

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20230115-EU

Proposed amendment of Rule 25-6.0131, F.A.C.,
Regulatory Assessment Fees; Investor-owned
Electric Companies, Municipal Electric
Utilities, Rural Electric Cooperatives.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 1

COMMISSIONERS
PARTICIPATING: CHAIRMAN MIKE LA ROSA
COMMISSIONER ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Wednesday, January 10, 2024

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

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

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

2 CHAIRMAN LA ROSA: All right. Commissioner
3 Clark made a few noises and everyone else then got
4 real serious. If you wouldn't mind going ahead and
5 joining me in the invocation and the Pledge.

6 (Invocation and Pledge of Allegiance.)

7 CHAIRMAN LA ROSA: All right. All right. If
8 you haven't noticed, I am not Commissioner Fay, and
9 him and I decided to change seats, and, you know,
10 Commissioner, I left you a note inside your --
11 inside your drawer there. I was hoping you would
12 leave me the same, at least with maybe some
13 instructions. I have got all these buttons, right.
14 There is a red button, I don't know what that red
15 button does.

16 COMMISSIONER CLARK: Don't press it.

17 COMMISSIONER GRAHAM: Don't press it.

18 CHAIRMAN LA ROSA: Don't press it. So we are
19 going to figure it out, right. We are going to --
20 we are going to certainly learn a little bit. So I
21 apologize if I turn someone's mics by accident, or
22 what not, but I don't know. There is no
23 instructions. What do I do?

24 No. Thank you all. So again, let me first
25 start by opening the meeting. Let's call the

1 January 10th Agenda Conference here to order.

2 I would just like to have just a few comments
3 as we start. Commissioners, it's an absolute honor
4 to be able to be here as your new Chairman. You
5 know, I think sometimes the most difficult thing is
6 to keep something going. Keep something good
7 going. And honestly, that starts with our most
8 previous Chairman.

9 Chairman Fay, your leadership, as previous
10 Chair, has laid the groundwork, hopefully allowed
11 me to have a successful term here as Chairman. You
12 have included me in items as they were coming up
13 and making sure that I was prepared, whether you
14 knew that or not, you were -- you were helping me
15 along the way, so thank you for that.

16 Commissioner Clark, I was -- you were also
17 Chairman during my initial year here on the
18 Commission. You displayed your leadership through
19 adversity, right? There was -- there was a time
20 that was none other to the state, and I think you
21 proved that through adversity there could be
22 opportunity, and we were able to advance the agency
23 through that adversity. So thank you for your
24 leadership. The two of you have shown me hopefully
25 how to be a better leader, how to be a better

1 Chairman.

2 Commissioner Graham, although I have never
3 been here while you have been Chair, I hear
4 continuous stories about the legacy of what it was
5 that you did as Chairman. And I keep on hearing,
6 well, Graham did this, or Graham did that. That's
7 a testament. That's a testament to your legacy and
8 how you have made this agency better and hopefully
9 the leaders of it.

10 Commissioner Passidomo, it is an honor to be
11 able to work alongside you, not just your work here
12 within the Commission, you are precise on issues.
13 You know where you stand on them. When they fall
14 within the legal realm, you are right on top and
15 can explain them, and nothing -- nothing gets by
16 you. But it's not just necessarily your work here
17 within the Commission, but it's your work outside
18 of the Commission, some of the things that you are
19 doing at NARUC, I think not just in the state of
20 Florida, but nationally, you are proving that you
21 are arising star in this industry. It's a honor to
22 be able to serve with you, and to, honestly, to
23 serve all of you, and I thank you all for giving me
24 the opportunity to be your Chairman.

25 Like I mentioned, keeping the trend on the

1 tracks can sometimes be difficult, and I believe,
2 at minimum, I would like to lay out, hey, here are
3 a few things that I want to see and a few things
4 that I want to work on. There is not a whole lot I
5 have to change, which I am grateful for. But I do
6 believe in encouraging our youth. I do leave in
7 getting -- in creating a youth movement, if at all
8 possible, and I think that's what leaders of today
9 help shape for tomorrow. Whether that be in
10 government, or here in a broader energy sector, or
11 even different associations and groups that are
12 formed. I hope to maybe be more visible. I hope
13 to encourage, and maybe enlighten others. I think
14 we will start to see that in our most recent
15 Internal Affairs meeting when the University of
16 Florida and PURC comes to present to us. So I hope
17 to continue to push a youth movement and encourage
18 some leadership.

19 I believe being transparent to customers is
20 essential. Like I mentioned with Commissioner
21 Clark as Chair during his time in COVID, we had to
22 become more transparent. We had to become more
23 visible. We were pushed to do that. We continued
24 to do that under Commissioner Fay, and I plan to
25 continue to do that as your Chairman, to make sure

1 that our customers not just see what we do in front
2 of the cameras, and not just have archived records
3 of what it is that we have done, but make sure that
4 we are clear in everything, and making sure that we
5 are helping them come forward.

6 We have a customer service department here at
7 the agency and this is second to none, and the
8 limited amount that I have seen so far and what
9 they do and what they handle, I am overly
10 impressed.

11 The final item that I want to make sure that I
12 highlight during my time as Chairman is economic
13 development, and understanding what our role can
14 be. And I think sometimes the government, the best
15 thing might be just to kind of get out of its own
16 way. And I don't mean that in a cliché way by any
17 means. I mean that in maybe reviewing some of the
18 things that we have done in the past and maybe
19 eliminating some longer branches that no longer
20 need to necessarily be there.

