

I. Meeting Packet



State of Florida
Public Service Commission
INTERNAL AFFAIRS AGENDA
Thursday, October 2, 2014
Immediately Following Commission Conference
Room 105 – Gunter Building

1. Recommendations for the FY 2015-16 Legislative Budget Request. Consensus is sought. (Attachment 1).
2. Briefing on *South Carolina Public Service Authority, et al. v. Federal Energy Regulatory Commission*, D.C. Circuit Court of Appeals Case No. 12-1232, and Federal Energy Regulatory Commission Order on Rehearing and Compliance Filings for Tampa Electric Company, Duke Energy Carolinas, LLC, Florida Power & Light Company, and Orlando Utilities Commission. (Attachment 2).
3. Executive Director's Report. (No Attachment).
4. Other Matters.

BB/sc

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.

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: September 19, 2014

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

FROM: Braulio L. Baez, Executive Director

RE: FPSC Legislative Budget Request for Fiscal Year 2015-16
Critical Information: October 2, 2014 Internal Affairs. Consensus is Sought.
Due to Governor's Office of Policy and Budget – October 15, 2014

The proposed *Legislative Budget Request for Fiscal Year 2015-16* of \$25,296,931 represents a reduction from the Commission's Fiscal Year 2014-15 adjusted operating budget.

Senior management continuously works to identify opportunities to gain efficiencies and reduce budget. As a result of that effort, the Fiscal Year 2015-16 proposed budget request represents one reduction issue of two vacant positions at a savings of \$101,946.

A summary of the budget request is attached.

BB:pq

c: Apryl C. Lynn, Deputy Executive Director - Administrative
Lisa Harvey, Deputy Executive Director - Technical
S. Curtis Kiser, General Counsel

PUBLIC SERVICE COMMISSION FY 2015-16 LEGISLATIVE BUDGET REQUEST

DRAFT

	FTEs	SALARIES & BENEFITS	OTHER PERSONAL SERVICES	EXPENSES	OPERATING CAPITAL OUTLAY	DOAH	ACQUISITION OF MOTOR VEHICLES	CONTRACTED SERVICES	RISK MANAGEMENT INSURANCE	TRANSFER TO DMS - HR SERVICES CONTRACT	DATA PROCESSING SERVICES	SOUTHWOOD DATA CENTER/ STATE DATA CENTER - AST	TOTAL
APPROVED 2014-2015 BUDGET AS ADJUSTED	286.0	\$20,741,031	\$200,588	\$3,539,189	\$266,200	\$0	\$50,538	\$502,804	\$62,065	\$98,858	\$45,699	\$8,455	\$25,515,427
FY 2015-2016 LEGISLATIVE BUDGET REQUEST													
Position Reduction Issue	(2.0)	(89,290)		(11,968)						(688)			(101,946)
Non-Recurring Lease Consolidation Expense				(54,000)									(54,000)
Non-Recurring New Employee Expense Chapter 2014-68 Water Utility (SB272)													
General Revenue Appropriation				(12,012)									(12,012)
Non-Recurring Acquisition/Motor Vehicle Expense							(50,538)						(50,538)
TOTAL ESTIMATED PROPOSED LEGISLATIVE BUDGET REQUEST	284.0	\$20,651,741	\$200,588	\$3,461,209	\$266,200	\$0	\$0	\$502,804	\$62,065	\$98,170	\$45,699	\$8,455	\$25,296,931
Increase (Decrease) From FY 2014-2015 Operating Budget as Adjusted.	-0.7%	-0.4%	0.0%	-2.2%	0.0%	0.0%	-100.0%	0.0%	0.0%	-0.7%	0.0%	0.0%	-0.9%

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: September 22, 2014

TO: Braulio L. Baez, Executive Director

FROM: Samantha M. Cibula, Attorney Supervisor, Office of the General Counsel *S.M.C.*
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 *GD MT*

RE: Briefing on *South Carolina Public Service Authority, et al. v. Federal Energy Regulatory Commission*, D.C. Circuit Court of Appeals Case No. 12-1232, and Federal Energy Regulatory Commission Order on Rehearing and Compliance Filings for Tampa Electric Company, Duke Energy Carolinas, LLC, Florida Power & Light Company, and Orlando Utilities Commission.

Critical Information: Please place on the October 2, 2014, Internal Affairs. The deadline for requests for rehearing of FERC's Order is October 6, 2014, and the deadline for appellate court review of FERC's Order is November 4, 2014.

