

I. Meeting Packet



State of Florida
Public Service Commission
INTERNAL AFFAIRS AGENDA
Tuesday – December 10, 2019
Immediately Following Agenda Conference
Room 105 - Gerald L. Gunter Building

1. Draft 2019 Telecommunications Regulatory Assessment Fee Report (Attachment 1)
2. Underground Facility Damage Prevention, Presentation by:
Sunshine 811
Mark Sweet, Executive Director
(Attachment 2)
3. Legislative Update
4. General Counsel's Report
5. Executive Director's Report
6. Other Matters

BB/aml

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: November 27, 2019

TO: Braulio L. Baez, Executive Director

FROM: Office of Industry Development & Market Analysis (Long) *[Signature]* *[Initials]*

RE: Draft Review of the 2019 Regulatory Assessment Fee Report

CRITICAL INFORMATION: ACTION IS NEEDED - Please place on the December 10, 2019, Internal Affairs. Commission approval of draft report is sought. The 2019 Report is due to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by January 15, 2020.

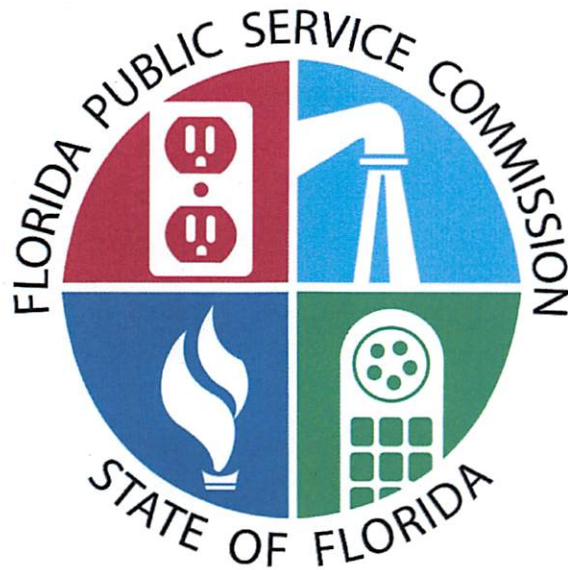
Pursuant to Section 364.336(3), Florida Statutes, "(b) by January 15, 2012, and annually thereafter, the commission must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, providing a detailed description of its efforts to reduce the regulatory assessment fee for telecommunications companies, including a detailed description of the regulatory activities that are no longer required; the commensurate reduction in costs associated with this reduction in regulation; the regulatory activities that continue to be required under this chapter; and the costs associated with those regulatory activities."

The draft report includes a staff-written synopsis of what actions the Commission has taken to comply with the statutory requirements. Staff is requesting approval of the draft report.

Attachment

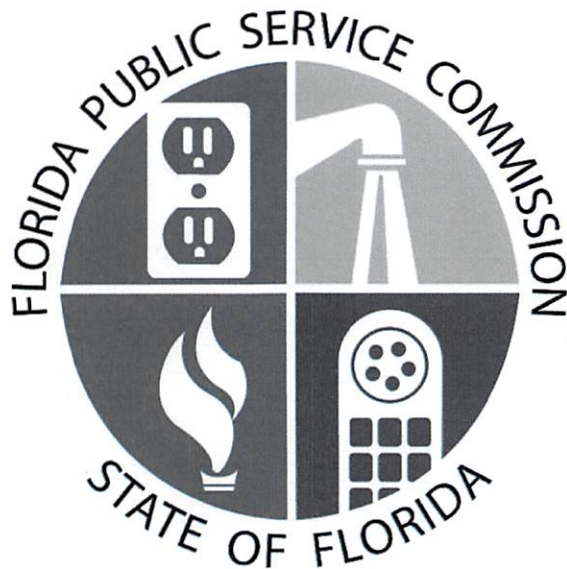
cc: Mark Futrell, Deputy Executive Director, Technical

**REPORT ON THE EFFORTS OF THE
FLORIDA PUBLIC SERVICE COMMISSION
TO REDUCE THE REGULATORY ASSESSMENT FEE
FOR TELECOMMUNICATIONS COMPANIES**



As of December 2019

**REPORT ON THE EFFORTS OF THE
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As of December 2019

Office of Industry Development and Market Analysis

Introduction

During the 2011 Legislative Session, House Bill CS/CS/HB 1231, the “Regulatory Reform Act” (Act), was passed and signed into law by the Governor, effective July 1, 2011. Under the Act, the Legislature eliminated most of the Florida Public Service Commission’s (FPSC’s or Commission’s) retail oversight authority for the telecommunications wireline companies, yet maintained the FPSC’s authority over wholesale intercarrier issues. The FPSC was required to reduce its regulatory assessment fees (RAFs) charged to wireline telecommunications companies to reflect the concurrent reduction in FPSC workload. Section 364.336(3), Florida Statutes, requires:

By January 15, 2012, and annually thereafter, the commission must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, providing a detailed description of its efforts to reduce the regulatory assessment fee for telecommunications companies, including a detailed description of the regulatory activities that are no longer required; the commensurate reduction in costs associated with this reduction in regulation; the regulatory activities that continue to be required under this chapter; and the costs associated with those regulatory activities.

As a result of this Act, the FPSC reduced its RAF rates 20%, from 0.0020 to 0.0016 of companies’ gross operating revenues derived from intrastate business. This change became retroactively effective July 1, 2011. Florida telecommunications statutes have remained essentially unchanged since 2011. The FPSC has introduced numerous measures to streamline its telecommunications-related activities since that time, and continues to look for ways to streamline its remaining responsibilities.

Regulatory Activities That Are No Longer Required

The Act eliminated most of the retail regulation of local exchange telecommunications services by the FPSC, including the elimination of rate caps on all retail telecommunications services, elimination of telecommunications-related consumer protection and assistance duties of the FPSC, and elimination of the FPSC’s remaining oversight of telecommunications service quality. The Act also reformed the FPSC’s certification processes, authority over intercarrier matters, and other general revisions.

Consistent with the reduced authority of the FPSC from the Act, the FPSC ceased the following activities over the past several years:

- Resolving non-basic retail consumer billing complaints.
- Addressing slamming or cramming complaints from consumers. The FPSC continues to address slamming complaints that are reported by carriers under the Commission’s wholesale authority.

- Publishing and distributing materials informing consumers on billing-related matters or informative materials relating to the competitive telecommunications market.
- Designating wireless eligible telecommunications carriers (ETCs) in Florida for the federal universal service fund. Any wireless carrier seeking ETC status in Florida must petition the Federal Communications Commission (FCC) for that authority.
- Performing service evaluations on carriers or investigating and resolving service-related consumer complaints, except as they may relate to Lifeline service, Telephone Relay Service, and payphones.
- Allowing incumbent local exchange carriers (ILECs) to petition for recovery of storm-damage-related costs and expenses.
- Reviewing non-access service tariff filings for content, form, or format. It is the carrier's choice whether to file its rate schedules with the FPSC or publicly publish the schedules elsewhere, such as the companies' websites.

Savings

The FPSC has been pursuing cost savings and efforts to streamline regulatory processes for well over a decade. The origin of these streamlining efforts is not limited to the emergence and evolution of competition in the telecommunications industry. In fiscal year 1999/2000, the FPSC had 401 full time positions. That number was reduced to 271 in the 2019/2020 fiscal year, a total reduction of 32 percent. Over the years, many of these reductions came as a result of projected workload reductions in the telecommunications area. At this time, the FPSC believes its telecommunications staff is right-sized for its current statutory obligations.

As previously discussed, effective July 2011, the FPSC reduced the telecommunications RAF rate from 0.0020 to 0.0016 of the gross operating revenues derived from intrastate business. In addition, all local telephone service providers now pay \$600 as the minimum fee instead of varying rates based upon the service offered.¹ At the current 0.0016 rate, carriers will pay this minimum fee up to \$375,000 in gross intrastate operating revenues. The reduced RAF rate was determined assuming reduced responsibilities, projecting staff hours on continuing telecommunications workload, and projecting telecommunications company revenues. As they have for several years, revenues subject to RAFs from telecommunications companies regulated by the FPSC continued to decline in 2019 as traditional wireline revenues are replaced by unregulated (VoIP/broadband) services. As a result, the agency is evaluating the need to reduce the telecommunications RAF rate further in 2020.

¹ Previously, the minimum fee ranged from \$600 to \$1,000, depending on the type of service offered. Payphone operators continue to pay a minimum fee of \$100.

Regulatory Activities That Continue To Be Required

The FPSC regulates 310 telecommunications companies in some way as of December 31, 2019. The Commission continues to retain authority and responsibility in the following areas for telecommunications companies:

- Resolving intercarrier disputes involving interpretations and implementation of sections of the intercarrier agreements.
- Processing arbitrations of intercarrier agreements when the companies cannot negotiate all the terms of the agreement and request the FPSC to resolve issues the companies define.
- Reviewing interconnection agreements filed with the FPSC in accordance with federal requirements.
- Resolving cases involving area code relief, number conservation plans, number resource reclamation, local number portability, and other numbering issues.
- Analyzing information for and producing several statutorily required reports: the *Annual Report on the Status of the Telecommunications Access System Act of 1991*, the *Annual Report on Lifeline Assistance*, the *Report on the Efforts of the Florida Public Service Commission to Reduce the Regulatory Assessment Fee for Telecommunications Companies*, and the *Report on the Status of Competition in the Telecommunications Industry*.
- Maintaining oversight of the Florida Telecommunications Relay Service.
- Maintaining oversight of the Lifeline Program, including establishing eligibility criteria, coordinated enrollment, and monitoring ETCs.
- Issuing certificates of authority for telecommunications companies to operate in Florida, including evaluating the applicant's technical, financial, and managerial capability to provide service.
- Resolving consumer complaints relating to Lifeline, Relay Service, and payphones.
- Publishing network access tariff information for all incumbent local carriers.
- Publishing other tariff/rate schedule information for any certificated company if the company so decides.
- Publishing and distributing informative materials relating to the Lifeline Program and conducting related consumer outreach.

- Monitoring and/or participating in federal proceedings where the state's consumers may be affected and conveying the FPSC's policy positions.

Efforts to Reduce Costs

As previously stated, the FPSC has a long history of seeking cost savings and streamlining regulatory processes. With specific regard to the implementation of the Act, the FPSC initially undertook three new processes. First was the RAF rate reduction previously discussed. Second, the FPSC assessed the number of staff equivalents required to perform the duties associated with the deregulation measures in the Act. Based upon time sheet information, twelve positions were eliminated effective July 1, 2011. These positions reflected the elimination of service requirements, processing of most telecommunications customer complaints, long distance carrier activities, a reduction in price schedule maintenance, and a reduction in consumer information and outreach.

Third, the FPSC retained the National Regulatory Research Institute (NRRI) in May 2011 to review the FPSC's organization structure and work flow processes to determine if the FPSC should implement any additional changes in the telecommunications area. NRRI reviewed the agency operating procedures, organizational charts, and workload. Key telecommunications staff were interviewed and most telecommunications direct staff were given a survey to complete. NRRI studied the Act and the resulting changes to the FPSC's responsibility. The telecommunications direct staff of the FPSC was then compared to that of other states with respect to statutory authority and number of technical staff assigned. NRRI concluded that the structure of the FPSC's telecommunications group was appropriate and compared favorably to those in other states.

NRRI found that the size of the telecommunications group was correct, but made a few suggestions where the FPSC could add more streamlining or cost reduction measures. The FPSC implemented NRRI's recommendations, including:

- The FPSC further shifted responsibilities to the administrative staff for the competition report's document control and relay data collection functions.
- The FPSC simplified the review process, analysis of data, and reduced the length of the competition report.
- The FPSC encouraged and trained companies to submit tariffs and service schedules online.

In subsequent years, the FPSC has implemented many additional efficiency measures. In 2011, the FPSC had 115 telecommunications-related rules. Through consolidation, revision, and elimination, there are now 20 active telecommunications rules.

In 2013, the FPSC implemented agency-wide electronic filing and submission policies that will substantially reduce the number of paper documents at the agency. Coincidentally with the agency-wide policy, the telecommunications group began updating its online tariff filing procedures and converting its existing tariff documents to digital format. All official copies of telecommunications tariffs, price lists, and service schedules are now available on the agency's website, as are all tariff updates. This development allows greater access to both consumers and companies, and reduces costs associated with record requests. Additionally, the FPSC continues the process of eliminating all obsolete or redundant paper archives of companies' rates and schedules.

Additionally, the telecommunications staff has become very flexible and able to perform a wide variety of functions. It has conducted periodic internal cross training on its remaining responsibilities, through both scheduled office-wide training sessions and temporary transfers of job duties. It has also developed comprehensive written Standard Operating Procedures for its functions. As staff become familiar with each other's duties, the requisite training time will be reduced should the need arise to further consolidate or transfer functions.

During 2012, the technical staff responsible for continuing the statutory mandates were consolidated and established as a stand-alone unit within the agency to maximize efficiency and minimize supervisory needs. Then, in 2017, as further efficiency measures and staff changes were implemented, the FPSC merged its telecommunications staff with another office to streamline its processes further. Some administrative and management functions were consolidated, creating more savings for the agency.

Other efficiency-related activity has included the transfer of call testing for the Relay Service from FPSC staff to the relay provider, streamlined telecommunications certification and certificate transfer processes, and further transfers of duties to administrative staff. As previously mentioned, the current staffing levels appear adequate for the FPSC's remaining statutory duties regarding telecommunications issues.

Summary

The FPSC has proactively responded to the changes in its statutory authority as a result of the Act. The agency has assessed the appropriate staffing levels for the telecommunications staff, and will continue to monitor the workload and staffing needs. The FPSC hired NRRI in 2011 to audit the FPSC's telecommunications program to determine if additional changes needed to be made. The audit results reflected favorably upon the program, and the FPSC has implemented NRRI's suggestions. The FPSC has reviewed its telecommunications rules and eliminated unnecessary or obsolete regulations. The agency continues to seek ways to economize its resources while maintaining a high quality work product for all industries under the FPSC's authority, including telecommunications.



Mark Sweet, Executive Director

Background

Sunshine State One Call of Florida, Inc., dba Sunshine 811, is the not-for-profit corporation created by the Florida Legislature in 1993 to administer the “Underground Facility Damage Prevention and Safety Act,” Chapter 556, Florida Statutes.

Our mission is to promote and facilitate excavation safety and underground facility damage prevention.

The Sunshine 811 notification center and corporate office is located in DeBary, Florida and has 71 employees.

We operate an Internet Ticket Entry system for authorized excavators and a toll-free number (811) for anyone in Florida to call two-full-business days before digging, 10-full-business days if the site is underwater.

Background

Sunshine 811 obtains a description of the planned digging or demolition project from the excavator and sends this information to the owners/operators of underground electric, gas, telecommunications, water and sewer facilities in the proposed project area.

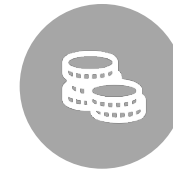
The owners/operators of these underground facilities are required by law to locate and mark the location of their underground facilities in the project area in order to avoid excavation damage to them and injury to persons digging and the public.

Sunshine 811 does not locate or mark underground facilities.

By the Numbers



\$8 million
Revenues



\$7.8 million
Expenses



\$8.9 million
Net Assets



1.7 million
Tickets



11.7 million
Transmissions



74% ITE
Tickets

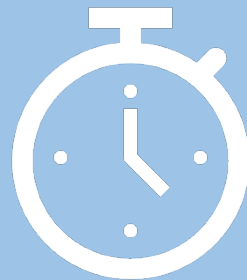
Key Performance Indicators



Server uptime remained operational 99.83% for the entire year



74% average Internet Ticket Entry (ITE) volume – that's 1.3 million tickets!



