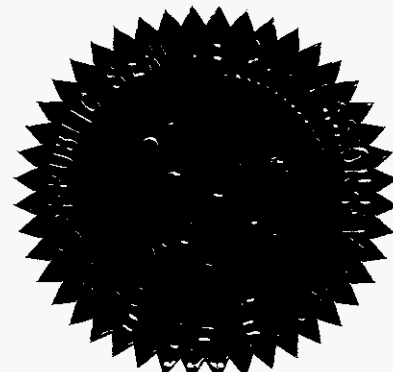


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of: DOCKET NO. UNDOCKETED

INITIATION OF RULEMAKING TO  
ADOPT RULES 25-6.0431 AND  
25-7.0391, F.A.C., RELATING  
TO APPLICATION FOR LIMITED  
PROCEEDINGS, AND TO AMEND RULE  
25-22.0406, F.A.C., CONCERNING  
NOTICE AND PUBLIC INFORMATION  
REQUIREMENTS.



PROCEEDINGS: RULE DEVELOPMENT WORKSHOP

DATE: Wednesday, June 23, 2010

TIME: Commenced at 9:30 a.m.  
Concluded at 11:11 a.m.

PLACE: Betty Easley Conference Center  
Hearing Room 148  
4075 Esplanade Way  
Tallahassee, Florida

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

DOCUMENT NUMBER 05490  
JUL 26 2010  
FPSC-001100000000000000

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

1  
2           **MS. COWDERY:** I think we're ready to go then.  
3 Pursuant to notice, this time and place has been set for  
4 an undocketed staff rule development workshop to take  
5 interested people's comments on the adoption of Rule  
6 25-6.0431 and 25-7.0391, relating to applications for  
7 limited proceedings, and on amendment to Rule 25-22.0406  
8 concerning public information and notice requirements.  
9 I'm Kathryn Cowdery with the Office of General Counsel,  
10 and also here on behalf of staff are Connie Kummer, John  
11 Slemkewicz, Marshall Willis and Cheryl Bulecza-Banks.

12           There are sign-in sheets at the back of the  
13 room, and we'd like you to sign in, if you would, so we  
14 have a record of your attendance. All materials for  
15 today's workshop are also at the back of the room.  
16 There are two stacks; one that has the notice and agenda  
17 and the draft rules, and then one -- the other stack has  
18 the actual schedules which are to be incorporated by  
19 reference in the draft rules.

20           The draft Rules 25-6.0431 and  
21 25-7.0391 describe the information required for an  
22 application for a limited proceeding for electric and  
23 gas utilities. Section 366.076, *Florida Statutes*,  
24 provides in part that upon petition, the Commission may  
25 conduct a limited proceeding to consider and act upon

1 any matter within its jurisdiction, including any matter  
2 the resolution of which requires a public utility to  
3 adjust its rates.

4 Section 366.06(1) states in relevant part that  
5 all applications or changes in rates shall be made to  
6 the Commission in writing under rules and regulations  
7 prescribed thereby.

8 This rulemaking was initiated in order to meet  
9 the requirements of 366.06(1) by prescribing by rule the  
10 application process for limited proceedings for electric  
11 and gas utilities. Existing Rule 25-22.0406 concerning  
12 notice and public information is being amended in order  
13 to incorporate customer notice and information  
14 requirements for the limited proceeding applications.

15 Ms. Kummer will lead the discussion of the  
16 draft rules. Each time you speak, please identify  
17 yourself for the benefit of the court reporter and the  
18 other participants, and please come up to the mike if  
19 you have any questions, again for the court reporter's  
20 and everyone else's benefit.

21 Connie.

22 **MS. KUMMER:** Well, I think the easiest is  
23 simply to walk through the rule paragraph by paragraph.  
24 If you have any concerns, we'll take them up at that  
25 time.

1           6.0431 and 7.0391 are essentially identical  
2 with the exception of the reference to the MFR  
3 schedules. So if we have gas folks here, we would  
4 appreciate it if you would speak up as well as we go  
5 through the individual sections. It'll save us a little  
6 bit of time perhaps in having to go through the gas rule  
7 which is the same thing.

8           Okay. We'll start out, paragraph (1) is just  
9 basic background information, who filed it, the  
10 utility -- the address where the application is  
11 available, that kind of general stuff you have to file  
12 with any petition. Anybody have any questions about  
13 that?

14           Paragraph (2) is really the meat of it. It  
15 tells you what used to be in the petition. There are  
16 several subsections to that. We can take each  
17 subsection, or if anyone has particular questions about  
18 a subsection, we could go directly to that.

19           **MR. BUTLER:** Connie.

20           **MS. KUMMER:** Yes.

21           **MR. BUTLER:** John Butler for FPL. Just as an  
22 overview, if you could help us understand Subsection  
23 (2). It seems, although we're not completely sure, that  
24 it is intended to set up filing requirements on sort of  
25 a menu basis where depending on the nature of the

1 limited scope request that's being made, certain types  
2 of information would be required or would not be  
3 required depending on the elements that are addressed in  
4 the request. Is that the intent of how you've  
5 structured it?

6 **MS. KUMMER:** John can probably address the  
7 specific details, but that's my understanding. Because  
8 a limited proceeding could address a whole range of  
9 things; whereas, a rate case has specific MFRs and those  
10 are set forth in rule and look to be a much, I don't  
11 want to say broader, but can cover a number of different  
12 situations.

13 **MR. BUTLER:** And so if you only had certain  
14 types of elements involved in your limited scope  
15 request, you might file different information than if a,  
16 you know, different and broader set of requests were  
17 included within your petition; is that right?

18 **MS. KUMMER:** That's my understanding. John?

19 **MR. SLEMKEWICZ:** Yes. That would be --  
20 especially, you know, if you're just looking to include  
21 like a power plant, you know, that would just be one  
22 thing. If you were looking at trying to include just  
23 some kind of expenses, that would be, you know, a  
24 different set of requirements. And if you're doing  
25 both, you'd have to, you know, submit all schedules or

1 information that is being requested by the rule.

2 **MS. COWDERY:** And that's why we included a  
3 special section if you're doing a revenue neutral rate  
4 restructuring because we would need other information if  
5 it's revenue neutral.

6 **MR. BUTLER:** So just indulge me here, if you  
7 would, please. Let's use that example, a power plant.  
8 Say that a utility wanted to come in, seek the revenue  
9 requirement specifically associated with adding a new  
10 power plant into service. I mean, it looks like that  
11 the information required by Subsection (a) and by  
12 Subsection (b) would clearly be relevant to that. Are  
13 there other subsections then that would be, you know,  
14 the information would be required for that type of  
15 limited scope proceeding?

16 **MR. SLEMKEWICZ:** Well, I would assume if  
17 you're going to be, you know, asking for recovery of O&M  
18 expenses, that, you know, we'd want to see that detail  
19 also.

20 **MS. KUMMER:** And also Section (i), if you're  
21 changing, proposing to change rates, (i) and (j) would  
22 be relevant. You would do the allocations and the  
23 proposed rates. If you're not proposing to change  
24 rates, then you wouldn't need that. But if you're  
25 proposing a rate change, then we would need that

1 information as well.

2 **MR. BUTLER:** But a change in rates could  
3 include something that's really just a proportionate  
4 change to all of the rates under the existing sort of  
5 rate allocation cost of service.

6 **MS. KUMMER:** It could, again, depending on the  
7 request. But that would certainly be within the realm  
8 of possibilities of things you would ask for.

9 **MR. BUTLER:** Well, it seems, if I'm  
10 understanding this, then that this request for a limited  
11 scope proceeding to add the power plant into, you know,  
12 into rate base and the associated adjustments to base  
13 rates would pretty much trigger the whole range of  
14 Subsection (2) components, and therefore that there  
15 would be an extremely broad filing of information  
16 required for that request. Is that, is that how you  
17 read it, or am I sort of going too far?

18 **MR. SLEMKEWICZ:** No. We would need all that  
19 information because we would have to evaluate, you know,  
20 the power plant costs, you know, the operating expenses  
21 associated with it, and then the rate impacts.

22 **MS. KUMMER:** Limited proceedings, as we said  
23 earlier, can cover a number of different things and  
24 that's why the rule is broken out the way it is. If  
25 you're only doing certain things, then you only need to

1 file information relevant to that. But the addition of  
2 a power plant and an increase in rates associated with  
3 that, you're going to have presumably not only plant,  
4 you're going to have operating expenses and you're going  
5 to have the rate impact as well, so you would need all  
6 of it. Yes.

7 But you could do, for example, if you were  
8 simply asking for a change in accounting treatment or  
9 something or another that does not impact rates, does  
10 not impact plant investment, then you would need to  
11 provide that explanation.

12 **MR. BUTLER:** For that example, what would you  
13 end up -- which of these subcategories would apply for a  
14 change in accounting treatment?

15 **MR. SLEMKEWICZ:** It would, I guess it would  
16 depend on, you know, what was involved. You know, if  
17 it's just something that's going to impact the income  
18 statement, you know, we would just need the, you know,  
19 income statement data. But offhand I can't think of,  
20 you know, an example.

21 **MR. BUTLER:** I'm not sure that I can either.  
22 But, I mean, I guess if there, if it were simply an  
23 accounting treatment change and you're not asking to put  
24 some new plant, power plant or otherwise, just  
25 plant-in-service, not looking to increase that, not



1 looking for additional revenues on rate base, not  
2 looking to change your operating expenses, not looking  
3 to change the rates that you're charging or the rate  
4 structure in there, it's just an accounting change, it  
5 seems like, but maybe I'm misreading this, it seems like  
6 basically you'd certainly have to satisfy Subsection  
7 (a), but it wouldn't seem like the others would apply.  
8 But, again, I don't, I don't know what staff's intent  
9 is.

10 **MR. SLEMKEWICZ:** Well, I guess if you, you  
11 know, you were trying to establish some kind of  
12 regulatory asset or something, you know, we'd want to  
13 know what the impact of that is. And generally a lot of  
14 times those affect, seem to affect O&M expenses or, you  
15 know, operating expenses more than the rate base.

16 **MS. KUMMER:** The whole idea of a limited  
17 proceeding is to address a specific circumstance. And  
18 that's why we need -- you know, we would -- we're going  
19 to have to take it on a case-by-case basis. The rules  
20 are set out to be general and sort of all inclusive of  
21 anything we could think of that you might perhaps want  
22 to have handled through a limited proceeding. But,  
23 again, it would depend, as John said, on what exactly  
24 you're asking for.

25 **MR. BUTLER:** Well, speaking for FPL, I mean,

1 we are not opposed in principle to the idea of setting  
2 out the categories of information that would be filed  
3 for different types of limited scope proceedings. In  
4 fact, done right I think it could be helpful for  
5 everybody because you kind of know upfront what's going  
6 to be required and the utility files that information  
7 and it's at least presumptively complete. If it  
8 doesn't, it's, you know, clearly not complete and  
9 there's a, somewhat of a mutual understanding going in  
10 of what the basic filing requirements are going to be.