This item is to brief the Florida Public Service Commission (Commission or FPSC) on two related federal matters in which the Commission intervened. On August 15, 2014, the United States Court of Appeals for the District of Columbia Circuit denied the petitions for review of Federal Energy Regulatory Commission (FERC) Order Nos. 1000 and 1000-A. *See South Carolina Public Service Authority, et al. v. Federal Energy Regulatory Commission*, 2014 U.S. App. LEXIS 15674 (D.C. Cir. 2014). On September 5, 2014, FERC issued a 238-page Order on Rehearing and Compliance Filings for Order Nos. 1000 and 1000-A (FERC's Second Compliance Order) for Tampa Electric Company, Duke Energy Carolinas, LLC, Florida Power & Light Company, and the Orlando Utilities Commission (FRCC utilities), which granted in part and rejected in part the utilities' second compliance filings and granted in part and denied in part requests for rehearing and clarification of FERC's First Compliance Order.

Requests for rehearing of FERC's Second Compliance Order must be submitted by October 6, 2014, and appeals of the order are due by November 4, 2014. Staff does not recommend that the FPSC file for rehearing or seek appellate review of the Second Compliance Order.

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 that requested FERC rehear and clarify its Order. In the 593-page Order No. 1000-A, issued May 17, 2012, FERC denied the requests for rehearing and clarification.

Order Nos. 1000 and 1000-A establish a new paradigm for addressing regional transmission needs. Transmission-owning utilities must develop 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 as stakeholders.

Forty-five petitioners and sixteen intervenors petitioned the United States Court of Appeals for the District of Columbia Circuit to review Order Nos. 1000 and 1000-A. The FPSC intervened in support of the Alabama Public Service Commission before the Court. On August 15, 2014, the Court denied the petitions for review. *See South Carolina Public Service Authority, et al. v. Federal Energy Regulatory Commission*, 2014 U.S. App. LEXIS 15674 (D.C. Cir. 2014). The D.C. Circuit Court's opinion is discussed below.

Notwithstanding the pending appeal, utilities were required to make compliance filings pursuant to Order No. 1000. FERC issued its 127-page Order on the FRCC utilities' First Compliance Filings on June 20, 2013 (First Compliance Order), wherein it largely rejected the compliance filings and directed the utilities to submit further compliance filings to comport with FERC's decision. The utilities submitted the further compliance filings, and Duke Energy, the FPSC, LSP Power Transmission, Florida Municipal Power Agency, and Seminole Electric Cooperative filed requests for rehearing and clarification of the First Compliance Order.

On September 5, 2014, FERC issued a 238-page Order on Rehearing and Compliance Filings for Order Nos. 1000 and 1000-A (FERC's Second Compliance Order) for the FRCC utilities, which granted in part and rejected in part the utilities' Second Compliance Filings and granted in part and denied in part requests for rehearing and clarification of FERC's First Compliance Order. The FRCC utilities were directed to submit to FERC additional compliance filings by November 4, 2014. FERC's Second Compliance Order is discussed below.

FERC's Second Compliance Order

The FPSC identified three issues in its request for rehearing of FERC's First Compliance Order:

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

- (2) The FERC erred by applying an overarching framework for the compliance filing that infringes on the Florida Commission's authority over transmission planning and reliability.
- (3) The FERC erred by imposing requirements that push the utilities to form a Regional Transmission Organization (RTO)-like framework, contrary to Florida Commission Order No. PSC-06-0388-FOF-EI, In re: Review of Grid Florida Regional Transmission Organization Proposal.

FERC's Second Compliance Order granted in part and rejected in part the utilities' second compliance filings and granted in part and denied in part requests for rehearing and clarification of FERC's First Compliance Order. FERC included the following findings of note:

- (1) FERC affirmed that the FRCC utilities may continue to use a "bottom-up" transmission planning approach, but clarified that once the local transmission plans are rolled-up and analyzed, the utilities must take the additional step of determining whether there are more efficient or cost-effective transmission solutions to meet regional needs.
- (2) FERC rejected the argument that Order No. 1000's affirmative obligation to plan runs counter to state-regulated planning requirements. FERC contends that nothing in Order No. 1000 requires transmission providers to modify their state plans and that the Order No. 1000 planning requirements are not the vehicle by which state planning is conducted, which is viewed as a separate obligation.
- (3) FERC found that all arguments that the First Compliance Order exceeds FERC's jurisdiction were a collateral attack on Order Nos. 1000 and 1000-A and, because transmission planning is a practice affecting transmission rates, FERC is obligated to ensure that transmission services resulting from transmission planning are provided at just and reasonable rates and on a basis that is not unduly discriminatory.