27-second average answer speed

Education & Awareness Campaign Results

6,346
educated

43 million
Impressions from
digital, radio,
billboard & cable
TV campaigns

63,000
web banner
clicks, a
44% increase

37,226
exposed to our
message at trade
shows & community
events

67%
overall traffic
driven to web by
digital ads
(86K vs 51K)

Membership



1,036 Primary Members



407 Associate Members

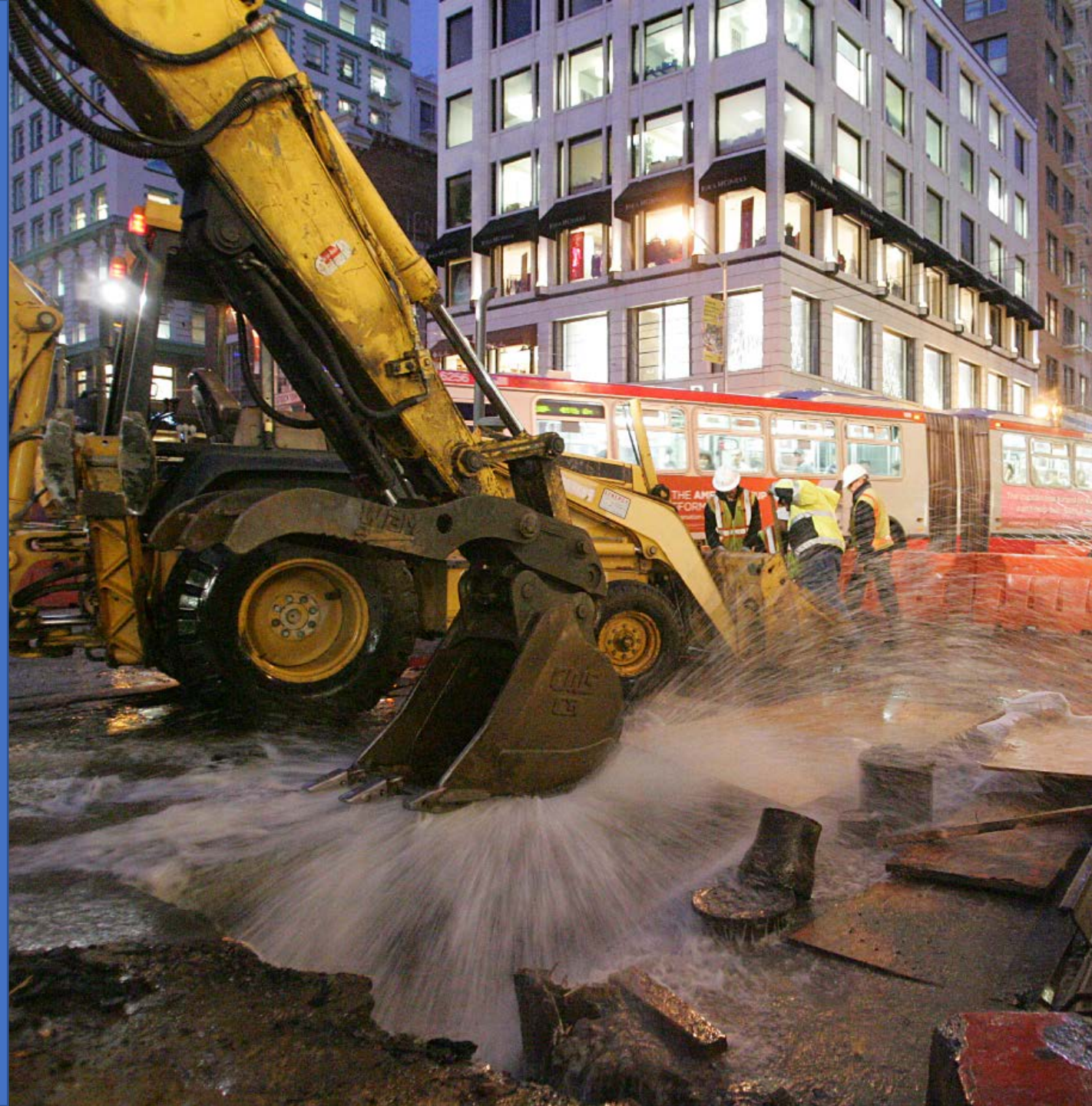


43 active counties out of 67



322 municipalities out of 400 actively participate as Sunshine 811 members

Florida 2018 DIRT Data



Total Damages Reported 2018

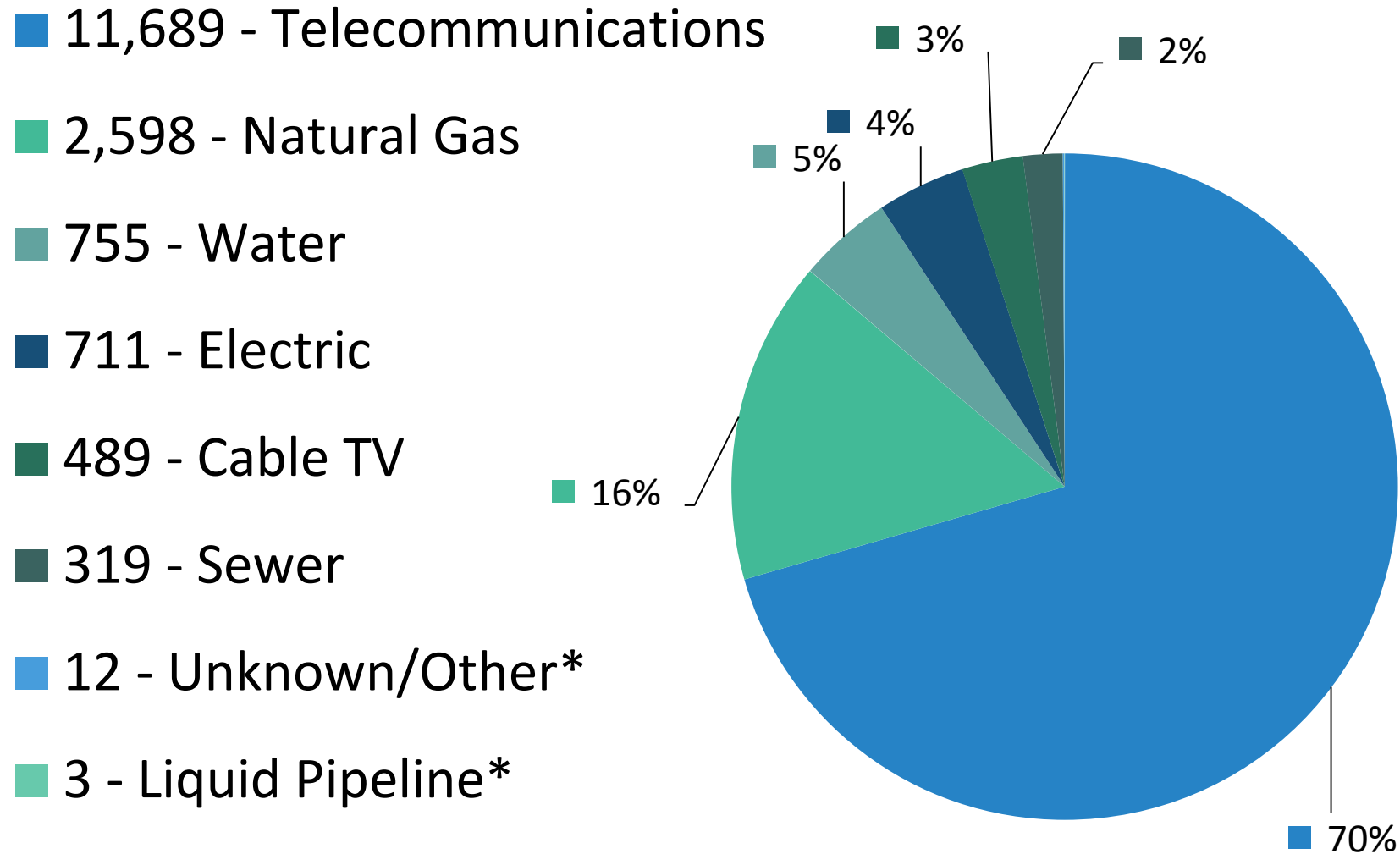


Effective July 2017, member owners/operators were required to report any excavation damage to underground facilities through the Florida DIRT System. Calendar year 2018 saw a total of 16,576 reported damages.

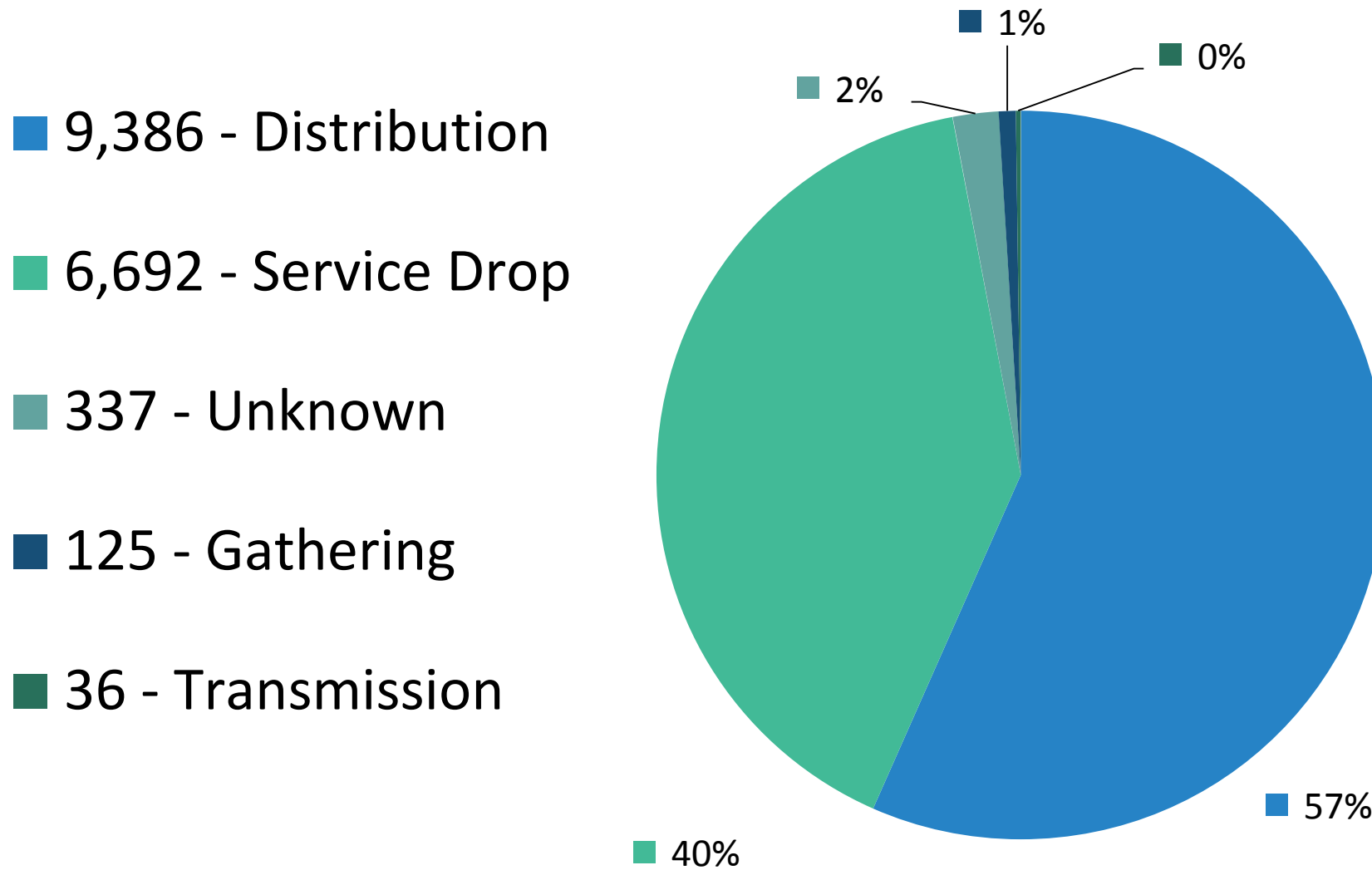
16,576	Total Damages
9.4	Damages Per 1,000 Inbound Tickets
1.4	Damages Per 1,000 Outbound Transmissions

Facility Operation Damaged

* 0%



Damages by Facility Affected



Damages by Excavator Type

* 0%

11,754 - Unknown/Other

3,469 - Contractor

615 - Municipality

347 - Occupant

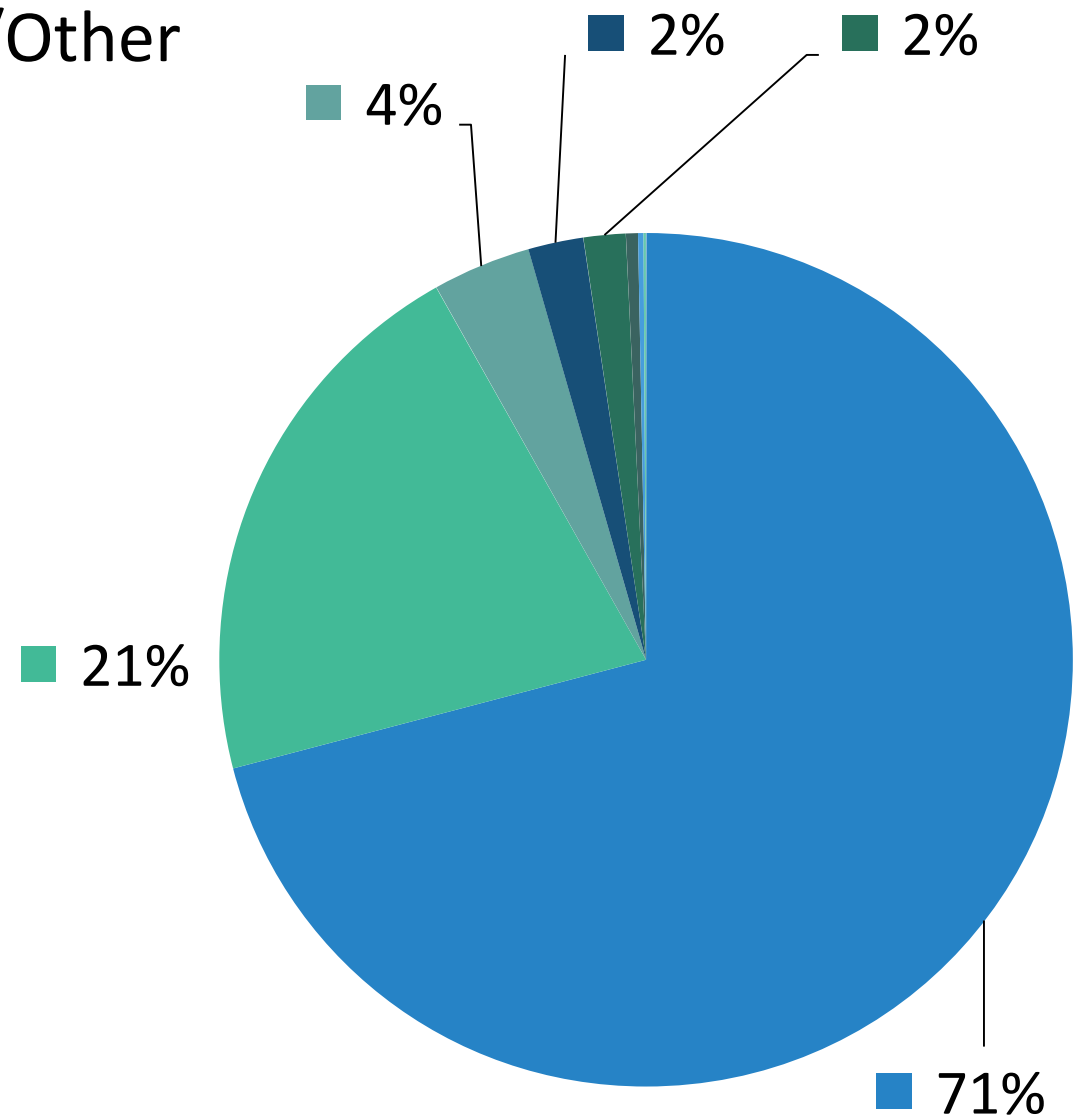
266 - Utility

75 - County*

34 - Developer*

15 - State*

1 - Farmer*



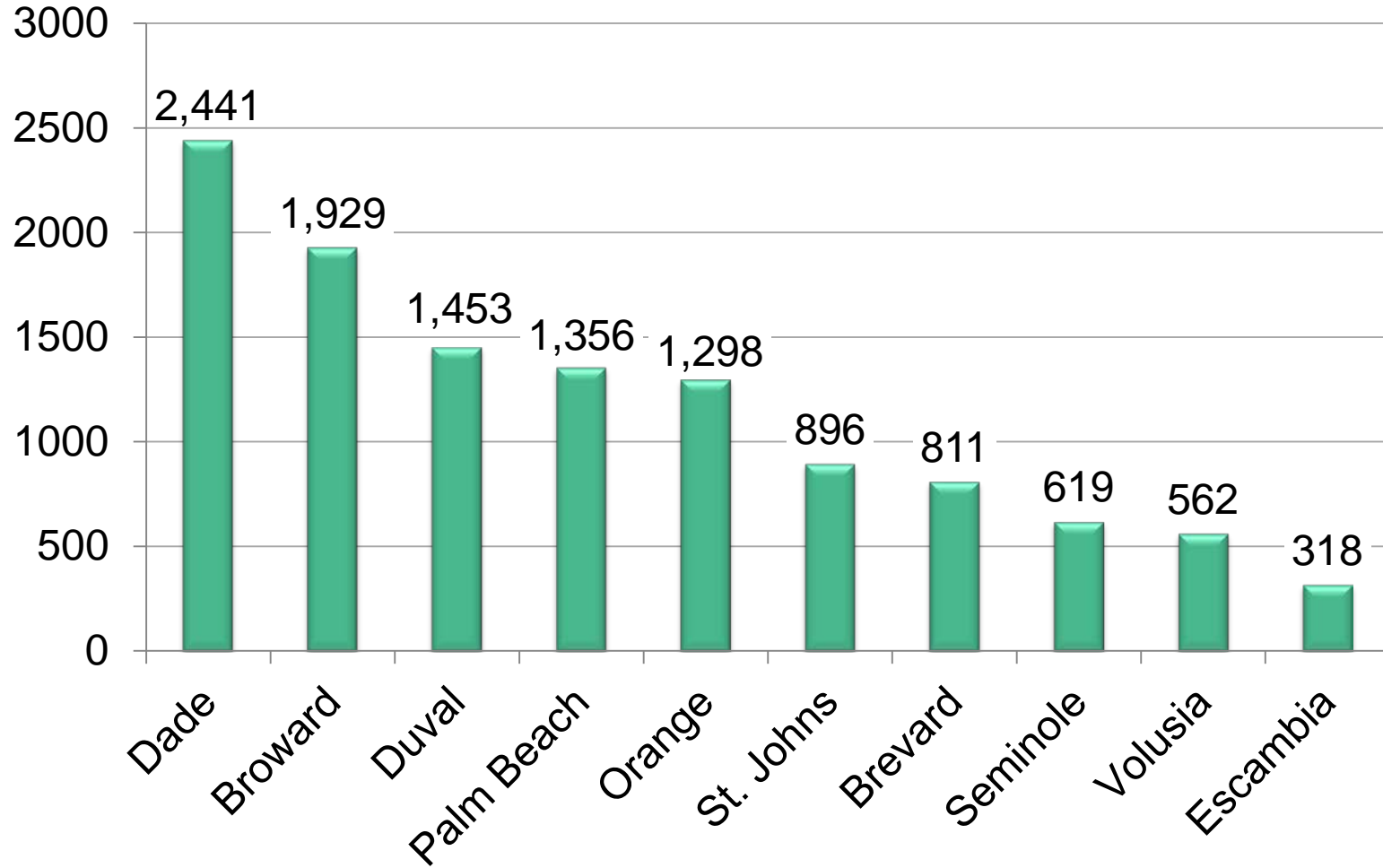
Damages by Root Cause

#	Root Cause
7,756	Root Cause not listed
4,088	No notification made to One-Call Center / 811
1,538	Improper excavation practice not listed above
998	Not marked due to Locator error
684	Excavator failed to maintain clearance after verifying marks
335	Marked inaccurately due to Locator error