21 I think the Governor, the Senate President,
22 Speaker of the House yesterday all did a good job
23 of laying out what they plan to work on during the
24 session. A lot of that is already in motion, and a
25 lot of that is to the benefit, of course, to their

1 constituent base, and a lot of those are
2 ratepayers.

3 I believe that the path is set. I think that
4 there is an economic development role that we can
5 play here at the Public Service Commission, and I
6 look forward to continuing to work on that.

7 So those will be items that I want to see as
8 Chairman that we certainly highlight. There will
9 be a lot more that we do. And there is a ton that
10 this agency does that many times does not get an
11 opportunity to be seen. That work will continue.

12 To our staff here at the Public Service
13 Commission. Man, this is maybe the hardest working
14 group that I have ever been a part of and been able
15 to be educated by. I hope that my briefings at
16 times may be challenging a little bit. I know I am
17 kind of sometimes an outside-the-box thinker. But
18 at the end of the day, I want to make sure that we
19 continue to rejuvenate what it is you do on a daily
20 basis. I want to make sure that every time you
21 enter into this building, you are not just excited
22 to come to work, right, but you realize that what
23 we do affects daily lives of not just our Florida
24 citizens, but our visitors and our future citizens
25 of the state of Florida.

1 So I look to hopefully make it maybe a
2 fraction more fun. We will see what that means. I
3 am looking over at Braulio. He is laughing. We
4 will see when I throw a few ideas around see what
5 he thinks. But at the end of the day, you are the
6 heart of what we do. We get to be up here for a
7 few minutes, but we know that there is hours and
8 hours and hours of work that happen behind the
9 scene. And it's honestly a joy to be able to lead
10 this commission, to be involved and work with you
11 on a daily basis.

12 So talking about work, we have a little bit of
13 work in front of us. Now, I become Chairman, and
14 we go from three items to two items, and now just
15 one item for us to have to discuss. I don't know
16 how all of that happened, but this is certainly a
17 light -- efficiency, right? Certainly a light
18 load.

19 COMMISSIONER GRAHAM: Thank you very much.

20 CHAIRMAN LA ROSA: Yes. Yes. See, that's the
21 legacy. That's what I am talking about.

22 So let's go ahead and let's just cover -- Item
23 No. 2 has been deferred, so let's make sure that
24 the record reflects that. And then Item No. 3 has
25 been withdrawn. Make sure the record reflects

1 that.

2 So let's move on to the single remaining item,
3 which is Item No. 1 and Mr. Rubottom, you are
4 recognized for an overview on that.

5 MR. RUBOTTOM: Thank you, Mr. Chairman. And
6 good morning, Commissioners. My name is John
7 Rubottom with Commission legal staff.

8 Item No. 1 is staff's recommendation regarding
9 the proposal of draft rule 25-6.0131, Florida
10 Administrative Code, which pertains to the
11 regulatory assessment fee, or RAF, the Commission
12 is required by statute to collect from electric
13 utilities. The RAFs collected by the Commission
14 are the agency's only source of revenue, and the
15 governing statutes require that the RAF revenues
16 collected from utilities in each industry must be
17 sufficient to cover the Commission's cost of
18 regulating the companies in that industry.

19 As explained more fully in the recommendation,
20 staff calculates a projected shortfall in
21 Commission revenue from the electric industry from
22 electric IOUs, and a projected surplus from
23 municipal utilities and rural cooperatives. Staff,
24 therefore, recommends that the Commission propose
25 the amendment of the rule to update the RAF rate

1 for both electric IOUs and the rate for municipal
2 utilities and rural cooperatives to more accurately
3 reflect the cost of regulation as required by
4 statute.

5 Staff is available for questions.

6 CHAIRMAN LA ROSA: Thank you for that
7 overview.

8 So I don't know if I pulled this item, or it
9 just kind of pulled itself by only being one on the
10 list. I will start with this: In my briefing, of
11 course, I had a lot of questions, one of my
12 questions was specific to the trust fund balance,
13 where that is going, and at the end of the day, if
14 the -- now, of course, this item has been deferred
15 from last month. It's now January of '24. What
16 would happen if we did not do this in a certain
17 amount of time? What are some hurdles that might
18 be in our way? If you can just kind of maybe paint
19 that picture a little bit for me.

20 MR. RUBOTTOM: Yes, sir. And to clarify your
21 question, kind of what kind of ramifications we
22 would be potentially deferring from a decision
23 today, is that your question?

24 CHAIRMAN LA ROSA: Yes, part of it, yes.

25 MR. RUBOTTOM: Yes, sir.

1 The one thing to keep in mind is that there is
2 some statutory guidelines and timeframes for
3 rulemaking. So once the Commission takes action,
4 and if the Commission were to vote to propose the
5 amendment of the rule, there would be a minimum
6 timeframe that we would have to wait before filing
7 for adoption. And during that, we would be waiting
8 to see whether there would be any requests for
9 hearings, any issues from JAPC related to the
10 drafting of the rule, things like that, things that
11 can manifest potentially in rulemaking as delays.

