BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of In re: Proposed amendment of DOCKET NO. 980561-WS Rules $25-30.420$, F.A.C., ORDER NO. PSC-98Established of Price Index, 1289-PCO-WS Adjustment of Rates; Requirement) ISSUED: October 5, 1998 of Bond; filings after , Adjustment; Notice to Customers;) and $25-30.425$, F.A.C., Pass, Through Rate Adjustment

PROCEEDINGS:

## BEFORE:

DATE:
TIME:

PLACE:

REPORTED BY:

RULE HEARING
ChAIRMAN JULIA L. JOHNSON COMMISSIONER J. TERRY DEASON COMMISSIONER SUSAN F. CLARK COMMISSIONER JOE JARCIA COMMISSIONER E. LEON JACOBS, JR.

Friday, December 11, 1998
Commenced: 1:35 p.m.
Concluded: 2:20 p.m.
Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida

Debra R. Krick
Court Reporter and Notary
Public in and for State
of Florida at Large

PREMIER REPORTING 6753 THOMASVILLE ROAD TALLAHASSEE, FL 32312 (850) 894-0828

## APPEARANCES:

CHRISTIANA MOORE, Florida Public Service Commission, Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, appearing on behalf of the Commission Staff.

BRIAN P. ARMSTRONG and MATT FEIL, Elorida Water Services Corporation, P.O. Box 609520, Orlando, Florida, 32860-9520, on behalf of Florida Water Services Corporation.

STEPHEN BURGESS, Public Counsel's Office, 111 Madison Street, Room 812, Tallahassee, Florida 32399-1400, appearing on behalf of the citizens of Florida.

## PROCEEDINGS

CHAIRMAN JOHNSON: We are going to go ahead and begin the proceedings.

MS. MOORE: Counsel.
CHAIRMAN JOHNSON: Counsel.
Chris, I don't believe your mike is on.
MS. MOORE: Excuse me. Would you like me to read the minutes?

CHAIRMAN JOHNSON: Yes.
MS. MOORE: This hearing is being held pursuant to a notice of rule-making that was issued on June 5th, 1998, and published in the Florida

Administrative Weekly on June 13 th , the Florida Water Service Corporation's request for hearing.

There were several other notices changiny the hearing date, and all are contained within Composite Exhibit No. 1.

CHAIRMAN JOHNSON: Okay.
MS. MOORE: And I am Christiana Moore, appearing on behalf of Commission staff.

ChAIRMAN JOHNSON: Okay. We will take appearances.

MR. ARMSTRONG: Brian Armstrong, Florida Water Services Corporation.

CHAIRMAN JOHNSON: Yes.

MR. FEIL: Matthew Feil, Florida Water Services Corporation. The other person here sitting at the table with us is Jeffery Wilson with Florida Water Rate Fund.

MR. BURGESS: Steve Burgess with the Public Counsel's office.

CHAIRMAN JOHNSON: Any other preliminary matters?

MS. MOORE: Commission staff that are here and will be speaking are Robert Casey and Greg Shafer.

CHAIRMAN JOHNSON: Okay. Anything else?
MS. MOORE: Just like to have Composite Exhibit 1 entexed into the record, and everybody has a copy. It contains all the notices in the rule and the parties' comments that staff, Florida Water Service and Public Counsel.

CHAIRMAN JOHNSON: Okay. Ne will identify it as Staff Composite Exhibit 1.

CHAIRMAN JOHNSON: Consisting of 13 tabbed items. And we will admit it at this time without objection.

MS. MOORE: Thank you.
(Whereupon, Staff Composite Exhibit No. 1 was marked for identification and received into evidence.)

CHAIRMAN JOHNSON: Anything else?

MS. MOORE: No. We believe we can start with the staff presenting a very short summary of the rule, and then perhaps the participants can do their presentations.

CHAIRMAN JOHNSON: Okay. I understand, because it's in the context of a rule hearing, that there is no need to swear anyone in. There will just be discussion and dialogue on the issues being raised.

MS. MOORE: We believe that's sufficient.
CHAIRMAN JOHNSON: Okay. We will begin with the staff overview.

MR. CASEY: The amendments to Rule 25-30.420, the price index rule, codify requirements for the Agency to mail copies of the order establishing the annual price index to each utility; specifies what the index will be applied 0 , and what the Agency will consider in establishing the index; requires the utility to furnish identification and permit numbers; and requires the utility to have a certain annual report on file before notifying the Agency of a price index increase.

Some changes were also made to respond to comments made by the JAPC. The amendments to Rule 25-30.425, which is the pass-through rule, require additional information from an utility, update the
rule to reflect changes to the law implemented, and clarify existing language.

In addition, staff believes the proposed official date of filing change can be stricken, since the existing language has not been the subject of a dispute.

CHAIRMAN JOHNSON: Okay.
MS. MOORE: There was not a statement of estimated regulatory cost prepared, so there is no need to give a summary of it. The reason it was not prepared is there is no anticipated significant increase or impact; and, therefore, a statement is not required.

CHAIRMAN JOHNSON: Thank you. That will be noted for the record.

Then are we prepared to go to the parties?
MS. MOORE: Yes.
CHAIRMAN JOHNSON: Mr. Armstrong.
MR. ARMSTRONG: Thank you, Madame Chair.
Florida Water has several comments regarding the proposal as it relates to the pass-through provision.

CHAIRMAN JOHNSON: Okay.
MR. ARMSTRONG: I think -- I don't think anybody would dispute that the purpose of the pass-through provision is to mitigate the need for full blown rate
increases. Thereby, mitigating rate case expanse, thereby mitigating quite a few things that justifiably should be mitigated at all cost. Staff effort, company effort, cost, et cetera, et cetera.

In the presentation from staff today, you have one demonstration, one hypothetical presented, which results in what could be perceived as a benefit to a utility under the current situation, as regards to pass-throughs. But I think it's necessary to point out that there are many, many hypotheticals that would be -- exactly conflict with the hypothetical presented to you and the staff presentation.

One of those hypotheticals that I can present without using numbers, and that's what I would like to do, or two without using numbers; and then give you a demonstration of a hypothetical that uses numbers.

The first example would be a situation where, three years ago, there was an increase in purchase water cost. Two years ago, there was a decrease in purchase water cost. The year -- a year ago, there was no decrease or no increase. And then in the present year, the utility experiences another increase in purchase water cost.

Under the staff example, the staff scenario has
proposed in a rule what we would see is that you look at the increase in the present, you acknowledge the decreases in the past -- that would be a decrease that occurred two years ago -- and you ignore the increase that occurred three years ago, absolutely ignore it.

Another situation might be where, three years ago, there was a decrease in a purchase water cost. Follow a year later, which would be two years ago, by an increase. A year ago, nothing happens. So you have a decrease, then an increase, then nothing. And then you have an increase this year in a purchase water cost. So the company files a pass-through.

Under the proposed method to be used by staff, you would ignore the increase that happened two years ago, but you would jump back and go to the decrease that occurred three years ago, a d use that as an offset to the current change in rates that's proposed in the way of a pass-through.

Now, using some numbers to give some numbers that we can work with, and staff had provided one example in their presentation. But if we have a rate case that occurs three years ago -- and a rate has established a purchase water of $\$ 1.00$ per thousand gallons, say. And then the next year, we have an
increase in purchase water cost up to $\$ 1.20$ per thousand gallons. The next year, there is a decrease that knocks the purchase water cost down from $\$ 1.20$ to $\$ 1.15$. The next year, there is an increase, and we go back up to $\$ 1.25$.

If under the utilities methodology, as used and as required by the statutes, at least under current thinking, is the utility would go in and file a pass-through for purchase water cost that is equal to the delta between the $\$ 1.25$ current cost and the cost of a year ago, which, under my example, would have been $\$ 1.15$. So there is a delta there of 10 cents. And that's what we look to recover. Current cost authorized in that rate case was $\$ 1.00$. We would add 10 cents to it, and end up with $\$ 1.10$ per thousand gallons.

What staff is proposing here -- what is reported by the Office of Public Counsel -- is that we look at the delta from the present rate of $\$ 1.25$, we look at what the rate was when it was a decrease down to $\$ 1.15$, and we have a 10 cent delta. However, they also would take another step and go back another year when there was a decrease from $\$ 1.20$ down to $\$ 1,15$ and say we have got to take away another 25 cents. So instead of a 10 cent delta, we only have a five
cent delta.
Now, as a practical matter, you apply that five cents to the existing rate case authorized charge of $\$ 1.00$, and you come out with $\$ 1.05$. Under the hypothetical, the current cost per thousand gallons is $\$ 1.25$. The utility is asking for $\$ 1.10$. So they are not even asking for full recovery of the current cost. But what the staff is proposing, and what $O P C$ would propose, is that the company only be permitted to recover $\$ 1.05$.

Now, I suggest that is just as real a demonstration -- and I would think even more likely to occur than the presentation and the hypothetical presentea by staff.