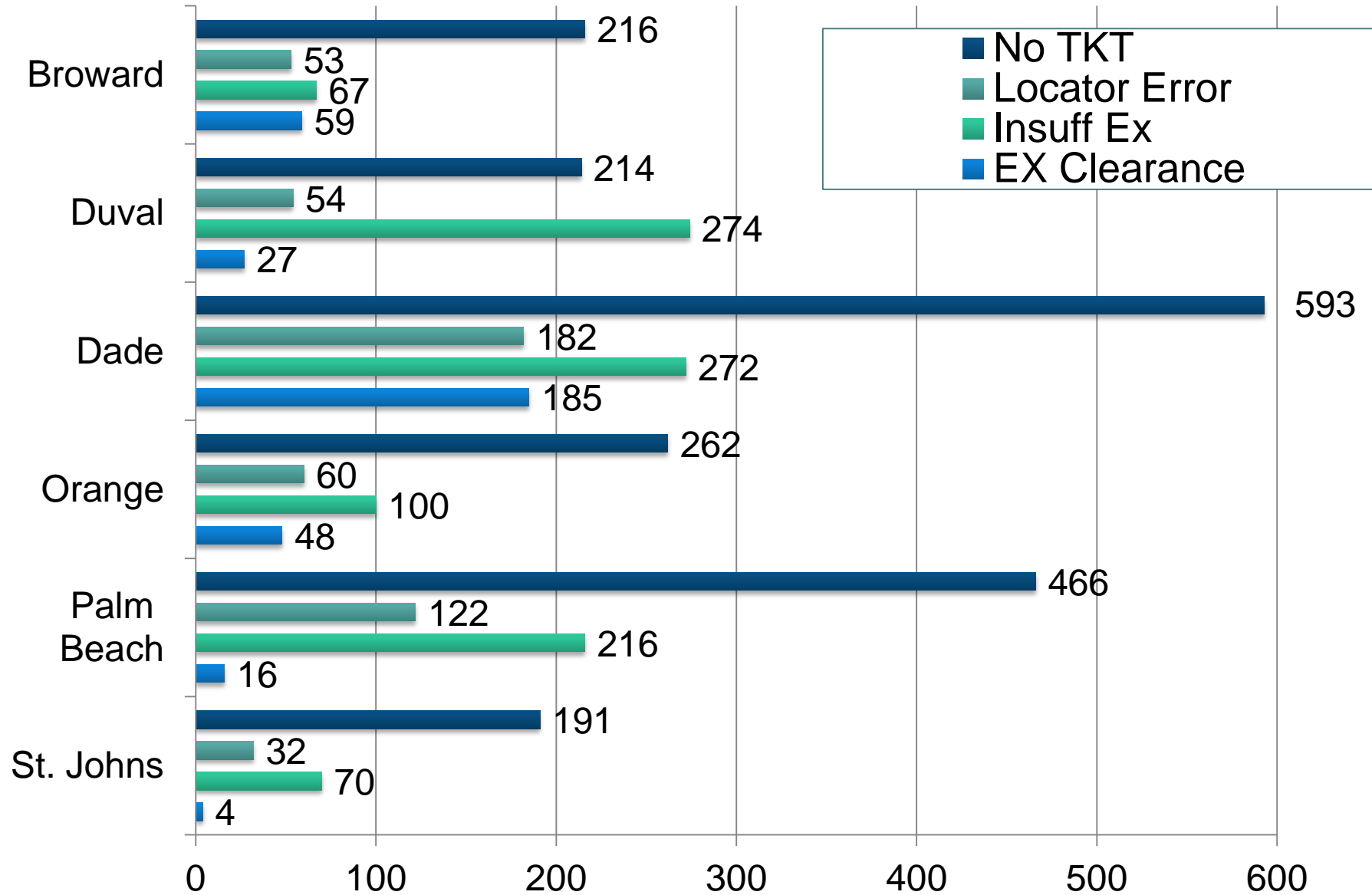
Damages by Root Cause

#	Root Cause
244	Excavator dug prior to verifying marks by test-hole (pot-hole)
164	No response from operator/contract locator
126	Deteriorated facility
103	Marked inaccurately due to Incorrect facility record/maps
102	Excavator dug after valid ticket expired

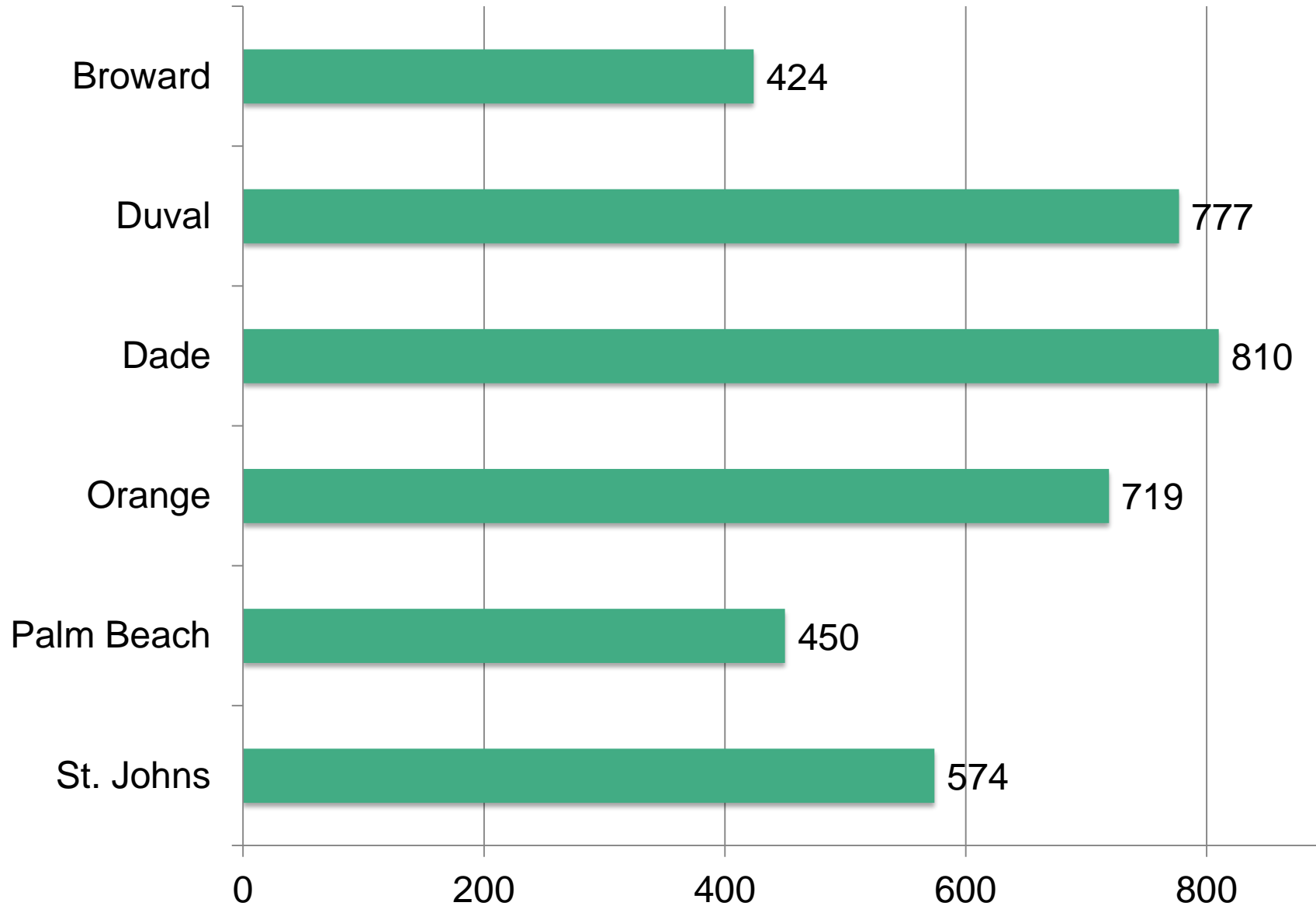
Top 10 Damaging Counties



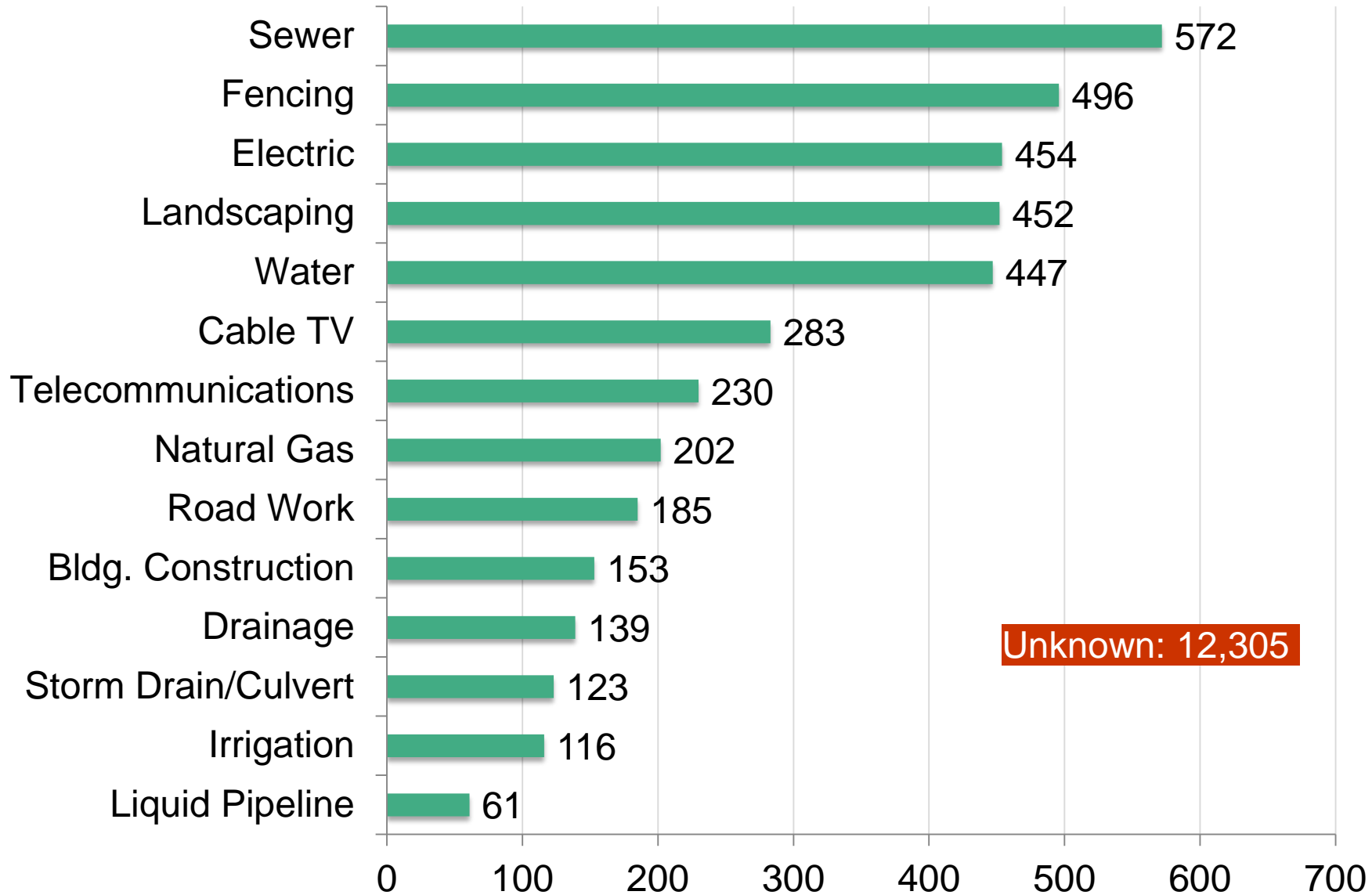
Root Causes in Top 6 Counties



Root Cause "Other" in Top 6 Counties



Type of Work – Top 14



2018 Local Enforcement

Local Enforcement Totals

for s.556.107 Violations

Total citations issued: 13

Total fines levied: \$6,602.50

Total fines paid: \$3,062.50

2018 Local Enforcement

for s.556.107 Violations

COUNTY DATA

County	Citations Written
Broward	2
Collier	4
Manatee	2
Okaloosa	2
Orange	2
Polk	1

VIOLATION TYPES

Violation	Quantity
No Ticket	7
Failure to stop digging after damaging an underground facility	1
Digging before legal	4
Marks destroyed	1

2018 – 2019 State Enforcement

Case No. 19-2743
TECO Peoples Gas
Company, Petitioner,
vs. Cougar
Contracting, LLC,
Respondent
For May 18, 2019,
Incident

Final Hearing Date: July 18, 2019

Location: At or around 16641 South Tamiami Trail, Fort Myers, FL

Description: While installing a storm structure, the backhoe excavator ruptured an eight-inch steel underground gas distribution main owned and operated by Peoples Gas.

Damage Cost: Preliminary cost (to Peoples Gas) to repair the main and restore service to 17 customers was \$156,745.

Final Order Date: August 28, 2019

Causation: Cougar's failure to notify Sunshine 811 prior to commencing work on May 18, 2019, is the proximate cause of the incident.

Disposition: Cougar fined \$5,000 to the Sunshine 811 system.

Payment Date: September 5, 2019

2018 – 2019 State Enforcement

Case No. 18-0221
TECO Peoples Gas
Company, Petitioner,
vs. Medalist Building
Group, LLC,
Respondent for
January 8, 2018,
Incident

Final Hearing Date: March 14, 2018

Location: At or around 1380 SE Cove Road, Stuart, Florida

Description: While digging to uproot a tree, the trackhoe excavator ruptured a six-inch underground gas distribution main owned and operated by Peoples Gas.

Damage Cost: Preliminary cost (to Peoples Gas) resulting from the ruptured gas line was no less than \$127,000.

Final Order Date: May 15, 2018

Causation: Medalist's failure to notify Sunshine 811 prior to commencing work on May 18, 2019, is the proximate cause of the incident.
s.556.107(1)(a)

Disposition: Medalist shall pay a fine the amount of \$15,000 to the Sunshine 811 system.

Payment Date: August 15, 2018

FY 2019-21 Legislative Goals & Measurable Objectives

Goal 1: Influence legislation and regulation related to damage prevention to ensure Florida remains the safest place to dig.

Board Champion: Legislative Committee

Measurable Objectives:

- 1.1: Support board-approved enforcement framework model which includes an advisory panel/board of damage prevention stakeholders appointed by a state-level authority that includes redefining the violations structure, redefining the fine structure, and developing a funding mechanism with a percentage of those funds going to damage prevention education.
- 1.2: Reach agreement by September 30, 2019 with FEPA and FNGA to support the Sunshine 811 public relations campaign targeting governmental influencers and pursue Chapter 556, F.S., legislation during the 2021 legislative session.

FY 2019-21 Legislative Goals & Measurable Objectives

Goal 1: Influence legislation and regulation related to damage prevention to ensure Florida remains the safest place to dig.

Board Champion: Legislative Committee

Measurable Objectives (continued):

- 1.3: Develop Sunshine 811 public relations campaign targeting governmental influencers who could enforce Chapter 556, F.S., by February 2020. Implement campaign in April 2020.
- 1.4: By fourth quarter 2020, determine agency responsible for enforcement, the funding mechanism and revise the draft bill.
- 1.5: By fourth quarter 2020, find sponsors to file a draft bill enhancing enforcement provisions in Chapter 556, F.S.

Sunshine 811 Proposed Amendments to Chapter 556, F.S.

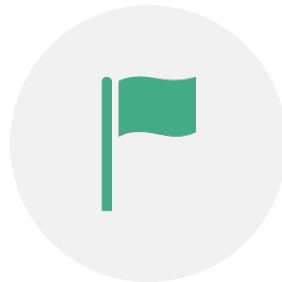
Sunshine 811 proposed 2019 legislation to amend Chapter 556, F.S.:



Provides an enforcement model for the State of Florida;



Increases the 811 excavation notification & member response time from 2 to 3 full business days;



Provides a definition and protection for permanent underground utility markers.

Notification and Response Timeframe



556.105 Procedures

(1)(a) Not less than **23** full business days before beginning any excavation or demolition that is not beneath the waters of the state, and not less than 10 full business days before beginning any excavation or demolition that is beneath the waters of the state, an excavator shall provide the following information through the system:

Permanent Markers



556.102 Definitions

(13) “Permanent marker” means a clearly visible indication of the approximate location of an underground facility, made of material that is durable in nature, such that it can reasonably be expected to remain in position for the life of the underground facility.

Permanent Markers



556.114 Low Impact Marking Practices

(4) A member operator shall identify the horizontal route of its underground facilities as set forth in s. 556.105(5)(a) and (b), and excavators shall premark an excavation site as set forth in subsection (3) using flags or stakes or temporary, nonpermanent paint or other industry-accepted low-impact marking practices. However, a member operator may place permanent markers, as defined in s.556.102(9), to permanently mark the approximate location of underground facilities.

Misdemeanor



556.107 Misdemeanors

(b) Any person who knowingly and willfully removes or damages a permanent marker, as defined in s.556.102, placed to identify the approximate location of an underground facility, commits a misdemeanor of the second degree, punishable as provided in s. 774.082 or s.775.083.

State Damage Prevention Enforcement Model



Underground Facility Damage Prevention Review Panel Creation

Provides for 9-member review panel appointed by a state agency to review complaints of damages to underground gas and hazardous materials lines and recommend penalties to a state agency, which will make the final determination.

State Damage Prevention Enforcement Model



Review panel consists of one representative from the industries listed below – appointed by a state agency.

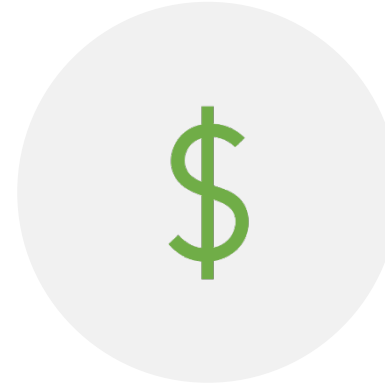
- Electric
- Telecom
- Road or highway ROW
Licensed excavators
- Natural gas
- Utility locator
- Municipal water and
sewer provider
- Public at large
- Excavator performing
work unrelated to
construction in road or
highway rights-of-way,
including but not limited
to landscaping, fencing
or plumbing contractors.
- Licensed contractors
working for public
utilities

State Damage Prevention Enforcement Model



Review panel reviews alleged violations which result in damage to an underground gas transmission line or gas distribution pipeline, an underground pipeline used to transport gasoline, jet fuel, or any other refined petroleum product or hazardous or highly volatile liquid, such as anhydrous ammonia or carbon dioxide.