FERC also accepted portions of the FRCC utilities' second compliance filings while denying others. Many of FERC's objections to the utilities' filings were similar to those raised in its order on the Southeastern Regional Transmission Planning utilities' filings issued in June 2014. Specific to the FRCC utilities' filings, FERC rejected the requirement that a project must cross a county line for consideration as a regional project. This criterion was submitted as one of the requirements contained as part of the Florida Electric Transmission Line Siting Act (TLSA), Sections 403.52-403.5365, Florida Statutes. The other criteria that are part of the TLSA, namely that a project be at a minimum 230 kV and that it be at least 15 miles in length, were accepted by FERC.

FERC Commissioner Clark issued a separate concurrence where he expressed concerns about the way FERC Order No. 1000 was being enacted in non-RTO regions. Despite this concern, he concurred with FERC's Second Compliance Order.

D.C. Circuit Court's Opinion on FERC Order Nos. 1000 and 1000-A

A few weeks prior to the issuance of FERC's Second Compliance Order, the D.C. Circuit Court issued its opinion on the petitions for review of Order Nos. 1000 and 1000-A. *See South Carolina Public Service Authority v. Federal Energy Regulatory Commission*, 2014 U.S. App. LEXIS 15674 (D.C. Cir. 2014). The Court denied all the challenges to Order Nos. 1000 and 1000-A raised by the petitioners and intervenors. As mentioned above, the FPSC was an intervenor in the case.

The Court addressed the issue raised in the FPSC's request for rehearing before FERC on FERC's authority to impose requirements that push the utilities to form an RTO-like framework. The Court found that FERC has the authority under Section 206 of the Federal Power Act to require transmission providers to participate in a regional planning process. *Id.* at *46-*47.

The Court also addressed the issue of whether Order Nos. 1000 and 1000-A infringed on states' traditional regulation of transmission planning, siting, and construction, in violation of the federalism principle recognized in Section 201(a) of the Federal Power Act. *Id.* at *48. In regard to whether Order Nos. 1000 and 1000-A intruded on the states' traditional authority to regulate siting and construction, the Court stated,

Even assuming *arguendo* that siting and construction are matters "subject to regulation by the States" within the meaning of Section 201(a), petitioners' contention simply cannot be squared with the language of the orders, which expressly and repeatedly disclaim authority over those matters....The orders neither require facility construction nor allow a party to build without securing necessary state approvals.

Id. at *48-*49 (internal citation omitted). As to whether the orders interfered with state regulation of planning,¹ the Court distinguished this case from its recent decision in *Electric Power Supply Association v. FERC*, 753 F.3d 216 (D.C. Cir. 2014)(wherein the Court held that FERC did not have the authority to regulate retail electricity sales), and found that "because the planning mandate relates wholly to electricity transmission, as opposed to electricity sales, it involves a subject matter over which [FERC] has relatively broader authority." *Id.* at *52. Moreover, the Court found that "because the orders' planning mandate is directed at ensuring the proper functioning of the interconnected grid spanning state lines, . . . the mandate fits comfortably within Section 201(b)'s grant of jurisdiction over 'the transmission of electric energy in interstate commerce.'" *Id.* (internal citation omitted). The Court concluded that Order Nos. 1000 and 1000-A do not interfere with the traditional state authority that is preserved by Section 201 of the Federal Power Act. *Id.* at *53.

¹ In its analysis of this issue, the Court cited to the FPSC's authority under Section 366.04(5), Florida Statutes, to plan, develop, and maintain a coordinated electric power grid throughout the state as an example of state regulators who are substantially involved in regulating the transmission planning process.

In regard to other issues raised by the petitions and intervenors, the Court found:

- (1) There is substantial evidence of a theoretical threat to support adoption of the reforms in Order 1000 and 1000-A.
- (2) FERC has the authority under Section 206 of the Federal Power Act to require removal of federal rights of first refusal provisions upon determining they were unjust and unreasonable practices affecting rates.
- (3) FERC has the authority under Section 206 of the Federal Power Act to require the *ex ante* allocation of the costs of new transmission facilities among beneficiaries.
- (4) FERC reasonably determined that regional planning must include consideration of transmission needs driven by public policy requirements.
- (5) FERC reasonably relied upon the reciprocity condition to encourage non-public transmission providers to participate in a regional planning process.

Id. at *7-*9.

Possible Next Steps

Requests for rehearing of FERC's Second Compliance Order must be submitted by October 6, 2014, and appeals of the order are due by November 4, 2014. Because the D.C. Circuit Court's opinion addressed the issues raised by the FPSC, staff does not recommend that the FPSC file for rehearing or seek appellate review of the Second Compliance Order.

cc: Curt Kiser
Mary Anne Helton
Lisa Harvey
Mark Futrell

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

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

III. Supplemental Materials for Internal Affairs

Note: The following material pertains to Item 4 of this agenda.