And one thing I did discuss just briefly and just before the hearing started today, and that is just a concept of, we would hope that when as these rule-makings -- that obviously there are advocates here, and I am one of them, the company is one of them -- obviously, Public Counsel has their role of advocates -- but what we would hope to see is more of what a staff presents right up front to a Commission and everybody two examples, two hypotheticals that are very easily described as what I did here, where not only do you see the one example where the utility
benefits. The one I would also show you, the examples, we had utilities suffering under the current situation.

We believe --
CHAIRMAN JOHNSON: Mr. Armstrong.
MR. ARMSTRONG: Yes.
CHAIRMAN JOHNSON: The example that you just provided, is that in here anywhere?

MR. ARMSTRONG: No, it's not. It's not in the pre-filed comments.

CHAIRMAN JOHNSON: Okay. I didn't -- okay.
Are we going to have --
MR. ARMSTRONG: I wish it had been. We can get that to you.

CHAIRMAN JOHNSON: It's a good example.
MR. ARMSTRONG: Sure, we can present that.
But, again -- and, you know, I guess we just want to reiterate every point we can regarding, you know, the statute, the Constitution of the United States, the Constitution of Florida sequire a fair and equitable treatment to the customers and the company. And what we perceive as a -- is a contiguous retrenching to the point of what can occur that keeps rates as low as possible and can benefit customers through those lower rates.

And although I can see that coming from advocates, I would hope that we would start to see the point where it's not coming from your staff, and it is certainly not coming from the Comission. But rather, let's look at all the facets lere and not pick the one side and address one side where it slowly reduces rates.

Now, that brings us to a comment regarding the OPC's comments, where they do focus on the word change. And I think it's - it's a good comment. The statute says, a change in rates. And that's what you should focus on. And, again, briefly, we talked about this a little while ago with your staff, if it's the change in rates that you're supposed to be looking at, under my hypothetical, the change is from $\$ 1.00$ per thousand to $\$ 1.25$ per thousand gallons. That's the change.

The way we have been working it is the way I described, where we go in after the three years, and we ask for the difference between $\$ 1.00$ and $\$ 1.10$.

Now, I think it's -- I think it's a distinct possibility that what we should be looking at is the difference between $\$ 1.00$ and $\$ 1.25$. And that could be explored and should be explored, because I think that really gives credence to the word change as used

## in the statute.

This relates to Elorida Water, I am not sure how many other utilities. But, you know, we do have a banding going on with Florida Water, banding in the rate structure. And that magnifies the problem that we see if there is to be this netting of decreases only, because under that banding -- and we actually experienced this several years ago when we had uniform rates -- the company nets out the increases and decreases and won't file for any pass-throughs, unless there is an incremental increase.

Well, if -- not only is there a complication with the bands, because as the Commission said, we are going to stay within the bands of the pass-throughs -- not only is there a complication when you are having to look at six, seven, however many systems are in that band; but there is a further complication and a further detriment to utilities such as ours, which would do that netting over a period of a couple of years, find that there are decreases, but there are also increases. But they basically offset, are not enough to go in for another rate increase.

And then when we do realize -- hit that year where there is a significant increase, net increase
in the rates, all of a sudden what we are going to do is go back and find those places where, prior to that time, we had netted, and it was insignificant to difference. But we are going to go back and pick out the decreases. And we are going to pick out those decreases under what's being proposed at this point, and end up being hurt.

Now, I think the key, and what we tried to say -- and I think the Commission acknowiedged back in the Pasco County situation, at least as to the Florida Water and several other utilities -- is that the key is overearning. Is the utility overearning? Just -- I guess it was Wednesday of this week, you know, I was at a Florida Waterworks meeting. There were 20 or so individuals there that represented more than 20 utilities; and I asked a question, knowing that I was coming today, how many of you all represent utilities or work for utilities where you have had overearnings situation in the last 10 years?

And out of those 20 people there, there was one person who had represented multiple utility systems. And one of those systems in the past 10 years had had a PSC finding of overearning. Out of all the hundreds, if not thousands, whatever number it is of utilities you have out there that you regulate - and
many of whom were represented in that room, because there are several lawyers that represented multiple clients, there was only that one instance.

So it seems like this rule unnecessarily complicates a situation. And I have reiterated over and over again that the method proposed in the rule constitutes a netting. And I know it can very easily be said, if that's not proposed in the rule, what's proposed in the rule is filing the information only.

But I guess that's one thing where we'd like to hear -- I mean, we know what staff's proposal is, what they would do with this information, and that would be to net. And that's really what we are addressing, and that's what we are most concerned about; you know, particularly, because I just want to reiterate, you know, the statute certainly seems to have the purpose of mitigating the need for rate increases. And that's certainly the way we use the statute. And we have looked at a total company and not come in piecemeal with only the increases. And we think that if the methodology, which might not be set forth in rule, but which is being proposed is adopted, that all that can happen is we would see additional needs for rate filings in the future.

COMMISSIONER CLARK: Mr. Armstrong, where are

## you in the rule?

MR. ARMSTRONG: Excuse me?
COMMISSIONER CLARK: Where is this requirement in the rule that you're concerned about?

MR. ARMSTRONG: Just the filling of the three historic years?

COMMISSIONER CLARK: Right. Where is that?
MR. ARMSTRONG: Okay.
COMMISSIONER CLARK: I see it. It's (1)(a) -30.425.

MR. ARMSTRONG: Yes. (1) (a) - 25-30.425(1)(a).
COMMISSIONER CLARK: And because it's your view that there is no doubt what we intend to do with it, this rule is in error -- you have no doubt that there is going to be a netting; therefore, we have no authority to do it?

MR. ARMSTRONG: Well, I can't say there is no doubt; but I don't want to -- Commissioners, we want to get on the record what our concerns were, because, obviously, we don't want it to be said later on, you didn't prepare, you didn't have any comments about the rule.

COMMISSIONER CLARK: Okay.
COMMISSIONER DEASON: Let me ask Mr. Armstrong a question.

The example that you gave, I take it that those changes in purchase water cost that the utility chose not to implement any of those pass-throughs until the last year; and then it would be limited to the difference between the 1.25 and the 1.15 , and that would be added to the original 1.00 that was -- I guess when rates were set?

MR. ARMSTRONG: Right.
COMMISSIONER DEASON: Okay. But, obviously, you would have the ability to do it year-by-year if you so chose; is that correct?

MR. ARMSTRONG: Yes, Commissioner.
CONMISSIONER DEASON: Okay. Let me ask you this, if you had done it the first year, you would have been entitled to a 20 cent increase, correct? MR. ARMSTRONG: Yes. Under my hypothetical, sure.

COMMISSIONER DEASON: All right. And then the next year, there was a decrease, but there would have been no requirement to pass that through, unless there were overearnings; is that right?

MR. ARMSTRONG: Right.
COMMISSIONER DEASON: Okay. And then in the last year, when it goes to 1.25 , what are you entitled to there, the difference between 1.25 and

### 1.15, or the difference between 1.25 and 1.20 ? <br> MR. ARMSTRONG: If the company were filing in

## year three?

COMMISSIONER DEASON: Yes.
MR. ARMSTRONG: Well, I know what we would do, which is we would take the 1.20 and the 1.25 .

COMMISSIONER DEASON: So that you would add that, being a delta of five, and you would add it to your 1.20 to come up to 1.25 ?

MR. ARMSTRONG: Right.
COMMISSIONER DEASON: But is it possible that someone could request the difference between 1.25 and 1.15 for a delta of 10 , and then add that to 1.20 to get a rate of 1.30?

MR. ARMSTRONG: I -- I know it's possible. I
know it's possible.
COMMISSIONER DEASON: But you would agree that that really is -- you would agree that that's really not necessary, that's not - you just want to be made whole, correct?

MR. ARMSTRONG: Yeah. That's what this company wants, is to be made whole.

We are picking out one category -- and that's the point, too, I guess. We are picking out one category of expense. And what we do is, we do try to
look at total company before you even make that filing.

Our concern is, if we do say that the company is subject to a detriment, if you don't file each time you have a pass-through, then it -- what does it do, it causes you to file more of those pass-throughs; or it causes you -- if you do delay, because you don't want to see rates fluctuating year-to-year-to-year, and you do delay, then when you come in later on, you're facing -- you won't come in with the pass-throughs, you want the full blown rate case, because you would be facing this netting without any recognition of an increase.

By that, I mean, our existing rate under my hypo would be $\$ 1.25$. If we followed the pass-through way, it's -- we are contemplating what your Public Counsel is indicating in their concept they would like to see it. We would only recover $\$ 1.05$, so that mitigates towards filing a full blown rate case.

COMMISSIONER DEASON: Let me ask staff, I know that the rule right now is just to get information; but what are we going to do with that information and what's the problem we are going to cure with that information?

MR. SHAFER: Commissioners, the cure that we
were looking for is the example that you stated just a moment ago, where the utility could possibly wind up with the $\$ 1.30$ in their rates rather than $\$ 1.25$.

All we are trying to do is make sure that there is not a double recovery going on, because of a decrease that was not passed through, followed by a subsequent increase that did not take that decrease into account. Mr. Azmstrong's indicated that his company wouldn't do that. I'm happy to hear that. I am not comforted that the remainder of the industry would not be in that position.