12 And so certainly, one of the aspects of this
13 rulemaking, as highlighted in the recommendation,
14 is the fact that we have a temporary exemption from
15 the legislative ratification requirement and the
16 requirement from the SERC, preparing a SERC, that
17 expires on July 1st. So the closer we creep it
18 that July 1st, the shorter that window will close
19 between when we -- when the Commission potentially
20 proposes the amendment and when we would be able
21 to, by statute, adopt within that timeframe.

22 CHAIRMAN LA ROSA: Okay. Can you maybe go
23 over the specifics of what those timelines are as
24 far as if there was a hearing necessary, or
25 somebody else comes in to, I guess, get in the way

1 of what it is that we are doing?

2 MR. RUBOTTOM: Yes, sir. There -- after the
3 Commission proposes a rule, an amendment or a new
4 rule, anything like that, there is a minimum of 21
5 days that interested persons have to request a
6 hearing from the Commission. JAPC also has the
7 opportunity to review and present any issues they
8 may have that would need to be addressed. And if
9 something does need to come back, the Commission
10 would need to schedule either a hearing or a
11 conference of some kind to discuss any action that
12 needed -- needs to be taken that hasn't already
13 been accounted for. So that would require a
14 noticed meeting, and then a scheduled, you know,
15 whether it's a hearing or a discussion conference
16 with the Commission. Things like that.

17 CHAIRMAN LA ROSA: How long would JAPC have to
18 comment on our rule?

19 MR. RUBOTTOM: They would have, I believe, the
20 21 -- same 21 days.

21 CHAIRMAN LA ROSA: Same 21 days, okay.

22 And how long would the staff estimate that we
23 would need to notice a meeting and have a hearing?

24 MR. RUBOTTOM: To notice meetings I believe
25 are seven days, right? Yeah, seven days to notice

1 a meeting to take care of something.

2 CHAIRMAN LA ROSA: We can schedule a hearing
3 accordingly, as in we can schedule a hearing seven
4 days post that day and assign X amount of time
5 that's necessary for the hearing?

6 MS. CIBULA: Yes. And then after that, if we
7 don't make any changes to the rule, there are
8 statutory deadlines that we have to wait before we
9 file the rule for adoption. I believe it's, like,
10 14 days. But if we do make changes to the rules,
11 then we have to wait -- like, do another FAR notice
12 and wait 21 days before we can file the rule for
13 adoption with the Department of State.

14 CHAIRMAN LA ROSA: Okay. And could any of
15 this -- I am getting to a point -- can any of this
16 be done after the expiration that the Legislature
17 has given us to not require their ratification?

18 MS. CIBULA: The exception said that we have
19 to adopt a rule by July 1st, the fiscal year. So
20 that means filing it with the Department of State.

21 CHAIRMAN LA ROSA: Okay. Commissioners, any
22 questions? Any further questions?

23 COMMISSIONER FAY: Mr. Chairman?

24 CHAIRMAN LA ROSA: All right. You are
25 recognized. Sorry.

1 COMMISSIONER FAY: That's all right. I had to
2 find my button over here.

3 CHAIRMAN LA ROSA: Yeah, I didn't know it was
4 there until after year one, so --

5 COMMISSIONER FAY: I appreciate it --

6 CHAIRMAN LA ROSA: There it is. You found it.

7 COMMISSIONER FAY: Yeah.

8 Mr. Chairman, I had -- I maybe had two quick
9 components, not necessarily a question for staff,
10 as you have kind of gotten to, I think, the
11 timeline question, which I think is an important
12 one based on that temporary exemption that we've
13 gotten from the Legislature.

14 So my two quick comments, Mr. Chairman, first
15 being that I thought the recommendation does a good
16 job of laying out legally what's required, and I
17 think in some of the recommendation, we get some of
18 the points that are laid out and are referenced in
19 the footnotes are the statute of those components.

20 I think really one -- one really, really,
21 like, just key component to this is the subsection
22 (3) of 350.113 that you have included in here
23 about, you know, the reality that we have to look
24 at what fees are coming from which entities, which
25 type of utility, and we are required by law to

1 review that correlation of the fees that are coming
2 in and the costs that are to regulate that.

3 And so when I read this, I was honestly
4 surprised to see that, you know, we are not only
5 looking at an adjustment for the IOUs for their fee
6 upward, but we are looking at an adjustment
7 downward for the municipalities. I think this is
8 one of those things you are going to see
9 continuously long-term probably the need to
10 reevaluate and adjust.

11 And honestly, it's probably been too long for
12 that. I know a lot of statutes talk about, you
13 know, index adjustments. And we even handle
14 utilities that come before us with those index
15 adjustments, depending on the type of utility, and
16 so we are probably somewhat long, long overdue for
17 this.

18 So I think the attempt that's in here, to me,
19 legally that's really key, is this idea that we are
20 trying to get better aligned with what's required
21 by the law. And that's a legislative mandate.
22 That's not something that we are able to get
23 around.

24 Now, it does say to the extent practicable.
25 We have caps. We have other barriers that may not

1 let us adjust certain things, and so I think this
2 is really key.

3 But the other point I want to make is I am not
4 sure long-term this resolves everything. I think
5 you go a decade back and you look at the expenses
6 for the agency. It's almost the same. It's
7 actually a little bit lower when you look at the
8 2011 year compared to the 2023 year, which is
9 pretty amazing, but long-term, I think, we are just
10 going to have to be open to consideration of how
11 the agency can adjust upward or downward to make
12 sure that revenue side is aligned with the expense
13 side going down the road.