State Damage Prevention Enforcement Model



- First violation, a civil penalty up to \$1,000
- Second or subsequent violation, civil penalty up to \$5,000
- When damage is involved, civil penalty up to \$50,000
- May use damage prevention education and training instead of or in addition to civil penalty

Why Florida Needs Effective Enforcement of Chapter 556, F.S.

PHMSA has determined that Florida's enforcement of its excavation damage prevention law (Chapter 556, F.S.) was inadequate for 2016, 2017 and 2018 and is anticipated to do so again for 2019.

PHMSA has enforcement authority in the 10 states determined to have inadequate excavation damage prevention enforcement programs.

PHMSA enforcement authority for federal one-call law violations causing damage (incidents) to PHMSA regulated pipelines includes fines of \$205,000 per day to a maximum of \$2.05 million for 10 days.

Why Florida Needs Effective Enforcement of Chapter 556, F.S.

If Florida fails to establish an adequate excavation damage prevention enforcement program by December 22, 2021 the state may be subject to a four percent reduction in PHMSA State Base Grant funding that currently provides funding for up to 80% of the qualified costs of the pipeline safety program incurred by the FPSC (per the June 28, 2019 letter from Massoud Tahamtani, Deputy Associate Administrator, Policy and Programs, Office of Pipeline Safety to Art Graham, Chairman, Florida Public Service Commission).

Why Florida Needs
Effective
Enforcement of
Chapter 556, F.S.

Effective July 2017, member owners/operators were required to report any excavation damage to underground facilities through the Florida DIRT system.

For calendar year 2018 a total of 16,576 damages were reported that included 2,598 damages to natural gas facilities.

Why Florida Needs Effective Enforcement of Chapter 556, F.S.

Establishing an effective state program for enforcing Florida's excavation damage prevention law Chapter 556, Florida Statutes will:

- Increase excavator and member operator compliance with the requirements of Chapter 556, F.S.;
- Decrease excavation damage to critical underground facilities;
- Reduce utility service outages to customers;
- Reduce excavation injuries to persons digging and others nearby;
- Re-establish state authority for enforcement of Florida's excavation damage prevention law and eliminate the threat of severe federal fines.
- Help make Florida the safest place to dig.



Mark Sweet, Executive Director

Thank You

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 & of this agenda.

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: December 2, 2019

TO: Art Graham, Chairman
Gary F. Clark, Commissioner
Donald J. Polmann, Commissioner
Andrew Giles Fay, Commissioner
Braulio L. Baez, Executive Director
Mark A. Futrell, Deputy Executive Director, Technical
Richard A. Moses, Chief of Safety, Division of Engineering

FROM: Julie I. Brown, Commissioner

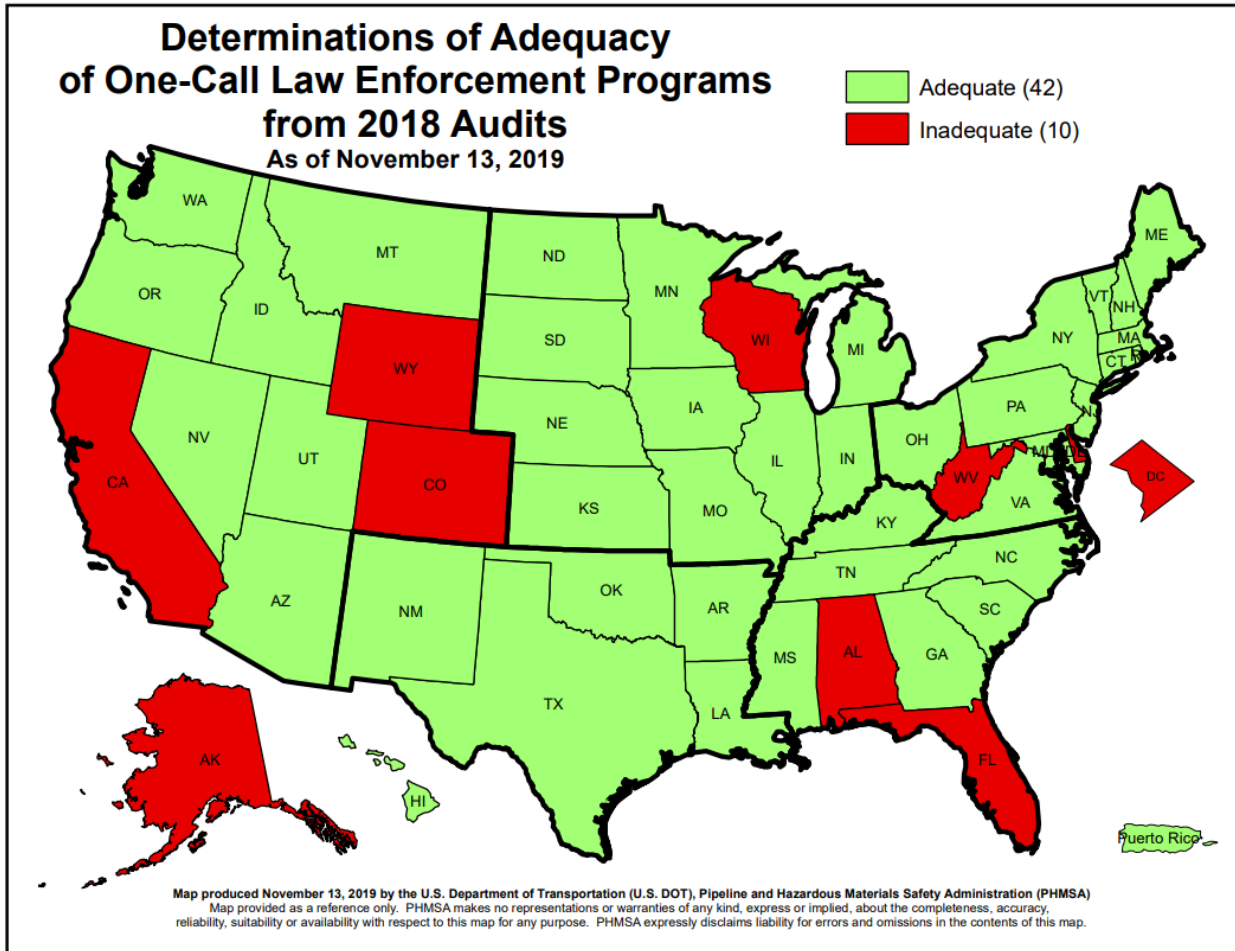
RE: PHMSA One-Call State Laws

By letter dated June 28, 2019, the Pipeline and Hazardous Materials Safety Administration (PHMSA) determined that Florida's enforcement of its excavation damage law was found to be inadequate. The letter further stated that if Florida fails to establish an adequate excavation damage prevention enforcement program by December 22, 2021, the state may be subject to a four percent reduction in PHMSA's State Base Grant Funding, which currently provides funding for up to 80 percent of qualified costs of the pipeline safety program incurred by this Commission.

The attached packet includes data regarding PHMSA's determinations of adequacy for all states, the jurisdiction enforcement authority by states as well as minimum standards and communication requirements.

Please review the attached packet in preparation for discussion at the December 10, 2019, Internal Affairs Meeting.

PHMSA DETERMINATIONS OF ADEQUACY



STATE	ABV	Determinations of Adequacy
ALABAMA	AL	Inadequate
ALASKA	AK	Inadequate
ARIZONA	AZ	Adequate
ARKANSAS	AR	Adequate
CALIFORNIA	CA	Inadequate
COLORADO	CO	Inadequate
CONNECTICUT	CT	Adequate
DELAWARE	DE	Inadequate
DISTRICT OF COLUMBIA	DC	Inadequate
FLORIDA	FL	Inadequate
GEORGIA	GA	Adequate
HAWAII	HI	Adequate
IDAHO	ID	Adequate
ILLINOIS	IL	Adequate
INDIANA	IN	Adequate
IOWA	IA	Adequate
KANSAS	KS	Adequate
KENTUCKY	KY	Adequate

STATE	ABV	Determinations of Adequacy
LOUISIANA	LA	Adequate
MAINE	ME	Adequate
MARYLAND	MD	Adequate
MASSACHUSETTS	MA	Adequate
MICHIGAN	MI	Adequate
MINNESOTA	MN	Adequate
MISSISSIPPI	MS	Adequate
MISSOURI	MO	Adequate
MONTANA	MT	Adequate
NEBRASKA	NE	Adequate
NEVADA	NV	Adequate
NEW HAMPSHIRE	NH	Adequate
NEW JERSEY	NJ	Adequate
NEW MEXICO	NM	Adequate
NEW YORK	NY	Adequate
NORTH CAROLINA	NC	Adequate
NORTH DAKOTA	ND	Adequate
OHIO	OH	Adequate
OKLAHOMA	OK	Adequate
OREGON	OR	Adequate
PENNSYLVANIA	PA	Adequate
RHODE ISLAND	RI	Adequate
SOUTH CAROLINA	SC	Adequate
SOUTH DAKOTA	SD	Adequate
TENNESSEE	TN	Adequate
TEXAS	TX	Adequate
UTAH	UT	Adequate
VERMONT	VT	Adequate
VIRGINIA	VA	Adequate
WASHINGTON	WA	Adequate
WEST VIRGINIA	WV	Inadequate
WISCONSIN	WI	Inadequate
WYOMING	WY	Inadequate

**Information obtained from 2018 PHMSA Audits.*

ENFORCEMENT

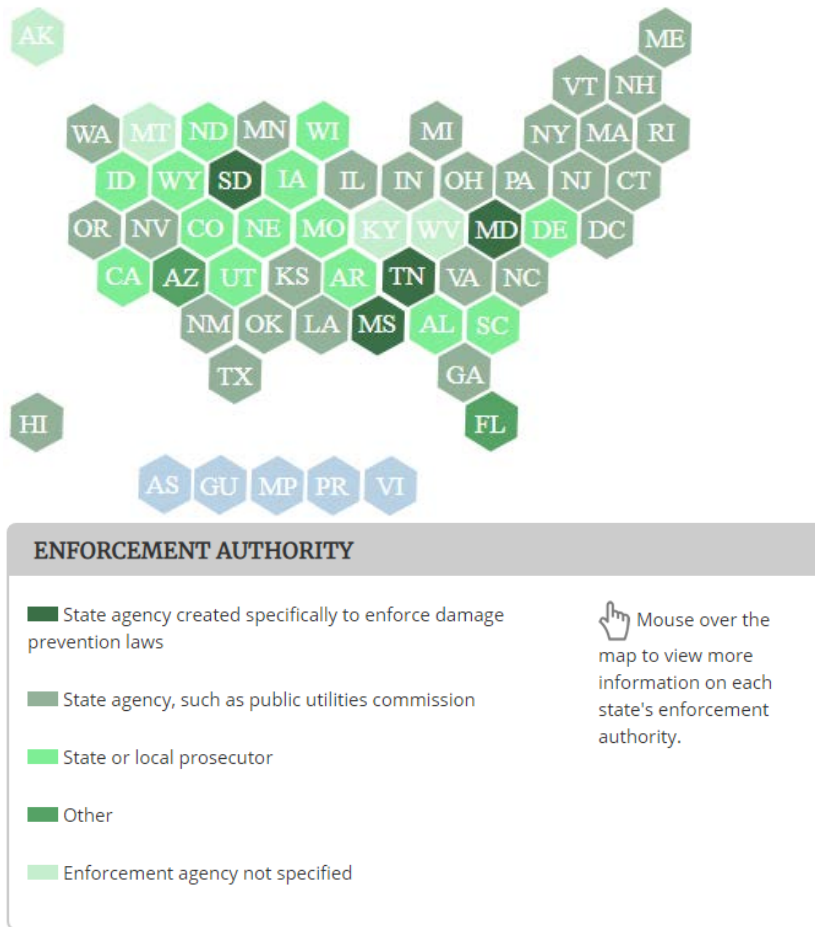
1. Does the pipeline safety program have any jurisdiction over damage prevention enforcement?

STATE	ABV	Jurisdiction Over Damage Prevention Enforcement
ALABAMA	AL	No
ALASKA	AK	Response Not Provided
ARIZONA	AZ	Response Not Provided
ARKANSAS	AR	No
CALIFORNIA	CA	No
COLORADO	CO	No
CONNECTICUT	CT	Yes
DELAWARE	DE	No
FLORIDA	FL	No
GEORGIA	GA	Response Not Provided
HAWAII	HI	Response Not Provided
IDAHO	ID	No
ILLINOIS	IL	Yes
INDIANA	IN	Yes
IOWA	IA	Response Not Provided
KANSAS	KS	Yes
KENTUCKY	KY	Yes
LOUISIANA	LA	Yes
MAINE	ME	No
MARYLAND	MD	No
MASSACHUSETTS	MA	Yes
MICHIGAN	MI	Response Not Provided
MINNESOTA	MN	Yes
MISSISSIPPI	MS	Yes
MISSOURI	MO	Respondent skipped this question
MONTANA	MT	No
NEBRASKA	NE	Response Not Provided
NEVADA	NV	Yes
NEW HAMPSHIRE	NH	Yes
NEW JERSEY	NJ	No
NEW MEXICO	NM	Yes
NEW YORK	NY	Yes
NORTH CAROLINA	NC	No
NORTH DAKOTA	ND	No
OHIO	OH	No
OKLAHOMA	OK	Yes
OREGON	OR	Response Not Provided
PENNSYLVANIA	PA	Yes
RHODE ISLAND	RI	Yes
SOUTH CAROLINA	SC	Response Not Provided
SOUTH DAKOTA	SD	No

STATE	ABV	Jurisdiction Over Damage Prevention Enforcement
TENNESSEE	TN	No
TEXAS	TX	Yes
UTAH	UT	Yes
VERMONT	VT	Response Not Provided
VIRGINIA	VA	Yes
WASHINGTON	WA	Yes
WEST VIRGINIA	WV	No
WISCONSIN	WI	Yes
WYOMING	WY	No

**Information obtained from NAPSRS's 2018 State Damage Prevention Survey.*

2. Enforcement Authority



STATE	ABV	Enforcement Authority
ALABAMA	AL	Attorney general or district attorney
ALASKA	AK	Enforcement agency not identified
ARIZONA	AZ	Building codes official, unless it's a public utility or municipal corporation
ARKANSAS	AR	Attorney general, county prosecutor, or city attorney
CALIFORNIA	CA	Attorney general, district attorney, or local or state agency that issued the excavation permit - The CPUC has jurisdiction to enforce DP regulations over utilities jurisdictional to the CPUC; however, the California Underground Facilities Safe Excavation Board has overall authority to enforce DP regulations
COLORADO	CO	Attorney general or district attorney - Under new (2018) Colorado One-Call law language, the Colorado Department of Labor will facilitate a Utility Safety Commission that will evaluate and enforce on utility damage complaints
CONNECTICUT	CT	Department of Energy and Environmental Protection or Connecticut Public Utilities Regulatory Authority
DELAWARE	DE	Attorney general
FLORIDA	FL	Sunshine 811 Chapter 556, Florida Statutes
GEORGIA	GA	Public Service Commission
HAWAII	HI	Public Utilities Commission
IDAHO	ID	Prosecuting attorney in the county where damage occurred
ILLINOIS	IL	Commerce Commission

STATE	ABV	Enforcement Authority
INDIANA	IN	Utility Regulatory Commission
IOWA	IA	Attorney General
KANSAS	KS	State Corporation Commission
KENTUCKY	KY	Enforcement agency not identified
LOUISIANA	LA	Department of Public Safety and Corrections or any local law enforcement agency
MAINE	ME	Public Utilities Commission
MARYLAND	MD	Underground Facilities Damage Prevention Authority
MASSACHUSETTS	MA	Department of Telecommunications and Energy or Massachusetts Department of Public Utilities
MICHIGAN	MI	Public Service Commission
MINNESOTA	MN	Department of Public Safety's Office of Pipeline Safety
MISSISSIPPI	MS	Underground Facilities Damage Prevention Board
MISSOURI	MO	Attorney general or prosecuting attorney
MONTANA	MT	Montana Department of Labor
NEBRASKA	NE	Attorney general or prosecuting attorney
NEVADA	NV	Public Utilities Commission of Nevada
NEW HAMPSHIRE	NH	Public Utilities Commission
NEW JERSEY	NJ	Board of Public Utilities
NEW MEXICO	NM	Public Regulation Commission
NEW YORK	NY	Public Service Commission or the New York Department of Public Service
NORTH CAROLINA	NC	Utilities Commission - Underground Damage Prevention Board appointed by the Governor
NORTH DAKOTA	ND	State attorney
OHIO	OH	Public Utilities Commission - The Public Utilities Commission has enforcement authority over damage prevention regulations, it is performed by a different section within the Commission
OKLAHOMA	OK	Corporation Commission
OREGON	OR	Public Utilities Commission
PENNSYLVANIA	PA	Department of Labor, in consultation with the attorney general or another prosecuting attorney
RHODE ISLAND	RI	Division of Public Utilities
SOUTH CAROLINA	SC	Attorney general, at the request of injured parties
SOUTH DAKOTA	SD	Statewide One-Call Notification Board
TENNESSEE	TN	Underground Utility Damage Prevention Enforcement Board
TEXAS	TX	Railroad Commission
UTAH	UT	Attorney general
VERMONT	VT	Public Service Board
VIRGINIA	VA	State Corporation Commission
WASHINGTON	WA	Utilities and Transportation Commission and the attorney general
WEST VIRGINIA	WV	Damage prevention enforcement through the WV 811 - the 811 is an organization separate from the Pipeline Safety group
WISCONSIN	WI	Attorney general at the request of the Wisconsin Public Service commission
WYOMING	WY	Attorney general, district attorney, county attorney, the one-call notification center, and aggrieved party, an operator, or an excavator

**Information obtained from the National Conference of State Legislatures' (NCSL) Guide to One-Call Laws and NAPSR's 2018 State Damage Prevention Survey.*

3. Mandatory Reporting



MANDATORY REPORTING

■ Excavators must report any damage to underground facilities to a state entity or department

4. Penalties

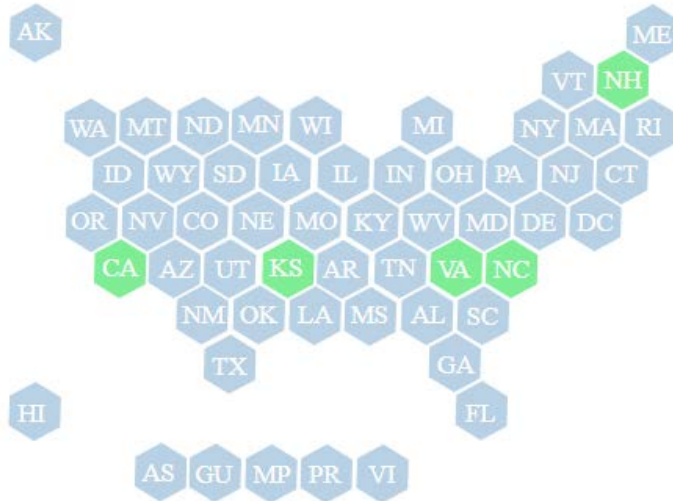


MANDATORY REPORTING


- Maximum of \$100,000
- Maximums between \$25,000 and \$50,000
- Maximums between \$10,000 and \$24,999
- Maximums up to \$9,999


STANDARDS

1. Minimum Standards for Locators

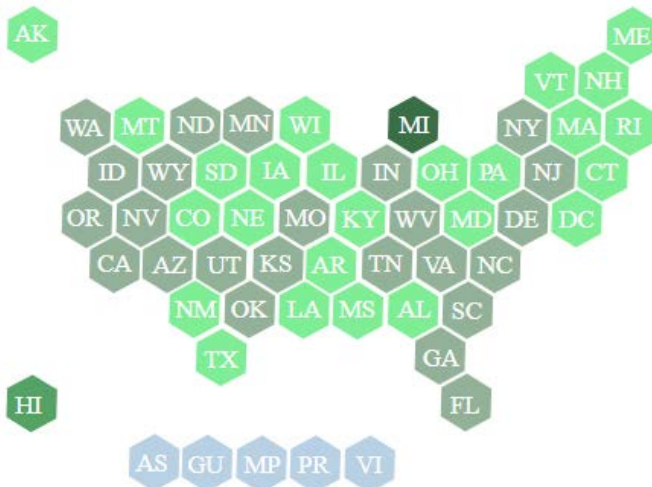


MINIMUM STANDARDS/TRAINING

 Minimum standards for locator qualifications established

 Mouse over the states in green to view requirements for locators.