And in addition, you know, I certainly can appreciate the total company picture approach. However, the statute limits us on these pass-through items to two or three specific categories of expenses. That's what we are directed by the statute to look at, and that was the focus of our concern.

Again, the Commission made a decision in the series of Pasco County cases indicating that we would look at earnings before implementing a pass-through decrease. While that seemed like a very straightforward concept, when it came to application for the particular utilities involved in those cases, what it resulted in was, rather than simplification, it added a layer of complexity.

We have always based these index and pass-through calculations on the most current annual report on file by the utilities. When it became clear that the earnings issue was going to be considered, suddenly the utilities involved in that case -- or at least several of them -- claimed that the annual report was not reflective of their earnings picture, and that we shouldn't be using that as a basis, and we were provided with additional information that required additional staff time to evaluate.

The rule, at least this portion of the rule, was formulated as a way to try to avoid that particular circumstance in the future. And --

COMMISSIONER DEASON: Well, is this an attempt to bypass the requirement that there be an earnings test?

MR. SHAFER: I suppose you could look at it in that way. It wasn't our intent to bypass the Commission's judgment in that situation, but simply to try to make the effective of that decision more simple to deal with.

COMMISSIONER DEASON: And is it your -- I am sorry, go ahead.

MR. SHAFER: So it wouldn't be our intent to
ever actually reduce the utilities' rates without that being the desired end on their part. In other words, if we looked at the situation and because there had been a decrease in one of the prior years that offset the increase, and created a situation where the rate would be reduced, we have always provided the opportunity to the utility to withdraw their application under those circumstances, so that, at least, they did not have to experience a rate decrease.

COMMISSIONER DEASON: Well, I mean, is it -with the utilization of this additional information, would it be your intent or staff's intent in the example that Mr. Armstrong gave to limit the company to $\$ 1.05$ or to make sure that they don't get more than \$1.25?

MR. SHAFER: The intent would be to make sure that they didn't get more than $\$ 1.25$.

COMMISSIONER DEASON: Mr. Armstrong, you would not have a problem with that, is that correct, if that's the intent?

MR. ARMSTRONG: No. If that's the intent, no. Obviously, that's what we see as what should happen to that statute is to try to get to the 1.25 without a full blown rate case.

MR. SHAFER: Let me clarify that to a certain extent, and that is that staff has always operated from the presumption that the utility will file for the increases. That's not something that we have to 90 and drum up business for them to do. And I have to wonder if we aren't overstepping our statutory confines if we wers to try to go back and make up for a series of increases that the utility had not previously requested.

COMMISSIONER DEASON: So that you are saying that maybe you would 1 imit to that $\$ 1.05$, then?

MR. SHAFER: It's possible, I mean --
COMMISSIONER DEASON: Okay. Well --
MR. SHAFER: -- I haven't considered the legality of that. I believe that the statute, in some ways, limits us to the changes that occur within a 12 -month period.

COMMISSIONER DEASON: But then -- but that's -but when you go back and consider the reduction that took place the year before, that's outside the 12-month priod.

MR. SHAFER: Yes, it is.
COMMISSIONER DEASON: So - okay. So their argument could be that you are not being symmetrical in the sense that, if you want to go back to a prior
period, it's only decreases, you don't look at increases in prior periods.

MR. SHAFER: I think that argument could be made. And what I wuld suggest to you is that the utilities' control the application for these events. And generally speaking, we don't initiate rate increases when the utility hasn't requested them.

And, you know, I would be reluctant, I guess would be the best description, to incorporate increases in this mechanism that hadn't been previously requested.

COMMISSIONER DEASON: Well, by this, are we basically, then, encouraging utilities to file every year, even though they may not find it necessary, but just to avoid the penalty of having a decrease offset against increases that weren't asked for? Every time there is an increase, they are going to ask every year. That's just guaranteed.

MR. SHAFER: It wouldn't -- it is not staff's intent to put the utilities in a position of getting a decrease below what the actual cost is in the rate. And should that situation arise, I belleve that we would most certainly bring it to the Commission's attention and to the utility's attention in an effort to determine what would be the best way to resolve
it.
Now, we have used this like provision since, I believe, 1986, in relation to the ad valorem tax pass-through. And, to my knowledge, there hasn't been any great concern about its application as it relates to that particular expense.

CHAIRMAN JOHNSON: Any other questions, Commissioners?

Mr. Armstrong, do you have additional information?

MR. ARMSTRONG: No. Just the regular -- the company wouldn't -- I wasn't aware of that, and the company representatives I spoke with weren't aware of that, this kind of thing, this offsetting going on with the taxes. And we would have the same concerns. I think it's the same situation.

CHAIRMAN JOHNSON: Okay. Anything else from Mr. -- is that it for the company then?

MR. FEIL: Yes, ma'am.
MR. ARMSTRONG: Yes, thank you.
CHAIRMAN JOHNSON: Okay.
MR. BURGESS: Commissioners --
CHAIRMAN JOHNSON: Public Counsel.
MR, BURGESS: The language in the statute, of course, is just talking about additional information
that's going to be required. And the rest is inferential in anticipation of what the Commission is going to do with it, which the Commission would do as it applies the rule that's implemented.

I will tell you our concern with the way the rule is right now, and it basically tracks the concerns staff has, which is, let's say, in year one, you have a reduction of 20 ; and in year two, you have an increase of 20 from the previous reduced level. So that the expense level is back where you started, net gain of zero.

My understanding is that a utility could choose not to come in in year one, has total autonomy over that decision, and then come in in year two and get an increase of 20 in the second year; thus paying -requiring customers to pay 120 in the second year for an expense that's 100 . That's our concern.

Those areas that Mr. Armstrong raised, I agree with them. I don't think that it should be a situation where a utility has a jeopardy based on adding one or subtracting one decrease and failing to recognize that that's been offset. And I don't want to get into the situation where we encourage companies to come in for a pass-through when they otherwise wouldn't, simply to protect themselves from
the whipsaw that works only one way.
I am not sure -- I didn't follow all the specifics of Mr. Armstrong's various examples, but I do think, though, that you would not -- you are limited by the amount of increase in any one -- in any one year. In other words, if the first year that a utility comes in and is, for a pass-through, is the third year and that increase for that year is a five, for example, that's the most the utility will be able to get as increased, simply because the statute says that it shall not -- the utility may not use this procedure to increase its rates as a result of -- et cetera, et cetera -- more than once which increase was initiated more than 12 months before the filing by the ulility.

So it's limited by what happens as far as an increase by what happens in the last year. But I think for the most part, from what I am hearing staff saying and from what Mr. Armstrong says and from what my position is, it's pretty much the same thing as an issue of fairness with some limitaticas being as a result of you cannot implement a -- it says specifically an increase based on something that's occurred more than 12 months prior.

And so I don't -- I don't know that this
language causes the problem that Mr. Armstrong expresses. It's a problem that -- I think he raises an equity issue. I think we raise a legitimate equity issue. And that is, we don't want companies -- perhaps Mr. Armstrong's companies would not, but we are concerned if the law allows a company to come in in year two for an increase after ignoring a decrease in year one, we think the decrease should be offset, should offset the increase. And we think the statute allows for that, because in a previous position in the same -- in the same subsection it says, the new rates authorized shall reflect the amount of change in the ad valorem taxes, et cetera.

So 1 think -- I quess it depends on what the Commission does when it gets this information. But the rule, itself, is simply a matter of garnering information that's necessary to make an equitable decision.

CHAIRMAN JOHNSON: Any other questions, Commissioners?

COMMISSIONER JACOBS: This information -- I guess I would have a question for Public Counsel. MR. BURGESS: Uh-huh.
COMMISSIONER JACOBS: Would - would the three years, then, it would identify that conduct where you
would have the reduction in one year and the increase in the next year, the offset, but yet we only have a filing for the one year. If we saw that, what would happen if the -- if the reduction was higher than the increase.

MR. BURGESS: If the reduction were higher than the increase, I would suggest, if a company files that, and as staff indicated, the company has been liberally given the opportunity to withdraw filings as they so choose. But it would seem to me that the proper approach for that particular potential pass-through expense item would be if a previous year's decrease is greater than current year's increase, that that decrease -- that the net decrease would be implemented, but for, I glass, there is an earnings test associated that would limit it. But I would suggest if a company chooses to come in, that, yeah, that would be imposed. It's the company's choice.

Now, let me go back to one of what -- 11ke for instance, if there were a first year's decrease and the company ignored that, and then there is a second year's increase that were greate than the first year's decrease and the company ignored that, and then came in for a third year's increase and were
seeking only that. I don't -- I am not looking to go back before the intervening year, ignore the intervening year and capture the entirety of the offset that would take place from either one.

COMMISSIONER JACOBS: Okay.
MR. BURGESS: I realize that's none -- none of that's in the rule, though. The rule just contemplates the gathering of information.

MS. MOORE: Commissioners, I would suggest that -- at least, with the rule that would give us the information to determine the extent of the problem and whether -- I don't even know if we know how often there are decreases. Anc $I$ believe the rule would at least give us the information to determine what is happening, and it would be the Commission that would make the decision on whether there is actually an offset if the company disagreed with staff that there ought to be.