14 So, Mr. Chairman, I am going to be supporting
15 what the Commission has put in front of us today.
16 I recognize there is probably different opinions to
17 this, and some variations that may occur, but I
18 think for me, the attempt for perfection on this is
19 very difficult, and so I want to at least legally
20 move us in the right direction for what the statute
21 requires.

22 So with that, I appreciate it, Mr. Chairman.
23 Thank you.

24 CHAIRMAN LA ROSA: Excellent.

25 Commissioner Clark, you are recognized.

1 COMMISSIONER CLARK: Thank you, Mr. Chairman.

2 I am going to opine for just a couple of minutes.

3 You know, we have the opportunity as a
4 commission to review all of the different utility
5 companies' request for rate increase, and we put
6 our stamp on whether or not to approve those. This
7 is a little different for us. This is where we are
8 having to actually put the increase on there, and I
9 think that's why you see so much concern from the
10 Commission in regards to wanting to make absolutely
11 certain that we've taken every step possible, that
12 we have looked at every resource that we have to
13 make certain that we are spending the ratepayers'
14 money in a wise manner. And I think that's what
15 brings us all some concern, is we are just being
16 cautious about how we proceed.

17 I don't think anybody up here has any
18 underestimation of the need for us to make the
19 adjustments, the need that we have to balance our
20 trust fund out in the upcoming years. But with
21 that said, I think that we are all trying to just
22 be cautious, especially in a time where we've seen
23 energy prices increase. Fortunately, we have seen
24 some decreases in the last couple of months in
25 overall prices. They are starting to come down,

1 but nobody writes stories about prices coming down.
2 We only get the upside.

3 And I think that's a little bit of the fear
4 here, is the presentation. As you look at the
5 proposal, I think all of our concern is the first
6 thing you are going to see, you know, 30 percent in
7 increase in regulatory fees. That's going to be
8 the headline in the paper. So I think that, number
9 one, we have to do a very thorough job of
10 communicating this additional message.

11 I am supportive of the changes that we are
12 going to have to make eventually. Like Chairman La
13 Rosa, I do have some request or concerns about the
14 timeline and the necessity to implement this
15 immediately. I think that the longer we hold off
16 until the time is necessary, I think that just
17 reflects on the due diligence that the Commission
18 is putting in.

19 With that said, I have two key things that I
20 would like to ask, and I would like to go back to,
21 Ms. Cibula, regarding that timeline. And my
22 understanding is that as long as the rule is
23 proposed, then we have met our statutory
24 obligation. If we have a July 1 deadline,
25 technically, if we proposed and submitted the rule

1 by a certain time, or adopted it by, let's just say
2 June 30th, hypothetically, do we meet that
3 obligation, or does it have to be finalized by
4 July 1?

5 MS. CIBULA: No. The exception is that it has
6 to be adopted by July 1st, which is, you know,
7 proposal is the stage we are at now in Agenda.
8 Adoption is filing it with the Department of State.
9 So there is, like, as Mr. Rubottom said, there is,
10 like, some procedures we have to go through post
11 proposal to get to the adoption phase.

12 COMMISSIONER CLARK: Right. My question has
13 to do -- suppose it is challenged. I mean, the
14 challenge does not count against our timeline. We
15 can -- basically we could operate this in about a
16 28-day period.

17 MS. CIBULA: No. The challenge will count
18 against our timeline.

19 COMMISSIONER CLARK: So -- okay. So the
20 challenge --

21 MS. CIBULA: Yes.

22 COMMISSIONER CLARK: -- does count in the time
23 period?

24 MS. CIBULA: Yes, because the adoption is
25 actually filing it after the whole procedure has

1 been concluded post proposal.

2 COMMISSIONER CLARK: Okay.

3 MS. CIBULA: So if there is a challenge during
4 that time period, we won't be able to adopt the
5 rule before July 1st.

6 COMMISSIONER CLARK: Okay. But we are still
7 within a 21-day window from the proposal,
8 acceptance of the proposal to the final adoption,
9 including all the challenges?

10 MS. CIBULA: It's actually 21 days for people
11 to ask for a hearing, and then you have to wait an
12 additional seven days before you can file it for
13 adoption, because the department -- because JAPC
14 has to certify the rule before you can file it for
15 adoption to make sure that they're -- they don't
16 have any issues with it.

17 COMMISSIONER CLARK: Okay.

18 MS. CIBULA: So it's actually 28 days. If
19 there are no -- that's the bear -- that's the
20 minimum, in the best case scenario, that if JAPC
21 certifies it, that we could file it within 28 days
22 of the FAR notice proposing it.

23 COMMISSIONER CLARK: Okay. My second question
24 is related to Commissioner Fay's point, regarding
25 the differences in the different industry sectors

1 and the amount of RAF fees that are assessed to
2 each one. We do have a significant number that are
3 going to be declining, a significant number that
4 are going to be up.

5 Did we look at any sort of -- or is there any
6 hesitation or thought about a phase-in period that
7 would take these changes over a two- or three-year
8 period as opposed to imposing all of them at once?

9 And I understand, in the big picture, we are
10 talking a penny. We are basically talking about a
11 penny on a consumer's utility bill. But at the
12 same time, was there any consideration given to
13 phasing in these changes so that it did not appear
14 so drastic?