CHARLIE BECK
1820 Sevilla Blvd., Apt. 104
Atlantic Beach, Florida 32233
904-270-9783
charliebeck123@gmail.com

Work Experience:

1984 - 2011: Deputy Public Counsel, Office of Public Counsel, Tallahassee, Florida. Represented the interests of consumers before the Florida Public Service Commission in electric, water and wastewater, and telecommunications cases.

1980-1984: Private practice in Orlando, Florida. Worked in areas of general corporate, real estate, and tax law. Represented clients intervening in telecommunications cases before public service commissions in a number of states.

1977 - 1980: Naval Legal Service Office, Millington, Tennessee. Headed both prosecution and defense sections for courts-martial cases. Represented clients before Administrative Discharge Boards. Labor law advisor to Naval Air Station Memphis.

1972 – 1974: USS Bigelow (DD-942). Communications Officer and acting Operations Officer.

Education:

Law: 1974 – 1976, University of Florida College of Law, J.D. with honors, 1976.

Accounting / Business: 1977 – 1982 (part time), Memphis State University and University of North Florida.

Undergraduate: 1967 – 1971, State University of New York at Stony Brook, B.A. *cum laude*, 1971.

Other:

Commander, JAGC, United States Naval Reserve, retired.

Married with two grown children.

Parties ~~Staff~~ Handout
~~Internal Affairs~~ Agenda
on 10 / 2 / 14
Item No. 4

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
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

10
11 DATE: Thursday, October 2, 2014

12 TIME: Commenced at 12:54 *m.
13 Concluded at 1:17 *m.

14 PLACE: Gerald L. Gunter Building
15 Room 105
16 2540 Shumard Oak Boulevard
17 Tallahassee, Florida

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REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6734

P R O C E E D I N G S

1
2 **CHAIRMAN GRAHAM:** All right. Good afternoon,
3 everyone. Let the record show that it is Thursday,
4 October the 2nd, and this is the Internal Affairs
5 agenda. And I think we should just leap right into it
6 with Item Number 1.

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

8 Commissioners, Item 1 is the recommendations
9 for the fiscal year 2015/16 Legislative Budget Request,
10 and we are here seeking your consensus.

11 As you may recall, our LBR is our budget
12 authority for the following year. We're dealing with
13 '15 and '16 now, and for '15 and '16 we are proposing
14 just one Commission issue that would eliminate two
15 positions, two vacant positions. We have been and we
16 continue to work with our management to evaluate the
17 workload and the responsibilities and our staffing
18 needs.

19 In some instances we're able to strategically
20 shift to minimize or even alleviate functions and still
21 maintain a high quality of work product. To that end,
22 as I've said, we've identified two vacant positions that
23 can be eliminated, and this issue results in a total
24 reduction of \$101,946.

25 Our LBR also contains two technical

1 adjustments. I would remind you these technical
2 adjustments are essentially out of our control at the
3 Commission. They are necessary as a result of
4 non-recurring budget issues that were passed during the
5 '14 fiscal cycle.

6 One of them is for vehicles. Essentially
7 that's backing up non-recurring budget authority to
8 replace vehicles. So that is a reduction. And the
9 second is the lease consolidation expense, essentially
10 moving expenses for the relocation of our Tampa -- is it
11 Tampa -- Tampa office, yes. This move was related to a
12 statewide lease consolidation effort that was instituted
13 a few years back. The budget amendments -- or these
14 technical adjustments are going to delete this budget as
15 it was intended. That is the balance of the issues that
16 we have going for '15 and '16.

17 We're available to answer questions, if you
18 have any. Otherwise, we would seek your approval so
19 that we can file our LBR as required October 15th.

20 **CHAIRMAN GRAHAM:** Thank you. Commissioners,
21 any questions of the Executive Director on the LBR?

22 Commissioner Edgar.

23 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
24 I do not -- thank you, Mr. Chairman. I do not have a
25 question. I did go over these documents with our

1 Executive Director prior to this meeting. I recognize
2 that the October 15th is the statewide deadline for all
3 agencies.

4 **MR. BAEZ:** Yes, it is.

5 **COMMISSIONER EDGAR:** And it is the first step
6 in a very long budgeting process that we and every state
7 agency will go through. And I support this document,
8 recognizing the stage that we're at.

9 **MR. BAEZ:** Yeah. To your comments,
10 Commissioner, this is, in fact, the rollout of the LBR.
11 And the process is long and it culminates with the next
12 session, and in between here and there there are several
13 meetings with our budget counterparts at the Legislature
14 as well as the Governor's Office. So we try and
15 maintain good relations with them and keep them apprised
16 of what our intentions are for our fiscal activities,
17 and that will continue to be the case.