MR. CASEY: In practicality, when a utility files for an index in pass-through, if we see that there should be a netting, we go back to the company and say, this is what we have calculated, in which is the netting. If they don't agree with that, we would come to the Commission. That's in our SOPs.

CHAIRMAN JOHNSON: Mr. Armstrong.

MR. ARMSTRONG: Yes. Commissioners, I quess -I guess -- and it sounds like we'd all be of the opinion that the statute is there -- in a perfec world, the statute is there with the intent of getting you to the current purchase water cost. And that seems to be what everybody would agree to. That's what the purpose of this statute is.

The question is, if you -- if you pass this rule and the companies don't know what you intend to do with the information, then you put a company at its peril to go through the whole cost and effort of putting together a pass-through filing, and then coming in and finding out subsequently and possibly to its detriment. And I believe if it was detrimental, you would end up in appeals and everything else that none of us want to see.

So : mean, if we are going to have this kind of a rule, I think it would be best for everybody if we said what the purpose and what the procedure would be for the Commission upon this information being filed, particularly because I think we are along the same lines that the intent is really to get us to the current cost; not exceed it, but to get there.

So, you know, we certainly, as a company, prefer to see a rule that lays it out. File this
information. You are not being permitted to exceed your current cost and have a rate that exceeds your current cost, but the intent is to get you there.

COMMISSIONER DEASON: What we want to ensure is that the rate of recovery does not exceed the actual cost.

MR. ARMSTRONG: Right. Right.
COMMISSIONER DEASON: You think that that stated purpose should be stated in the rule, so the companies would know what -- the purpose of the information and how it's to be used?

MR. ARMSTRONG: You know, it would be helpful not only if that's stated, because I think that's the correct assumption is that, you know, we should get you to the cost; but I guess the process of how we get to that point.

COMMISSIONER DEASON: Do you have any proposed language that would accomplish that?

MR. ARMSTRONG: I wish I did, Commissioner. I don't. I am sure we could --

MR. SHAFER: Commissioners, I would only respond to that to the extent that as Mr. Burgess pointed out, we are limited to the incremental change that occurs within a 12 -month period. So --

COMMISSIONER DEASON: Yeah. I think the idea is
not to guarantee that you would get full recovery, but the guarantee is that you would not be -- that they would not get more than their recovery.

MR. SHAFER: Correct.
COMMISSIONER DEASON: That they wouldn't be able to go back and make up for prior years for whatever reason they decided to forgo.

MR. SHAFER: Right. And certainly, staff would not have a problem with that intent being in the rule. And one of the ways that we would be able to evaluate that would be to have the information on hand.

You know, certainly, it's not our intent to reduce rates willy-nilly, but simply to hake sure that no more cost is in the rate than the cost being incurred.

MR. ARMSTRONG: And just to be very clear, my hypothetical, that's why it's there obviously. It's just to say what we would hope is that you end up with, under my hypothetical, $\$ 1.10$. You start out at $\$ 1.00$, you end up at $\$ 1.10$, as opposed to then being netted out solely with the decrease vhere you end up at $\$ 1.05$.

I think that's a bit of a demonstration. Thet's what we dealt with. It probably would take a
statutory change to get up to $\$ 1.25$. Although, I think we all would agree that that's probably the best place to be to avoid full blown rate cases.

COMMISSIONER DEASON: But that's a limitation within the statute.

MR. ARMSTRONG: Right. So we short-change that, right?

MR. SHAFER: And I would argue, Commissioners, that the vehicle for accommodating a number of years at one time might be a limited proceeding.

I think the Commission has done that in the past with these types of items, so --

COMMISSIONER DEASON: Are we at a stage where we could entertain or get language that would $k i n d$ of accomplish what we have discussed here on a philosophical basis? What stage are we at here?

MS. MOORE: Just the hearing part, there would still be posthearing filings, and there would still be a staff recommendation and agenda.

COMMISSIONER DEASON: The parties have been free in a posthearing filing to propose language?

MS. MOORE: Correct.
CHAIRMAN JOHNSON: Then I understand that Mr. Armstrong will probably be doing something, and then staff could review it, and then you would make a
filing to us for the rule that should be adopted?
MS. MOORE: Yes.
MR. ARMSTRONG: Yes.
MR. SHAFER: Yes. We will be happy to work with
Mr. Armstrong to get some language that's agreeable.
CHAIRMAN JOHNSON: Okay. And Public Counsel would have the opportunity to participate and respond?

MR. SHAFER: Yes.
CHAIRMAN JOHNSON: Very good.
Is there anything else, then?
What do we need -- we don't vote anything out? We just conclude the hearing, and then $y^{\prime}$ all come back with recommendations?

MS. MOORE: That's correct. Posthearing filings will be due January 13 th, and $I$ understand the transcript will be ready next Friday. So, that's it.

CHAIRMAN JOHNSON: Anything else to come before the Commission this afternoon?

Seeing none, thank you. This hearing is adjourned.

MR. BURGESS: Thank you, Commissioners.
MR. ARMSTRONG: Thank you, commissioners.
(Whereupon, the proceedings were concluded at
2:20 p.m.)

## TRANSCRIPT CERTIFICATE

STATE OF FLORIDA ,
COUNTY OF LEON )
I, DEBRA R. KRICK, Court Reporter, hereby certify that the foregoing transcript was taken down as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction;

That the foregoing pages 3 through 35 represent a true, correct, and complete transcript of the evidence given upon said hearing;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am In anywise interested in the result of said case.

Dated this 17th day of December, 1998.

$$
\begin{aligned}
& \text { DEBRA R. KRICK } \\
& \text { Court Reporter and Notary Public } \\
& \text { State of Florida at Large }
\end{aligned}
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RULE HEARING / 12/11/98 / IN RE: 25-30.420, F.A.C., AND 25-30.425, F.A.C.


RULE HEARING / 12/11/98 / IN RE: 25-30.420, F.A.C., AND 25-30.425, F.A.C.

|  | 6 |  |  |
| :---: | :---: | :---: | :---: |
| 1 | 23. atoore: No. We belleve we can start whth | 1 | Incresaes. Theraty, miligating rate case espones, |
| 2 | the staff prosenting a very short summary of tive | 2 | thereby miltigating quite a few thinge that |
| 2 | ruie, and then perhape the pertictpanta can de thatr | 2 | Jweuhably ahould be miligated at alll coet. Dtaff |
| 4 | presentationa. | 4 | oflort, sempaty affort, cent, ot eetora, ot seters. |
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| 7 | no need to swatr anyone in. Tars wajoet be | 1 | revulta in what ceuld be percoived as a boeplt te a |
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|  | 3s. HOCRE: We hollewe thate outhelent. | $\bigcirc$ |  |
| 10 |  | 40 | out that thers are many, many hypotheticale that |
| 11 | stafl overilow. | 11 | wevid te - exacty cenflict whth the bypothetical |
| 12 | MR. CASFY: The amendinente to Hule $25-30 \cdot 436$, | 12 | preeseted to you and the stall presentation. |
| 11 | the priee index ruls, codily requiremerte for the | 18 | One of these liypotheticals that I can present |
| 4 | Agancy to mall ooples of the order setabilishing the | 14 | Wheout using numbers, end thars what I weuld tike |
| 15 | annual priee index to eweh uthity spenilioe what | 14 | te do, or two without vaing numbers; and then glve |
| 14 | the indes will be applled ta, and what the Ageney | 48 | pev a demonstration of a hypothetical thet uses |
| 17 | will conalder is establaking the index, requirse the | 17 | numbers. |
| 14 | utily to furmiah ldenefication and pemit eumbers; | 14 | The firat axample woule be a sltuation whers, |
| 15 | and requires the utsity to heves eertals annual | 5 | Bres yoers age, thare was an incroase in purchase |
| 20 | ropert on Nio betore notifing the Aguney of a potee | 20 | water ceat. Teo ysarn cge, thers wes a docrsese in |
| 21 | indea incroses. | 21 | purchase water ceet. The yeer - 8 year aga, thond |
| 22 | Sume changes were alse made to reepeed to | 22 | wes no dsorvase or no lincreste. And twen in the |
| 13 | come ate made ty the dAPC. The amandinenta to Rude | 23 | present yoer, the sulury experiences another |
| 24 | 25-30.435, which is the paes-through nile, repulis | 24 | incresee in purchase weter cost. |
| 25 | adduional information from an utility, update the | 25 | Under the staff axample, the stall scenario has |
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| 1 | rule ta rofiect changee to the liver limplempeted, and | 1 | propoeed in a nide what mee movid see is that you lioed |
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| 5 | the axieting lengubye has not bese the sutioct of a | t | Inersese that eccurned three years ags, abselivtely |
| 6 | siaputa. | 4 | İpnore 8 . |
| 7 | CHANMAN JONNSSOE: Otay. | 7 | Another aituatlos might be whars, thrse yoars |
| * | Mas. MOOREL: There was net a statement of | 0 | aps, there was a decrease in a purshase water cest. |
| $\stackrel{1}{ }$ | estimated regulatory cost prepared, ee there le ne | 0 | Follow a year later, which mould be two paare ago, by |
| 10 | need to glve a surmmary of ic. The reseon ill wes not | 10 | an incresse. A your age, nothing happene. Be you |
| 1 | proparad ie thers lis no antlclpated slgnitheant | 11 | have a desrsese, Eier aq increses, then notiking. And |
| 12 | increase or linpett; and, therolore, a statiomest it | 12 | then you heve as insrsase this yeer in a purshase |
| 11 | not requirsed. | 13 | water eset. So the vempany flet a pase-tirevgh. |
| 14 |  | 14 | Under the propoesd mathod lo be uesed hy statt, |
| 15 | netad for the recort. | 16 | you nowld lignore the incrsase that happenet two jears |
| 54 | Then are ne prupared te ge te the portiee? | 4 | agn hut you could jump baek and ge to the decreses |
| 17 | Hs, moont: Yes. | 57 | that eneurred Sirse yoars apo, and use that as an |
| 18 |  | 18 | eftost to the eurrsent change in ratee thary propeeed |
| 15 | tek, Anastrowar Thank yes Mndeme Chats. | 13 | fin the wey ef a pees-through. |
| 20 | Fharide Wetar hae evverst eonsments regerdling the | 20 | How, caling seme numbers to glve pame numbery |
| 21 | proposal as il ratatea to the pasethrough provielin. | 21 | that we can work wher, and stalt hed provited on9 |
| 22 |  | 22 | sasmple in their prosentation. Butit ine heve o reta |
| 23 |  | 23 | case fint ebeurs tivee yeirs age - - and a rate has |
| 24 | would dispute that the purpees of ithe pase-through | 24 | eatabliahed a purshape water of 51.00 per thousand |
| 28 | provieion ie to mitigute the need for hill blows rate | 23 | gallses, 60y. And than the next year, me heve an |