11 But if the rule doesn't achieve that, if it's  
12 just sort of laying out some things that could be  
13 included but doesn't define what are the minimum  
14 expected filing requirements, then we're not going to  
15 find much comfort or value in it frankly because we're  
16 still going to be at the same point of needing to have  
17 some sort of discussion I guess upfront in each limited  
18 scope proceeding as to, you know, what for that  
19 particular proceeding is going to be required as a, as  
20 an initial minimum filing requirement.

21 **MS. KUMMER:** If I understand what you said  
22 correctly, you are looking for a specific set of  
23 requirements for each specific type of request. And  
24 that's -- I don't think it would be feasible to do in a  
25 rule.

1           What we have tried to do in this is to cover  
2 all eventualities. And you would file your petition,  
3 and if you thought certain portions of the rule weren't  
4 relevant, you would state that in your petition. And,  
5 you know, if we or the Commission disagreed, then we  
6 would talk about it at that point.

7           But I don't think we can say that if you  
8 request an accounting treatment for this, you do this.  
9 If you're going to have a plant, you're going to have to  
10 do this. If you're doing something else, you have to  
11 do -- we can't develop a laundry list of situations and  
12 develop requirements for them. That simply isn't  
13 feasible because you're always going to miss something.  
14 There's going to be -- this case isn't quite the same as  
15 the last case and it's just, it's just not feasible for  
16 rules. What we tried to do with this is cover all  
17 possible situations, and it's almost like a menu. If  
18 you're doing this, then this is what's required.

19           **MR. BUTLER:** I agree, and I think that's what  
20 it should be. But it doesn't seem like it's a very  
21 complete menu. For example, on the accounting treatment  
22 we were just discussing, it doesn't seem that really  
23 anything in here addresses what you would or wouldn't  
24 have to be filing.

25           **MS. KUMMER:** In what respect? Give me an

1 example. I'm struggling with what you're missing.

2 **MR. BUTLER:** Well, if I understood my exchange  
3 with John, you know, you've got something -- we asked  
4 for an accounting treatment to be approved. It's not  
5 going to be changing our base rates. We're not asking,  
6 you know, for recovery through some change to rates for  
7 particular expenses or particular levels of investment,  
8 whatever. You're not, it seems, triggering some of  
9 these particular subsections. But I don't know based on  
10 the exchange so far what it is that I would be expected  
11 to file for that accounting change because it sounded  
12 like the response was we might need some schedules about  
13 certain types of costs and what their impacts would be,  
14 et cetera, but I'm not seeing them be defined by this  
15 rule as to what that type of information would be.

16 And, you know, I, at one level I agree that I  
17 don't think it can or should try to cover everything  
18 that a limited scope proceeding might be, you know,  
19 requested to cover because it's so open-ended a statute  
20 that there are always going to be some exceptions and  
21 probably has to be kind of a catchall exception in the  
22 rule.

23 But it does seem that some of the major  
24 categories of limited scope proceedings, and certainly  
25 those would include something that was looking for

1 adding a particular power plant or maybe make it more  
2 general, you know, some major plant addition, whatever  
3 sort of plant addition it would be, is a category. You  
4 could have something for discrete changes in operating  
5 expenses if you've got some big, new regulatory  
6 requirement and it's basically an expense item that has  
7 substantially changed the company's business; the issues  
8 of accounting, accounting treatment changes we've just  
9 been discussing; rate structure changes that are not,  
10 you know, changing the overall revenues that the utility  
11 is seeking, and I'm sure there are others. But, you  
12 know, there could be some -- I bet you you could define  
13 categories that would cover maybe three-quarters or more  
14 of the likely types of limited scope proceedings that  
15 might, might be filed and then have the rule providing a  
16 common understanding going in as to what the filing  
17 requirements would be for those sorts of, those sorts of  
18 proceedings.

19 And if we achieve that, I think it would be,  
20 you know, speaking for FPL, that that might be a pretty  
21 useful thing to, to accomplish. But if it's not  
22 achieving that, if it's sort of just setting out here  
23 are some things to file but no comfort that that is  
24 complete or covers some of the major categories of the  
25 types of filings that might be made, then it doesn't,

1 from our perspective doesn't accomplish as much. Does  
2 anybody else, utilities have views on that subject?

3 **MR. SLEMKEWICZ:** I'd like to just say one  
4 thing first. To me it seems like an accounting change  
5 would be covered by (2)(a), and which is simply a  
6 detailed statement of the reasons why the limited  
7 proceeding has been requested. And if it doesn't impact  
8 any of these other things, that's all you would file in  
9 a limited proceeding. Certainly there would probably be  
10 some, you know, discovery. I mean, even if you filed  
11 everything, there's probably, there's going to be  
12 discovery.

13 **MR. BUTLER:** Absolutely. No. I understand.  
14 I don't think that the rule could or should limit all  
15 the information that would be provided in the  
16 proceeding. It ought to be addressing what's the  
17 upfront expectation, you know, that if the utility  
18 includes X, Y and Z for a particular type of proceeding,  
19 then it has provided the initial filing requirements  
20 kind of like the MFRs for general rate cases so that  
21 people know that the company has or hasn't met its basic  
22 obligation of providing the information to get the ball  
23 rolling.

24 **MS. KUMMER:** Okay. John, if we go back to  
25 your example of a power plant, a power plant is a change

1 in plant-in-service; right? It would change your rate  
2 base. So that's covered by (b). There are probably  
3 operating expenses; that's covered by (d).

4 **MR. BUTLER:** By the way, you skipped over (c).  
5 What is (c) supposed to be?

6 **MR. SLEMKEWICZ:** Well, if you're going to be  
7 asking for a change in rates, we're trying to evaluate  
8 what your current cost of capital is.

9 **MR. BUTLER:** But the triggering phrase, "If  
10 recovery is being requested for any costs," I don't --  
11 you've got (b), as Connie pointed out, is directed to an  
12 increase in plant-in-service and (d) is related to  
13 operating expenses. I'm just wondering what is --  
14 what's (c) that's kind of in between those two?

15 **MR. SLEMKEWICZ:** Well, I think (c) is really  
16 related to (b), that, you know, we're going to have to  
17 calculate revenue requirements based on a cost of  
18 capital if you're going to put in something in rate  
19 base. So we're going to need that calculation if you're  
20 going to be changing, requesting a change in rates. In  
21 other words, if you're not requesting a change in rates,  
22 then (c) would not apply because the key there is if  
23 recovery is being requested.

24 **MR. BUTLER:** Okay.

25 **MR. REHWINKEL:** Well, John, would that be true

1 if you put a power plant in and then you were going to  
2 monitor for -- and there was maybe based on an earnings  
3 test no change in rates, but then you would have an  
4 earnings surveillance program and you would want to look  
5 at how that plant went in. Would -- wouldn't you still  
6 need to do this?

7 **MR. SLEMKEWICZ:** No. That would just fall out  
8 in the earnings surveillance report whether or not, you  
9 know, they're overearning or not. Because they're not  
10 putting any -- they're not changing rates, they're not  
11 putting anything in as a cost of capital. There's no  
12 revenue requirement associated with putting that power  
13 plant in that's going to be recovered from the ratepayer  
14 until there's a change in rates. So looking at the cost  
15 of capital, looking at the cost of capital is a nice  
16 exercise, but it isn't relevant to just allowing a power  
17 plant in the rate base.

18 **MR. REHWINKEL:** Well, might it impact on  
19 whether you met the threshold of being inside or outside  
20 your range? I mean, I could see your return on equity  
21 would be the last authorized, but you would -- wouldn't  
22 you -- your, your debt cost would be current; correct?

23 **MR. SLEMKEWICZ:** That's correct. Yeah.  
24 Everything is current except for -- and that's the way  
25 it is in the surveillance program. Everything is



1 current except for the authorized return on equity,  
2 which is what was last authorized.

3 **MR. REHWINKEL:** I guess I was trying to figure  
4 out if, if you're going to put a rate base item in,  
5 there would be, you would want to look at the impact,  
6 you know, before and after.

7 **MR. SLEMKEWICZ:** If you put a rate base item  
8 in and you don't give a revenue requirement or there's  
9 no increase in base rates, presumably rate of return  
10 will go down. I mean, that's just kind of a given.

11 **MS. KUMMER:** But that would be caught through  
12 the surveillance reports.

13 **MR. REHWINKEL:** I guess what I'm trying to  
14 figure out is there's a test that's set out in the rule  
15 about whether, whether you're inside or outside your  
16 range in order to be eligible.

17 **MR. SLEMKEWICZ:** That's when you're looking at  
18 changing rates.

19 **MR. REHWINKEL:** Yeah.

20 **MR. SLEMKEWICZ:** If they just built a power  
21 plant, they don't have to come in for a limited  
22 proceeding.

23 **MR. WILLIS:** Yeah.

24 **MR. SLEMKEWICZ:** The power plant just goes in  
25 the rate base and becomes a part of the surveillance.

1 So the only reason they would come in presumably with a  
2 power plant is to change rates. Otherwise, there's  
3 nothing -- they don't have to do anything to put a power  
4 plant --

5 **MR. REHWINKEL:** I understand. I'm just kind  
6 of getting to John's point about, you know, laying out  
7 every scenario. I don't really know -- I think what  
8 you're putting forward here is a rule maybe in  
9 anticipation that power plant additions will be  
10 something that you'll see in the next few years on a  
11 limited basis. And I -- my understanding is that's not  
12 something that's historically been done. They're  
13 usually like step increases or there's just a general  
14 rate case wrapped around a large power plant. And I  
15 don't know, maybe I'm totally wrong about it.

16 **MS. KUMMER:** Well, there are -- we tried to  
17 place some limitations. If you look on page 7,  
18 paragraph (4)(b), things that are not appropriate for  
19 limited proceedings or if the requested rate increase  
20 exceeds 5 percent of the utility's jurisdictional rate  
21 base revenue. It doesn't go exactly to what you're  
22 talking to, but we can talk about limitations when we  
23 get there. But there was some attempt to try to limit  
24 the types of things that would go through a limited  
25 proceeding.

1           **MR. REHWINKEL:** Okay. So just -- and John  
2 raised a question about the phrase that recovery is  
3 being requested. You definitely mean recovery through a  
4 change in rates. That's what you mean?

5           **MR. SLEMKEWICZ:** That's correct.

6           **MR. REHWINKEL:** Okay. Because recovery can  
7 occur through maybe a depreciation offset or -- I mean,  
8 there's other ways to recover. But you're talking  
9 specifically about the impact on a customer's bill.

10          **MR. SLEMKEWICZ:** That's correct.

11          **MR. REHWINKEL:** Okay. That was confusing me  
12 too. Because I mean I can foresee that there would be  
13 scenarios where you might come in for a limited  
14 proceeding with some sort of accounting treatment that,  
15 that may not have a, an immediate impact on customers'  
16 rates but nevertheless would be designed to be binding  
17 for something else that would hit rates, you know, in a  
18 future period.

19          **MR. SLEMKEWICZ:** Yeah. Anything that, you  
20 know, the Commission does, if the company comes in for  
21 some kind of rate change in the future, that all gets  
22 rolled in together and has to be, you know, evaluated  
23 then.

24          **MR. REHWINKEL:** Yeah.

25          **MR. BUTLER:** Excuse me. Just a procedural

1 question. Is there a number where one can call in and  
2 hear this exchange? Some of the people that are back in  
3 our offices were looking to do so, if they could.