18 **CHAIRMAN GRAHAM:** Any other questions of the
19 Executive Director?

20 Okay. He's looking for some direction. I
21 would say -- I guess we'll take a motion to approve.

22 **COMMISSIONER BRISÉ:** Move approval.

23 **COMMISSIONER EDGAR:** Second.

24 **CHAIRMAN GRAHAM:** It's been moved and
25 seconded, approval of the LBR. All in favor, say aye.

1 (Vote taken.)

2 Any opposed? By your action, you have
3 approved.

4 **MR. BAEZ:** Thank you, Commissioners.

5 **CHAIRMAN GRAHAM:** Thank you.

6 Item Number 2.

7 **MS. CIBULA:** Good afternoon. Samantha Cibula
8 and Ben Crawford on behalf of Commission staff. This
9 item is to brief you on two related federal matters
10 pertaining to Federal Energy Regulatory Commission Order
11 1000. They are FERC's decision on Order 1000 compliance
12 plans for Tampa Electric Company, Duke Energy Florida,
13 and Florida Power & Light in the United States District
14 Court of Appeals' decision on the challenges to Order
15 1000.

16 First, some background on Order 1000. And
17 when I refer to Order 1000, I'm referring to both Order
18 1000 and 1000A collectively. Order 1000 is FERC's means
19 of addressing regional transmission needs. The order
20 requires transmission owning utilities to develop
21 regional plans to comply with the directives set forth
22 in the order.

23 FERC must approve the compliance plans, and
24 state commissions are allowed to participate as
25 stakeholders in the proceeding. A number of entities

1 appealed Order 1000 to the District Court of Columbia.
2 The Public Service Commission intervened in the appeal
3 in support of the Alabama Public Service Commission.
4 The appeal did not stay the proceedings before FERC, so
5 the utilities were required to submit their regional
6 plans to comply with Order 1000. So there are two
7 simultaneous tracks for Order 1000, the compliance plan
8 proceeding before FERC and the D.C. Circuit Court of
9 Appeal. Decisions were recently made in both of those
10 proceedings.

11 FERC issued a decision in the compliance
12 filing proceeding for the FRCC utilities, which are
13 Tampa Electric, Duke, and Florida Power & Light. In
14 that proceeding, we argued on rehearing that FERC was
15 infringing on our authority over transmission planning
16 and reliability and that FERC was imposing requirements
17 that pushed Florida utilities to perform an RTO-like
18 structure. FERC rejected both of our requests for a
19 hearing.

20 The second compliance order is quite extensive
21 but makes a number of findings, and a few of the
22 findings that are notable are that FERC confirms that
23 utilities may continue to use the bottom-up transmission
24 planning approach; however, FERC states that it requires
25 the utilities to take the additional step of determining

1 whether there are more efficient or cost-effective
2 transmission solutions to meet regional transmission
3 needs.

4 FERC states that it views the federal and
5 state planning processes as separate obligations and
6 confirms that nothing in Order 1000 requires
7 transmission providers to modify their state plans,
8 which is good news for the Commission.

9 The D.C. Circuit Court also issued its
10 decision on Order 1000. The opinion is also quite
11 extensive, but of importance to the Commission is that
12 it addresses the issues raised in our request for a
13 rehearing before FERC. FERC found that the
14 Commission -- the Court found that FERC has the
15 authority to require transmission providers to
16 participate in a regional planning process.

17 The Court also found that Order 1000 does not
18 infringe on state regulation of transmission, planning,
19 and siting, and construction. And although the Court
20 recognized that state commissions -- and the Court
21 specifically mentioned the Florida Public Service
22 Commission -- are substantially involved in regulating
23 the transmission planning process, the Court concluded
24 that the Federal Power Act does not preclude FERC's
25 regulation of transmission planning as set forth in

1 Order 1000. And in this regard, the Court found that
2 FERC has authority over transmission and that FERC's
3 authority has expanded over time because transmission
4 over interconnection -- interconnected grids constitutes
5 transmission in interstate commerce. So that was the
6 basis of their decision.

7 There is an opportunity to ask for a rehearing
8 or seek appeal of FERC's second compliance order;
9 however, staff does not recommend that the Commission
10 seek rehearing or appeal because of the D.C. Circuit
11 Court's decision. It resolves the issues, we believe.
12 And the FRCC utilities must submit further compliance
13 filings to FERC by November 4th, and we'll continue to
14 monitor the proceeding. And staff is available for any
15 questions.