Ineveses in porchase weter sest up to 51.20 per thousand gallons. The nosat your, thers la a detroase that hnocka the purchase water copt down from 81.20 to 51.58. The nast your, there is an inorseen, and we go heek ep to 31.25.

If undar the otwdis mathodology, as uted and as required ty the station, at loast under ewrrent trinkling, is the utility mould go in and tie a pase-trrough for purchase water cept that in equal to the dolla between the 51.25 eumset coet and the soest of a your age, which, under ay saumple, weuld have been $\mathbf{5 1 . 5 6}$. So there is a dolits there of $\mathbf{5 0}$ esins. And thate what we iopot to mecovec. Current eept outhortsed in that rate caee was 51.06 . We wovid add 10 senta to il, and and wp with 81.19 per Theuband gallons.

What ateff le propoeing here - what is raportad by the Ompe of Puble Ceunsal - is that we look at the dolla from the proesot rate of $\$ 1.28$, we loet at whot the rate mas when it wes a decreese down to $\mathbf{5 1 . 5 8}$, and ve have a 10 cent delta. Mewever, they slao would take another stap and po bech anether yoar * an thers was a decreses frem 51.20 deve to \$1.15 and sey we have got to taha arivy another as coeda. So inateed of a 10 cent dolta, we oolly here a five

Benefta. The one I would aleo show reu, the examples, we had utilelee sufforting under the current eltuation.

We bellieve -
CNARMAN JOBOCSON: ME. Anmatrong.
AR. ARMSTRONO: Yea.
CHABMAN JONeNSON: The example that you just provided, is that in here anywhere?

起. Alasstnowa: Me, Ire net. iry not in the pre-fiad comments.

CWNRUWH JONENON: Otwy, I didnt - ehary.
Are we golng to heve --
atar arasstmong: I wleh il had been. We can get that to you.

MR. ARMSTMONG: Surs, we can prosent that.
But, agala = and, yeu know, I guesa me juet mant to reftarate every point we can regartling. you know, the atatives, the Cenetlusben of the Unitad Statos, the Conecthation of Fiorida requlre a fair and aquilabla troetment to the cuatomers and the company. And what we percelve at a - is a centlguece rotranching te the point of what can ocever that heepe ratae so low as posallie asd ean benaft cuatomare through these fowser rates.
cont delta.
Now, ev a prseticel matter, you apply that five centa to the axiethy rate ease avthortaed charge of $\$ 1.00$, and you come out whith \$1.05. Under the typothetical, the current ooet por theveand galloes is $\$ 1.28$. The utility is ashing for $\mathbf{5 1 . 5 6}$. Bo they are net evsa asaling for hall recevary of the surnsest coat. But what the otafl is propesing, and what OPC would proposes, te that the sempeny onily be permitiad to reeover 11.04.

Now, I nupgest that le just as real a domenatration - and I woeld think owen mere Elaty to oceur than the peseentation and the frppobetteat presented by stall.

And one thing 1 dild diseves Juet brlaly and just befors the hesring started today, and that is Juat a cencept of, we mould hope that mhen as these nle-makliges - that etvieusly thers are advesales hers, and I am one of then, the congsany he ene of them on otivioualy, Publle Ceunpal hae thelr role of advocates - but what we wevid hepe te see le more of what a atall prasents right up froet to a Comentesion and overybody tae examples, two hypethaticals that ars very asslly desertesd as what I dild hers, whers not only do you see the one sazmple whers the sullty

In the statuta.
This ralatse te Fieride Water, I ens net sure hove many ocher vanties. But, you hnew, we do have a bending polng on with Fiorlda Weter, tanding in the rate structars. And that magniflea tha probdem thet we soe if there le ta be thie notting of docresess only, bucawae under that handing = and we actualy sapertenced this asvoral yours ago nhes wo had unilform rates os the esmpany nate out the Incrsases and decresese and mont tila for ary pasisetroughas. undese thers it an manemental nervese.

Woil, II - not enty la there a cemplestion with the bande, becaves as the Comentesion sale, we are poing to atry wetein the bande of the pese-troughe - net enty lo thers a cempleation when you are havteg to look at she, seven, hewover many oyatame ars la that bend bot Blers in a forther cemplcation end a Nirther doetimant to velibee such as purs, mbich movid do elat netbing ever a pariod of a bovple of yours, find that thare are decressose, but there are aloo inerseses. But thay besically offent, ars not anough to go in for anoeher ntus neremer.

And thee whes we de moallas - Nit that your whare thare le a signilicant incroses, not liciresee
meny of whom wepre represented in Ehat reom, becavas thers ars severat lawyers that reprosented maltiple cliperte, there wae only that ene inatance.

So it seams the thle nde stanecessarlly cemplleates a situetion. And I have raiberated over and ever agaln that the mothod propoeted in the nale conethtutas a natting. And I hnew it cas vory saslly be salt, if thar's net propeesed in the rule, wharis propesed is the rule ie Aling tis information enly.

But I gussa tharts one thing ehiere widd las to hear $=1$ mean, we lincer what statry propesel is. what they wuvid do meth thia infoematlon, and that would be to set. Ans thatrs roall what we ers addreesing, and thars what we are meet cencerned obeut you knew, particularly, because I/vat want to eolterate, you knew, the atatude certalinly seemes fo Nave the purpeee of malligating the seed for rate insresees. And that? certalinly Tee way we wes the atatite. And wie heve loolied at a total cempany and not come in piscomeal wth eoly the lincroseses. And we thinh that if the methodology, which might not be oet forth in nala, but whieh is beling propoesed is adopted, that all that saen happes is we wovid see elsitienal neede for mite fininge is tha fiture.


In the rates, all of a suddan what we ars goling to do Is go back and find these places whers, prior to thet time, we hed eetiod, and it wes lealgnificent to diflortence. But we are going to go bock and plek out He decrsases. And me are goling to plat oot thoes decreases under wharls being prepoeed at thle polat, and end up being hurt.

Now, I thinh the hey, and what we tried le asy - and I think the Cownolaalon acknowladged back in the Pasco County siltuation, at leset as to the Fionide Water and several othar utbibes of is that the key is overserning. is the utiaty oversaming? Juet - I guess it whe Wednsedicy of this woek, you knew, I was at a Florida Waternorts meetheg There eere 20 or se individuale thers that rspeseseted mers Blan 22 uentios: and I ashed a queption, knowing that I was coming todey, hour meney ef yoe all represent uthilles or work for utilitee where yeu have had overtarninge sthuallon in the laat 10 yeare?