2. Tolerance Zone



TOLERANCE ZONE

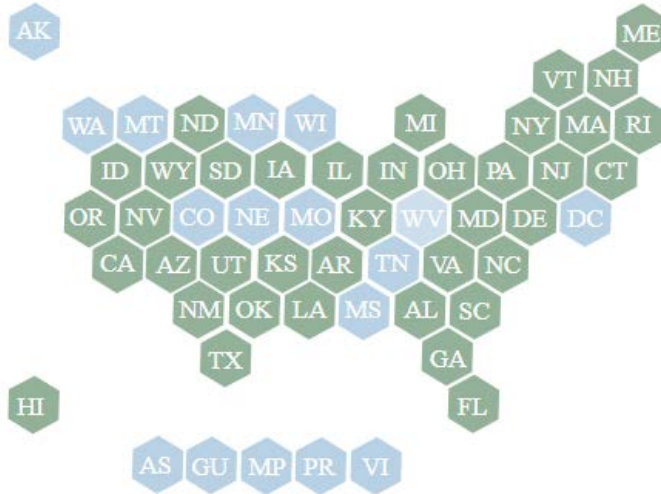
 48 inches

 30 inches

 24 inches

 18 inches

3. Hand-Digging Requirement

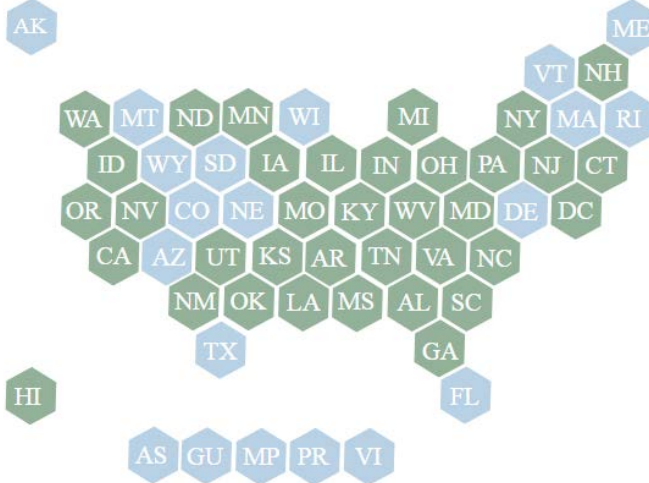


SPECIAL DIGGING REQUIREMENTS WITHIN TOLERANCE ZONE

■ Excavators must resort to hand-digging or employ other special excavation methods when operating within the tolerance zone.

COMMUNICATION

1. Excavator Notice



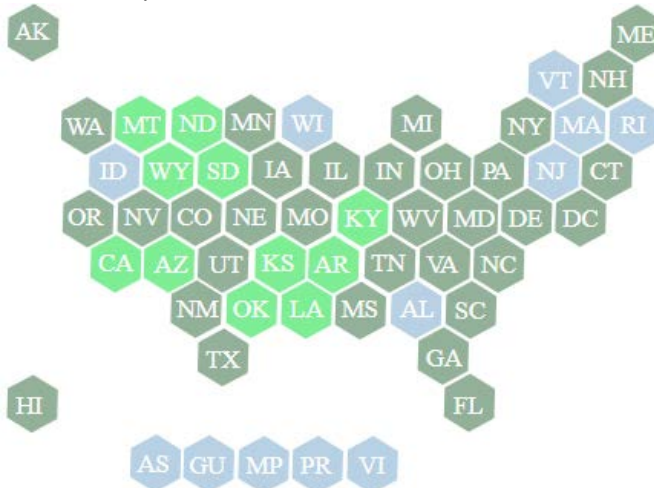
EXCAVATOR NOTICE

Excavators must notify a one-call center at least:

- five days prior to the start of excavation
- three days prior to the start of excavation
- two days prior to the start of excavation

◊ While the timeline for excavator notification is not specified in statute, the law is written in a way that requires excavators to work within the timeline outlined for operators by default.

2. Positive Response



POSITIVE RESPONSE

- Marking underground facilities constitutes positive response, but operators must also communicate to excavators if no underground facilities exist
- Marking underground facilities constitutes positive response

3. Operator Response



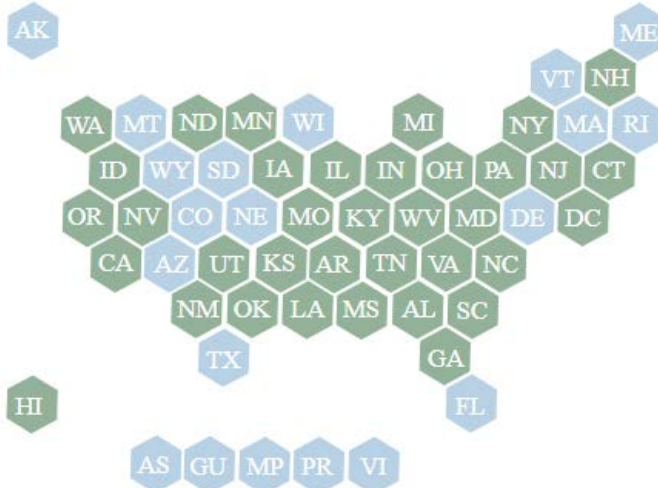
OPERATOR RESPONSE

Operators must mark underground facilities within:

- five days of receiving notice
- four days of receiving notice
- three days of receiving notice
- two days of receiving notice

○ While the timeline for operators to mark facilities or respond to excavators is not specified in statute, the law is written in a way that requires operators to work within the timeline outlined for excavator notice by default.

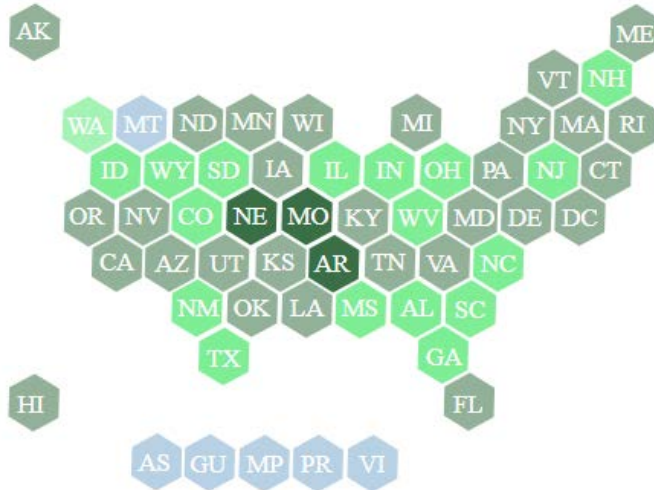
4. HAZMAT Release



HAZMAT RELEASE




- Excavator must call 911 if hazardous materials are released

5. Damage Notification



DAMAGE NOTIFICATION

Excavator must notify:

-  both the operator and One-Call Center
-  the operator
-  a One-Call Center

IV. Transcript

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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PROCEEDINGS: INTERNAL AFFAIRS

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, December 10, 2019

TIME: Commenced: 10:55 a.m.
Concluded: 11:52 a.m.

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

REPORTED BY: ANDREA KOMARIDIS WRAY
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

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

2 CHAIRMAN GRAHAM: Let the record show it is
3 Tuesday, still December the 10th, and this is the
4 internal affairs meeting. We will call this
5 meeting to order.

6 First item on the agenda is
7 telecommunications. Mr. Long.

8 MR. LONG: This is the 2019 report on efforts
9 of the FPSC to reduce the regulatory assessment fee
10 for telecommunications companies. This is a report
11 substantially like the previous report, as we are
12 in kind of a maintenance mode since the statute has
13 not changed since 2011, and we have implemented
14 several different means to reduce the cost of
15 telecommunications regulation.

16 Staff is available to answer any questions you
17 have.

18 CHAIRMAN GRAHAM: Commissioners, questions of
19 staff, or comments?

20 Nope.

21 Do we have to accept this report, bless this
22 report?

23 MR. BAEZ: Yes, sir.

24 COMMISSIONER CLARK: Move to approve the
25 report, Mr. Chairman.

1 CHAIRMAN GRAHAM: It's been moved and second
2 to approve this report. Any further discussion?

3 Seeing none, all in favor, say aye.

4 (Chorus of ayes.)

5 CHAIRMAN GRAHAM: Any opposed?

6 All right. By your action, you have approved.

7 Thank you, Mr. Long.

8 Okay. Item No. 2, undergrounding.

9 Welcome.

10 MR. MOSES: Commissioners, I don't know if you
11 know Mr. Mark Sweet. He's the executive director
12 of Sunshine 811. He's here to talk to you about
13 his efforts going to the Legislature and about
14 PHMSA's ruling of being inadequate.

15 CHAIRMAN GRAHAM: Commissioner Brown.

16 COMMISSIONER BROWN: While they're working on
17 technical stuff right now to get the slides up for
18 the public and the viewers, I wanted to thank the
19 Chairman for letting me organize this for our
20 discussion.

21 It came to my attention we have been deemed by
22 PHMSA as inadequate for several years. And we --
23 there -- it -- there has come a time, now, to have
24 a discussion with all of us to kind of come up
25 with a -- get all the dialogue on the table, come

1 up with a plan.

2 What we are doing is not sustainable in the
3 long run. We will lose federal funding. So, we
4 need to come up with a plan and have the dialogue.
5 We've also asked some key stakeholders here in the
6 audience to come up after Mr. Sweet has presented
7 his pro- -- I guess, program here.

8 I also want to let you know, Commissioners
9 have copies of information that was passed out on
10 the various states, the adequacy for all states.
11 There are ten that are inadequate; currently
12 including Fl- -- that includes Florida.

13 I -- we have some research on the jurisdiction
14 enforcement authority by states, where it lies as
15 well, as minimum standards and communication
16 requirements.

17 I want to thank my staff, Jennifer Brownfield,
18 who really took the lead on organizing all of this
19 research and gathering all the evidence here, along
20 with Rick Moses. Rick Moses has been instrumental
21 in helping organize this for us. And it's
22 really for everybody to kind of get all the
23 information on the table to have this dialogue.

24 So, it looks like it's set up. And with that
25 Mr. Chairman, thank you.

1 Mark.

2 MR. SWEET: Thank you.

3 Ladies and Gentlemen of the Commission, I want
4 to thank you for the opportunity to come in today
5 and share information with you. As was mentioned,
6 my name is Mark Sweet. I'm the executive director
7 of Sunshine 811.

8 I've got a -- a few slides here. I'll try to
9 abbreviate this for you, but just by way of some
10 background, we were -- Sunshine 811 was created by
11 the Florida Legislature in 1993.

12 CHAIRMAN GRAHAM: Mark, you're going to have
13 to sit down so they get you on the mic.

14 MR. SWEET: Oh, okay. Okay. I'm sorry. I'm
15 not familiar with the --

16 CHAIRMAN GRAHAM: That's all right.

17 MR. SWEET: -- protocol.

18 But we were created in '93 to administer
19 Chapter 556, Underground Facility Damage Prevention
20 and Safety Act. Our mission in Florida is to
21 promote excavation safety and underground-facility-
22 damage prevention. We operate a notification
23 center, corporate office, with 71 employees.

24 We -- we -- our -- our role, really, under 556
25 is twofold: educate the public, always call before

1 you dig; explain the requirement of Chapter 556 to
2 receive those notifications, and then transmit them
3 to the owners and the operators of underground
4 facilities, the utilities of Florida, so they can
5 take protective measures to go out and locate and
6 mark those facilities within a prescribed period of
7 time to avoid damage to them from excavation.

8 There's a lot of confusion in the state about
9 what we do and what our role is, but again, we
10 educate the public. We take and we receive notices
11 of intended excavation. We don't locate and mark.
12 That's the job of the owners of those facilities,
13 the utilities. And we don't enforce 556.

14 That's probably the most important thing I
15 would like to emphasize to the Commission today.
16 It is not Sunshine 811's mandate to enforce the
17 law. That's the province of the state of Florida,
18 either through state enforcement officers or city/
19 county officers or the Division of Administrative
20 Hearings for certain damage incidents that meet the
21 prescribed criteria.

22 Just very quickly, the size of our
23 organization -- we had eight million in revenues
24 last year, 7.8 million in expense, about nine
25 million in assets. We received 1.7 million

1 tickets, notices of intended excavation. And we
2 transmitted those tickets, 11.7 million
3 transmissions, to our members. And we did that --
4 74 percent, three-quarters, of those over the
5 internet without entry -- without a customer-
6 service-rep involvement.

7 Our server time was 99.8 percent operational
8 through the year. I mentioned the 74-percent
9 internet-ticket entry and we -- for the calls we
10 did take over the phone, we provided a 20-second
11 average answer speed. Our goal was 30, and we beat
12 that -- we beat that consistently.

13 I won't go over all of these slides. I'll
14 speed through. This is our -- the results of our
15 educational efforts to reach -- outreach for the
16 public. And we have a department dedicated to that
17 task.

18 Our organization has over a thousand members,
19 the utilities in Florida, owners and operators of
20 underground facilities, 400 associate members.
21 These are locators, architects, engineers,
22 builders, with their interest in damage prevention.
23 43 counties participate in our system. They own
24 and operate underground facilities at 322
25 municipalities.

1 Effective in July, the statute was amended to
2 require the owners and operators, the members, to
3 report damages to us. And 2018 was the first year
4 that we had a complete year for the -- those damage
5 reports. We received 16,576 damage reports in
6 Florida. 9.4 damages per thousand inbound tickets
7 and 1.4 damages per thousand outbound.

8 I'll skip over the next several slides. These
9 provide information on what was damaged, the
10 facility by type, the facility by owner, by
11 excavator, who was the operator that was damaged,
12 and what was the cause.

13 This is important to note that 4,000 of the
14 16,000, or 25 percent of those, no notification was
15 made to 811. No notification made to 811.

16 COMMISSIONER BROWN: So, what happens if --
17 what happens if there's no notification data?
18 What au- -- what au- -- I mean, are they fined?
19 Can they be fined?

20 MR. SWEET: They can be fined. They can be
21 fined. Under -- under Florida law, Section 107,
22 there are seven citeable violations of the statute.
23 That's the first one, failure to provide
24 notification, call 811; failure to wait the
25 required time, two full business days, for the

1 members to mark; failure to stop marking if the
2 marks are obliterated; failure to stop working if
3 the facility is contacted or damaged. Notification
4 of false emergency is a citeable violation.

5 COMMISSIONER BROWN: Are they being fined,
6 though?

7 MR. SWEET: Very little.

8 COMMISSIONER BROWN: Okay.

9 MR. SWEET: Very little. There were 13
10 citations issued in the state of Florida in 2018.
11 Statewide, 13.

12 COMMISSIONER BROWN: And -- and who's issuing
13 those citations?

14 MR. SWEET: A handful of counties. A handful
15 of counties. I'll go ahead and fast-forward to
16 that for you. Here we go. Local enforcement
17 totals -- now, this is by city and county,
18 municipalities, 13 citations issued, total fines
19 levied, \$6,600, 3,000 of those were -- was actually
20 collected. The rest were dismissed.

21 And here are the counties that those citations
22 were issued at: Broward had two; Collier, four;
23 Manatee, two; Okaloosa, two; Orange, two; Polk,
24 one. So, there's virtually no enforcement in the
25 state of Florida at the local level.

1 And you can see, the -- there are the
2 violations: no ticket, seven; failure to stop
3 digging, one; digging before the two full business
4 days time, four; marks destroyed, failure to stop
5 work, one.

6 Now, if the excavator damages a gas pipeline
7 or transmission facility, a PHMSA-regulated
8 facility or another hazardous-materials pipeline,
9 and it meets cri- -- certain criteria, \$50,000 of
10 damage, or \$2,500 of outages, an injury requiring
11 hospitalization or death, then the operator is
12 required by law to report that to Sunshine 811, and
13 then we transmit that to the Division of
14 Administrative Hearings. And then they conduct a
15 hearing.

16 The pipeline operator has to present the facts
17 and the circumstances. And the hearing is
18 conducted and the judge will determine if a
19 violation of 556 was the proximate cause of the
20 accident, and then has the authority to fine the
21 operator up to \$50,000.

22 Today, we've had two of those hearings; one in
23 2018, down in South Florida. The operator was
24 fined \$15,000; and the second one, here, more
25 recently, in 2019, down in the Fort Myers area.