16 **CHAIRMAN GRAHAM:** Thank you, staff. Thank
17 you, staff. Commissioners, any questions or comments to
18 staff?

19 Commissioner Balbis.

20 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
21 Just a few comments. I'm pleased to see that at least
22 FERC recognized some of the issues that we addressed and
23 they made some comments to that effect, but I'm
24 extremely disappointed in the D.C. Circuit Court's
25 opinion. And I'll just restate what I've stated all

1 along throughout this process, and that the last thing
2 that I want to have happen is that Florida customers to
3 pay for transmission projects where they don't receive a
4 benefit from them, and also having an additional
5 bureaucratic process for transmission planning. I think
6 this state is unique; we deal with weather issues and
7 other issues, lack of interconnection with other states,
8 that I think this state handles very well on its own.
9 And hopefully this does not result in again another
10 bureaucratic process that slows down the process.

11 And I will turn to the attorneys on the
12 Commission to see if we should request a rehearing, but
13 I do think that if they've already addressed our issues,
14 I don't know if it warrants additional action.

15 **CHAIRMAN GRAHAM:** Commissioner Edgar.

16 **COMMISSIONER EDGAR:** Thank you. I would say
17 ditto, ditto, ditto. I'm very pleased with the work
18 that our staff has done weighing in on these issues on
19 our behalf, along the lines and concerns that
20 Commissioner Balbis has restated, but I do think that
21 this has probably hit the end of the line for that
22 particular avenue.

23 I know they will, but I would ask our staff to
24 continue to monitor all of these issues very, very
25 closely. I think there will be other opportunities as

1 these orders continue to be implemented over time.

2 **CHAIRMAN GRAHAM:** Any other Commissioners?

3 Okay. Staff, thank you very much for all your
4 effort and your time.

5 Okay. Item Number 3, Executive Director's
6 report.

7 **MR. BAEZ:** Thank you, Commissioners. Me
8 again. I had alluded, I had alluded earlier in the LBR
9 report as to the lease consolidation program, and we --
10 I just wanted to give you a quick update. Our move of
11 the Tallahassee -- the Tallahassee -- the Tampa office
12 has actually been completed as of the end of September.
13 So we're now, we're now in --

14 **MS. LYNN:** The Trammell Building.

15 **MR. BAEZ:** -- the Trammell Building. I didn't
16 have it here. I'm sorry. In any case, we -- generating
17 savings of about \$12,000 a year with the move. So just
18 a quick update on that.

19 **CHAIRMAN GRAHAM:** Is that it?

20 **MR. BAEZ:** Oh, that's it. I'm sorry.

21 (Laughter.)

22 **CHAIRMAN GRAHAM:** I thought you were moving on
23 to number two.

24 **MR. BAEZ:** You're hanging on my every word. I
25 like that.

1 **CHAIRMAN GRAHAM:** Any comments or questions of
2 the Executive Director?

3 Okay. Other matters.

4 **MR. KISER:** Mr. Chairman?

5 **CHAIRMAN GRAHAM:** Yes, sir.

6 **MR. KISER:** You might want to just ask Mark
7 Futrell of our staff -- the implementation of Senate
8 Bill 272, the petition process, the rulemaking on that,
9 to implement that is going very well. And just so in
10 the event -- since there were a number of legislators
11 that were very interested in that, and some of you may
12 run across them the next few days, and if they ask you
13 where that's at, we want to make sure y'all know. And
14 so Mark can give a very quick update on where the
15 development of that rule is.

16 **MR. FUTRELL:** Thank you, Commissioners. The
17 staff has prepared a draft rule to address the changes
18 in the new legislation in the Senate bill. We have
19 issued a notice for a staff workshop on next Tuesday,
20 October 7th, at 1:00 to review, to make ourselves
21 available to folks who want to come and comment on the
22 draft. We will request written comments on the draft
23 and then take that into consideration.

24 And then the next step would be the SERC
25 process, the statement of estimated regulatory costs, to

1 estimate the cost impact of the rule. And then our
2 intention is to bring a draft for you to propose, to
3 consider proposing at the December 16th regular agenda.

4 **COMMISSIONER BROWN:** May I?

5 **CHAIRMAN GRAHAM:** Yes.

6 **COMMISSIONER BROWN:** Mark, do you have an idea
7 of what the rate of the SERC would be, if any, at this
8 point?

9 **MR. FUTRELL:** We do not. Again, what -- the
10 difficult part is after the staff workshop we'll look at
11 the comments of the folks who participated, make some
12 tweaks to the rule, if they're appropriate, and then
13 we'll do a handoff to the staff who will conduct the
14 SERC.