And eut ef these te peeple thers, thare was ane person whe had rogeseented mulbjipe selity systema. And ene of those bystoma ins the poat 50 yeers hay hod a PaC Ansing of eversarning. Out of all the hundreds, if not thevesands, whatever number is ie of vtiabes you have out thare that yoe megulate - and
you in the nale?
MR. ARMETHONG: Recvee me?
COwsessiONeR CLANK: Whers ie enis requirement
In the nile that you're sencerned about?
MR. ARasThOwO: Juat the filing of the thres
Natipria yoars?
CONtass sionen CLARX: Right. Where is that? MR. ARAESTMONO: Onay.
 34.421

MR ARMSTRONO: Yes. $\left.\left.(1 /)_{a}\right)-28-30.42(1) K a\right)$ COMnNSENONER CLARK! And becawse it's your vowa that there ia no deubt what we intend to de with il. thie nila le in error - yoe heve no donibt that there is poling tis be a netting: therefors, we have ne sueherly to de ht

MR. ARMs TRONO: Woll, I cant say thars is no doubt buit I dent want to = Cemmiseloners, we want te get on the reeerd what eur sencerne wers, becsuse, olvilowaly, me don't want in to le sald latar en, you Eldel propers, you A.En' have any comementa sbout the nile.

COwasemonen CLABK: Onay.
Conasissiover peasoit: Lat ma mel htr. Annatrong a evestor.

The example Hat poo geve, I take is that thoee changes in purthase enter ceet puat Be tulaty chese not to linglement any of those pase-tereoghe unsil the leat your, and manit wovid te fintad to the ciflorenes botroen the 1.38 ond the 1.58 , and got woved be added to Ele arifinal 1.20 llat wee -1 guese nteen ntes wers sect?
mich newsthowar Rive.
comessioner peasout Otay. But, ebvioubly, you mond heve the atility to do in yourdy your If you en ahoess is that eoneret?
we Alusthowar Yes, Commiteplesar.
COMABBONER DEABON: Oty. Let me sok you elis, If you had done $\frac{8}{}$ the fient yoer, yous would heve been smblesd te a 20 eant incrvesh, cerreet?
 surs.

COmenssiontr peasont All ridic. Ads then the next year, there was a decreses, lot thers would have been ne roqulrement to pees that Elvough, unises thore wore oversaminges le that righat

Mit amestmona: righ
Cotensoioner peasowt Okay. And than in the lest yoer, whea h goes to 1.25 , what tre you entitied to thers, the difference betwees 1.25 and
loek at tetal sempany bolore yev even mabe that Ring.

Our coneers is, if we fo sty that the sompery is oubject to a dethenent, II you dent Hig oach Eme pou heve a pese-Vrrough Bipe it - what dees it \&o. E cesses you to file mere of these pras-hrougha; or
 wat to see rates fuctuabng your-to your-to yeer, and your do deley, then when you tome in leler on, reutre foeing - yos event eome in with the paee-troughs, yew want the full thoen rote case. because you would be freling thie noteling withoot ting recegnition of an increses.

By that, I mean, our exinting ricle under my Mype wovid be 51.2s. If me followed the pees-frrough woy, $\mathrm{Fr}=\mathrm{m}$ wa ars coetimplating what your Rable Cevensel is indieating in thetr cencopt they wovid the to see R. We would only recover \$1.84, se that mitigates towards filing a hall blown rate case.

COABMssionite DEASON: Let me aph stafl, I knew that the rule right now le juet to get information; Ivf what are we poing to do whin Rhat informatien and what's the probleen we ars going te curs weth that information?

AR BMAFER: Cemmiesioners, the cury that we
1.15, or the diflergnce betepen 1.25 and 1.207
 yeer three? conabsionet ceasone Yos.
MR ARABTMOWG: Weil, I know what wo weold de, which is we would tate the 1.20 and the 1.25. COEsunssionsR Deasow So that you mondd add
Hat, beling a delta of five, and yoe mould add it to your 1.30 to ceme up to 1.23 ?

MEL ARMsTHONO: Right.
Cownssionen DeLeOit But is in poeslele that someone coold request the citiorense botresen 1.25 and 4. 5 IS for a della of 50 , and thes awd that to 1.29 to put a rete ef 4.307

URE ARAEsTMONO: I - I hapw ITre posallie. I knew K\%s peseltis.
 that meally te - you wowid agose thet thars masly not naseseary, thary not - you just want fo le made mhele, eemeet?
 wants, le te be mate whele.

Whe are pleking evt ane ealagery - and tharr the polot, toe, I goese. We are plabing out one category of expenee. And mhat me do is, te do try to
ware looking for he the usample that yow stated just a mombent sge, where the utility could peesilly wind up whth the 81.30 in thatr rates rather than $\$ 1.38$

All we are trying te de le make surs that thers is not s doutie resovary golne on, besause ef a decrsase that was sel pesesed through, Ietloved try a subsetwent inereses that Eld net take that dacresse Inte aceoonc. Mtr. Armetrong's inelieated that Nis eompany wovidn'l de that. Tme haper to hear tha: I tes not coemforted that the remalnder of the induetry would not be la that peeltion.

And in adeition, pee knem, I sertainly ean appresiate ine total sempeny pielure spproeek. Nowover, the statute timbe we sa these pese-trrouph Beme fo tove er throe specine sategerles of erpenepe. Thare metat we ars flroeted ly the atahats to look at, and that was the loeve of our cenesm.

Agele, The Cenvelesion made o decleloe in The
 Jeet at sansinga hatore ingplamanthey o pees-Wreogh decroses. While that seesmed line s vary strilgheformard semesp, whea in came to spefleolioe far The particelar acerties linvolowe in these sases. what it rosulted in mos, rother than sheqeilieatisen. il abjed a layer of eeseplesily.

|  | 21 |  | 23 |
| :---: | :---: | :---: | :---: |
| 1 | Wo heve akwoys heoed theee Indar and | 1 | uit swurer: Lat me cherty tuat te a cortain |
| 2 | pese-errough caloulatione oe the meet current annual | 1 | eatemt, and that is that atafl has alwayy eporated |
| 3 | report on file by the selmbis. When in became | 2 | from Sep prosumgles that the setity mell tis for |
| 4 | cleer that the nominge levos wes goleg to be | 4 | the inerseses. Thars not something that we heve to |
| 1 | conaldered, suddenly the utililee levelead la thet | 1 | ee and drum ue tualinese for them to do. And I Mave |
| 6 | case - or at least sevord of them - clatined that | 1 | to monder if we arunt everstopping our statutory |
| $\dagger$ | the anmual ropert was net raheotve of Ehalr | 7 | conilines if we wers te try te ge eack and make up for |
| 8 | cerninge ploturs, and that we ahowidert be using thot | 1 | a seriee of increseses that the velity hed not |
| 5 | as a beole, and we wore provided with sderibeal | 1 | previously requeeted. |
| 10 | Intormation thet required additeoal staff time to | 10 | COushssioner Deasone: So that you ars smying |
| 11 | evaluate. | 11 | that meyte you mould fimit to that \$1.08, then? |
| 12 | The rule, at laset this pertion of the nils, wes | 12 | Me. suarte: Ire poesois, I mean - |
| 13 | formalated as a way to try to avold that partieular | 13 | COwnissioner deasow Oeay. Woll - |
| 14 | circumatance in the fiturs. And - | 14 | un suare: -1 hevent eeneldersd ese |
| 45 |  | 18 | legatity of that. I belleve that the atabits, in |
| 15 | to lypase the requlnement that thers be en euminge | 14 | some wepk, limite we to the changes that oecwt whthin |
| 17 | teet? | 17 | - 12 -month perlod. |
| 18 | AR. surte: Isuppoes yos covid foek at in in | 18 | COEAR3*ONEN DEABON: But then - but thars - |
| 11 | that wiy. t waset eur lntant to bypase the | 13 | Dut whas yee ge bach and consider the redvetes bat |
| 20 | Comesaaloe's /ujement in that oltaabes, hit alimply | 20 | toel plase the year belore, thary evtaide the |
| 21 | to try to maka the offiectlve of that desiolon more | 21 | 12 -menth perios. |
| 22 | alimple te deal wilk. | 22 | MR. BMAPER: Yes, n is. |
| 23 | COMAMSHONER DEABON: And is it your - I am | 31 | Cownestiones Deascie So-etay. Bo their |
| 24 | somy, ge ahead. | 24 | srgumant ceuld be that you ars not lialing aymmetrical |
| 25 | Hix. SiWFEE: So il woulde't be our intent to | 24 | in the sense that, if yeor wint to go bech to a prior |
|  | 22 |  | 24 |
| 1 | werr actually rodiee the uthlue' rubee nelinent | 1 | peried, ire enly decrsases, you don7 iosh it |
| 2 | that boling the desirsed end on thelr pert. In other | 2 | inerseses in prior pentods. |
| 3 | morte, If we looked at the sthatbies and lectuse | 1 | ME. SHAFER: I think that argument could be |
| 4 | there had been a deereses in one of the peler years | 4 | made. And what I movid suegest to you in that the |
| 4 | that effost the inersese, and orsatod a sthattion | 1 | vtilles' centrol the spplication for thees avanta. |
| 6 | where the rate mould be rudutet, we have alowes | 1 | And generally speaking. (e) dent inlliate rato |
| 7 | provided the eppertundly to the utility to whodriver | 1 | Inersease when the stility heent requested them. |
| 9 | their appleetion under thoee shrsametanses, to that, | 1 | And, you lnow, I movid to reluctant, I puese |
| $\stackrel{ }{ }$ | at heet, they fit not have to experience a rate | $\stackrel{1}{ }$ | would be the beot deveription, to lneerperste |
| 10 | decrsesa. | 4 | therseses in this meshaniten that hadn' tean |
| 11 |  | 11 | previeusly requested. |
| 12 | whit the utitaution of this adensonal Information, | 18 | COnasasionen deasone: Well, by the, are we |
| 13 | would if be your intent ar stalrs lintent in the | 13 | besically, thea, soeevraging seratie to tile every |
| 14 |  | 14 | your, eves dewght they may not find in npeepsery, but |
| 18 | to $\mathbf{5 1 . 0 5}$ or to make sure that they don't gat more | 14 | Just to areld the penally of having a docresee oftest |
| 15 | thas 51.28? | 14 | apsinat Incrasess that warsel askad for? Every time |
| 17 | MEN. SHAFER: The intent weuld be te mahe sare | 17 |  |
| 18 | that they didet pet mpere thas \$1.32. | 48 | reer. Mars juet guarseteed. |
| 18 |  | 15 |  |
| 20 | not have a problees math Bet, la that ebrroct if | 20 | Intent to pot the uturies in a peatuon of peting |
| 21 | thary the intant? | 21 | a deersase betow what the setuat eept is in tie rate. |
| 22 |  | 23 | And ahouid that stuation siles. I bolives thet we |
| 13 | Oevievaly, thars what wes see ae what athecty Mappen | 23 | woeld meot certalety tiveg it te Die Cumantesiony |
| 24 | to enat statuts is te ty te get te the 1.25 whenet | 34 | atlendon and to the sumb's attombes in an stfort |
| 24 | s fall miown rele saes. | 28 | te detarulne what movid be the beet reey le raselve |