1 The excavator was fined \$5,000.

2 Now, fortunately, in neither one of those
3 cases were there any injuries or persons -- persons
4 hurt. It was limited to property damage, but they
5 were fairly serious.

6 COMMISSIONER BROWN: Mr. Chairman, if I may --
7 what role does PHMSA have, then, for -- right now
8 in Florida?

9 MR. SWEET: PHMSA has jurisdiction. PHMSA has
10 jurisdiction. Under the pipe- -- the pipeline act,
11 PHMSA is authorized to evaluate every state's
12 enforcement program with the One Call law. PHMSA
13 has done so three times, in 2016, 2017, and 2018.

14 COMMISSIONER BROWN: And -- and recently, in
15 2019, actually four.

16 MR. SWEET: That was the most-recent. We -- I
17 have not received the results of that, but in the
18 three prior years, PHMSA was -- determined Florida
19 was inadequate.

20 COMMISSIONER BROWN: So, when you're deemed
21 inadequate, what role does PHMSA, then, take?

22 MR. SWEET: Well, they have enforcement
23 authority. They can -- they have authority to come
24 in and look at these types of incidences, for
25 PHMSA-regulated facilities, not the tel-cos or, you

1 know, cable TV, but gas.

2 COMMISSIONER BROWN: Gas.

3 MR. SWEET: Or other hazardous materials. And
4 they can make a determination if federal One Call
5 law is violated and they can issue a fine up to
6 205,000 a day, to a maximum ten days, two million.
7 They have that now.

8 COMMISSIONER BROWN: Have they done that?

9 MR. SWEET: Not -- not to my knowledge. I'm
10 not aware that they've done that anywhere.

11 COMMISSIONER BROWN: The federal government.

12 MR. SWEET: But they have that authority,
13 unless the states enact effective state
14 enforcement.

15 CHAIRMAN GRAHAM: So, Mark --

16 MR. SWEET: Yes, sir.

17 CHAIRMAN GRAHAM: I guess, cutting to it,
18 what -- why are we inadequate? Because we are not
19 doing a good-enough job of making people -- or
20 informing -- I'm looking at the six root causes
21 from def- -- the top counties and it seems like the
22 number-one root cause is no ticket. So, nobody is
23 actually calling in.

24 MR. SWEET: The -- the issue with PHMSA is
25 that Florida lacks effective state enforcement.

1 Okay. We -- even though the -- the statute
2 empowers local government, police, fire, code- --
3 not fire, but police and code-enforcement officers
4 to write citations, PHMSA -- even if every county,
5 every city were writing those, PHMSA would not
6 regard that as effective or adequate. PHMSA wants
7 every state to have state-level enforcement.

8 COMMISSIONER BROWN: Right.

9 MR. SWEET: State level, an agency of the
10 state to be responsible, to receive complaints from
11 not only the members about excavators not calling,
12 but from excavators saying that members -- they're
13 not locating, they're not locating timely. It has
14 to be eq- -- fair, balanced, and equitable. The
15 bottom line, though, it has to be at the state
16 level.

17 CHAIRMAN GRAHAM: So, that's something -- our
18 legislators have to pass some sort of
19 legislation --

20 MR. SWEET: It would require legislation.

21 CHAIRMAN GRAHAM: -- assigning --

22 MR. SWEET: Yes, sir.

23 CHAIRMAN GRAHAM: -- some agency --

24 MR. SWEET: Yes, sir.

25 CHAIRMAN GRAHAM: -- to that enforcement.

1 MR. SWEET: Exactly.

2 CHAIRMAN GRAHAM: Okay.

3 MR. SWEET: That's the issue, in a nutshell.

4 MR. MOSES: They would also have to eliminate
5 all the exemptions that are in the statute.

6 CHAIRMAN GRAHAM: So, it has nothing to do
7 with the fact that we're not penalizing people
8 more. It's just -- we're just -- number one, we
9 have to have a -- a point location on an agency to
10 handle all this stuff and I guess the rest just
11 kind of goes from there.

12 MR. SWEET: That's correct. Correct.
13 Exactly.

14 So, we've had these two hearings, the first
15 three PHMSA evaluations in 2016 and -- well, the
16 first two, 2016 and '17, there was no state action.
17 Okay. The statute exists and the power division of
18 DOAH, the Division of Administrative Hearings, with
19 that authority, but no -- no complaints were filed,
20 no incident reports were filed.

21 2018, the one was filed. We thought, well,
22 maybe that will make a difference and we'll --
23 we'll come out of this adequately, but PHMSA
24 doesn't feel that's sufficient.

25 And in 2019, we had a second hearing. And I'm

1 not anticipating a different result when we get the
2 evaluation. It's due -- the evaluation was
3 conducted in December and they said it would be out
4 60 to 90 days. So, we're awaiting that. I don't
5 expect it to be any different than it has been.

6 COMMISSIONER BROWN: Mr. -- Mr. Chairman, some
7 of the research that -- that we found shows all
8 different 50 states, where the jurisdiction lies.
9 Actually, on GTI -- every Commissioner that's on
10 GTI, they -- the Comm- -- the Public Service
11 Commission is the regulatory authority. They're
12 either the sole or they have co-regulatory
13 authority with another agency.

14 But just -- and it kind of shows -- whether
15 that -- I don't know if it makes sense in Florida,
16 but it just kind of gives you kind of that
17 information of where it is. We're definitely
18 unique.

19 CHAIRMAN GRAHAM: So, skipping back to your --
20 maybe next-to- -- third-to-last page, you talk
21 about if enforcement programs aren't done by
22 December 22nd of 2021, we may be subject to a
23 4-percent reduction. Is that the money that PHMSA
24 is actually giving to the PSC?

25 MR. MOSES: Uh-huh.

1 MR. SWEET: Uh-huh. Yes, sir.

2 CHAIRMAN GRAHAM: All right. So, I -- I guess
3 the question comes out: Where do we go from here?
4 Do we need to take it upon ourselves to engage our
5 legislators to -- to do something? Or do we have
6 the -- do we have the ability -- I guess what I'm
7 sitting -- I'm trying to think out loud -- because
8 we don't handle cable and some of that other stuff.
9 It's not even our wheelhouse.

10 MR. BAEZ: Well, I -- I -- I think you're
11 alluding to -- to -- to at least part of program
12 and that -- first of all, before answering your
13 question, I want to -- I want to say something and
14 make something clear.

15 The -- I don't think -- I think we have to be
16 very careful when we throw out notions of
17 inadequacy because, as -- as has been made clear,
18 the reasons for that federal determination, that
19 PHMSA determination, is based on a lack of paper.

20 And -- and any talk of inadequac- --
21 inadequacy should not feed the impression that the
22 safety programs, certainly the ones that the -- the
23 Commission runs are -- are inadequate in terms of
24 any performance. And I think that that would be
25 backed up by any of the -- by any of the utilities

1 that we do regulate.

2 The other thing that I wanted to point out is
3 to let's -- to remind all of us to have a proper
4 focus and what exactly we're talking about. The
5 one big program -- and, Mr. Sweet, I don't mean to
6 put words in your mouth, but -- but I think -- I
7 think it's important to keep in mind the direction
8 of -- of these offenses as -- as they are -- these
9 are not offenses, by and large, being -- being
10 carried by out by our regulated utilities.

11 These are offenses being -- being perpetrated
12 upon utility facilities, if that -- and correct me
13 if I'm wrong. At least in large part, I've got to
14 believe, certainly, the cases that -- that you've
15 listed here, the folks fined weren't -- you know,
16 it wasn't -- it wasn't a regulated entity that
17 was -- that was --

18 MR. SWEET: That's correct.

19 MR. BAEZ: -- making the -- the -- making the
20 error --

21 MR. SWEET: That's correct.

22 MR. BAEZ: -- or the false cut, so -- and now
23 so -- so, back to your question, Mr. Chairman, you
24 asked what -- what can we do or what should we be
25 doing and I -- I would tell you, I'm at a loss as

1 to what -- what we should be doing only because,
2 for us to get any more authority -- enforcement
3 authority would be taking on enforcement authority,
4 perhaps, over -- over entities that we don't
5 regulate. Okay. So, now we -- now we're -- we're
6 expanding this -- this universe that we are
7 ultimately responsible for.

8 CHAIRMAN GRAHAM: Well, I guess the question I
9 have --

10 MR. BAEZ: And that gives me pause.

11 CHAIRMAN GRAHAM: I guess re- -- I -- I guess
12 recently, we -- we expanded what we did. Was it
13 just pipelines or was it --

14 MR. BAEZ: No.

15 CHAIRMAN GRAHAM: -- this specifically?

16 MR. BAEZ: No, sir. We -- we didn't expand.
17 What we did -- and I think, if I'm -- if I'm re- --
18 interpreting your question correctly, what --
19 what -- the change that happened -- and I want to
20 say it's four or five years going, now -- was to
21 finally begin accepting or begin -- begin seeking
22 reimbursement for -- for our safety program. Okay.

23 Up until then, our safety program was fully
24 funded by RAF and no reimbursement for -- for
25 essentially the same activities. And I'm -- and

1 I'm looking at -- at Rick to -- to stop me if I --
2 if I say anything incorrectly, but our safety
3 program has essentially functioned for decades
4 without any -- you know, without any appreciable
5 changes, right.

6 The only thing that's changed is that we
7 accessed -- once a -- you know, once upon a time,
8 we accessed federal reimbursement for those costs,
9 which is -- which is, now, an actuality. I think
10 the last reimbursement -- we're running, I think,
11 two years in arrears, but I think the last, most-
12 recent reimbursement was approximately 650,000 --
13 \$650,000.

14 CHAIRMAN GRAHAM: But that has nothing to
15 do --

16 COMMISSIONER BROWN: No.

17 CHAIRMAN GRAHAM: -- with this 811.

18 MR. BAEZ: It has nothing to do --

19 COMMISSIONER BROWN: No.

20 MR. BAEZ: -- with 811. That's -- that's --
21 but what I -- what I sense is happening is that
22 it's our audits and our -- as an agency, as a
23 state, at large, our inadequacy in -- in terms of
24 what's on the statute, the authority, the
25 enforcement, the fine levels, has always been the

1 case, and you know, not to -- not to remind you,
2 you've been chairman quite a few times and -- and
3 these letters have come and the responses come from
4 the Chairman's office, as you know. And -- and I
5 think, if you check back in the file, the letters,
6 essentially, have always been the same, and they
7 have always amounted to a -- an inadequacy --
8 again, a -- I hesitate to use the word, but an
9 inad- -- an inadequacy as to the paper, as to the
10 authority that's -- that's on those papers, in the
11 books.

12 Nothing do with performance. And I can't
13 stress that enough because, when we're talking
14 about this stuff, you know, mainly our safety prong
15 has to do with the gas pipelines and -- and those
16 things tend to, you know, cause -- cause harm
17 when -- when they're breached, so --

18 CHAIRMAN GRAHAM: So, where does this four
19 percent that they're taking from us --

20 MR. BAEZ: The -- the four -- okay. So,
21 I'm -- I'm not a calculator, but you're looking at,
22 based on 65- -- based on 650,000, a four-percent
23 reduction is in the --

24 COMMISSIONER CLARK: 25,000?

25 MR. BAEZ: I'm sorry?

1 COMMISSIONER CLARK: 25,000.

2 MR. BAEZ: 25 to \$30,000. Again, I would
3 stress you, that is -- that is reimbursement for
4 expenses that we've already laid out. So, our --
5 our funding of the program is not what's at stake;
6 it's really the reimbursement --

7 COMMISSIONER BROWN: That's -- that's not --

8 MR. BAEZ: -- of the -- of the funding.

9 COMMISSIONER BROWN: -- entirely true, though.

10 MR. BAEZ: Okay.

11 COMMISSIONER BROWN: There's more. And PHMSA
12 has enforcement authority, though. In those ten
13 states that are deemed inadequate, they have
14 enforcement-prevention purview. So, it's -- and
15 they want to -- they want the states to have that.
16 They don't want it. They want to have the
17 states -- so, we're giving -- deferring to PHMSA,
18 so to speak, because we're deemed inadequate.
19 We're not deferring. It's by default; is -- am I
20 correct --

21 MR. SWEET: That's correct.

22 COMMISSIONER BROWN: -- experts?

23 MR. SWEET: Yes.

24 COMMISSIONER BROWN: And we have a few other
25 folks here that are experts in this arena. I'd

1 love to hear from them about what they believe is
2 the solution, remedy. This -- I'm not an expert,
3 by any means, but this is an issue that at least
4 needs to be on the table for us to discuss before
5 we move in any direction. It would be nice to hear
6 from everyone.

7 CHAIRMAN GRAHAM: Well, I'm just -- I'm trying
8 to get a -- trying to get my head around this
9 thing. PHMSA is basically saying that we need to
10 get off the mark of where they're saying we're
11 deficient or inadequate or whatever they call that.

12 MR. BAEZ: Right.

13 CHAIRMAN GRAHAM: But they're saying that
14 they're reimbursing us for -- for this. And they
15 want us, just basically more paper, to generate
16 more paper.

17 MR. BAEZ: No, I think what they want is
18 the -- what they want -- they want to see -- they
19 want to see a -- a broad-enough authority and --
20 and broad-enough en- -- broad-enough enforcement
21 authority consistent with what their expectations
22 are.

23 We're talking about statutes; we're not
24 talking about any performance.

25 CHAIRMAN GRAHAM: So, what their expectation

1 is in other states --

2 MR. BAEZ: Excuse me?

3 CHAIRMAN GRAHAM: They -- what their
4 expectation in the other states -- they want to see
5 more of that here.

6 MR. BAEZ: In Florida, yes.

7 CHAIRMAN GRAHAM: They want to see more in
8 Florida, but we don't necessarily have the -- the
9 ability or the --

10 MR. HETRICK: Authority.

11 CHAIRMAN GRAHAM: The authority --

12 MR. BAEZ: The authority.

13 CHAIRMAN GRAHAM: -- to us do most of that
14 stuff.

15 MR. BAEZ: Well, I think, as it stands now,
16 no. You're correct. The answer is -- the answer
17 is no.

18 CHAIRMAN GRAHAM: So, do we push back to PHMSA
19 and say, do you do this or --

20 MR. BAEZ: We --

21 CHAIRMAN GRAHAM: -- do we push to the
22 legislators?

23 MR. BAEZ: We've pushed -- we've pushed
24 back -- and again, I think the -- the pushback is a
25 relative term, but you know, we respond --

1 CHAIRMAN GRAHAM: Yeah.

2 MR. BAEZ: -- to -- to their findings every
3 year, through the Chairman's office, and the
4 findings -- and our response is -- essentially, is,
5 yes, thank you very much, we -- we acknowledge
6 everything that you've said and we're not
7 necessarily disagreeing, but we don't have -- it
8 would -- it would -- it would need statutory
9 changes.

10 Now, I -- I can't help but confuse it --
11 appreciate the confusion or at least the
12 awkwardness that it would be for us to pursue
13 expanded authority over things we don't have
14 jurisdiction in or, in the alternative, pursue
15 expanded -- expanded enforcement of -- you know,
16 let's -- let's -- let's comply with what PHMSA is
17 suggesting or requiring, on behalf of 811, when
18 811 -- and I don't think has enforcement authority.
19 I think you --

20 MR. SWEET: No, we do not.

21 MR. BAEZ: You started saying -- so -- so, we
22 could advocate on behalf of -- of a sister agency.
23 I guess -- I -- I wouldn't -- that doesn't cause me
24 any heartburn.

25 I just -- I think that the -- that the task

1 that we are pursuing is not necessarily one that
2 rests completely with the agency because we're --
3 we're -- we're sending our folks out there to make
4 sure that the facilities employed by regulated
5 utilities to deliver service to their customers
6 are -- are -- are safe and -- and maintained
7 properly --

8 CHAIRMAN GRAHAM: Well, I mean --

9 MR. BAEZ: -- to -- to PHMSA standards, mind
10 you.

11 COMMISSIONER CLARK: I've got -- I have a
12 couple of questions. So, who does -- Mark, who
13 does your organization ultimately report to? The
14 Legislature? The Governor's Office or --

15 MR. SWEET: No, neither. We're -- we're
16 unregulated. We're -- we're a not-for-profit,
17 private corporation. We're accountable to the
18 membership.

19 COMMISSIONER CLARK: So, you have -- so, there
20 is no way that that authority can be transferred to
21 a private organization, so --

22 MR. SWEET: -- would be difficult.

23 (Simultaneous speakers.)

24 MR. SWEET: We learned that last year. We --
25 we had two bills.

1 COMMISSIONER CLARK: Yeah.

2 MR. SWEET: House Bill 263, Senate Bill 8- --
3 848. And it attempted to create an enforcement
4 authority with the One Call, with appeal to the
5 Division of Administrative Hearings. And we were
6 told that's not possible. They did not --

7 COMMISSIONER CLARK: So, the -- the logical --
8 the logical agency to do that is this Commission,
9 in my opinion. I think it is an expanded role.
10 And -- and as far as I -- you're making the
11 statement that, you know, it's going to be hard for
12 us to do enforcement over agencies -- over agencies
13 or over --

14 MR. BAEZ: Over --

15 COMMISSIONER CLARK: -- entities.

16 MR. SWEET: Facilities.

17 COMMISSIONER CLARK: -- entities that they
18 don't regulate, but that's not where the
19 enforcement is. It typically isn't the utilities
20 that are the violators. It's actually more like
21 contractors.

22 MR. BAEZ: Precis- -- well, I think that's
23 precisely -- that's precisely the point.

24 COMMISSIONER CLARK: We were using, like,
25 well, we can't do it with the cable companies

1 because we don't regulate cable, but that's not who
2 the -- the real vio- -- I mean, it's typically
3 contractors or --

4 MR. BAEZ: Yes, I -- I agree with you. I
5 mean, I think --

6 COMMISSIONER CLARK: So, it would be an
7 expanded role that we took on, if -- if we decided
8 that this was something that the Commission needed
9 to address. And I think, very clearly, it is. I
10 think that, based on what the -- the prescription,
11 to me, appears to be and -- and the potential that
12 we have -- I think it's -- it's a very logical
13 role.

14 I do want to go back quickly to the 4 percent
15 because that's important to me. That -- those
16 dollars that we will be losing over time -- what
17 are we utilizing those funds for? Is it education?