15 MR. BAEZ: The option, or the idea of phasing
16 was something that was discussed early on in the
17 process. Once we started seeing the numbers, and
18 then again, Commissioner, taking into consideration
19 the amount of -- how big a window of forward --
20 forward-looking picture that we have to work with
21 inherent in our process, it's really only two
22 years.

23 So by the time you are -- let's say we use
24 your example of phase something in over three
25 years, that -- we are already -- we are already

1 establishing a time period that's beyond our
2 ability to see where we are at in the future at any
3 given point in time.

4 And so it's that mismatch combined with, you
5 know, combined with what we felt was a
6 conservative -- we used conservative projections,
7 conservative estimates looking into the future, and
8 also trying to keep that -- all in order to keep
9 that number as low as you see it. We felt that,
10 you know, going -- trying to drive a stake in the
11 ground and address the situation all at once going
12 forward was the more prudent way to go, if only
13 because we would only be piling on more complicated
14 staging in using a phasing method.

15 It's not that we discounted it wholesale.
16 It's that once you throw everything else into the
17 pot, it didn't provide as much value in the long
18 run as we would hope under normal circumstances.

19 COMMISSIONER CLARK: Okay. And I think
20 probably my final question, Mr. Chairman, and maybe
21 Apyrl could address this. In terms of the
22 Commission adopting this regulatory -- the
23 regulatory fees this year, have you looked at
24 looking at the projections for trust fund balances,
25 wanting to make sure that we meet our fiduciary

1 responsibility. If the Commission did not approve
2 the change in the fee structure, and let's just say
3 we waited one more year, what would be the
4 financial implication to the trust fund if we
5 waited 12 more months before we adopted this?

6 MS. LYNN: Thank you.

7 The trust fund would then have to offset any
8 negative impact of regulatory assessment against
9 the cost of operation. So the table on 1-4, page
10 seven, kind of depicts what will happen if nothing
11 is done, assuming that we are able to incorporate
12 all the expenses that we've projected. So if
13 nothing is done, this is the decline that starts to
14 happen.

15 COMMISSIONER CLARK: So you are -- basically
16 we are looking at -- we would still have a positive
17 trust fund balance by the year 2028, the trust fund
18 would still be positive, it wouldn't be a negative,
19 correct?

20 MS. LYNN: By 2028, the trust fund would have
21 drastically dropped to about 500,000.

22 COMMISSIONER CLARK: Right.

23 THE WITNESS: So when we look at the trust
24 funds itself as a one unit, we also have to do
25 other things, as in filing a positive LBR, and

1 things like that. So if it is that low, we would
2 not be able to file a positive LBR. So it does
3 impact us fiscally.

4 COMMISSIONER CLARK: Right. Sure.

5 MS. LYNN: So it's not just that it needs to
6 be above zero.

7 COMMISSIONER CLARK: Right.

8 MS. LYNN: It needs at a minimum at least of
9 comfort.

10 COMMISSIONER CLARK: And what is that minimum?

11 MS. LYNN: The minimum is about five million,
12 roughly, is where the minimum should be.

13 COMMISSIONER CLARK: And is that -- is -- I
14 thought -- my understanding was that was a minimum
15 that was set by the Commission. What does that do
16 in terms of running a positive LBR?

17 MS. LYNN: So the minimum is actually a part
18 of the will be process LBR process that was
19 approved by the Legislature. It incorporates two
20 months of expenses and a required five percent
21 reserve that we are -- every state agency has to
22 have available immediately during current year.

23 So the minimum represents what is a healthy
24 trust fund for allow us to operate because of the
25 way our revenues do come in. They do come in --

1 the heavier amounts come in twice a year. So we
2 have to be able to fund our expenses in the period
3 that we are not accepting revenues.

4 COMMISSIONER CLARK: And could you address
5 that in a little more detail for me in terms of the
6 regulatory lag time between the adoption,
7 implementation and when the revenues actually would
8 see the positive benefits of the RAF increase?

9 MS. LYNN: You want to do a background? Okay.
10 So with the change that -- if we were to approve a
11 change today is what you are asking?

12 COMMISSIONER CLARK: Yes.

13 MS. LYNN: So the revenues would be collected
14 in July 1, or some period here, depending on what
15 the effective date is. So July 1 of 2024, a full
16 year, that would be July -- June of -- June 30,
17 2025, would be when we would start to see a full
18 year of those revenues collected.

19 COMMISSIONER CLARK: Okay. And I am sorry,
20 Mr. Chairman, one final question.

21 CHAIRMAN LA ROSA: Please continue.

22 COMMISSIONER CLARK: I think that we are all
23 anticipating that the Legislature is going to be
24 addressing several other things in this session
25 that may have financial impacts for us as well, and

1 I am trying to give deference to the Chairman's
2 concern here about the timeline that we are working
3 under, and I want to make sure that we are all
4 working toward the same goal.

5 Do we anticipate, or has there been any
6 discussion about the potential for possible
7 reduction in the amount that we have to contribute
8 back to the GR? Would that solve our problem
9 completely? Is there also contemplation for the
10 permanent exemption that is being proposed by the
11 Legislature for the RAFings as well?

12 MR. BAEZ: I will try to answer half of your
13 question, and then I am going to have to kick it to
14 Apryl. But the answer to -- I heard two questions
15 in there, of which I will answer half of each.