4 **MS. COWDERY:** No. This room doesn't have that  
5 capability. It is being recorded so that I believe a  
6 digital, I mean, audio will be available at some point.

7 **MR. BUTLER:** Okay.

8 **MS. KUMMER:** We were originally scheduled for  
9 148 and got bumped, and this room just does not have the  
10 facilities.

11 **MR. BUTLER:** Okay. Thank you.

12 **MR. WILLIS:** The Governor seems to have that  
13 power.

14 **MR. BUTLER:** I think you're right.

15 (Laughter.)

16 **MR. SLEMKEWICZ:** And I guess as a recent  
17 example we've had the Bartow case and that was basically  
18 a limited proceeding to include a power plant.

19 **MR. REHWINKEL:** Yeah. I'm aware of that.  
20 (Laughter.) And I want to address some of that later,  
21 but I know you're kind of going through the rule.

22 **MS. KUMMER:** Again, what we were trying to  
23 do -- I'm sorry, Kathryn.

24 **MS. COWDERY:** I was just going to say that  
25 this is the type of information in the post-workshop

1 written comments that would be very helpful. If you see  
2 in particular a subtype, a type of limited proceeding  
3 that you anticipate that doesn't seem to be covered  
4 here, you know, let us know and set out what you think  
5 the minimum filing requirements should be. You know,  
6 also we might consider, you know, restructuring the rule  
7 a little bit. Right now we've just got one subsection,  
8 (2). Maybe we want to break it down into several  
9 things. I don't know. Maybe we want to beef up  
10 Subsection (2)(a) to just not only have reasons but add  
11 something about support and make that the subsection  
12 that sort of covers, you know, the catchall in addition  
13 to anything specific we set out. So that would be very  
14 helpful if you see anything like that.

15 **MR. BUTLER:** You know, we, we do plan to file  
16 some post-workshop comments and we'll address those  
17 points.

18 **MS. KUMMER:** We can go through the individual  
19 subparts of paragraph 2, if you would like to. Does  
20 anyone else have any other comments on that?

21 **MR. BUTLER:** I do on subsections (g) and (h).  
22 You know, I don't want to rush ahead if anybody has  
23 comments before those.

24 **MS. KUMMER:** I don't see anybody jumping up.  
25 Go ahead.

1                   **MR. BUTLER:** Okay. These subsections are  
2 envisioning filing information it seems on a historic  
3 basis, and something that is concerning to us about that  
4 approach, again, kind of not entirely sure how it would  
5 be used, but take, for example, the addition of a new  
6 power plant as a limited scope proceeding. If the  
7 intent here is that there's a required element for  
8 proceeding with a, for having a limited scope proceeding  
9 for adding a new power plant is historic data about the  
10 company's, you know, earnings or its financial position  
11 with the power plant included in the historic data, then  
12 this will result in probably a minimum of a three- to  
13 six-month delay after the power plant goes into service  
14 before we could even file the proceeding and would  
15 substantially, you know, reduce the effectiveness or the  
16 benefit of the limited scope proceeding to add the new  
17 power plant.

18                   Because just as a practical matter, you know,  
19 once the construction is complete, the power plant goes  
20 into service, there is a several month period before one  
21 can get historic data on the, you know, the actual cost  
22 of the investment and the expenses that are being  
23 incurred associated with it and then fold those into a  
24 filing that would be, you know, preparation of schedules  
25 that would be using that historic data. And that's a

1 big concern to FPL because certainly by no means the  
2 only, but one of the categories of limited scope  
3 proceeding that we could envision ourselves some day  
4 wanting to use this, use the statute to pursue would be  
5 if we're adding a new power plant. And a three- to  
6 six-month delay before you're really even out of the box  
7 on a proceeding once the power plant has been added is  
8 a, is a major delay and we think an unnecessary and  
9 un contemplated restriction on how the statute would be  
10 used.

11 **MR. SLEMKEWICZ:** Well, I would envision that,  
12 you know, what we want is, you know, a current snapshot  
13 of where you're earning, and I would envision that you  
14 would be putting in a pro forma to show what the effect  
15 of adding the power plant would be on that period, you  
16 know, given, you know -- you know, if you came in before  
17 it was in service, you know, actually it's going to  
18 occur in the future. But we're trying to, you know,  
19 deal more with historical data without having to get  
20 into all the projections about, you know, if you project  
21 the first full year of, you know, what your operations  
22 are going to be with that power plant in there, that  
23 just gets -- we may as well have a rate case.

24 **MR. BUTLER:** So you're envisioning then it  
25 would be kind of a hybrid in which you would end up

1 presenting the last 12 months of historical performance  
2 modified by this pro forma adjustment that would be  
3 specifically adding in the anticipated final costs for  
4 the plant and the associated operating expense changes  
5 that would occur once the plant is up and operational;  
6 is that --

7 **MR. SLEMKEWICZ:** Right. That's correct.

8 **MR. BUTLER:** Okay. I -- that might work. I  
9 don't think that's at least how we interpreted the rule  
10 that it makes that very clear at this point. If that is  
11 the direction that is what staff is looking for, we'll,  
12 we'll address that in our post-workshop comments. But  
13 clearly for that category of using the statute there  
14 would have to be some sort of pro forma mechanism like  
15 that or else we would really be behind the eightball by  
16 quite a long time before we could even get to the point  
17 of starting to use the proceeding.

18 **MR. REHWINKEL:** John, isn't that what, how  
19 Bartow was handled? My recollection is that's what  
20 Progress did. There, the only artificiality compared to  
21 this is they had, they had the 10 percent number. But  
22 they pro formaed the plant in against their --

23 **MR. SLEMKEWICZ:** Right.

24 **MR. REHWINKEL:** Well, I guess they did have a  
25 projected. I mean, we don't particularly see a problem



1 with the way you described it. I think that's how we  
2 contemplated this is that the only pro forma would be to  
3 plant, not other things that the company would want to  
4 pro forma in there. But specifically the historical  
5 snapshot with the projected rate base and expense items  
6 associated with the plant.

7 **MR. SLEMKEWICZ:** That's correct. Yeah. Not  
8 changing, you know, everything else. And I guess one  
9 thing though, you know, we would have to look at though  
10 is, is the difference in the time periods. I mean, if  
11 you came in like two years early to try and do this,  
12 that, you know, that doesn't work.

13 **MR. BUTLER:** And I don't think -- I wouldn't  
14 want to take it off the table, but I understand your  
15 point and I don't think that's normally what we would be  
16 looking to do. But we would be wanting to, you know,  
17 wanting to file at a point where we were hopefully able  
18 to get the proceeding at a point where rates could be  
19 going into effect roughly coincident with when the plant  
20 is going into service. And so, you know, probably  
21 something well short of two years. It might be a good  
22 part of a year, but it would certainly not be that far  
23 in advance.

24 **MR. SLEMKEWICZ:** Right. I understand and  
25 appreciate that.

1           **MS. TRIPLETT:** Dianne Triplett on behalf of  
2 Progress Energy Florida. I echo John's concerns, and I  
3 think it's just the way that it's written. It reads as  
4 a threshold like we can't get in the door because we  
5 have to show that over the last 12 months that we've  
6 fallen below the rate of return. And if it's, the  
7 language is tweaked to show, to clarify that, it's just  
8 you want a historical snapshot that then going forward  
9 you can show that with the addition of the plant that we  
10 would fall below and I think that would address our  
11 concerns.

12           **MR. SLEMKEWICZ:** Right. And, you know, a pro  
13 forma adjustment would accomplish that.

14           **MS. KUMMER:** And, again, if you have  
15 clarifying language, that's what we would be looking for  
16 in your comments. Because we, we all tossed this around  
17 a lot and you're trying to get your hands around a lot  
18 of different concepts. And we knew what we meant, but  
19 we don't always -- it doesn't always come through to  
20 y'all. And, John, you said you had a problem with (h)  
21 as well or a question on (h)?

22           **MR. BUTLER:** It was really just wrapping into  
23 that same comment about historic information. And I  
24 think that what we've just discussed is at least a way  
25 to address it. We'll have to go back and think whether

1 that works for all of our purposes, but the pro forma  
2 adjustment is certainly a way of addressing the concern  
3 that we had.

4 **MS. KUMMER:** All right.

5 **MR. BEASLEY:** I have a question on (g). Jim  
6 Beasley for Tampa Electric Company.

7 On Subsection (g) at line 19 there on page 5,  
8 if you had offsetting rate changes that were revenue  
9 neutral and had no affect on total revenues, would that  
10 come into play or would you -- I mean, would this be  
11 necessary?

12 **MR. WILLIS:** I wouldn't even think you would  
13 file on it. I mean, it's just like John was talking  
14 about a while ago, if you're not going to have a revenue  
15 change whatsoever, why would you even make a filing?  
16 You would be able to absorb the plant coming online if  
17 you had offsetting changes.

18 **MR. BEASLEY:** This would be, this would be  
19 changes in the rates though, so they would need to be --

20 **MS. KUMMER:** That's what I understood you to  
21 say. If you're going to be changing rates, then we  
22 would need some sort of support for that, even if they  
23 were offsetting. Because, again, that's an application  
24 issue. And that's, that's actually addressed more under  
25 (i) and (j).

1           **MR. BEASLEY:** So would you need to comply with  
2 Subsection (g) then if you did (i) and (j)?

3           **MS. BANKS:** (Inaudible.)

4           **MS. KUMMER:** Yeah. I agree with Cheryl, it  
5 seems like that information would sort of be a fallout  
6 because you would have to show your cost of service and  
7 that by default would give you your rate of return.

8           **MR. BEASLEY:** Uh-huh.

9           **MR. BUTLER:** Connie, one other thing on (g), I  
10 do want to return to it for a moment. I mean  
11 conceptually the discussion we've been having, you know,  
12 the pro forma adjustments may be something that works.  
13 We do have a concern about the reference to the interim  
14 statute, to 366.071, and I just want to make it clear  
15 that we don't envision, certainly would not support a  
16 rule that would purport to limit the limited scope  
17 proceedings under 366.076 by the standards that are  
18 applicable in 366.071. I mean, if it's informational,  
19 it's something that you feel that you need to have to  
20 evaluate the appropriateness of a request, then that may  
21 be something that is acceptable. But to suggest if it  
22 does that, basically this is just another way of filing  
23 an interim rate increase that was, you know, going to be  
24 guided by and limited to the principles in  
25 366.071 wouldn't be something that we would be

1 supportive of, and I think frankly it might be a little  
2 inconsistent with the purpose of 366.076, which  
3 presumably is providing a different mechanism than  
4 what's set out in 071.

5 **MR. SLEMKEWICZ:** I guess it relates more to  
6 the, you know, the calculation. We could be more artful  
7 and just, you know, take what we need from that rule and  
8 put it in writing here rather than just referencing, I  
9 mean, the statute and --

10 **MR. BUTLER:** So your point is you're sort of  
11 referencing it because it is a shorthand way of talking  
12 about the elements of the --

13 **MR. SLEMKEWICZ:** Right. The calculation.