18 MR. BAEZ: They -- they -- I'm sorry?

19 COMMISSIONER CLARK: Is it education?

20 MR. BAEZ: No, sir. They -- it is
21 reimbursement -- it is reimbursement for a program
22 that already exists and is -- and is -- is funded
23 in the -- in the current year, and -- and we submit
24 for reimbursement to the -- to the federal agency.

25 COMMISSIONER CLARK: What do we do? What

1 program is it?

2 MR. BAEZ: It goes -- it just -- oh, the --
3 the --

4 MR. BALLINGER: The gas safety program.

5 MR. BAEZ: The safety program.

6 MR. BALLINGER: It's the gas safety program.

7 MR. BAEZ: Gas safety.

8 COMMISSIONER CLARK: It's the gas safety
9 program, which -- what do we do? Give -- be
10 specific. What do we do with those dollars?

11 MR. BALLINGER: I believe it goes back in the
12 trust fund.

13 MR. BAEZ: Yeah, it goes back to the trust
14 fund.

15 COMMISSIONER CLARK: Do we have -- I'm sorry.
16 I'm not being glib. Do we mail out notices to
17 customers? Do we hire employees to go around --

18 MR. BALLINGER: No.

19 COMMISSIONER CLARK: -- and campaign? Do we
20 reimburse utilities?

21 MR. BAEZ: I -- no, sorry.

22 (Simultaneous speakers.)

23 MR. BALLINGER: It's our expenses.

24 MR. BAEZ: -- what you're saying.

25 MR. BALLINGER: It's our expenses that get

1 reimbursed.

2 MR. BAEZ: Right.

3 MR. BALLINGER: So, we've had a -- we've had a
4 gas safety program for 20-some years, and it's only
5 the last three or four years that we've been
6 getting reimbursement from PHMSA. So, it's already
7 a budgeted item approved by the Legislature, part
8 of our budget. We spent the money.

9 About a year and a half later, we get
10 reimbursement for up to 80 percent, at most. It's
11 been roughly 50 to 60 percent of our expenses.
12 That goes back into the trust fund.

13 CHAIRMAN GRAHAM: Yeah, but what are we
14 spending the money on, currently, for the last 20
15 years?

16 MR. BALLINGER: On the gas safety program.
17 Those functions have not changed.

18 COMMISSIONER BROWN: It's --

19 CHAIRMAN GRAHAM: What are those programs?

20 MR. BAEZ: Those are our --

21 (Simultaneous speakers.)

22 MR. BALLINGER: Those are our inspectors that
23 go out, look at --

24 CHAIRMAN GRAHAM: One at a time.

25 MR. BALLINGER: Okay. Sorry.

1 COMMISSIONER CLARK: Go ahead.

2 MR. BALLINGER: Okay. Looking at utility
3 records, making sure operators are certified,
4 things of that nature.

5 COMMISSIONER CLARK: Okay. So, it's
6 inspectors. We're paying --

7 MR. BAEZ: Yes, sir.

8 MR. BALLINGER: Correct, which hasn't changed.
9 (Simultaneous speakers.)

10 COMMISSIONER CLARK: -- out of this fund.
11 Okay. Fine. Thank you.

12 MR. FUTRELL: Staff and their time, yes, sir.

13 COMMISSIONER CLARK: Okay.

14 COMMISSIONER POLMANN: The people in Tampa and
15 Miami.

16 COMMISSIONER CLARK: Got it.

17 MR. BAEZ: Right.

18 MR. BALLINGER: And here.

19 COMMISSIONER CLARK: And here.

20 MR. BAEZ: And Tallahassee, here as well.

21 COMMISSIONER POLMANN: Well, those, too.

22 MR. BALLINGER: Yeah.

23 CHAIRMAN GRAHAM: Commissioners.

24 COMMISSIONER POLMANN: Thank you,
25 Mr. Chairman.

1 I don't mean to be completely out of the loop,
2 but I'm trying to figure out what the problem is.
3 And 811 seems to work in general. I mean,
4 otherwise, things would be dug up out there all the
5 time. There's a lot of work being done.

6 So, what we're talking about is when utilities
7 are damaged, and there should be some consequence
8 to that, other than the fact that it's inconvenient
9 to --

10 MR. BAEZ: No disagreement. That's
11 absolutely --

12 COMMISSIONER POLMANN: You know --

13 MR. BAEZ: -- I agree.

14 COMMISSIONER POLMANN: The service is
15 interrupted, whether there is an impact to a gas
16 line and there's -- you know, there's an accident
17 or there's --

18 MR. BAEZ: Yes, there's -- there are -- there
19 are costs involved that, if one made the argument,
20 would logically extend to impact the ratepayers.
21 I -- I agree.

22 COMMISSIONER POLMANN: Right.

23 MR. BAEZ: Yes.

24 COMMISSIONER POLMANN: So -- but we're not
25 talking about recoverable costs; we're talking

1 about citations or fines to who caused the --

2 MR. BAEZ: -- enforcement.

3 COMMISSIONER POLMANN: Right?

4 MR. BAEZ: Yes.

5 COMMISSIONER POLMANN: The bigger picture is
6 that there is some accounting here that is judging
7 the state of Florida or judging us and saying, it's
8 inadequate.

9 MR. BAEZ: I -- I -- I would --

10 COMMISSIONER POLMANN: So, what --

11 MR. BAEZ: I would argue, again, what they're
12 judging is our statutes.

13 COMMISSIONER POLMANN: Yeah. So -- so, my
14 question here, for the group, is: What aspect of
15 this are -- are we addressing here in this
16 conversation that we're trying to remedy? And I
17 want -- I want to make sure we're focusing on the
18 thing of substance. And I don't want to
19 discount --

20 MR. BAEZ: No. No --

21 COMMISSIONER POLMANN: -- you know --

22 MR. BAEZ: I'm not --

23 COMMISSIONER POLMANN: -- the report card
24 because, yeah, that's important, but I -- I'm
25 trying to say, let's catch the people who are --

1 who are causing the mistakes or improve the program
2 or -- and it -- and it comes back to the --

3 MR. BAEZ: It --

4 COMMISSIONER POLMANN: -- policing aspect.

5 And we want to become the policemen?

6 MR. BAEZ: If -- if that's the question on the
7 table, I'm -- I'm sure that's part of --

8 COMMISSIONER CLARK: Mr. --

9 MR. BAEZ: -- the discussion.

10 COMMISSIONER CLARK: And that -- I want to
11 go -- because you're exactly -- who becomes the
12 police for this agency? Right now, the way I
13 understood this, it's pretty much left at the
14 county level --

15 COMMISSIONER POLMANN: And I don't think -- I
16 don't think anybody is being the policemen --

17 COMMISSIONER CLARK: Right.

18 COMMISSIONER BROWN: That's exactly right.

19 COMMISSIONER POLMANN: -- because they don't
20 see --

21 COMMISSIONER CLARK: Right, based on the
22 citations.

23 COMMISSIONER POLMANN: -- citations. There's
24 nothing happening.

25 COMMISSIONER BROWN: That's exact- --

1 COMMISSIONER CLARK: Our option is to do
2 nothing and allow PHMSA to come in and become
3 that --

4 COMMISSIONER BROWN: Yep.

5 COMMISSIONER CLARK: -- regulatory body for
6 state of Florida.

7 COMMISSIONER BROWN: Which it's not.

8 COMMISSIONER CLARK: And I don't think anybody
9 wants that to happen.

10 COMMISSIONER BROWN: No.

11 COMMISSIONER CLARK: That's not the correct
12 role.

13 COMMISSIONER POLMANN: Well, let me clarify --

14 COMMISSIONER CLARK: It should be a state --

15 COMMISSIONER POLMANN: I'm sorry to
16 interrupt --

17 MR. BAEZ: Commissioner --

18 COMMISSIONER POLMANN: Would that, in fact,
19 occur?

20 COMMISSIONER BROWN: Yes.

21 MR. SWEET: Yes.

22 COMMISSIONER CLARK: Yes.

23 MR. SWEET: With the use --

24 (Simultaneous speakers.)

25 CHAIRMAN GRAHAM: I have a solution. Rather

1 than beating this to death and dragging this out,
2 we need to have a staff workshop. You guys figure
3 it out.

4 COMMISSIONER CLARK: He said workshop?

5 COMMISSIONER BROWN: Oh, my goodness.

6 (Laughter.)

7 (Simultaneous speakers.)

8 COMMISSIONER POLMANN: He said staff workshop.
9 That's not us.

10 CHAIRMAN GRAHAM: You -- you guys figure it
11 out and bring it back to us.

12 MR. BAEZ: I --

13 MR. HETRICK: How ironic, your last act.

14 (Laughter.)

15 MR. BAEZ: We'll be happy -- we'll be happy to
16 do that. I just want to make one clarification.
17 Okay. Whatever -- whatever -- it's my
18 understanding that whichever PHMSA -- you know,
19 this -- this great void that the PHMSA would be
20 filling in would only be as to enforcement against
21 vi- -- those that violate the -- the digging
22 statutes.

23 It has -- it has absolutely no effect on our
24 jurisdiction in terms of our regulated facilities
25 and the -- and the safety-inspection program that

1 we currently carry out.

2 CHAIRMAN GRAHAM: I get where you're coming
3 from, but it seems like we keep kicking the can
4 down the road.

5 COMMISSIONER BROWN: Yes.

6 CHAIRMAN GRAHAM: And it's getting to point
7 now where they're looking or threatening to take
8 some sort of action. So, let's just -- let's have
9 a game plan. We can decide --

10 MR. BAEZ: That's -- no. No.

11 CHAIRMAN GRAHAM: -- stay at the status quo.

12 MR. BAEZ: We'll be happy to -- we'll be happy
13 to workshop it and come up with -- come up with
14 possible solutions. I just -- I don't -- I'm --
15 I'm having trouble -- I'm having trouble getting
16 hung up on -- on the -- on a letter or on a
17 condition that has -- that has persisted with no
18 deleterious effect to the Commission staff's work
19 to the safety program's work and achievement.

20 CHAIRMAN GRAHAM: Well --

21 MR. BAEZ: And I want to try and make that
22 clear -- I want to try to make that clear. I stand
23 behind the work that Tom and his people do and
24 the -- Tom -- the work that Tom and his people
25 would be doing, whether PHMSA was sending us

1 reimbursement or not.

2 CHAIRMAN GRAHAM: I -- I agree, we're probably
3 not doing anything wrong. I'm just looking at
4 the -- the deadline they have here. We have a
5 brand-new --

6 MR. BAEZ: Sure. Yeah.

7 CHAIRMAN GRAHAM: -- chairman that's coming in
8 that ends about the same time. And so, once again,
9 I -- rather than us sitting here another hour and a
10 half, beating this around -- that doesn't make any
11 sense right now. I -- I think you guys should get
12 together, some of your people that are here, some
13 of the people back there --

14 MR. BAEZ: Sure.

15 CHAIRMAN GRAHAM: -- and figure out what we
16 can and cannot do.

17 MR. BAEZ: Happy to do it.

18 CHAIRMAN GRAHAM: And then come back before us
19 and say, you know, look, this is what we -- this is
20 what we propose.

21 COMMISSIONER CLARK: Is there any implication
22 that -- and this is important to me. Is there any
23 implication from what we've said and discussed
24 that -- because this has come up several times --
25 that we're implying that somebody is not doing

1 their job by what we're asking?

2 MR. BAEZ: I -- I think -- I think --

3 COMMISSIONER BROWN: That -- that's a
4 question, really, for Rick Moses, quite frankly.

5 MR. MOSES: PHMSA does not care what agency
6 has the fining authority; all they want is some
7 agency to have the fining authority.

8 COMMISSIONER CLARK: Right.

9 MR. MOSES: They never implicated the Public
10 Service Commission needs to take jurisdiction at
11 all.

12 COMMISSIONER CLARK: All right. But --

13 MR. MOSES: That's never --

14 COMMISSIONER CLARK: But what I'm asking is,
15 is what we're asking the agency to take a look
16 at -- are we implying by asking you to look at
17 getting us regulatory authority that we're implying
18 somebody is not doing their job, currently?

19 MR. BAEZ: I don't -- I --

20 COMMISSIONER CLARK: You said that a couple of
21 times. I just want it clear that --

22 MR. BAEZ: I -- I -- I don't -- look, I have
23 a -- I -- candidly, Commissioners, I've got a --
24 I've got an issue with anyone -- with anyone saying
25 or implying and using the words "inadequate" with

1 any program that we're -- that we're -- that we're
2 running because it's -- it's flat not the case.

3 COMMISSIONER CLARK: Okay. I'm sorry. I -- I
4 didn't see them saying it's inadequate.

5 MR. BAEZ: There's an -- there's an item --
6 there's an item in a memo that comes out, and the
7 first words, with all due respect, Commissioner
8 Brown -- the first words out of Commissioner
9 Brown's mouth were, we've been found inadequate.

10 COMMISSIONER CLARK: Right.

11 MR. BAEZ: Okay. Well, when -- when that's a
12 naked -- when that -- when a naked statement gets
13 made like that without -- without context --

14 COMMISSIONER CLARK: I -- agreed. Okay.

15 MR. BAEZ: -- and -- and that may be -- I
16 guess that's what I would say in the end.

17 COMMISSIONER CLARK: Sure.

18 MR. BAEZ: That is my inartful way of trying
19 to lend context to this because a lot of people
20 listen here and a lot of people can -- can very
21 easily walk away with the impression that -- that
22 the safety program is inadequate.

23 COMMISSIONER CLARK: No, absolutely. And I --
24 I wanted to make clear --

25 MR. BAEZ: And I want it to be clear.

1 COMMISSIONER CLARK: -- from -- from at least
2 my perspective, that I -- I didn't see that as
3 being what was being said.

4 COMMISSIONER BROWN: No. Nope.

5 COMMISSIONER CLARK: I -- I saw that they are
6 saying that the procedures that we have in place
7 for citations are inadequate.

8 MR. BAEZ: And I -- I think that is --

9 COMMISSIONER CLARK: Our argument is we don't
10 have the authority to do so. That does not, in any
11 way, imply that any of the programs that we manage
12 or operate are not doing an outstanding job.

13 MR. BAEZ: I'm -- I'm glad -- I'm glad, now,
14 that you -- that you said it and we can -- and
15 we --

16 COMMISSIONER CLARK: We're on the same page.

17 MR. BAEZ: -- clear. And forgive me for
18 beating the dead horse. I'm just, you know --

19 CHAIRMAN GRAHAM: We're -- we're done beating
20 this dead horse. Just make sure --

21 MR. BAEZ: As the Chairman said.

22 CHAIRMAN GRAHAM: Just make sure, when you
23 schedule the staff workshops, that you notice it,
24 so if any of the Commissioners want to --

25 MR. BAEZ: Absolutely.

1 CHAIRMAN GRAHAM: -- attend or be involved --

2 MR. BAEZ: Absolutely.

3 CHAIRMAN GRAHAM: -- then that's legally
4 sufficient.

5 COMMISSIONER BROWN: Mr. Chairman --

6 MR. BAEZ: Thank you.

7 COMMISSIONER BROWN: -- there -- there are a
8 few folks that came just to this meeting. And just
9 to let them know that they will have an opportunity
10 to speak at that workshop and provide written
11 comments.

12 We have a docket file. So, there is a general
13 docket file. If you'd like to submit comments in
14 advance, that would be helpful. Thank you guys for
15 coming.

16 CHAIRMAN GRAHAM: Okay. Thanks, guys.

17 Let's -- legislative update.

18 What did you do, crip?

19 MS. PENNINGTON: Worst time of the year to
20 have rotator cuff surgery.

21 CHAIRMAN GRAHAM: I've known so many people
22 that have had that surgery and they just say
23 recovery is just horrendous.

24 MS. PENNINGTON: Not -- not fun.

25 Adam is talking today. Here for moral

1 support.

2 MR. POTTS: Yeah. So, this week is the last
3 interim committee week, before session starts on
4 January 14th. Bills are still being filed.
5 There's a lot of bills that we're watching. We're
6 still waiting to see if they get companions in the
7 House and/or Senate.

8 Yesterday, Infrastructure and Security heard
9 Committee Bill 7018 that had to do with the
10 electric vehicle charging-station infrastructure.
11 It passed unanimously. There's still no House
12 companion.

13 I think it's still early on in how this
14 language is going to evolve, but if anybody has any
15 questions or wants to talk about it, we'll be happy
16 to come by to your office and dive deeper into it.

17 Tomorrow, in Energy and Utilities, there is an
18 overview of the acquis- -- acquisition of the
19 water-wastewater utility systems. And Andrew
20 Maurey is going to be on the panel alo- -- and he's
21 going to speak, from our perspective, what we do
22 now in the acq- -- during the acquisition of a
23 system. And then FGUA and Utilities, Inc. of
24 Florida are also going to have people on the panel.

25 The rest of the week and all of the

1 appropriations and sub- -- appropriation
2 subcommittees -- they're going over the Governor's
3 recommended -- presenting the Governor's
4 recommended budget for the next fiscal year.

5 So, that's kind of where we stand right now.
6 And it's going to start soon, right after
7 Christmas, New Year's.

8 CHAIRMAN GRAHAM: Commissioner Polmann?

9 COMMISSIONER POLMANN: Thank you,
10 Mr. Chairman.

11 On the -- the second item -- the acquisitions?

12 MR. POTTS: Uh-huh. Yes.

13 COMMISSIONER POLMANN: What do you understand
14 to be the focus, the interest of the Legislature?

15 MR. POTTS: I think it's kind of a setup for
16 the bills that are existing. It's -- it's just a
17 pre-discussion.

18 MS. PENNINGTON: It's --

19 MR. POTTS: They're not hearing the bills yet,
20 but it's kind of having that discussion on the
21 forefront, just to get the background of -- of the
22 way -- the way it is currently.

23 MS. PENNINGTON: It's an opportunity to
24 educate the members, quite frankly, on how that
25 process works. As you know, it's a very complex

1 process, but to give them as -- as elemental a
2 summary as possible of -- of how that process works
3 now so that when they -- when they do -- when they
4 are asked to consider bills that may or may not
5 have been filed yet, there might still be more.
6 They'll at least have some understanding of what
7 that even means.

8 COMMISSIONER POLMANN: Do we have any inkling
9 that they're trying to solve a problem or is this
10 just something -- some bright idea that somebody
11 came up and said, oh, well, you know, water and
12 wastewater in Florida is -- you know, the -- the
13 ongoing, forever problem.