16 COMMISSIONER CLARK: In Braulio fashion.

17 MR. BAEZ: Right? Okay. It's all math. It's
18 new.

19 To the legislative question, yes, there has
20 been both -- certainly our efforts at the
21 Legislature concerning a permanent exemption from
22 ratification tries to address our -- the agency's
23 ability to timely have these kind of conversations,
24 which I think, as has been -- Mr. Rubottom had
25 stated before, is sort of written in the statute.

1 It's part of the -- it's part of the agency's
2 obligation, the Commission's obligation in terms of
3 funding.

4 So that's where our -- I think it's House Bill
5 229, and I am drawing a blank on the Senate
6 companion, but that's where our legislative efforts
7 are pointed to right now, is how to change the
8 process so that that timeliness can once again be
9 part of the agency, part of the Commission's
10 operations and further considerations.

11 You mentioned about service charge exemptions.
12 Those conversations had started off for a time
13 being, you know -- I don't have a better word than
14 a rumor to it. And in our efforts to try and track
15 that down, didn't -- hasn't produced anything
16 solid. There aren't, to our knowledge -- to my
17 knowledge, at least, as I sit here today, there
18 isn't anything filed that directly addresses the
19 service charge that you are referring, which is
20 written in the statute.

21 And for those -- for those that aren't
22 familiar with it, I think -- I want to say it's an
23 eight-percent. It's an eight-percent service
24 charge from trust funds that reverts back to the --
25 back to the General Fund, okay. And I think there

1 may be no more than a handful of agencies, of which
2 we are one of them, that are subject to that -- to
3 that service charge.

4 And to your question, there was talk about
5 some type of exemption from that obligation to the
6 General Fund. The conversations, I think, have
7 gelled a little bit more since we were doing our
8 background search. As yet, there hasn't been any
9 solid -- because that would take a legislative
10 change, a change to a statute. So there is no --
11 again, as I said, there no bills filed towards that
12 end concerning any agency, least of all us.

13 So are the conversations going? Yes, the
14 subject has been broached. What the timing of
15 that, were it to be successful, is, I can't answer
16 that question, because we don't have anything solid
17 to go on at this point. They are just
18 conversations. But it is an effort that we are --
19 that we are engaged in now, and it does -- as a
20 future matter, I think it's something that we are
21 definitely going to pursue.

22 I will kick it over to Apryl so that she can
23 explain what the -- what the fiscal effect, how
24 something like that would operate and benefit the
25 agency.

1 MS. LYNN: The GR -- the eight-percent to GR
2 is a non-operating expense for us different than
3 our operating rent, salaries and things like that.

4 One obligation with the RAFs is they should be
5 sustaining the operational costs, not just the
6 non-operating cost. So though it will reduce our
7 expense picture, we still want to monitor and be
8 sure that our operational costs are in line with
9 the cost of regulation.

10 So if we are able to get an exemption from the
11 eight-percent GR assessment, that will increase the
12 trust fund, and give us more opportunity, if need
13 be, to use the trust fund offset any cost of
14 regulation, but it doesn't really address the need
15 for the cost of regulation to support the cost of
16 operation.

17 COMMISSIONER CLARK: Okay.

18 MS. LYNN: So it will help, but it doesn't
19 completely alleviate it.

20 COMMISSIONER CLARK: Wouldn't completely
21 resolve the problem?

22 MS. LYNN: Yes.

23 COMMISSIONER CLARK: The eight-percent, that's
24 not on the trust fund balance, that's based on
25 totals revenues, correct?

1 MS. LYNN: That's right.

2 COMMISSIONER CLARK: And so eight percent on
3 26 -- 25, \$26 million, roughly almost \$2 million.

4 MS. LYNN: Uh-huh.

5 COMMISSIONER CLARK: And that's relatively
6 close to the amount that the shortfall is right
7 now, or is projected to be long-term and going
8 forward.

9 MS. LYNN: Uh-huh.

10 COMMISSIONER CLARK: Mr. Chairman, that's all
11 the questions I have. I go back to my original
12 point, is I certainly want to give deference to any
13 direction that you would lead us personally, I
14 would give deference to any direction you are
15 leading us toward your work with the Legislature.
16 I know you have some great relationships there.

17 And there are some things, I think, are in
18 play here that, if our concern is are we going to
19 do something that is going to completely make what
20 the Legislature is looking at unnecessary, and how
21 are they going to view this? Is this going to be a
22 problem? And in deference to that, I have looked
23 at it every way you can, and Samantha is much
24 better at this than I am, but it looks like we
25 could still get this done in our statutory timeline

1 if we postponed it to as late as almost an April
2 1st kind of decision date, and that gives us time
3 to get through the legislative process. If that is
4 a concern, if anybody else shares that concern, I
5 would love to -- love to hear, you know, where
6 everybody stands on that.

7 CHAIRMAN LA ROSA: Commissioner Passidomo, you
8 recognized.

9 COMMISSIONER PASSIDOMO: Thank you, Chairman
10 La Rosa.

11 I will address that point. I was going to
12 talk about -- I think we've -- this is -- I am glad
13 we are having such a thorough discussion about
14 this. Of course, anytime we are talking about
15 raising costs on customers, even if it's a small
16 amount, I think it's incumbent upon us to have a
17 really thorough discussion about it, especially
18 when we are talking about regulatory costs.

19 But when we are talking about the timeline, I
20 do remember from the last time that we had this
21 recommendation in front of us, something to
22 consider is that -- I think Apryl had mentioned
23 that it takes 18 months for the increase in RAF to
24 really come into effect, and if that is the case,
25 it's really going to come up kind of on that -- on

1 that cliff that we are looking at when you look at
2 Table 1-4.