2
 beteve, shets, in mataton to the ad valonem tax
 been ang grest censem abeot la applicabion at it revates to that portientor expense.

CRCimani jorentont: Any other questions, Commiosionern?
trich Anstrong, do you have additional Information?
une Alustriowa: Na. Jost the regutar - Be compery wooltet - I watart awers of that, and the company repesentatios I apole wet wernt ewors of that, Wive tind of tilige, this oflowtheng piling en with the tases. And wes nevid hove the same cencerme. I EHint ire the came altuation.
chairuani sownesow: Okay. Angtiling slose frem
Mr. - la that 18 for the eempony than?
MR FELL Yes, marim.
MR ANugTMONO: Yes, thant you.
Chuinaw solensome Olay.
ask Bungess: Conmbalonen -
crusturn sorvisome Pitbe Counsel.
Mr. aunosas: The language in the atitite, of course, is ) unat talaing about adalisenal information

He whiparer that worha enly ane way.
I am not oure - 1 didn't follow all the
apocifice of titr. Ammatrong's varieos examgles. But I
to Hink, theugh, Blat you meedd net on yow are
Peabed by the amount of ineroses in ang one - if
any one year. in other words, if the first yeer that a utility comes in and is, for a pasa-through, is the third your and thet inersase for that yoar is a fires, for azample, thars the moet the sutility will be abie to pot as incraased, simply tesavee the statyts says Ehat a ahat not - the selaty mory not uee this prosedurs fie incresese ha mites as a rasult of - ot setpre, at cetors $\boldsymbol{-}$ mere than ence whioh lecrsase mes inflated mors then $\mathbf{1 2}$ meethe belors ave finng by the atility.

So Ir's llmited by what happens as for as an inereses by whet happeng in the leot year. But I think for the moet part, troen what I am heoring otaff soyling and from whot itr. Anmatrong soje and froen what my posilion la, ifre protly much the same thing as an lesus of fairnees welt some flimitations being as a rosult of you cannot inglement a - in sery apecilically an incroase based en oomeding thare occurred more than 12 monthe prior.

And so I dont - I doat know Blat this
thare goling to be repirvel. And the rost in
 going to do with R, which Ble Conemiosion wovit do se As appliee the nule that's implemanted.

I will tall you our concem with the wxy the rule is right now, and it basicelly tracks the concome atall has, welolh is, lorse asy, in yoar one, you have a roduction of ator and in your tevs, you have an incrases of 25 firem the provious molued level. So that the expense loval le heck whore rou atartad, nut gain of aare.

Hy understanding is that a ubity covit shopes not to some in in your ens, hae total astenony ever that declaton, and thae come in in your two and got an increase of 30 in the second yaser; thus puyling reguiring cuatremers te pey 125 in the second yeur for an expense thatry tee. Thaty eur soecern.

Thees arses that Mik. Amuatrang raleed, I egres wth Brem. I dowl thint that it should be a altaaton whers $s$ ubinty hae a joepordy lieved en adding one er aibtravting ene deersese and felling te recogntas that ther's been oltoet. And I doent want te get linte the oltuation whers we ancourage companies to come in for a pasethrough when they otherules wouldert, shenply to protect themestive from
lenguege cacoses the probleis that Lh. Annetrong exprosese. Tre a problem that -1 Eind he ralees on sefully lasos. I think we males a leglitimeta efvity lowes. And thet is , me dent whent cempanies = perhaps Mr. Ammetrong'e sempendee wrould not, but we are concternad if the law allows a esmpany to come in in yoar two for on ineraese aftar lonoring a decroase in yose one, we thind the decresee showid be effept, shoeld ofteat the insersase. And wes thina the stitute allowes for ithat, beeswee in e previova pesilies in the same = in the seme swbeaction it serke, the new ratee avthortined shall ratest the ambunt ef change in the as velorgen tease, of catore.

Se I thind - 1 guese if depende en what the
 the rula, flasif, is aimply a matier of gernering finformacion thatre neebesary to maha an equitable decialen.

Caushaul Jowensone: Any edher evestlone. Comendeslonera?

COtsenssionen dNOOES: This inlonmatien -1 guese I movid here a equetlen for Puble Ceunbel. Man. Bungese: Uh-huk. COHMEssoctar JMOOES: Wowid $=$ would the thres ysars, then, if would identily that eboduct where you

|  | 23 |  | 31 |
| :---: | :---: | :---: | :---: |
| 1 | eould have the refuston in oee Yaer and the lnersese | 1 | and AnMsTRONG: Yes. Commlesionsrs, I guess - |
| 2 | In the next yoer, the effoet, but yot we eebly hove a | 2 | I guees - and it sounde fike we'd all be of the |
| 5 | filing for the ene year. If me sew that, what would | 1 | epinion that the statuta io there - in a perfect |
| 4 | happen If the - if the reduction wes Migher than the | 4 | world, the statute is there with the letent of |
| 8 | incrsase. | 5 | getting you to the current purchase eater soet. And |
| 4 |  | 1 | that seeme to be what everytedy wpuld spree to. |
| 7 | the incrsess, I would avgeset, if a eoenpeny thes | 7 | Thatre what the perpoes of this atatuta ia. |
| 8 | thet, and as staff indleated, the ceenpery has boes | 1 |  |
| - | Eberally gives the epportanity to wehdrew fliliges | 1 | and the sompanies don't know what yov intend to do |
| 10 | as thay so choose. But it woutd obem to me that the | 10 | with the information, then you put a compeny at its |
| 11 | proper appreech for that pertlevtar poteettal | 11 | perll te go Blyrough the whole seat and eftort of |
| 12 | pess-hrough expenes ham would be lif arovieve | 18 | putting topether a pase-throwgh Ning, and than |
| 13 | year's deersese is greetar thes surrsent yeerts | 13 | coming in and finding ovt subeequently and poeeilly |
| 14 | Increase, that Elat deersese - Plyat the nat decrsase | 14 | to la detriment. And I betieve if if was |
| 15 | would be implemented, but for, I guees, Brere is an | 48 | detrimental, you would end up in appaale and |
| 18 | aurnings taet aspoclatad that wowd Bmitir. But | 48 | everything atse that noes of ve mest to see. |
| 17 | modd sugpest if a coempeny cheseas tie evene in, that, | 17 | Be I meen, if we are geing to heve thie kind of |
| 18 |  | 18 | s rule, It think it would be beet for overybody if we |
| 13 | eholea. | 13 | seid what the purpese and mbat the procedvore wovid be |
| 22 | Now, let me go heel to one of what = Rime for | 20 | for the Comunisalon upon this information being .-ve, |
| 21 | Instance, if there wers a first yeerla doerease and | 21 | perticularly beceuse I thint we are along the sama |
| 22 | the sompany lynored tlat and then lbere is a saseed | 23 | Snee that me intant lie really to get we to the |
| 23 | Years incrsase that were gratier than the first | 23 | currsat eept, not seseed it, but to get there. |
| 24 | your's derenee and the cempeny ignorvd that, and | 24 | Sa, ysu knew, we certainly, as a cempeny, proler |
| 25 | then come in for a third years insrasee and wors | 25 | te ses a nule that lipse it out. Fine elis |
| 30 |  |  | 12 |
| 1 | seeking only that. Idoen - I am not loeting lip go | 1 | Infornation. Yew are nut being permitiod to ascesd |
| 2 | bech before the intarvening year, lgnore the | 2 | your current sent and have a rate that anceede peur |
| 1 | Interventing yoer and esplurs the settraty of the | 3 | eurrest coet, lot the intent la to get you Blers. |
| 4 | offeet that wevid take place from alther ona. | 4 | COMAEssioner deasom What we want to menure is |
| 6 | COmmationeth Maconat Olay. | 8 | that the rate of recevery does not excest the actual |
| 6 | ter bungess: I matas thars nowe - nowe of | 4 | coet. |
| 7 | thars in the nits, though. The note just | 7 | UR ARMSTROW0: Right. Might. |
| 0 | comtanglatee the getherting of information. | 1 | COnmsasiowen deasow Yev Eint that that stated |
| $\bigcirc$ | Nas. moCiti Conmiseloners, I moedd bugeeet | $\stackrel{1}{ }$ | Pappes ahovid be stated in the nule, se the |
| 10 | that - at leest, whit the nile that would give ue | 10 | compankes would know what - the purpees of the |
| 11 | the information to detarmine the extent of tio | 11 | information and mow rrs to bo weeet? |
| 12 | pratiom and whather - 1 dont even linow lif we know | 12 |  |
| 13 | how ohan there are deerseses. And I belleve tis | 13 | not only if ti-ar's stated, becaues I thinh thare the |
| 14 | nule wovid at least give ea tio liffonmation to | 4 | serrest astumptes is that you haow, we should gut |
| 15 | determine what li happening, and in would le the | 16 | you to the cest but i guess the pros see of how we |
| 16 | Commisaion that would matas the declaios on whather | 14 | get to that point. |
| 17 | Elere is actually an offast if the eompany disageed | 17 | Coimassicneh deagow: De you have any proposed |
| 58 | with staff that there ought to be. | 4 | languape that would aceomplish mat? |
| 18 |  | 41 | Hith anastrowar I mah I dide, Convelecioner I |
| 20 | files for an lndes in pass-through, iff ee ove Buat | 20 | dont. I am murs me ceuld - |
| 21 | there should te a notting, we go hack to the sompany | 21 | Mik, smurik: Commisaioners, I wovild enly respond |
| 22 | and say, thia ie what we hove caleulated, in which is | 22 | to that to the extant that es lt . Burgese pointed |
| 23 | the netting. If they dient agree mfit Buat, we wevid | 23 | evt, we are limited to the incremantal change that |
| 24 | come to the Cominiselen. Thare in owr toPs. | 24 | eceure wilin a 12 menth peried. Bo - |
| 24 |  | 25 | cotnesbrowth peasoit. Yeak. Ithint the ibes is |