14 **MR. BUTLER:** -- the cost of capital  
15 calculation. Okay. We'll take it into account and  
16 maybe have some comments on that. That, that may not,  
17 may not be a problem, certainly not as much of a problem  
18 as if it is purporting to be sort of incorporating by  
19 reference the, you know, all of the baggage that goes  
20 with an interim rate request. Because that's obviously  
21 a different mechanism than what we're talking about  
22 here.

23 **MR. SLEMKEWICZ:** Right. And maybe if we just  
24 refer to a couple of specific sections rather than the  
25 whole statute, then that, that might suffice.

1           **MS. KUMMER:** Right. Because the language is  
2 "will earn below its authorized in accordance with."  
3 And I think what we were trying to say is using the  
4 criteria to determine whether or not you're below your  
5 authorized that's set forth in that statute. So as John  
6 said, simply spelling that out rather than using a  
7 statutory reference might, might take care of the issue.

8           **MS. TRIPLETT:** Connie, sorry, Dianne Triplett  
9 with Progress. Can I ask a question about Subsection  
10 (k)? I'm actually going to give the mike over to Nancy  
11 Holstein because I think she can ask it more eloquently.

12           **MS. HOLSTEIN:** Nancy Holstein for Progress  
13 Energy. I would like to just see if I could get some  
14 clarification around the term "rate structure" because  
15 the paragraph is referring to both rate structure and  
16 customer class, cost allocation, and I see those as two  
17 separate things. And for instance, if we're just doing  
18 a rate restructuring, I'm not sure we would be required  
19 to do a jurisdictional cost of service study if we're  
20 only restructuring within the retail classes.

21           **MS. KUMMER:** I would agree that if you're just  
22 restructuring within retail, you would not need a  
23 jurisdictional study because you're taking whatever your  
24 revenues are and moving them around various customer  
25 classes. So, yes, I would agree that you wouldn't need

1 a jurisdictional study for that.

2 **MS. HOLSTEIN:** Okay. And then I guess (h), I  
3 mean, I'm sorry, (k) has the similar language to what's  
4 in (i) and just talking about the allocation of customer  
5 classes. Is there intended to be different or --

6 **MS. KUMMER:** Well, (k) is prefaced by saying  
7 "If the limited proceeding is requested solely to change  
8 the current rate structure." (I) and (j) apply if  
9 you're doing things other than changing rate structure  
10 which result in rate changes.

11 **MS. HOLSTEIN:** Okay. And you referred earlier  
12 to a revenue neutral rate structure. Is that what the  
13 intent of this (k) --

14 **MS. KUMMER:** That would, that would fall under  
15 this category. And, for example, we have done it with  
16 several gas companies where we went from a residential  
17 commercial type structure to a term based structure.  
18 We did several revenue neutral restructurings along that  
19 line. That's the best example I can think of. I don't  
20 know -- I suppose in electric if you were to eliminate a  
21 class or something of that variety, although that might  
22 be questionable depending on what exactly you were  
23 doing, but the best example again is the rate  
24 restructuring did in the gas utilities to change the  
25 number from, description of the classes of customers.

1                   **MS. HOLSTEIN:** Okay. Is, is it your intent  
2 that this (k) be for revenue neutral only type rate  
3 structurings or something that might also not be revenue  
4 neutral?

5                   **MS. KUMMER:** (K) is only if it's revenue  
6 neutral, solely to change current rate structure. If  
7 you're changing revenue requirements, it would fall in  
8 the other category. That's why you have (i) and (j) up  
9 there to deal with the rates if you're changing things  
10 other than just revenue neutral.

11                   **MS. HOLSTEIN:** Okay. It might just be helpful  
12 to have that wording.

13                   **MS. KUMMER:** Okay. I, I thought we were  
14 clear. But if we weren't, please suggest additional  
15 language.

16                   All right. That gets us down to (3),  
17 paragraph (3), which is on the bottom of page 6. That's  
18 just our housekeeping to help us follow what you're  
19 doing, how many copies you have to file, the sort of  
20 housekeeping type things.

21                   Kathryn pointed out the schedules that we have  
22 referenced, the MFR schedules that we have referenced in  
23 the rules are also available on the website. If you  
24 haven't, please take a look at those and see if you have  
25 any problems with the schedules that we've asked for.



1 Or if you think we need other schedules, please tell us  
2 that in your post-workshop comments.

3 **MR. REHWINKEL:** I would like to ask about the,  
4 these kind of what you call housekeeping traditions  
5 here. Is there any contemplation on the, on the  
6 Commission or the staff's part about the timing of the  
7 filing relative to, say, let's take a power plant, for  
8 example, the in-service date of the power plant? Is  
9 there an intent that, that there be a filing, a hearing  
10 and an order prior to the time that rates would be going  
11 into effect?

12 **MS. KUMMER:** I, I guess --

13 **MR. REHWINKEL:** And specifically for like a  
14 large power plant addition.

15 **MS. KUMMER:** I would think that it would be  
16 handled -- again, this is more Kathryn's area than  
17 mine -- but I would think that these would be, be a  
18 proposed agency action type of -- I think that's how we  
19 normally do limited proceedings, and then if it's  
20 protested, we would have a hearing.

21 **MR. REHWINKEL:** Well, again, going back  
22 historically, and I know John mentioned the Bartow plant  
23 that Progress filed, it was, I consider it to be a very  
24 unique situation. It had a stipulation that was in its  
25 last year that a trigger of 10 percent in order to be

1 able to come and ask for limited relief. They also had  
2 a pending rate case that the limited proceeding request  
3 was also embedded in as, as, as the overall request.

4 There was an issue raised by the Office of  
5 Public Counsel because they used, in addition to the  
6 limited proceeding, used the file and suspend law to  
7 basically raise rates on basically a 60-day notice  
8 scenario, give or take a few weeks.

9 Our concern is that if you can plan a, a large  
10 power plant addition, that you know your costs, you know  
11 kind of what your, your costs are going to be, your  
12 in-service date, you ought to be able to have a hearing  
13 before rates are raised instead of using the PAA, the  
14 file and suspend law to increase rates prior to having a  
15 hearing.

16 **MS. KUMMER:** If it's a PAA and it's protested,  
17 then the rates can't go into effect is my understanding.  
18 Kathryn, is that correct?

19 **MS. COWDERY:** I don't know this proceeding  
20 with power plants and how it works with limited  
21 proceedings, but we'll look into that.

22 **MR. REHWINKEL:** Yeah. This is, this is kind  
23 of a big concern of ours because I think that  
24 traditionally limited proceedings have not been used to  
25 put in large electric power plants with across the board

1 base rate increases as a result. Limited proceedings  
2 have been relatively narrow in the past. Bartow was  
3 again a unique situation. That's in the past, it's  
4 fully resolved and all the orders on it are final. I'm  
5 not here to complain about it, but it does cause us  
6 concern or reason to pause as to how the file and  
7 suspend law, the PAA process and a large base rate  
8 adjustment for a large power plant will be handled in  
9 the context of this rule.

10 So I'm not looking for answers here today,  
11 just kind of raising the issue and putting folks on  
12 notice that that's a concern that the Office of Public  
13 Counsel has. And we will endeavor to address that more  
14 fully in our post-workshop comments.

15 **MS. KUMMER:** To be quite honest, I don't think  
16 we got that far in our discussions.

17 **MR. REHWINKEL:** Okay.

18 **MS. KUMMER:** But these are some things we  
19 definitely need to think about, I agree.

20 **MR. REHWINKEL:** Okay.

21 **MR. WILLIS:** Charles, what you bring up is  
22 obviously on a lot of people's minds after the last  
23 year. I know where you're coming from. But speaking as  
24 a staff member, I think you have to be fair to all  
25 parties. I would think that any company wanting to put

1 a plant item in would file far enough in advance that  
2 when the PAA came out, it would come out in advance of  
3 the power plant going in. Now a company can't perceive  
4 that that's going to be protested. But if there's a  
5 protest, I personally don't see why a company couldn't  
6 petition the Commission to put the PAA rates into effect  
7 subject to refund pending a hearing on the subject.  
8 Everyone is protected at that point. Is that a problem  
9 to you?

10 **MR. REHWINKEL:** Well, here's the, here's the  
11 concern that we have. And I think that the Public  
12 Service Commission needs to really think long and hard  
13 and deep about this issue because going into this arena  
14 you're basically taking what might be a mega rate case  
15 and just maybe cutting it up into a large chunk that's  
16 still a big rate case no matter how you look at it. And  
17 traditionally -- I know what, how the statutes read, I  
18 know how these *Wilson* cases read as far as how the file  
19 and suspend law is supposed to work, I know all that,  
20 but the public expectation is that this Commission holds  
21 rate case hearings for rate case size rate increases for  
22 electric companies. You can read the statute in a very  
23 dry way and say you can do this.

24 But if, if there's going to be a change in the  
25 way business is done and large chunks of what would

1 otherwise be big rate cases are done as limited  
2 proceedings through the PAA process, that's different.  
3 Because there is a statute that allows that PAA  
4 mechanism for small electric and gas companies and --  
5 for all gas companies and small electric companies to be  
6 used where you have the PAA issued. If there's a  
7 protest, rates can go into effect for up to the full  
8 amount of the request. But normally when there's a rate  
9 case, the interim is just that increment that puts you  
10 below the bottom of your last authorized, not the entire  
11 request that the company has. So that's where there's a  
12 difference is, is -- you know, I know Mr. Butler  
13 referenced the interim statute, and I can understand, is  
14 if you have the file and suspend law and you have the  
15 ability to put the entire request into effect subject to  
16 refund rather than an increment or deficiency calculated  
17 on the interim statute, you wouldn't want to be so  
18 limited, and I understand that.

19 But by the same token, when rates could go  
20 into effect entirely on an interim basis, that's  
21 different than the way rate cases have traditionally  
22 been handled. And some of these power plant additions  
23 are the size of rate cases. So I'll, I'll try to  
24 address this more in my post-hearing comments, but I  
25 wanted everybody to think about that because that's

1 going to be a concern, and I think that's something you  
2 have to work through if you're going to kind of go down  
3 this path.

4 **MR. WILLIS:** Well, Charles, maybe that's  
5 addressed, could be addressed partially in Part 4. This  
6 talks about --

7 **MS. KUMMER:** That's what I said, it's a great  
8 segue into paragraph 4.

9 **MR. REHWINKEL:** Yeah. Yeah. That's what --

10 **MR. WILLIS:** If you think a 5 percent increase  
11 is far too much to put in a limited proceeding, you  
12 know, maybe that, maybe -- you know, we took that as a  
13 shot in the dark. We discussed what the limitations  
14 ought to be and we just, we finally I think among all of  
15 us agreed 5 percent was probably a good shot at what  
16 everybody could live with as far as a limited  
17 proceeding, and maybe the parties will think that's  
18 probably too much.