3 And so that was -- while I support this
4 recommendation, my issue with the last time was
5 that we -- you know, I thought we needed a little
6 bit more meat in there, and I think that staff has
7 done a good job with this one of giving us the
8 background. So that what I had encouraged last
9 time, and I will say it again, is to, you know, go
10 in with the Legislature with as much information as
11 possible to advocate for our permanent exemption,
12 and I think you have done a lot of legwork here to
13 go in with that.

14 So that was my sort of thoughts about the
15 timeline, but not postponing it any further. But
16 of course, I am willing to hear from my colleagues
17 on that as well.

18 CHAIRMAN LA ROSA: Can I -- can I ask -- I
19 feel like this question has to be asked. If we did
20 nothing, what would happen?

21 MR. RUBOTTOM: Well, I think that's the -- I
22 appreciate the question. I think that's part of
23 the picture that's outlined in the recommendation,
24 that we would be creeping towards, as Commissioner
25 Passidomo put it, kind of that cliff where the

1 trust fund begins to decline somewhat drastically.

2 But again, part of the consideration, as we've
3 outlined in the recommendation, is that temporary
4 exemption from legislative ratification, that if we
5 did nothing now, if the Legislature were not to
6 extend that, or make it permanent, it would
7 drastically increase the timeline of a future
8 rulemaking process, under which we would have to go
9 through the normal rulemaking process, propose and
10 adopt a rule, and then wait and submit that to the
11 Legislature for ratification. And only at that
12 point could it become effective, and then would be
13 another 18 months before we see the full fruition
14 of the change in the updated RAF rates.

15 So that's, you know, a significant delay
16 possible, depending on a lot of hypotheticals about
17 what happens at the Legislature, all the while
18 progressing along that timeline that the
19 recommendation outlines on the trust fund balance.

20 CHAIRMAN LA ROSA: And I understand where
21 statute leads us, where our rules lead us, and kind
22 of where we would end up, but maybe I should have
23 -- I should better ask this question.

24 What would we do if nothing happened? As in
25 what is the process at that point? How do we pay

1 our bills? How do we normally go through the
2 process in discussing or negotiating our budget
3 with the Legislature?

4 MS. LYNN: The recommendation does speak to
5 internal controls that we use to thread the needle,
6 or offset any expense lag to cover our cost of
7 operation. Right now, we are 80 percent salaries
8 and benefits roughly, and the remaining percentage
9 of our expenditure allocation is used for what we
10 consider our discretionary versus nondiscretionary
11 costs. We only have about three- to four-percent
12 room within our existing appropriation to do
13 anything to offset any costs.

14 And by offsetting cost, if nothing is done and
15 we need to save costs, we need to reduce
16 expenditures, then we could hold positions vacant.
17 We could even delete positions, which you don't
18 realize for a year later, because that's a
19 legislative process. We could reduce travel.
20 There is little -- a few things that we can do, but
21 it doesn't give us any type of permanent impact,
22 nor would it be \$2 million worth of reduction.

23 There is nothing that we could do, short of,
24 you know, injuring the Commission fiscally, to
25 create \$2 million in savings on our existing

1 expenditures. There is just not enough room to do
2 that.

3 CHAIRMAN LA ROSA: And I understand that
4 balance well. And that isn't a direction that I am
5 suggesting by any means, because at the end of the
6 day, we do have ratepayers that rely on us. We
7 have the will a lot of work that has to get done.
8 In fact, I believe that this coming year might be a
9 busier year than average, which is important that
10 we have the right personnel in place and, again,
11 allowing us and helping us to make the right
12 decisions.

13 A lot of what you just mentioned was added to
14 this recommendation. Thank you for that. And I
15 did fail to mention that in my questioning, and
16 maybe I hadn't really offered any remarks --
17 Commissioner Graham, I am going to get you to here
18 in a second.

19 Thank you for doing that, because I think that
20 is an important part of this process, is that we
21 dig deep. And I know that we spelled out what some
22 of those direct cost impacts are that were not
23 necessarily visible in the first recommendation.
24 They were talked about for sure, but they weren't
25 in the recommendation, and I think it's important

1 to add it to this.

2 I don't know that that -- I am still -- I
3 still have some concerns. Let me to go
4 Commissioner Graham, and then we can continue to
5 question.

6 Commissioner Graham, you are recognized.

7 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

8 I can tell all of my colleagues, this is
9 something that Braulio and his staff have been
10 working on for a while. Many times, many hours, he
11 has been to my office talking about this, and many
12 times I have stiff-armed and pushed him back out
13 the door, because you are talking about dealing
14 with the RAF, you are talking about increasing onto
15 the ratepayers, even though we are talking about,
16 as Gary says, you know, less than a penny per
17 month, you still don't want to do it. You still
18 push him back and say, well, let's just -- let's
19 cut back a little bit more. Let's take another
20 haircut. Let's take another haircut. I can
21 honestly say there is no more haircutting for me.

22 Normally when we make a decision here, after
23 we vote on it, as Gary would say, the horse is out
24 of the barn. But this going a rule, the horse is
25 not out of the barn. There is still some things

1 that we can do as we are going through session, as
2 we are going through the rulemaking, as we are
3 dealing with all of this kind of stuff.

