Interconnection).

ER10-1570-000 – Florida Power Corporation (Progress Energy Florida) – Filed June 25, 2010. Network Integration Transmission Service Agreement and Network Operating Agreement between Progress Energy and the City of Winter Park, Florida. Progress Energy will charge Winter Park for transmission service and ancillary services consistent with the rates set forth in Progress Energy's Open Access Transmission Tariff. Progress Energy proposes to charge Winter Park a point of delivery of $450/month for the Interlachen Substation and $250/month for the Canton Substation.

Docket: QF10-546-000
Stakeholders: Lakeland Electric, Sun Edison
Activity: Submission of Filing for Self-Certification of Qualifying Status
Priority: B
FPSC Action: Monitor

On June 29, 2010, Sun Edison made an electronic filing of FERC Form No. 556 – Notice of Self-Certification of Qualifying Status for a small power production facility located at Lakeland Center in Lakeland, Florida. A copy of the filing was also provided to the FPSC. FERC assigned the filing to Docket No. QF10-546-000. FERC had not yet issued a notice of the filing or formally accepted it as of July 13, 2010. The facility has a maximum net power production of 240 kW of solar photovoltaic power. The self-certification form gives few technical details, and no cost data. It is on file electronically at:
http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=12376415

TECO FERC Form 714 Report and 1st Quarter 2010 FERC Form 3Q

On June 3, 2010, TECO filed two forms, its FERC Form 714 and its 1st Quarter 2010 FERC Form 3Q, with FERC. TECO has also provided copies to the FPSC.

FERC Form 714 is the Annual Electric Balancing Authority Area and Planning Area Report for the calendar year 2009. Electric transmitting utilities operating balancing authority areas and planning areas (with annual peak demand over 200MW) are required to electronically file Form 714, reporting among other things, balancing authority area generation, actual and scheduled inter-balancing authority area power transfers, and net energy for load, summer-winter generation peaks and system lambda.

The Form No. 3-Q is a comprehensive quarterly financial and operating report which supplements Form 1. It is submitted for all Major and Non-Major electric utilities, licensees, and natural gas companies who engage in generation, transmission, distribution, or sale of electric energy. While portions of the report appear to be redacted, it still contains a detailed picture of TECO's financial information.

Updated Business – June 2010

RM01-5-000 and RM07-16-000 – Electronic Tariff Filings and Filing via the Internet – On June 28, 21010, FERC announced that the eFilings and eTariff systems would now display what time submissions were officially made with FERC.

RM04-7-009 – Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities – On June 8, 2010, FERC announced that rehearing had been timely requested of its April 15, 2010 order, and that, if appropriate, a decision to grant rehearing would be made within 30 days.

RM07-1-003 – Standards of Conduct for Transmission Providers - On June 15, 2010, FERC announced that rehearing had been granted for its April 16, 2010 order, for the limited purpose of further consideration.

RM07-9-003 - Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines – On June 17, 2010, FERC issued a NOPR regarding revising certain financial reporting forms required to be filed by natural gas companies to include functionalized fuel data and amount of fuel waived, discounted, or reduced as part of a negotiated rate agreement. Comments are due on approximately August 22, 2010.

Priority Ranking Key:
A – High Priority – Affects Florida consumers, this agency, or industry in a significant manner. Items in this notice include issue(s) that the FPSC has previously filed comments.
B – Important – Affects Florida consumers, this agency, or industry.
C – Monitor – Does not substantially impact Florida consumers, this agency, or industry.

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

<u>NOTE</u>: The records reflect that no outside persons addressed the Commission at this Internal Affairs meeting.

III. Supplemental Materials Provided During Internal Affairs

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