19 **MR. REHWINKEL:** I think that's, that's fair.  
20 I was just trying to start with what your expectations  
21 were as far as the timing back on the housekeeping  
22 piece, and that does dovetail into that piece of it.  
23 And I think that, you know, looking at the water and  
24 wastewater limited proceeding rule, it's looked at more  
25 as a guide than a strict, you know, this is how you

1 shall do it. So I would assume there would be a similar  
2 interpretation of this is it's not -- not only is this  
3 not prescriptive and you either make the test or you  
4 don't, but I would also assume that the intent is it's  
5 not a safe harbor, is that if you follow this rule, then  
6 no party can come in and say, hey, I know you want to  
7 bring that large cost addition into rates, but there's  
8 this other offset, maybe there's a tax law or a tax rate  
9 change or something else going back to the '80s where  
10 you might have an offset. Someone says, hey, yes, they  
11 want that thing to go up, but there's this thing that  
12 goes down, so there ought to be an offset or something  
13 added into it. And I think the statute allows that. We  
14 would not want the rule to be seen as a safe harbor: If  
15 you do this, then there's no way that anyone else can  
16 bring something else into the proceeding.

17 **MS. KUMMER:** But that's sort of the idea at  
18 least in my mind about what a limited proceeding is  
19 because if we're going to start looking at everything,  
20 you've got a rate case.

21 **MR. REHWINKEL:** Sure.

22 **MS. KUMMER:** And that's why, at least in my  
23 knowledge of the electric industry, why it has never  
24 really worked in the electric industry because we have  
25 never been able to isolate a particular impact. They

1 use it fairly frequently, I believe, in water and  
2 wastewater and have used it at some point for the gas  
3 utilities.

4 But the purpose of this rule is to take a very  
5 narrow picture. Because if you're going to start  
6 looking at, you know, offsets here and there and the  
7 other thing, you're going to do a rate case.

8 **MR. REHWINKEL:** I understand that.

9 **MS. KUMMER:** And this really isn't appropriate  
10 for that.

11 **MR. REHWINKEL:** I think in the late '80s there  
12 were some wars over ROE and tax rate changes where you  
13 had, you know, pluses and minuses and so there were some  
14 debates about that. And, again, like you can't list  
15 everything out, there may be scenarios where you have an  
16 offset. And I think the Commission would be  
17 hard-pressed to ignore if there was a major change in  
18 the cost of capital but somebody wanted an increment in  
19 rates. It might not necessarily spill into a full-blown  
20 rate case, but the statute definitely does contemplate  
21 that the Commission can expand the proceeding if there's  
22 reason to.

23 **MS. KUMMER:** Well, again, I defer to Kathryn  
24 on this. It may not be something that we thought about.  
25 But at the time the request for a limited proceeding is



1 filed, other parties could come in and file a protest or  
2 whatever you want, some, whatever the appropriate legal  
3 term is, to say that, no, this is not appropriate for a  
4 limited proceeding. I'm not sure exactly legally how  
5 that would work, but I would think there would be some  
6 point of entry upfront to say, no, this isn't  
7 appropriate.

8 **MR. REHWINKEL:** I just, I want to say that the  
9 Public Counsel's Office is not saying that the limited  
10 proceedings can't work or are inappropriate because I  
11 think definitely there are times when, when there would  
12 be a good reason to have -- you know, if we didn't have  
13 all the baggage associated with the rate case -- that  
14 Bartow filing that Progress made was a very, I think a  
15 very beneficial thing because it did have -- they did it  
16 in a very surgical way and I think that's a good example  
17 of what can be done because there was, yes, a cost  
18 increase, but there were a lot of savings associated  
19 with fuel that they were able to demonstrate and I think  
20 that was a good thing. And you wouldn't necessarily  
21 want to have a whole rate case about something that you  
22 could look at in a limited way.

23 **MS. KUMMER:** And the savings just -- I'm glad  
24 you brought up that point. If you look at paragraph  
25 (e), the calculations for all items or actions that will

1 create cost savings, we specifically put that in to try  
2 to better define so that we're not looking at just one  
3 side of the picture, just the cost, if there are savings  
4 as well.

5 **MR. WILLIS:** Maybe, maybe it would be  
6 beneficial to have another paragraph in there that says  
7 something on the same terms that says a utility should  
8 be able to provide a statement saying that there are no  
9 other material offsets out there that will be occurring  
10 at the same time that would offset this increase, and  
11 maybe that would give you some comfort.

12 **MR. REHWINKEL:** That's something to consider.

13 **MR. SLEMKEWICZ:** And I don't think -- the rule  
14 does not contemplate, you know, whatever limitation we  
15 come up with like the 5 percent, it doesn't mean that if  
16 you have a power plant and it's going to be 10 percent,  
17 you just come in and ask for five. I think we're  
18 looking at, you know, what the total overall impact  
19 would be. So it's not a ceiling where you just come in  
20 and say, okay, we'll just take up to the 5 percent.

21 **MS. KUMMER:** And what Marshall was talking  
22 about, I think, is covered in, at least the intent in  
23 (4)(a), we would look at whether or not the utility has  
24 the discretion or -- to postpone or phase in costs  
25 rather than just simply an outright -- that would be

1 something that we would look at and see whether or not  
2 the limited proceeding is appropriate. So that sort of  
3 gets to what you're talking about. But, again, (4) was  
4 staff's attempt to try to place some limitations around  
5 it. If you have, you know, additional language or  
6 modifications, we would certainly like to see it.

7 **MR. WILLIS:** I imagine that a company has the  
8 ability to look at one of these limited proceedings if  
9 they were going to put a power plant in and decide if a  
10 PAA is a problem, they could petition the Commission and  
11 hold a hearing to file that part in advance. It means  
12 they would have to file something nine months in advance  
13 so it would be able to go into effect rather than six  
14 months in advance. So the company would have the  
15 ability to do the timing on that. And I guess if the  
16 companies thought the PAA was going to be a problem,  
17 they'd be forced in to filing for a hearing through the  
18 Commission. But it wouldn't be a rate case hearing, it  
19 would be a limited proceeding hearing and it would be a  
20 hearing on those aspects of it. It's still expensive.  
21 The idea of a limited proceeding is to cut the costs.

22 **MR. REHWINKEL:** I understand that. I think my  
23 only caution to the, to the, to the Commission staff and  
24 the Commission and other parties is, is to be careful  
25 about going too boldly into this area when there's an

1 expectation by the public that you have hearings on, you  
2 know, what's essentially a rate case size request. We  
3 don't necessarily concede that the cases that are  
4 construed in the, in the *Wilson* series of cases are  
5 intended by the Supreme Court to address a broad,  
6 across-the-board base rate type rate increase. Those  
7 were decided on very narrow tariff changes that hit  
8 really only a slice of the customer base. I'm not  
9 saying that they would not ultimately apply, but they  
10 can be construed -- the way they were construed in the  
11 Bartow scenario is to allow a company to come in  
12 essentially 60 days before a plant item is going to go  
13 into effect, file a tariff with their petition or their  
14 application, whatever, whatever you call it in here, and  
15 legally be entitled, you know, give or take a few days,  
16 within 60 days to raise the rates for the entire amount  
17 of the request. And I don't know that that's  
18 necessarily what's contemplated by the staff or that the  
19 Commissioners would -- or Legislature.

20 **MS. KUMMER:** I'm not sure, I'm not sure I  
21 follow your logic there because the restriction is, in  
22 the statute is that if the company files tariffs, we  
23 have to take them down to the Commission to approve,  
24 deny or suspend within 60 days.

25 In a case like this, I would certainly

1 envision us suspending them at least until we get a  
2 recommendation down to the Commission. At that point  
3 then we'll, then we'll have to think about what happens  
4 then. But I, I don't think we ever contemplated that  
5 rates would automatically go into effect after a certain  
6 time period.

7 **MR. REHWINKEL:** They're legally entitled to do  
8 it there subject to refund. The only thing the court  
9 has said is you have to give an effective party a  
10 hearing. But you cannot prevent them from putting their  
11 rates into effect.

12 **MR. BUTLER:** May I respond?

13 **MS. KUMMER:** Sure.

14 **MR. BUTLER:** First of all, that's not how I  
15 understand the file and suspend. I understand it more  
16 as Connie is explaining it. If for some reason the  
17 Commission doesn't suspend and they go into effect, but  
18 the Commission has the authority to suspend and  
19 certainly we would expect in this kind of PAA scenario  
20 that we've been discussing that there would be a  
21 substantial review by the staff and probably some input  
22 from parties prior to any PAA decision that would  
23 approve the rates. Once that has occurred, you know,  
24 putting them into effect subject to refund seems like an  
25 entirely reasonable compromise that protects customers.

1           If it turns out there is a protest and there's  
2 a hearing and there's some decision based on it that  
3 cuts or eliminates the rate increase that was granted,  
4 the customers are going to get all of their money back.  
5 But it facilitates a process that is much more flexible,  
6 much more responsive to, you know, the needs that a  
7 utility has with various applications. But the power  
8 plant is a real good illustration of it where there is  
9 this sudden and immediate step change to its revenue  
10 requirements that happens that hits the books through  
11 unavoidably and intellectually at that particular point  
12 in time, and this provides a mechanism that seems to  
13 protect the utility against having to suffer a  
14 substantial reduction in its earnings because of, you  
15 know, bringing this new power plant into service, while  
16 at the same time giving protection to, you know, any  
17 other party that has a concern about what's happening.  
18 You know, protections at several levels.

19           There can be objections upfront, and I'll get  
20 to it in a minute, but I think it would be a good idea  
21 to have a point at which there's sort of preliminary  
22 protests to the idea of the limited scope proceeding  
23 and/or suggestions of other issues that ought to be  
24 considered so that parties know if that's going to be in  
25 the play and mix or not. There's the opportunity for

1 discovery. There's typically an opportunity to speak at  
2 agenda conferences where PAA items are being considered  
3 if somebody doesn't think it's appropriate. And then  
4 ultimately if, if a party still feels strongly that the  
5 Commission is headed in the wrong direction in a way  
6 that a hearing would help to, you know, eliminate, then  
7 they can request a hearing and customers are fully  
8 protected by, you know, having any revenues that are  
9 collected be subject to refund. That seems like a very  
10 fair compromise. It's certainly what FPL believes ought  
11 to happen in that sort of limited scope proceeding.

12 If you want, I'll comment on Subsection (4) as  
13 well. I don't know if you are there or if we just got  
14 drawn to it.

15 **MS. KUMMER:** No. We're there. Go right  
16 ahead.

17 **MR. BUTLER:** We're there? Okay. One thing  
18 that concerns us about the way you've worded Subsection  
19 (4), and I do understand and maybe understand better  
20 after your comments what you're trying to achieve of  
21 giving some guidance, but it's striking that the  
22 corresponding language in the water and sewer rule on  
23 limited scope proceedings talks about considerations or  
24 factors that the Commission will consider in determining  
25 whether a proceeding is appropriate for a limited scope

1 proceeding or a topic is appropriate for that sort of  
2 proceeding. And here it can be read, and we are  
3 concerned that it would be read as an absolute  
4 prohibition on limited scope proceedings if they didn't,  
5 you know, meet these tests or they failed these two  
6 tests that are set out. We'd have a real concern with  
7 that. We don't think the limited scope statute  
8 envisions establishing upfront categorically absolute  
9 prohibitions on the use of the statute.

10 And beyond that, we think that the limits that  
11 are proposed here are pretty tight compared to the  
12 corresponding provisions in the water and sewer rule,  
13 even though those provisions are being, you know,  
14 identified on kind of an illustrative, to-be-considered  
15 basis instead of an absolute prohibition basis. And we  
16 can comment on that further in our written comments.  
17 But I just wanted to be sure that that's out there and  
18 it's one of the things that we are particularly  
19 concerned about in the rule.