15 **COMMISSIONER BROWN:** Okay.

16 **MR. FUTRELL:** And then that process will
17 start. They will go through a process of seeking input
18 from affected parties and the public, take that into
19 consideration as they try to calculate the potential
20 cost of the rule.

21 **COMMISSIONER BROWN:** So it'll come right back
22 before December 16th?

23 **MR. FUTRELL:** Correct. You'll see -- what
24 you'll see in December, the staff will propose, will
25 give you draft language that you can consider to

1 propose, and then attached to that will be the SERC.

2 **COMMISSIONER BROWN:** Would that be the last
3 opportunity for us to review and implement it?

4 **MR. FUTRELL:** That's the proposal, and then
5 there will be an opportunity to adopt the rule at a
6 subsequent proceeding.

7 **COMMISSIONER BROWN:** Thank you.

8 **CHAIRMAN GRAHAM:** Any other questions of Mark?
9 Thank you very much.

10 Any other matters?

11 I have another matter. We have -- as you
12 know, our General Counsel is planning on retiring at the
13 end of the year. And before I continue, I want to make
14 sure, because this always gets messed up in the press, I
15 had nothing to do with him leaving or deciding to
16 retire. (Laughter.) He decided on his own that he
17 wants to retire.

18 I think so far -- the four years that I've
19 been here with him he's had a spotless record as far
20 as -- I think we had about 40 cases, 40 of our final
21 orders that were challenged, and we haven't had any of
22 them overturned. So both you and your staff need to be
23 applauded for that. Of course, now is not the time to
24 do that. I'm sure there's going to be other times
25 before you leave to actually roast you.

1 **MR. KISER:** Hope so.

2 **CHAIRMAN GRAHAM:** But I want to propose before
3 my fellow Commissioners a replacement for the General
4 Counsel. And I want to start off with just an interim
5 replacement, and I'm looking for about a six-month
6 period of time. And I want to do an interim because
7 sometimes I like having that disconnect between someone
8 that's been there and established for a while and then
9 another person coming in, because it's just difficult
10 comparing one to the other. So it's good to have that
11 disconnect there. And I want to wait for the new
12 Commissioner to come in because we know we do have -- I
13 know we do have a new Commissioner coming in, and I'm
14 looking for this replacement to last several years,
15 so -- no disrespect to my fellow Commissioner -- I'm
16 looking to do someone on an interim basis, and interim,
17 a minimum of about six months and probably maximum of
18 about a year.

19 Our industry, as you all know, is very highly
20 specialized, and it's not easy to find an attorney that
21 can fit in and can, and can do the job. Usually you
22 have to find somebody either in the industry or someone
23 from within or even some of the Intervenors that have
24 come before us. Now I've always believed that our staff
25 has always had a well-balanced approach; however, you

1 know, at this moment in the PSC history the public is
2 looking for reassurance that we're committed to the
3 customers' interests.

4 And so thinking about all those things, I
5 approached a gentleman, and his name is Charlie Beck,
6 and he was on our General Counsel [sic] for about 27
7 years. I think he served very, very well. I know he
8 represented the OPC before the federal agencies in
9 different proceedings. He represented OPC before the
10 Supreme Court. He's a former JAG officer. You know how
11 I feel about the military. He was on both sides, both
12 the prosecution and the defense side, so he understands
13 the applicable role that you're supposed to be taking as
14 you move forward with different issues. He's a
15 University of Florida grad.

16 **COMMISSIONER EDGAR:** Woo!

17 **CHAIRMAN GRAHAM:** And he's also been in
18 private practice for a couple of years before OPC. So I
19 thought he would be a good replacement. I thought that
20 he would be a good addition and maybe a fresh set of
21 eyes to the inside of the Commission.

22 We're not going to be making any decisions
23 today, but you have his resumé in front of you. We're
24 going to have a special IA on October 22nd, which is
25 going to be before our fuel, before our fuel clause

1 hearing, so it'll be starting at 9:00, like from 9:00 to
2 9:30. And so between now and then I would encourage you
3 to contact him, ask him questions, interview him, vet,
4 whatever, and then make sure that this choice is
5 palatable for everybody. And if there's any concerns,
6 let's bring it up, any questions. And then after that
7 meeting, we'll decide where we go from there. Any
8 questions?

9 Commissioner Balbis.

10 **COMMISSIONER BALBIS:** Thank you. Yeah. I
11 just wanted to clarify, in reviewing his resumé, you
12 indicated that he worked for the Commission for 20-plus
13 years, but he actually worked for the Office of Public
14 Counsel.

15 **CHAIRMAN GRAHAM:** No. I'm sorry. The Office
16 of Public Counsel, OPC.