14 MS. PENNINGTON: There -- there have been a
15 couple of bills filed, Commissioner. So, that
16 tells me that there are at least a couple of
17 members that think there's a problem that needs to
18 be solved, so --

19 MR. POTTS: And -- and it was filed last year.

20 MS. PENNINGTON: Yeah.

21 MR. POTTS: And didn't move. It didn't go all
22 the way through. And so, it's been refiled this
23 year.

24 COMMISSIONER POLMANN: You perceive it's
25 higher up on the list or -- I mean, I'm just

1 curious, that --

2 MR. BAEZ: I -- Commissioner, the -- I guess I
3 wouldn't -- I wouldn't exactly call it a problem,
4 necessarily, but there have been proposals -- there
5 was one last year during session that didn't go
6 anywhere and I think it's back, in -- in large
7 part, has already been filed.

8 MR. POTTS: Right.

9 MR. BAEZ: And it's got --

10 MR. POTTS: Correct.

11 MR. BAEZ: I forget those -- the bill
12 citations that are -- that are bills that seek to
13 modify the -- the acquisition policy at the
14 Commission, you know, how the accounting happens.
15 And -- and that's really the discussion that's --
16 everyone is looking forward -- looking forward to.

17 That's what's in the offing, which -- which is
18 why --

19 COMMISSIONER POLMANN: Okay.

20 MR. BAEZ: -- you know, the -- the acquisition
21 one.

22 COMMISSIONER POLMANN: And is there anything
23 you hear about reclaimed-water legislation or the
24 use of -- of reclaimed-water systems to --

25 COMMISSIONER BROWN: TASA --

1 COMMISSIONER POLMANN: -- supplement drinking
2 supplies or indirect potable that would be of any
3 interest to us in our jurisdictional areas?

4 MS. PENNINGTON: Not -- not as it currently
5 relates to our regulatory authority or anything
6 that would change our regulatory authority with
7 regard to that. We can --

8 MR. POTTS: We'll be on the lookout for it.

9 MS. PENNINGTON: And -- and be on the lookout
10 to make sure you and your office are informed of
11 anything like that.

12 COMMISSIONER BROWN: It's a big issue in the
13 area.

14 MS. PENNINGTON: Yes.

15 COMMISSIONER POLMANN: Yeah. I know it's --
16 there's a lot of interest in using reclaimed water
17 for, you know, reducing potable supply and
18 conservation and -- and environmental purposes
19 and -- and you know, we don't deal with large-
20 enough utilities for that to be an interest.

21 It's -- traditionally over many, many decades,
22 it's been a wastewater-disposal issue. And, of
23 course, from our perspective, that is just a DEP-
24 compliance aspect --

25 MS. PENNINGTON: Right. Right.

1 COMMISSIONER POLMANN: -- as we review
2 permits, but I don't know where the Legislature
3 intends to take that because it's becoming much
4 more of a hot-button issue --

5 MR. BAEZ: I don't think any of those have
6 popped for us, but if -- if you -- do you know of a
7 bill or is this just gen- -- generally speaking? I
8 know that that's always an issue. Reclaimed water
9 is -- is always a policy issue and how to -- how to
10 incorporate it, but I'm -- we're just not aware of
11 any bills that have been filed yet. Nothing's --

12 MS. PENNINGTON: And there may be some that --

13 MR. BAEZ: Nothing has come up. There's still
14 time.

15 MS. PENNINGTON: I just don't --

16 COMMISSIONER POLMANN: Oh, I -- it's -- it's
17 Central Florida.

18 MS. PENNINGTON: Right.

19 MR. BAEZ: Could be happening right now, for
20 all --

21 COMMISSIONER POLMANN: Yeah, it --

22 MR. POTTS: We'll --

23 MS. PENNINGTON: Go ahead.

24 MR. POTTS: We'll pay attention.

25 COMMISSIONER POLMANN: I mean, it's --

1 MS. PENNINGTON: We will.

2 COMMISSIONER POLMANN: It's not going to rise
3 to the top level for us, but it -- it may.

4 MR. BAEZ: Some people down --

5 COMMISSIONER POLMANN: It may engage
6 Legislature -- legislators that are of interest to
7 us, in which case it will occupy a lot of their
8 time. That may be important to us for other
9 reasons.

10 MR. BAEZ: Thank you.

11 MR. POTTS: Thanks for that.

12 CHAIRMAN GRAHAM: Question for you.

13 MR. POTTS: Okay.

14 CHAIRMAN GRAHAM: What do you know about the
15 Florida Advisory Council on Climate and Energy that
16 came out of --

17 MR. POTTS: Of the same committee yesterday
18 that was in -- that was one of the other proposed
19 committee bills in the Senate.

20 MS. PENNINGTON: By the same senator.

21 MR. POTTS: It was by -- yeah, they were both
22 out of Senator Lee's committee. I know -- I mean,
23 it was talking about setting up the chief
24 resiliency officer, which the Governor had hired
25 one when he came into office, but that's codifying

1 it and setting it up as an office within the
2 executive agency of the Governor.

3 And then I believe that that would be the task
4 force that falls under her -- it was made up of
5 people from DEP and a couple of legislators, but --

6 CHAIRMAN GRAHAM: There's a list of, like, 15,
7 16 different things that are represented there, but
8 it says this committee kicks off next Monday at
9 5:00, and --

10 MR. POTTS: Maybe this isn't the same thing,
11 then. No, I don't --

12 MR. BAEZ: They're going to be late.

13 CHAIRMAN GRAHAM: This -- this came out of --
14 this is an e-mail I got from Commissioner Fried.

15 MR. POTTS: Oh, this must be her -- this might
16 be something under AG.

17 MS. PENNINGTON: Right.

18 MR. POTTS: This is theirs. I --

19 CHAIRMAN GRAHAM: So, we --

20 MR. POTTS: -- can find out more about it for
21 you.

22 CHAIRMAN GRAHAM: -- know nothing about it.

23 MS. PENNINGTON: This is ad hoc, I believe,
24 isn't it?

25 MR. POTTS: Right. I -- it's -- I --

1 MR. BAEZ: No, we have no --

2 MR. POTTS: I have no knowledge of it.

3 MS. PENNINGTON: It's not statutory at this
4 point.

5 MR. BAEZ: The Agency -- the Agency was
6 notified, I believe, along with the rest of the
7 blast list, but we have received no substantive
8 contact or request for input or participation or
9 anything like that.

10 CHAIRMAN GRAHAM: Well, I'm list- -- I'm
11 looking at all of the records they're looking for
12 and nowhere on here are they looking for something
13 from the Public Service Commission.

14 MR. BAEZ: No, there was a call for resumes.

15 CHAIRMAN GRAHAM: But yet, they want to
16 talk -- well, I mean, she does run the energy
17 office, correct?

18 MR. POTTS: Yes, sir.

19 MR. BAEZ: Yes.

20 CHAIRMAN GRAHAM: So, I guess it's her call.

21 MR. POTTS: Yeah, I think that's --

22 COMMISSIONER POLMANN: Well, I think
23 resiliency might be something we're interested in.

24 CHAIRMAN GRAHAM: You would think, huh?

25 COMMISSIONER POLMANN: You would think.

1 Resiliency and energy and -- you know, I think
2 those are important words.

3 MR. BAEZ: Well, we'll -- as I recall, the
4 e-mail was a call for resumes. None -- none of
5 the -- none of the seats at the table included the
6 agency -- the -- our agency, which, of course, is
7 the Commissioner's prerogative. It -- it's -- it's
8 for show.

9 We're -- that doesn't mean we're not going to
10 monitor the meetings, to the extent that -- that we
11 can, for information, but in terms of active
12 participation, you know, if you don't, you know --

13 CHAIRMAN GRAHAM: Well, I mean, Commissioner
14 Clark lives in Chipley. He can do the rural
15 community.

16 I mean, you know, and there's the municipal-
17 owned community -- I mean, you know, I -- I guess,
18 I'll attend Beaches Energy. I mean, we can
19 probably put people in a couple of these spots.

20 Anyway, I digress.

21 (Laughter.)

22 COMMISSIONER BROWN: You -- you want --

23 CHAIRMAN GRAHAM: I just --

24 COMMISSIONER BROWN: You want to volunteer?

25 MR. BAEZ: Do you want -- do you --

1 CHAIRMAN GRAHAM: No. No. I just --

2 MR. BAEZ: Would you like us to pursue your
3 participation?

4 CHAIRMAN GRAHAM: I just didn't know what this
5 was and --

6 COMMISSIONER POLMANN: Well, I think your
7 workload has diminished and maybe you want to step
8 up.

9 (Laughter.)

10 CHAIRMAN GRAHAM: All right. I didn't mean to
11 cut you guys off. Do you have anything else?

12 MS. PENNINGTON: Just wanted to add that, as
13 we've done in the years past, shortly after the
14 first of the year, we will begin our weekly
15 meetings with your advisers so that we keep them
16 informed and they keep you informed.

17 COMMISSIONER FAY: And we're sorry you have to
18 do that.

19 MR. POTTS: Oh, man. Necessary evil.

20 CHAIRMAN GRAHAM: Thanks, guys.

21 MR. POTTS: All right. Thanks.

22 MS. PENNINGTON: Thank you.

23 CHAIRMAN GRAHAM: Merry Christmas. And I hope
24 you feel better.

25 MS. PENNINGTON: Thank you.

1 CHAIRMAN GRAHAM: All right. General
2 counsel's report.

3 MR. HETRICK: I have no report, Mr. Chair.

4 CHAIRMAN GRAHAM: Didn't we just have a --
5 a -- someone come back from the Supreme Court,
6 another case we won? Or did I misread that? That
7 was a couple weeks ago.

8 MR. HETRICK: We're looking at -- no, nothing
9 recent, but we're pretty involved now with a number
10 of things that are going to go pretty quickly.

11 CHAIRMAN GRAHAM: Okay.

12 MS. HELTON: There was -- OPC withdrew its
13 appeal of --

14 MR. HETRICK: Oh, yes.

15 MS. HELTON: -- of the --

16 CHAIRMAN GRAHAM: That's -- that's what it
17 was.

18 MS. HELTON: FPL tax savings.

19 MR. HETRICK: It was a withdrawal, yeah. I
20 guess, technically that's a win for Andrew and
21 Cayce.

22 COMMISSIONER POLMANN: We'll take it.

23 CHAIRMAN GRAHAM: It -- it's not a loss; so,
24 it's a win.

25 MR. HETRICK: Yes, that's right.

1 CHAIRMAN GRAHAM: Exec- -- executive director,
2 report.

3 MR. BAEZ: Thanks. Mr. Chairman, two things.
4 First, housekeeping, so we can get it out of the
5 way, appropriate to your comments earlier and --
6 and thank you for your words -- your kind words.
7 We did lose a valued family member, and -- and
8 Ruth's services are to begin at 3:00 this
9 afternoon.

10 For that reason and -- I -- I get to have the
11 awkward moment, yet again, we've moved back the --
12 the -- our holiday reception, for those of you that
13 are listening, we've moved it back a half hour.
14 We'll be starting it at 1:30, in order to offer
15 some time for everyone to be able to, you know,
16 make -- make the services, if they choose to do so.
17 So, I'll just put that out there. There will be an
18 e-mail going out this afternoon, soon.

19 Lastly, I wanted to give you all an update on
20 our discussions, based on your discussions at
21 the -- at the goals -- at the goals-setting docket.
22 We -- we heard your concerns. We heard your
23 frustrations, frankly, on -- on our FEECA process,
24 and we've had -- at a staff -- at a senior staff
25 level, we've had several discussions, generally

1 tracking in two different directions. Hopefully,
2 both of them moving, you know -- moving forward.

3 The first was, we're -- we're trying to --
4 we're actively reviewing our process to kind of --
5 so that it works smoother, it works better, and it
6 gives more workable re- -- results, less-
7 frustrating results. That's an internal process
8 that's going on because it deals mainly with us,
9 perhaps, reworking our -- our rule in the -- in the
10 future, in the near future.

11 I cannot put a -- a special time line on it at
12 the moment because we're really trying to figure
13 out how we can -- how we can pursue these changes
14 and what's the best way to -- to do them.

15 The other track is to do a little bit of
16 broader thinking on what kind of changes have to --
17 have to -- might be available through the statute,
18 should the statute -- should others or should it be
19 decided that the statute needs revision.

20 That's not a conversation that I -- I think is
21 ripe, necessarily, for -- for you all right now,
22 but if -- if you all had -- if the Commission, as a
23 whole, had strong feelings that -- that the agency
24 should pursue actively -- pursue changes to the
25 statute, then we'd have to crank out a whole

1 different kind of -- a more-intense discussion, a
2 more-structured discussion as to what those
3 recommendations might be.

4 I -- but I did want to mention that that
5 conversation, internally, is taking place, as it --
6 as it usually does. What -- what can FEECA do
7 better, what can the statute do better. Those are
8 much-broader ideas. For the moment, I think the --
9 the true, viable channel that we're approaching
10 is -- is really changing the -- the process for
11 next goals-setting.

12 I -- I did have a question that I will put out
13 there, not just for you all to think about because
14 some of the comments at -- at the -- at the hearing
15 entertain the possibility of coming back sooner
16 to -- to -- to reset goals.

17 I don't know if that's still something that --
18 that you all are favorable towards or it's
19 something that -- that would be your intention, but
20 I leave that as a question for you all to think
21 about individually.

22 In the meantime, we're working on our -- our
23 process and how -- how -- how to make them a little
24 smoother for the next time, whenever that next time
25 happens.

1 And that's end of the update.

2 CHAIRMAN GRAHAM: Commissioner Polmann.

3 MR. BAEZ: If you all have any questions --

4 COMMISSIONER POLMANN: Thank you,

5 Mr. Chairman.

6 Mr. Baez, I appreciate your -- your bringing
7 forward the -- the update. I think your words
8 spoke to the goals and I think --

9 MR. BAEZ: Mainly, yes.

10 COMMISSIONER POLMANN: Yeah. I think we're
11 still waiting, the utilities' plans and programs.

12 MR. BAEZ: Programs, yes.

13 COMMISSIONER POLMANN: So, I don't need you to
14 elaborate on that here today, but I'm -- I'm hoping
15 that, in your internal discussions, you're --
16 you're including some review of how we're -- staff
17 will -- will be interacting with the utilities as
18 appropriate on how they bring forward --

19 MR. BAEZ: Yeah --

20 COMMISSIONER POLMANN: -- that next --

21 MR. BAEZ: Well --

22 COMMISSIONER POLMANN: -- next set of
23 submittals. And that may not be -- I simply don't
24 know, since I haven't been through this --

25 MR. BAEZ: Right.

1 COMMISSIONER POLMANN: -- in my tenure here.

2 MR. BAEZ: I -- I will -- I will tell you
3 this, I will be -- I will be hesitant and -- and I
4 realize now I was unclear. We recognize, we all
5 do, that -- that we are actually in mid-process --

6 COMMISSIONER POLMANN: Yes.

7 MR. BAEZ: -- for -- for this cycle. And I
8 don't want anything that I said to suggest -- we
9 have to be very careful not to make changes to a
10 process that's already moving forward because that
11 doesn't offer --

12 COMMISSIONER POLMANN: Understood.

13 MR. BAEZ: -- the participants. So,
14 everything that I -- all these discussions as to
15 process improvements would be for the next cycle.
16 They don't -- unfortunately, again, we've got to
17 live with all of our frust- -- collective
18 frustrations over the way things have -- have moved
19 in -- in this particular cycle. And we're going to
20 do our best to -- you know, accommodate them,
21 within what's already being done. We've got to get
22 that out -- out the door before any changes that we
23 might want to institute going forward really do
24 take hold.

25 I don't know if that answers your question.

1 COMMISSIONER POLMANN: It -- it does in the
2 context of the fact that we are still --

3 MR. BAEZ: Yes.

4 COMMISSIONER POLMANN: -- in the cycles.

5 MR. BAEZ: Right, and I --

6 COMMISSIONER POLMANN: Process.

7 MR. BAEZ: And I don't -- again, subject to
8 check, but I -- I don't -- I don't feel that any
9 changes or improvements to the process that we
10 could bring about would -- would -- should impact
11 this -- this cycle.

12 COMMISSIONER POLMANN: Right.

13 MR. BAEZ: The cycle sort of --

14 COMMISSIONER POLMANN: Right, in terms of the
15 formal process.

16 MR. BAEZ: Sure.

17 COMMISSIONER POLMANN: It may simply be that
18 your internal discussions have to do with the
19 recognition of the -- of the Commission's --

20 MR. BAEZ: Yes.

21 COMMISSIONER POLMANN: -- discussion --

22 MR. BAEZ: Yes.

23 COMMISSIONER POLMANN: -- and -- and how staff
24 thinks about your review and your recommendations
25 on the plans and programs.

1 MR. BAEZ: That -- fair -- fairly stated, yes.

2 COMMISSIONER POLMANN: That's all we need to
3 say.

4 MR. BAEZ: Yeah.

5 CHAIRMAN GRAHAM: That -- does that conclude
6 your report?

7 MR. BAEZ: That does conclude it.

8 CHAIRMAN GRAHAM: Other matters. Anybody?
9 Anything?

10 COMMISSIONER FAY: I'm just glad all these
11 really complicated things will be Chairman --
12 (Laughter.)

13 COMMISSIONER BROWN: It's going to be a good
14 two years.

15 COMMISSIONER POLMANN: Hey, you had your
16 opportunity.

17 CHAIRMAN GRAHAM: All right. So, I wish you
18 guys all Merry Christmas, happy holidays. Travel
19 safe.

20 And our next agenda meeting -- IA meeting will
21 be sometime in January. I can't remember when that
22 is, but I'm sure our next chair will schedule it.

23 COMMISSIONER CLARK: Send a memo out.

24 COMMISSIONER BROWN: I'm sure the scheduling
25 has already started.

1 COMMISSIONER POLMANN: It's on the calendar.

2 CHAIRMAN GRAHAM: That all being said, we're
3 adjourned. Thank you.

4 (Whereupon, proceedings concluded at 11:52
5 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS WRAY, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 19th day of December, 2019.



ANDREA KOMARIDIS WRAY
NOTARY PUBLIC
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EXPIRES February 9, 2021