20 **MS. KUMMER:** We did start with the water and  
21 wastewater rule as a guideline. However, water and  
22 wastewater companies this utility -- this Commission  
23 regulates are significantly different than the electric  
24 and gas companies that we regulate in terms of scope, in  
25 terms of revenue stability. If they get hit with a



1 major requirement from DEP to install a new plant, you  
2 know, it may double their rates and they have no choice  
3 in the matter. So we try to be a little more general.  
4 And, again, we struggled -- we used the word  
5 inappropriate rather than prohibited because we were  
6 struggling with the fact that a company should be  
7 allowed to come in and make a case as to why, even if it  
8 did not meet these criteria or -- I don't know  
9 exactly -- they're not really criteria, they're  
10 guidelines, but why even if it was something other than  
11 this that it still may be appropriate for a limited  
12 proceeding.

13 **MR. BUTLER:** We'll suggest some alternative  
14 language. I think we feel that it's inappropriate,  
15 doesn't sound like it's offering much of an option to  
16 come in and convince the Commission otherwise, but  
17 we'll, we'll suggest some changes.

18 **MS. KUMMER:** Again, our staff struggled with  
19 this and we were simply trying to put some kind of  
20 parameters on it so it did have some limitations as --  
21 you know, I share Charles' concern that you don't want  
22 major, major things going through an expedited process.  
23 That's not what it's for. But any help you can give us,  
24 we would certainly appreciate.

25 **MR. WILLIS:** There is a real reason for these

1 limited proceeding rules to be different. It's like  
2 Connie said, one of the biggest is the rate impact on  
3 these little water and wastewater companies and small  
4 gas companies are tremendous per customer; whereas, the  
5 larger investor-owned electrics and large gas companies,  
6 it's not that material. And that's why you're going to  
7 see a lot of major differences. It's a huge incentive  
8 by the Commission to get water and wastewater companies  
9 and small gas companies to use procedures which hold  
10 down rate case expense. There's a real necessity for  
11 that and that's one of the big reasons there's a  
12 difference.

13 **MR. BUTLER:** I can understand there being  
14 differences. We, we did note how you had used the, you  
15 know, water and sewer industry rule as a template, noted  
16 the distinction here, and probably the same standards  
17 don't necessarily work. But we definitely would be much  
18 more inclined to support something that provided some  
19 illustrations of areas the Commission would consider as  
20 potential reasons not to pursue a limited scope  
21 proceeding in certain circumstances as opposed to  
22 something that looks like it's a prohibition on it. As  
23 it reads, frankly, it sounds like a prohibition and, you  
24 know, we don't think that would be consistent with the  
25 limited scope proceeding statute.

1           **MR. REHWINKEL:** Connie, I think that from the  
2 Public Counsel's standpoint, I don't know that this  
3 exact wording is appropriate, but we do think that the  
4 way the statute is worded is that the Commission has the  
5 discretion, they have -- the statute is intentionally  
6 drawn to give the Commission discretion to entertain a  
7 limited proceeding or not. So I think the Commission  
8 gets to say to the utilities this is what we want to  
9 see. And if it's not this, then we don't want to see it  
10 as a limited proceeding, file a rate case. Because I  
11 think, as, as Marshall said, the leverage of rate case  
12 expense is great in the water and wastewater and small  
13 gas industry. It is not in the electric industry. So I  
14 think the statute does give the Commission the authority  
15 to say this is what we'd like to see and this is what  
16 we'd not like to see.

17           So and just, you know, one other thing that  
18 kind of reinforced the point that I was making about the  
19 timing, and I think that there's some nuts and bolts and  
20 procedural aspects that could be fleshed out in this  
21 rule as far as the timing of the filing for a large  
22 plant addition, but those don't fall out of the sky on  
23 to the utility. They, they plan these years in advance  
24 and they know when they're coming in. So it's not an  
25 emergency that falls upon them. It's, it's something

1 that they can orderly plan for.

2 And, again, the Bartow situation, I don't  
3 think that people should look at too much for an example  
4 because there was, the company was really squeezed  
5 between the timing of the plant coming in and the  
6 expiration of a, of a, of a settlement agreement and the  
7 filing of a rate case. So that timing, we complained  
8 about it, but I don't think it should be looked at as a  
9 guide.

10 **MS. KAUFMAN:** I'm Vicki Kaufman on behalf of  
11 the Florida Industrial Power Users Group. I guess I've  
12 got two comments and then a question about (4)(b).

13 My comments are that FIPUG echos the Public  
14 Counsel's concern about these large items going into  
15 rate base on a PAA basis without having a hearing. And  
16 though, Marshall, I understand the idea that ratepayers  
17 are protected by the subject to refund, I will say that  
18 my clients at least are concerned about, you know, some  
19 cash flow situation and they're in some of those  
20 situations now paying rates subject to refund for a long  
21 period of time. And, you know, that is a concern. And  
22 when you have a huge asset, a lot of dollars going into  
23 rate base, I think that, you know, it behooves the  
24 Commission to have an evidentiary hearing. And I think,  
25 as Charles just said, these are not just things that

1 come up overnight. There's a lot of planning.

2 We understand the tension between the interim  
3 statute and a limited proceeding and we appreciate what  
4 you're trying to do because I think getting this  
5 information upfront a lot of times is helpful and makes  
6 the proceeding go more quickly. But we are concerned  
7 about how the limited proceedings are used.

8 And my question on (b) is I don't understand  
9 what the last sentence means. In the beginning you say,  
10 of (b), it's inappropriate to use if there are two or  
11 more separate proposals. And I guess you're saying, you  
12 know, if there was a plant addition and/or, say, two  
13 plant additions, it would be inappropriate. What does  
14 the second sentence about corresponding adjustments  
15 mean?

16 **MR. SLEMKEWICZ:** Yeah. I'm really not sure at  
17 this point.

18 **MS. KAUFMAN:** Okay.

19 **MR. SLEMKEWICZ:** When we were going over the  
20 section, I started looking at that. And I'm not -- I  
21 think that came from the water and wastewater rule, I  
22 believe. And I'm not --

23 **MS. KUMMER:** I think what we, what we talked,  
24 at least the best of my memory and, believe me, I'm not  
25 an accountant, but --

1                   **MS. KAUFMAN:** Me either.

2                   **MS. KUMMER:** But I thought what we were trying  
3 to avoid or trying to address in this is if you have a  
4 plant addition, it affects a lot of different things in  
5 your accounting. And those separate accounting changes  
6 would not count as one of the two projects.

7                   **MR. WILLIS:** And that's exactly right. If I  
8 could just add in here, I can talk to you about what the  
9 corresponding adjustments are. If you were to add a  
10 plant item, obviously there's depreciated expense that  
11 has to go with that. Those are the corresponding  
12 adjustments that you have to look at. Those would be  
13 considered as a separate item that you're requesting in  
14 a limited proceeding. There are things that have to go  
15 along, that normally go along with the addition of a  
16 plant. Maintenance expense that will go along with  
17 that, other normal expenses, property taxes that would  
18 have to be paid on that plant, those are your normal  
19 corresponding adjustments that would have to be -- you  
20 normally see associated with a plant coming online.

21                   **MS. KAUFMAN:** That makes sense.

22                   **MR. WILLIS:** That's not considered as a  
23 separate request for something.

24                   **MS. KAUFMAN:** The way you explained it makes  
25 sense, and so maybe this is another wordsmithing.

1 Because when I read that without being an accountant or  
2 whatever, I --

3 **MR. WILLIS:** It made sense to me, it made  
4 sense to me but maybe not anybody else.

5 **MS. KUMMER:** It's just a fallout thing.

6 **MR. WILLIS:** Yeah.

7 **MS. KAUFMAN:** Thank you.

8 **MR. BUTLER:** So, Marshall, help me then.

9 Using the example, just continuing with the power plant  
10 example, you know, you would end up obviously having  
11 various adjustments to depreciation as a result of the  
12 new plant going in service?

13 **MR. WILLIS:** Right.

14 **MR. BUTLER:** So those adjustments, how would  
15 they be considered or not considered in applying the  
16 5 percent threshold that is proposed here?

17 **MR. WILLIS:** It's your total revenue  
18 requirement for the plant. That's the 5 percent  
19 threshold. Now what's going to be the return on plant,  
20 the expenses associated with it? If it's 4.5 percent, a  
21 limited proceeding. If it's more than 5 percent, you  
22 have to go to a full-blown rate case.

23 **MR. BUTLER:** Okay. And the corresponding  
24 adjustments such as, you know, to depreciation would be  
25 taken into account in deciding whether you are or aren't

1 over whatever that threshold may be.

2 **MR. WILLIS:** Exactly. That's what would be  
3 considered as your total revenue requirement for the,  
4 for the amount you're requesting.

5 **MR. BUTLER:** Okay.

6 **MR. WILLIS:** If you're filing to add a plant  
7 item, the revenue requirement associated with that is  
8 everything inclusive to the corresponding adjustments,  
9 depreciation, expenses, the whole works, added in to  
10 come up with what that revenue requirement would be.

11 **MR. BUTLER:** Okay. It's not often I have the  
12 pleasure of agreeing with Ms. Kaufman on things, but in  
13 this instance --

14 **MS. KAUFMAN:** Wait a minute.

15 (Laughter.)

16 **MR. BUTLER:** In this instance I would agree.  
17 As worded, this sentence could be read as sort of the  
18 exact opposite of what you just said, and I think we  
19 probably will want to clarify.

20 **MR. WILLIS:** Well, we need to correct that  
21 then.

22 (Laughter.)

23 **MR. REHWINKEL:** Can I ask one other question?  
24 Mr. Butler mentioned the contrast to the water and  
25 wastewater rule to this proposal, and in the water and



1 wastewater rule there's a specific sentence in there  
2 that says that the company shall not file tariffs.  
3 That's not in this.

4 Is there an intent that when they file, that  
5 they file by tariff? That kind of is going to get to  
6 the issue that I have already addressed, and I'll, I'll  
7 save anymore talking about that. But I just was curious  
8 as to thinking as to why that was not included in this  
9 rule proposal.

10 **MS. KUMMER:** The water and wastewater tariffs  
11 are handled a bit differently than we do the electric  
12 tariffs. I frankly don't care if they want -- if they  
13 do file tariffs, we will take them down and suspend  
14 them. If they don't file tariffs and wait until the end  
15 of the proceeding until everything is said and done and  
16 then file their tariffs, that's fine too. I don't  
17 really care. But if they file tariffs upfront, we will  
18 take them down and suspend them.

19 And that's -- just to go back to what John --  
20 or, yeah, John Butler said, we have 60 days to approve,  
21 suspend or deny, and then we have eight months before  
22 they can put them into effect under a rate case order.  
23 So if the Commission has not issued a final order in  
24 eight months, they could put them into effect, not after  
25 the original suspend order.

1           **MR. REHWINKEL:** Okay. Well, it may --

2           **MS. KUMMER:** Just to clarify that point.