17 **COMMISSIONER BALBIS:** Okay.

18 **CHAIRMAN GRAHAM:** So he's been the consumer
19 advocate for 27 years.

20 **COMMISSIONER BALBIS:** Okay. And then the
21 other thing, is there a way that we can force Mr. Kiser
22 to continue to have his holiday party? That is
23 important.

24 (Laughter.)

25 **CHAIRMAN GRAHAM:** He doesn't get to retire

1 until that party is over, so.

2 **COMMISSIONER BALBIS:** And then from a logistic
3 standpoint -- obviously I want to meet Mr. Beck. I
4 don't know if I've met him before. But do we coordinate
5 with him or with HR?

6 **CHAIRMAN GRAHAM:** You coordinate directly with
7 him, and he's -- he'd be more than happy to take your
8 phone calls. And just to remind you, you were just
9 leaving -- you were just getting here as he was leaving
10 because he retired just at that time.

11 **COMMISSIONER BALBIS:** Okay.

12 **CHAIRMAN GRAHAM:** And I think the only meeting
13 you were at was when we actually voted on the big, huge
14 Florida Power & Light case.

15 **COMMISSIONER BALBIS:** The settlement?

16 **CHAIRMAN GRAHAM:** Yeah. He's the one -- he
17 was the key on that to negotiate that deal.

18 **COMMISSIONER BALBIS:** Okay. All right.
19 That's all I had.

20 **CHAIRMAN GRAHAM:** Any other questions?
21 Commissioner Edgar.

22 **COMMISSIONER EDGAR:** Not really a question.
23 Well, I do have one question. Thank you. I do have one
24 question and a comment, if I may.

25 And first is to Curt, and, of course, we will

1 have more discussions between now and then, but when is
2 your last day? I know we've talked about it, but --

3 **MR. KISER:** It's a little fuzzy.

4 (Laughter.)

5 First of all, I committed five years ago,
6 December 1, to serve five years. So that five years is
7 up December 1. So I'll definitely be here through
8 December 1st. The Chairman twisted my arm to make sure
9 I would be here for, up through December 16th, so I'll
10 definitely be here through the 16th. I -- whatever
11 leftover vacation days that I have that's over and above
12 the amount they compensate you for, I'll likewise use
13 those. So I may technically be on the payroll roughly
14 until the first of the year, but in terms of being here
15 every day and that sort of thing, probably only should
16 plan on about somewhere between December 1st and
17 December 16th. But December 1st, for sure I'll be here
18 through that date.

19 **COMMISSIONER EDGAR:** Thank you. And I fully
20 support using vacation time here and there as
21 appropriate, so do that at the same time that you're
22 making sure all the trains are still running on time and
23 all of that.

24 Just a couple of brief comments. I did have
25 the opportunity to be here as a Commissioner for a few

1 years while Mr. Beck was serving as Deputy Public
2 Counsel. I don't know him well personally, but I do
3 remember him appearing before us, and I've always found
4 him to be very professional, very knowledgeable,
5 effective, and very reasonable. So I'm pleased and
6 excited about the opportunity to talk to him.

7 I will reach out to him per -- as you've, as
8 you've suggested, and I look forward to asking him what
9 his approach will be coming in, but I expect it to be
10 very positive. So I look forward to that discussion.

11 As you've pointed out, he certainly will be
12 very familiar with the applicable statutes, but yet has
13 been away enough to not be involved in any current
14 dockets or related like that. So I think that's
15 wonderful.

16 And, Mr. Chairman, I'd also like to commend
17 you. During the time that I've been here, we've had
18 four different General Counsels. We had a little
19 turnover there for a while, and personnel matters, of
20 course, are always delicate no matter what the position
21 is. General Counsel is a very, very important position
22 and one that reports to all five of us, which certainly
23 doesn't make it any easier probably. But during the
24 time that I've been here, the Chairman's office has
25 always taken the initiative to kind of inquire and begin

1 a search and to make a proposal, and I think that's kind
2 of the way it has been handled even before I got here.
3 So I thank you for taking the initiative, but, of
4 course, also giving us the opportunity to weigh in. And
5 I look forward to talking to him. So thank you.

6 **CHAIRMAN GRAHAM:** Any other questions,
7 comments?

8 Well, I do thank you all very much. And, once
9 again, I think you'll be just as impressed with Mr. Beck
10 as I've been. And if there's nothing else to come
11 before us, we are adjourned. Thank you very much.
12 Travel safe.

13 (Internal Affairs concluded at 1:17.)
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1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

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

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

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

18 DATED THIS 17th day of October, 2014.

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25


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