4 I think we are at the point now where we are
5 as lean and mean as we can get. I think we have
6 our own fiscal responsibility to making sure that
7 the agency can take care of itself. It's going to
8 be difficult to go back to the Legislature and
9 saying that we do not have to give to the General
10 Fund pot. That's been there for a while. That's
11 going to be difficult to make that change. If we
12 make that change, that's fantastic, and then we can
13 go back and fix this. But we have been trying to
14 do that for a long time, and it is not done yet. I
15 think now it's to the point where we have to take
16 this step forward, and I support the recommendation
17 that's in front of us.

18 CHAIRMAN LA ROSA: Thank you, Commissioner.
19 And that's -- that's what I was referring to
20 earlier, yeah. Right? It's the wisdom and the
21 institutional knowledge.

22 I would say this, I don't -- Commissioner
23 Clark, I don't know what the Legislature is going
24 to do other than maybe what's been filed and
25 discussed, and I am not aware of any -- you know, I

1 am not in a back room, by any means, having any
2 discussions, and don't know. I know what we filed
3 as an agency. I know what we've requested.

4 I fully support that. I think long-term,
5 going back to what Commissioner Fay said, something
6 has to get done. I agree to that. Something has
7 to get done. I think having the ability to control
8 that long-term will give us flexibility in the
9 changes that will come in the cost of regulation
10 for sure. So I agree on where we are going. I
11 will help, as hopefully that I have been, to
12 discuss with our colleagues downtown why that's
13 important to the agency.

14 I do hope that the GR assessment at some point
15 does -- is considered to be removed. That is --
16 that's a real number, and probably not having that
17 discussion -- this discussion today, if that wasn't
18 paid, wasn't necessary. And I think there is good
19 argument for us not to have to pay that. We are a
20 little bit unique in how we operate as an agency.

21 At this time, I -- I lean on I don't know that
22 this has to happen today. I think I have heard
23 from each one of you. I appreciate your input. I
24 think we see the clear direction of we are going.

25 The truth of the matter is that this should be

1 hard. We are only talking about a penny, two
2 pennies, right? But I have tried to erase that in
3 my time reviewing this. This didn't come up in
4 November for me when it got put on the December
5 agenda. This came up when we were talking about
6 it, man, in early 2023. And I knew that this would
7 be a tough decision, and I think this should be a
8 knock-down, drag-out process, whether we are
9 talking about one penny, one dollar, \$100, or
10 whatever the case may be, and I think that the
11 people of Florida deserve that.

12 So at this point, at this time, I do not plan
13 on supporting the recommendation as it's stated and
14 recommended before us, but I am open to hear if
15 there are any motions.

16 COMMISSIONER FAY: Mr. Chairman, if there
17 aren't any other comments from my colleagues, I
18 happy to --

19 CHAIRMAN LA ROSA: Seeing no other comments,
20 you are recognized.

21 COMMISSIONER FAY: Okay. With that, Mr.
22 Chairman, then I would move staff's recommendation
23 on all issues for Item 1.

24 CHAIRMAN LA ROSA: Seeing a motion. Is there
25 a second?

1 COMMISSIONER GRAHAM: Second.

2 CHAIRMAN LA ROSA: Hearing a second. There is
3 a motion and a second.

4 All those in favor say yay.

5 (Chorus of ayes.)

6 CHAIRMAN LA ROSA: Opposed, no.

7 No.

8 Show that the motion passes. So Item 1
9 passes.

10 We don't have any other further business, at
11 least on the Agenda today, but I do want to
12 recognize, as I did recognize in our prayer, that
13 there was a significant storm that has come through
14 the state of Florida. Many times we think of storm
15 hardening as preparedness for hurricanes, and we've
16 gotten really good at that here in Florida. I
17 think we lead the nation, and we should be. But
18 sometimes those storms come at other times of the
19 year, and many times we are caught off guard.

20 So our prayers continue with those that have
21 been affected by the storm. I think we are -- it's
22 certainly a reminder to show that it's not just a
23 summer and a hurricane that can affect and knock
24 out power, but it could be a winter storm. Again,
25 we will continue to pray for those that are

1 recovering. Many times injuries happen
2 after-the-fact when live lines are down.

3 We have done a great job -- the agency did a
4 great job of really mobilizing and being prepared.
5 We didn't have a whole lot of notice that this
6 storm was coming, and then all of a sudden on
7 Monday, this discussion started, and by Tuesday we
8 were already reporting outages. So props to those
9 that are working hard behind the scenes. It's nice
10 to see that when outages peaked some 86,000,
11 87,000. In my last report that I saw a few hours
12 back was it was down to 13,000 outages. So good
13 work for all of those that are out there working
14 hard for our customers.

15 With that said, seeing no further business.
16 Any other comments? See that this meeting is
17 adjourned.

18 Thank you.

19 (Agenda item concluded.)

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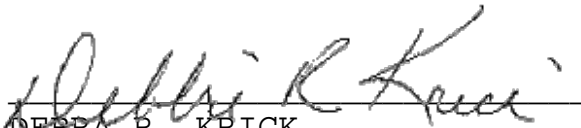
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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)
3 COUNTY OF LEON)
45 I, DEBRA KRICK, Court Reporter, do hereby
6 certify that the foregoing proceeding was heard at the
7 time and place herein stated.8 IT IS FURTHER CERTIFIED that I
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10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.18 DATED this 24th day of January, 2023.
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