3           **MR. REHWINKEL:** That may be a way to address  
4 this issue and see whether really and truly folks want  
5 to use the file and suspend tariff in conjunction with  
6 this, but we'll address that.

7           **MS. KUMMER:** Right. In my mind, although  
8 we've never even talked about it, that's the way I  
9 assumed it would work. I mean, if you file a tariff and  
10 we're not going to get a final decision on it in  
11 60 days, we will take it down and suspend it.

12           **MS. TRIPLETT:** Can I ask a question about  
13 (4)(a)? What were you intending with "discretion"?  
14 Because maybe it's just because I'm a lawyer and I can  
15 read things 95 different ways, but I have a lot of  
16 interpretations of discretion. So I -- first I think I  
17 would just like to see what y'all were thinking.

18           **MS. KUMMER:** That's a pretty loose word, I  
19 agree, and it would be open to, you know, debate. And I  
20 expect that this is something the Public Counsel perhaps  
21 would do discovery on. I'm not sure that we want to  
22 define it any more closely than that, but it is just the  
23 concept of, you know, is it absolutely necessary or is  
24 there some other way to mitigate rate impact.

25           **MR. BUTLER:** I would recommend if it's going

1 to be that broad, because we certainly have a major  
2 concern with that language as well, that it may be  
3 something if you feel that it's appropriate to have the  
4 utility address that topic, to move it up as part of the  
5 information that has to be filed in support of the  
6 filing of the request as opposed to being, you know, set  
7 out here as an apparent threshold. Because it's, it's  
8 so broad and loose that as a threshold we've got serious  
9 problems about, you know, whether it is a proper way of  
10 purporting to limit the use of the limited scope  
11 proceedings.

12 **MS. KUMMER:** That's certainly another way to  
13 address it is make that something that you have to file  
14 in your petition or in your initial filing that you  
15 would justify that there are no other alternatives to  
16 the rate increase at this time. That's certainly a  
17 possibility. I don't think that we would have a problem  
18 with moving it.

19 Anything else on (4)?

20 **MR. WILLIS:** I would point out too that  
21 limited proceeding rules have been around for a while in  
22 the water and wastewater industry, and it's no more  
23 subtle there than it is right here. We have one right  
24 now that may very well get protested that's going the  
25 PAA route.

1           If you look back over the history, there  
2 haven't been that many limited proceedings filed just  
3 for the very fact that a lot of companies believe  
4 they'll end up with a rate case anyway. It's a give or  
5 take. You know what I mean?

6           **MS. KUMMER:** And, again, that's something that  
7 I would envision happening upfront as we talked earlier,  
8 that if when the petition is filed for a limited  
9 proceeding, there would be some opportunity at that  
10 point for someone to object and say, no, this is not  
11 appropriate for a limited proceeding. I'm not sure  
12 legally how that works, but that's something that we can  
13 work out before our next workshop perhaps if we're going  
14 to have another workshop.

15           **MR. BUTLER:** We would definitely support going  
16 down that path. I mean, one of the things that if  
17 you're going to have a rule setting forth requirements,  
18 something we'd like to see is -- some of this is kind of  
19 quid pro quo I guess -- is some sort of description of a  
20 timetable and process for deciding whether to proceed  
21 down that right, down that route or not so that the  
22 money and time isn't spent, you know, going down a route  
23 and then it sort of falls apart after five or six months  
24 because there's a slow accretion of issues and concerns  
25 to the process and eventually it sinks under its own

1 weight, which is, I think, fundamentally the big concern  
2 everybody has about trying to use the process. And  
3 something that can kind of get that debate, you know,  
4 front-end loaded would be, I think really would be  
5 beneficial to everybody because I don't think it's in  
6 anybody's interest to go a long ways in one of these and  
7 have the utility or whoever filed it pull the plug  
8 because it's just not, you know, not going to be  
9 productive.

10 **MS. KUMMER:** Right. I agree. I think that's  
11 something we need to get decided upfront before we do  
12 discovery or get very far down discovery because we  
13 could all waste a lot of time if we're going to have to  
14 go back to a different type of proceeding. So we'll  
15 definitely look at that. Perhaps have some time limit  
16 on protesting the limited proceeding some way, again, a  
17 time frame for dealing with these issues. I think  
18 that's a good point.

19 All right. Anything else on the technical  
20 rule, 5-6 and 5-7?

21 We didn't hear from any gas folks and I don't  
22 really recognize any gas folks in the audience. But if  
23 y'all have comments -- there's Beth. I'm sorry. But,  
24 you know, if y'all have any comments, please, Kathryn  
25 will talk about post-workshop scheduling. And, again,

1 the rules are identical. I think maybe there's one  
2 phrase that's in one that's not in the other and clearly  
3 there's a difference in them as far as schedules. But  
4 other than that, we tried to go down the same path.

5 Okay. Are we ready to tackle the notice of  
6 public information rule? Starting on page -- this  
7 starts on page 12 of your package. And we did some  
8 cleaning up. The first paragraph was expanded to  
9 reference the two rules that we just discussed because  
10 the noticing requirements do apply to both. We've  
11 restructured some of the, just for clarity, some of the  
12 paragraphs.

13 You might look especially at (2)(b) on page  
14 12. Everything is going electronic, and we just think  
15 that it would be beneficial to have a link on the  
16 utility's website where customers can get this  
17 information. That link may simply be a link to the PSC  
18 docket file. That would be acceptable. You don't have  
19 to duplicate everything that we have.

20 **MR. BUTLER:** Yeah. We'd like that because it  
21 would be both easier and I think more timely. I mean,  
22 if we end up having to load stuff into our website,  
23 there's inevitably going to be a delay, you know, while  
24 that happens manually. So if it's okay to have it, that  
25 would be definitely better.

1           **MS. KUMMER:** I think that would be helpful. A  
2 lot of folks either don't know of the PSC website or  
3 some folks like me sometimes have trouble navigating the  
4 external website. So I think if they could go to your  
5 company website where you have a clearly identified link  
6 to information on the rate case or the, whatever the  
7 proceeding is would be helpful.

8           **MR. BUTLER:** We may not need to decide this  
9 right now, but just think about it. Would you want the  
10 link to your website to be to the docket or to the  
11 sublink that is actually to the documents? Because the  
12 latter would get somebody more immediately to whatever  
13 the filings have been. The former would give them a  
14 little bit more of a menu of, you know, what is  
15 available on that particular docket. So something to  
16 consider.

17           **MS. KUMMER:** I would think it would go  
18 directly to the documents, the list, the documents  
19 index. But, again, that's something we can think about.

20           **MR. BUTLER:** That would be kind of our thought  
21 as well.

22           And on (1), on Subsection (1), one thing that  
23 is unclear and we'd like to see clarified, if we could,  
24 there is a reference there to, you know, this rule  
25 applying to general rate increases and then limited

1 scope proceedings, and then you basically have two broad  
2 Subsections, (2) and (3). (2) being what sets up how --  
3 the notice requirements for the general rate increases,  
4 and (3) being the corresponding provisions for limited  
5 scope proceedings.

6 But in (3), in the sort of introduction to  
7 (3), it says that it's applicable to limited scope  
8 proceedings which would result in a change to customer  
9 rates. That phrase doesn't appear in (1). And our view  
10 is that, that it should, that there really isn't a  
11 reason to be having, you know, this broad range of  
12 notice applicable to a limited proceeding that doesn't  
13 result in a change to rates. But it isn't clear right  
14 now and we're not sure, frankly, what you intend with  
15 respect to notice on proceedings that don't, limited  
16 proceedings that don't involve a change to rates.

17 **MS. KUMMER:** Well, that's why we put the  
18 language in here that says shall apply to a limited  
19 proceeding filing which would result in customer rates.  
20 Customers don't care if you establish a regulatory  
21 asset. They don't see that on their bills. And that's  
22 what we're saying; unless you're going to change  
23 something that the customer sees on his bill, there  
24 probably isn't the need to go through the extensive  
25 customer noticing because, one, they probably wouldn't



1 understand it and/or they wouldn't care unless it  
2 affects what they're paying.

3 **MR. BUTLER:** I agree. That's our view as  
4 well. What we'd like to see is for Subsection (1) to  
5 incorporate that phrase because it doesn't.

6 **MS. KUMMER:** It says for "general rate  
7 increases."

8 **MR. BUTLER:** Right. But then "and to all  
9 limited proceedings filed pursuant to Rules" --

10 **MS. KUMMER:** Okay. I'm sorry. I didn't  
11 follow what you were saying. All right. You just want  
12 that --

13 **MR. BUTLER:** That phrase about which results  
14 in a rate increase isn't in (1) and it is in (3). Just  
15 to make it parallel.

16 **MS. KUMMER:** I'm sorry. I didn't follow where  
17 you were going. We -- that's certainly not a problem.

18 **MR. BUTLER:** Thanks.

19 **MS. KUMMER:** Now we're through (2)(b).  
20 (2)(c), the location of the MFRs. We changed to a  
21 location approved by Commission staff. That uses local  
22 offices, which most of you don't have anymore, so we had  
23 to change that language. You will -- when you file your  
24 MFRs, you'll tell us where else you're going to put them  
25 and the Commission will say yeah or nay to where you're

1 proposing to put them. We wanted to get rid of that  
2 business office since most of you don't have those out  
3 in your service territory anymore.

4 2 again is a nod to the electronic world that  
5 we live in. You will now be responsible for paying  
6 attention to when the case schedule has been posted to  
7 the PSC website. It will no longer be mailed out to  
8 you. So you will need to monitor your docket file to  
9 see when that notice has been posted and that will drive  
10 your time frames.

11 **MR. BUTLER:** Two comments on that. And I  
12 think there's a corresponding provision with respect to  
13 the limited scope proceeding, so it would apply there as  
14 well.

15 This is a pretty tight timetable. We probably  
16 can live with it, but there's two things that would make  
17 it a lot easier to live with it. One is that it would  
18 be very useful if we got some sort of notification, just  
19 e-mail notification when the time schedule has been  
20 posted because that is something that sometimes it isn't  
21 all that obvious even if you're going to the website  
22 pretty regularly. You have to note that, you know, when  
23 that's occurred. So that would be good if we could get,  
24 you know, some sort of affirmative e-mail notification  
25 when that happens.

1           And the other is that if we're going to be  
2 doing this within 15 days, we have to get approval for  
3 the notice by the, by the Commission and by the -- I'm  
4 sorry, by the Commission staff. We'd like to see the  
5 clock start once that has happened.

6           **MS. KUMMER:** What clock are you talking about?

7           **MR. BUTLER:** The 15-day -- the time period for  
8 providing the, excuse me, for providing notice.

9           **MS. TRIPLETT:** I think he's talking about the  
10 time after you approve, after the location is approved.

11           **MS. KUMMER:** Are you talking about (c)1 or  
12 (c)2?

13           **MR. BUTLER:** I think it would probably apply  
14 to, to both. You know, you've got these approvals for  
15 the locations. I just want to be sure that we're not  
16 put in a time bind by there being a, you know, a delay  
17 in the approval of the locations that would be consuming  
18 some of that 15-day time period we have to, to post it.