not to guarsites that you would put Nill meeviry, but the puarantes la that you mevid not be - that they movid not got mons than thelr reeovery.
mil. sharite Comst.
counessionak pextone That they movidot be atio to go tyek and mate up for prior ysurs for whataver mesen they decibed to forge.

Mi SMAFER: R1ght And eartainey, staff movid not heve a probleme weth thot intint being in the ru/c. And one of the ways that ne wovidd be able to cvaluate that wovid be to heve the inionmetion en mand.

You lnew, cerrainly, ire not eur Intest to raduse rotas wily-nility, but slingly to male sure that ne nives cost is in the rata tivin the sest belegg incurna.

Mill. ARMSTMONO: And juat to te very cloer, my trpochetical, thare wity irt Bure atoviounty. Ire Jest to avy what me would hope lo that pou and up meth, under my hypothedoel, si.se. You atart out at st.80, yeu and up at $\mathbf{5 1 . t 0}$, as eppeesd to then boing notied eut solety will the deresese whers you and up at 54.8.

I think thare a Bit of a demenstration. Thare what me dealt whith. prolbably mould talie o
atatutory ehange to gut up to 51.23 . Athough, I olink we sill would agres that thare probetily the beet place to be to wevid full higwe rate caeps.
 whinin the statute.

MR ARNATTROW: RyNL. Be me aherehange that, fight?

Mal survet: And i mould argoe, Cemmisoloners.
that the woilcle for aceommedeting a number of yoars at ons thine might be a linited proceeding.

I fink the Convilesien has done that in the pent with these types of hems, so -

CCNBessionen beasoiv: Are me at a atege where me
could antartain or get tanguage that would kind of accempleh what we heve ilpewsest here en a phionophical haola? What atage are we at here?
tas. moopl: duet the heorlng part, there would
avil be poathearing filinge, and thers mevid atil be a staff recommandatlen and agends.
 In a peathearting niling te propese languege?
as. acont: Conset.
CHURMAN JORNBON: Thea 1 anderstand that litr. Armatrong well probathy to doing oomatiing, ead then staff ceuld review R, end shen you movid malie a
filing le as for the rile that aheuld be aloptest?
3. moone: Yee.

Mat maastmone: Yes.
MR. BHARER: Yee. We well be haper to werl with
Mr. Amatrong to pot some language thary agrseate.
CHANHAN JOHiNsON: Otay. And Fublie Counsel
eould heve the epportianity he perticleate sine respond?
MR SMAFER: Yes.
CMARMAN JOwNsON: Very poed.
le there anything sles, then?
What do wo need - we dont vote anything out?
We fapt cenclude the letring, and then y'all eome bach whth recomminndations?
as. wook: Tharte swmect Posthearling fisinge wall be dve January 130 m , and I undersband the transerlpt will be resty next Fridey. Be, thar's in.
CHALRALN JOwassON: Amyening slse to seene before Ehe Cemmisalon this aharneses?

Beeing none, thank you. This hearting is effowmed.

Ne. Eungess: Thank you, Conmiasleners.
MR. ARAS TROie9: Thanh you, cernmlsaloners.
(Wherewpen, the procestinge wers cescloded at
2:20 p.m.)
 Eut Comedocion Elie aharmesa?
sTATE OF RLOMIDA
cOUNTY OF LEOW )
t, Despa R. NACK, Ceurt Raporter, Morsty eortily that the forsening transerfipt was takse down as stated in the expelien, and the questlons and anewers Ulevete were reduced to trpewriting under miy diraction;

That the foregeing pepee a turough 34 ropreeent a Irve, eorrect, and complete transertgt of the evidence given upon said hasifng:

And I Hurther certily that I am pot of him or counsal to the pertise in the case; am not in the regular employ of ewinsel for airy of sald pertles; ner am in anymbet interseatad in the result of said cese.

Dated thie fTih dey of Desember, thes.

DEAMA R. KRICK
Ceurt Mapertar and Molary Puble
Btate of Fiorida at Large

RULE HEARING / 12/11/98 / 25-90.420, F.A.C., AND $25-30.425$, F.A.C.


RULE HEARING / 12/11/98 / 25-30.420, F.A.C., AND 25-30.425, F.A.C.
$32 \cdot 4,8,17,25 \quad 33.534: 4,13,20$
debra ta $1: 2036: 4,19$
december tz 1:15 36:15
decided m $33: 7$
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28:18 30:16
decrease aet 7:20,22 8:3,8,11,
$169: 2,20,23$ 17:19 20:6.7.21
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deacribed ta 10:24 12:19
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detrimental m $31: 15$
dlaiogue m 5:8
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directed m 20:16
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discuss it 10:15
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aach tu 5:15 19:4
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easily iz 10.2415 .7
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olther til 30:4
employ is 36:13
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oncouraging m 24:13
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enough mi 13:22
ensure m $32: 4$
ontered m $4: 13$
entertain m 34:14
entirety mis 30:3
entitiod ta 17:15,25
equal tu $9: 9$
equitable in 11:21 28:17
equity an 28-3,4
error m 16:14
established ta 1.688 .24
estabilishing ta $5: 14,17$
entimated ini $6: 9$
ot isi 7:4,4 27:12,13 28:13
evaluate mi 21:11 33:11
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ovents +1 24:5
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everything m 31:16
ovidence al 4:24 36-9
exactly in 7:11
example m 7:18,25 8:22 9:11

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examplos เas 10:23 11:2 $27: 3$
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excuse m $3: 7$ 16:2
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17 29:12
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explored us $12,24,24$
expresses $7120: 2$
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R.a.c m 1:8
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faling m $26: 21$
fale mil 11:20
falmoss tu27:21
far tu 27:16
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filing tm 6:4 15:9 16:5 18:2 10:
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focus t3 12:9.12 20:17
follow as $8: 927: 2$
followed as 19:15 20.6
foregoing 미 36:5,9
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formulated til 21:13
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free in 34:20
Triday as 1:15 35:16
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fund m4:4
furnish in $5: 18$
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gain w 26:11
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gemering in 28:16
gathering w $30: 8$
gave as 17:1 22:14
generally tu $24: 6$
pets m $2 \mathrm{e}: 15$
getting wa 24:20 31.5
glve is 6:107:15 8:20 30:10,1
glven ta 29:9 38:10
gives m 12:25
got m9:24
proat m25:5
oreater wi 29:13,23
oreg in 4:10
guarantee ta 33:1,2
guaranteed i11 $24: 18$
guass min 11:17 14:13 15:10
17:7 18:24 24:8 28:14,22 29:15 31:1,2 32:15

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hand it 33:12
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