19           **MS. KUMMER:** Well, I would think you would  
20 request the locations at the time you make your filing.  
21 It would be included at the time you make your filing.  
22 So I'm not sure how this would come into play. I  
23 understand your concern. You don't want the -- okay. I  
24 see what you're saying. I'm not sure quite how we'll  
25 address it but I see what you're saying.

1           **MR. BUTLER:** It's more of a concern when we  
2 get to it later in, I think it's (3)(a) where there's  
3 the notice that has to be sent and it has to be approved  
4 by the staff as to the wording of it. But in sort of  
5 both instances if we're going to have, you know,  
6 timetables for these things that are subject to  
7 Commission staff approval, we'd like to see the clock  
8 for those start to run once we get the approval.

9           **MS. KUMMER:** Okay. I don't think -- I can't  
10 envision that there would be a problem or there would  
11 normally not be a problem, but I can see where there  
12 might be and we probably need to look at that language.

13           **MR. BUTLER:** Okay. Thanks.

14           **MR. WILLIS:** I think if we were to do it that  
15 way, we'd probably have to have a time frame set for  
16 when the company filed an actual copy for us to review.

17           **MS. KUMMER:** Right.

18           **MR. BUTLER:** That's true. That's fair enough.  
19 I mean, if we're, if we're looking for prompt review of  
20 it, we need to provide it promptly for review. I agree.

21           **MS. KUMMER:** Because I could envision possibly  
22 if we disagree with where you plan to put them, that  
23 might entail more time than if we don't have an issue.

24           **MR. BUTLER:** Right.

25           **MS. KUMMER:** So that's probably something we

1 need to think about.

2 Okay. Anything else on page 12? And 3 again  
3 is just sort of housekeeping. I don't think that's  
4 anything new or different other than we added the  
5 language it's available through a link on the utility's  
6 website. And, again, that can be through the PSC's  
7 website. Your link simply takes them to the PSC  
8 website. You don't need to maintain it all on your own.

9 (D)1 is the same thing for the rate case  
10 synopsis that we did with the MFRs. We tied the  
11 timeframe 15 days to the posting on the Commission  
12 website. And I assume, John, that you would have the  
13 same thing with the notification posting, that you would  
14 like to see something on that?

15 **MR. BUTLER:** Yes.

16 **MS. KUMMER:** Okay. And (d)1a, that's -- y'all  
17 are doing this now. It says "proposed rates for major  
18 services." When you file MFRs, you file all rates and  
19 charges. I don't really think that's any change. It's  
20 just a clarification of that language.

21 If you go down to the bottom of page 13,  
22 again, posted to the Commission's website notification.  
23 Again, the notice to your customers will also include  
24 the information on the link, electronic link.

25 And 5, 6 and 7, the new, starting on page 14,

1 line 9, this is just basic information that we think  
2 would be helpful to customers. There's nothing drastic  
3 or unusual about it: The docket number, when customers  
4 write in, they can reference a docket number; where they  
5 send letters or concerns; a reference to Ed Mills and  
6 the safety folks if they have service complaints. So  
7 that's -- that language was also added to the limited  
8 proceeding. But these are just kind of extra things  
9 that we think should be in the customer notice. I don't  
10 think there's anything terribly onerous about that. It  
11 might make your customer notice a little bit longer, but  
12 I don't think it's anything serious.

13 Paragraph (3) starts with, on page 14, line  
14 17, it's the noticing for the limited proceeding. And  
15 basically it mirrors the, you know, rate case  
16 requirements except for the references to the MFRs and  
17 the rate case synopsis. Everything has the same  
18 requirements. And again, John, the same concerns you  
19 would have with the notification that there would be,  
20 otherwise requirements should be, be the same.

21 **MR. BUTLER:** There's one other concern that I  
22 can't find its counterpart, if it has one. Subparagraph  
23 (5) on page 15, starting on line 17, I think that may be  
24 distinct to the limited scope proceeding. But if it  
25 isn't, my apologies for not finding it.

1           **MS. KUMMER:** No. You're right. And I've got  
2 a note on that.

3           **MR. BUTLER:** We've got a problem with the  
4 timetable on it is the biggest concern. Because of the  
5 way it's got both a minimum and a maximum time period  
6 within which the notice can be given, that is roughly  
7 two weeks, I guess, it's actually 15 days, but what that  
8 amounts to is it would preclude us from using our normal  
9 approach of providing this information in a, part of the  
10 bill insert because that takes 30 days to implement and  
11 you'd be, you know, outside either the minimum or the  
12 maximum with part of that 30-day cycle. And this would  
13 be actually somewhere on the order of a million dollar  
14 item to FPL because it's looking at about 25 cents per  
15 postcard to provide some sort of separate mailing. And  
16 we've got over 4 million customers, so a pretty big  
17 item. I don't know if that was your intent to  
18 effectively preclude the use of the normal cycle billing  
19 inserts to accomplish this notice, but we would  
20 certainly be concerned about it if it were. Because it  
21 just seems like it costs out of proportion to any  
22 advantage that would come.

23           **MR. BEASLEY:** We have a similar concern. And  
24 we have 21 billing cycles and that would preclude us  
25 from using the bill stuffer. And we've been able to

1 save customers a lot of postage by using the bill  
2 stuffer methodology.

3 **MS. KUMMER:** This language, I believe, was  
4 lifted from the water and wastewater rule. I think at  
5 least the concern in the water and wastewater industry,  
6 and I don't know if we have similar -- I can see that we  
7 would have similar concerns, is that people get the  
8 notice and the customer meeting is not until two or  
9 three months. They forget. I think that's the reason  
10 that we needed more timely notice in terms of --

11 **MR. BUTLER:** You want it to be relatively  
12 close to the hearing but not so close that they don't  
13 have time to make arrangements to go. Understood.

14 But basically what we'd like is 60 days, you  
15 know, sort of the, you know, no more than 60 days prior,  
16 no less than 14 days, something that would accommodate,  
17 you know, using the 30-day cycle. Realistically that  
18 does not seem excessive in our mind, certainly not worth  
19 a million dollars to accomplish a marginal improvement  
20 on the sort of window within which customers get notice  
21 of these service hearings.

22 **MS. KUMMER:** That's something -- I understand  
23 your concerns. We'll have to go back and think about  
24 it. But, again, I do understand using billing cycles to  
25 provide notices and that does create some obstacles for



1 y'all to meet a shorter time frame. So we'll -- we  
2 can -- if you have other -- would your suggestion be to  
3 delete that paragraph or would you have some  
4 alternative?

5 **MR. BUTLER:** No. I'm just saying if you just  
6 change the "no more than 30 days" to "no more than  
7 60 days," then it gives us the time we need to do it  
8 because now you have a period that's basically 45 days  
9 between when it has to start and when it has to finish.  
10 That gives us enough time with a little bit of a cushion  
11 to be able to do it on a cycle billing basis.

12 **MS. KUMMER:** Do you have the capability to  
13 tailor the notices to the customers in that area? If  
14 you're going to have a customer meeting in Daytona, can  
15 you just send them to Daytona and surrounding counties,  
16 or would that be --

17 **MR. BUTLER:** I don't think so. I don't  
18 think -- if that's what you're envisioning --

19 **MS. KUMMER:** I'm not saying that's what we  
20 meant. That was just a question on my part. Does your  
21 system accommodate that?

22 **MR. BUTLER:** That might even up the million  
23 dollars. I don't know. I think that what we have  
24 always done on notices of this sort, what we expected  
25 would happen here, be it by postcard or be it by bill

1 insert, is that there would be a list of all of the  
2 locations and the, you know, dates and times that they  
3 were going to occur.

4 And honestly, you know, I think there is some  
5 merit to that from the customers' perspective as well as  
6 being a lot easier for us to implement. Because, for  
7 example, FPL ended up having service hearings in its  
8 last general rate case that were located at places where  
9 people might well choose one that was a little bit  
10 farther away because it fit their schedule better than  
11 the one that was closer but it was a night they couldn't  
12 attend.

13 **MS. KUMMER:** It gives them more options.

14 **MR. BUTLER:** So it gives them more options.

15 Yeah. Uh-huh.

16 **MS. KUMMER:** Okay. Well, we'll take a look at  
17 that. And that's basically it. As I said, we added the  
18 same language on what's to be included in the customer  
19 notice.

20 So does anybody have anything else they want  
21 to talk about on these rules before we, before I turn it  
22 back to Kathryn for time frames?

23 **MS. COWDERY:** All right. Okay. We believe  
24 the transcript of this workshop should be ready by  
25 July 6th and posted on our website. So we figure about

1 three weeks after that would be around Tuesday,  
2 July 28th, proposed written comments. Does that work  
3 with people's schedules by July 28th to have the written  
4 comments to us? All right.

5 Okay. Any other questions?

6 **MS. KUMMER:** I'd just like, maybe just like to  
7 add, depending on what kind of comments we get back, we  
8 might want to schedule another workshop. Do any of you  
9 have a feel right now as to whether or not you might,  
10 you might want to see this again before we take it to  
11 the Commission or --

12 **MR. BUTLER:** We definitely would, speaking for  
13 FPL.

14 **MR. REHWINKEL:** Yeah.

15 **MR. BUTLER:** I think given the range of  
16 comments that we've had here, it's clear that there's  
17 going to be, you know, directions that either are going  
18 to be addressed and result therefore in a considerably  
19 different rule or, if they're not, we're probably going  
20 to want to talk some more about why they aren't. And  
21 it's a pretty broad range from where I sit to where  
22 Mr. Rehwinkel sits and --

23 **MS. KUMMER:** Okay. Then we'll just build in  
24 another workshop.

25 **MR. REHWINKEL:** Make us sit in the middle.

1           **MR. BEASLEY:** That would be dangerous.

2           (Laughter.)

3           **MS. KUMMER:** That was just my, my question for  
4 purposes of, you know, setting a schedule. And if we  
5 think we're going to need another workshop, we'll go  
6 ahead and try and be looking for a date.

7           **MR. REHWINKEL:** We concur in that.

8           **MR. BEASLEY:** That works.

9           **MS. COWDERY:** Also, if you have enough  
10 comments that a type and strike format can be done, that  
11 would be helpful also.

12           **MR. BUTLER:** Can we save or I guess accept the  
13 changes, would that be more useful, to create a clean  
14 rule and then do changes to that? Can we all agree that  
15 that makes sense? Because I think it gets really  
16 confusing.

17           **MS. KUMMER:** I think you're probably right.  
18 Just start with the rule as staff has with our first  
19 draft of it and make your changes to that rather than  
20 try to go back to the original rule. Because you're  
21 right, type and strike is totally untenable if you do  
22 that.

23           **MR. BUTLER:** Would it be possible for you to  
24 send us a clean version?

25           **MS. KUMMER:** Certainly.

1                   **MR. BUTLER:** Okay. That would be helpful.

2                   **MS. COWDERY:** Anything else we need to talk  
3 about today? Okay. Thank y'all for coming. We look  
4 forward to your comments.

5                   **MR. BUTLER:** Thank you.

6                   **MS. TRIPLETT:** Thank you.

7                   (Workshop concluded at 11:11 a.m.)

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STATE OF FLORIDA        )  
                                  :  
COUNTY OF LEON        )

CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, CRR, Official Commission 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 6<sup>th</sup> day of July, 2010.

Linda Boles  
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