I. Meeting Packet

2. Briefing of Water and Wastewater items (Attachment 2)

3. General Counsel’s Report

4. Executive Director’s Report

5. Other Matters

OUTSIDE PERSONS WISHING TO ADDRESS THE COMMISSION ON ANY OF THE AGENDAED ITEMS SHOULD CONTACT THE OFFICE OF THE EXECUTIVE DIRECTOR AT (850) 413-6463.
DATE: July 14, 2020

TO: Braulio L. Baez, Executive Director

FROM: Cayce H. Hinton, Director, Office of Industry Development and Market Analysis
       Mark Long, Public Utilities Supervisor, Office of Industry Development & Market Analysis
       Thomas J. Bates, Research Associate, Office of Industry Development & Market Analysis
       Eric Wooten, Public Utility Analyst III, Office of Industry Development & Market Analysis
       Dale Eastmond, Public Utility Analyst II, Office of Industry Development & Market Analysis


CRITICAL INFORMATION: Please place on the July 28, 2020 Internal Affairs. FPSC approval of draft report is sought. Report is due to the Governor and Legislature by August 1, 2020.

Section 364.386, Florida Statutes, requires that the Commission prepare an annual report on the status of competition in the telecommunications industry. The report is to be submitted to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the majority and minority leaders of the Senate and the House of Representatives by August 1 of each year. The attached draft report on the “Status of Competition in the Telecommunications Industry” has been prepared to fulfill the legislative requirement. Staff is seeking approval of the draft report.

Attachment

cc: Mark Futrell, Deputy Executive Director, Technical
    Apryl Lynn, Deputy Executive Director, Administrative
    Keith Hetrick, General Counsel
Report on the
Status of Competition in the Telecommunications Industry

As of December 31, 2019

Florida Public Service Commission
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<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>CDC</td>
<td>Centers for Disease Control and Prevention</td>
</tr>
<tr>
<td>CLEC</td>
<td>Competitive Local Exchange Company</td>
</tr>
<tr>
<td>FCC</td>
<td>Federal Communications Commission</td>
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<tr>
<td>FPSC</td>
<td>Florida Public Service Commission, the Commission</td>
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<tr>
<td>FTRI</td>
<td>Florida Telecommunications Relay, Inc.</td>
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<tr>
<td>F.S.</td>
<td>Florida Statutes</td>
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<tr>
<td>ILEC</td>
<td>Incumbent Local Exchange Company</td>
</tr>
<tr>
<td>IP</td>
<td>Internet Protocol</td>
</tr>
<tr>
<td>Kbps</td>
<td>Kilobits per second</td>
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<tr>
<td>Mbps</td>
<td>Megabits per second</td>
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<tr>
<td>PSTN</td>
<td>Public Switched Telephone Network</td>
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<tr>
<td>TDM</td>
<td>Time Division Multiplexing</td>
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<tr>
<td>USF</td>
<td>Universal Service Fund</td>
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<tr>
<td>USAC</td>
<td>Universal Service Administrative Company</td>
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<tr>
<td>VoIP</td>
<td>Voice over Internet Protocol</td>
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Executive Summary

Section 364.386, Florida Statutes, requires the Florida Public Service Commission (FPSC or Commission) to submit a report on the status of competition in the telecommunications industry to the Legislature by August 1 of each year. As of December 31, 2019, there were 10 incumbent local exchange companies and 256 competitive local exchange companies certificated by the Commission to operate in Florida.

In 2019, the Florida wireline market continued to follow the national trend with AT&T, CenturyLink and Frontier all experiencing access line losses. The local and national markets continued to consolidate with several mergers and acquisitions. Several intrastate issues were resolved or initiated in 2019. Lifeline subscriptions in Florida fell to 604,693 in 2019, a 12.9% decrease.

Consumers in Florida continue to migrate from traditional wireline service to wireless and cable/Voice over Internet Protocol (VoIP) services. The data indicates that residential migration may be increasing slightly, while business customers continue to migrate away from traditional wireline to VoIP technology in large numbers. Carriers reported approximately 1.6 million total wireline access lines in Florida for 2019, about 15.7 percent fewer than the previous year.

For the ninth year in a row, total wireline business access lines exceeded total residential access lines. Residential and business wirelines again experienced significant drops in 2019. Total residential access lines declined 12.6 percent. The transition to VoIP and wireless-only services continues to be responsible for much of this decline. AT&T surpassed CenturyLink as Florida’s largest wireline residential access line provider. CenturyLink experienced a 20.4 percent decline in residential lines during 2019 while AT&T only declined 4.6 percent. Frontier also experienced the biggest residential loss with a 23.6 percent decline in residential access lines during the same period.

Total business access lines declined 17.5 percent. The wireline competitors’ business market share increased to 34.2 percent in 2019. More than half of AT&T and Frontier’s wireline subscribers were business lines, while at the same time CenturyLink’s business wireline subscribers made up less than half of their total access line amounts. More than 99 percent of competitors’ access lines were business lines.

As reported for the past several years, intermodal competition from broadband, wireless, and VoIP services continued to drive the telecommunications markets in 2019. According to the most recent FCC data, there are an estimated 21.8 million wireless subscriptions in Florida, and greater than 4.7 million VoIP connections.

Analysis of the telecommunications data obtained by the Commission produced the following conclusions:

- Many competitive local exchange companies reported offering a variety of services and packages comparable to those offered by incumbents. Subscribers to wireless, cable, and business VoIP services continued to increase. These factors contribute to the conclusion
that competitive providers are able to offer functionally equivalent services to both business and residential customers.

- The traditional wireline market continues to decrease; however, the population and its uses for telecommunications services continue to expand. Wireless subscription growth and VoIP are meeting the increased demand for service. Consumers are choosing to obtain a majority of wireless and VoIP subscriptions from competitors. Given the decline in the traditional wireline market and competitors’ substantial wireless and VoIP market shares, consumers are able to obtain functionally equivalent services at comparable rates, terms, and conditions.

- A competitive market requires comparable affordability and reliability of service. The vast majority of Florida households subscribe to telephone service. Consumers are willing and able to choose telecommunications service from competitors using a variety of technologies, so competitors have been maintaining significant market share over an extended period. Based on competitors’ substantial market share and market pressures requiring comparable affordability and reliability, competition is having a positive effect on the maintenance of reasonably affordable, reliable telecommunications services.
Chapter I. Introduction and Background

Telephone service has been regulated to some degree nearly since the moment it was patented by Alexander Graham Bell (Bell) in 1876.¹ This section summarizes the major historical regulatory events both at the federal and state levels. For the purposes of this report, the history of federal telecommunications regulation is useful because state regulation of these markets has always been intertwined with, and largely a derivative of, federal laws and rules.

A. Federal Regulation

When Bell’s patents expired in 1894, competitors were allowed to build their own facilities. This accelerated the development of the nationwide telephone network. In the 18 years Bell held the patents, the daily calling average per 1,000 people peaked at 37. In the first 15 years of competition, it increased tenfold.² Competitors gained over 50 percent market share by 1907.³

Early competition also had its drawbacks. Populated areas saw many lines crisscrossing the streets as competitors raced to build their independent networks. Figure 1-1 shows the lines in Pratt, Kansas circa 1900.

Figure 1-1
Early Competition, Circa 1900

Source: America calling: a social history of the telephone to 1940

³ Ibid.
Bell’s American Telephone and Telegraph Company (AT&T) responded to this competition by acquiring its competitors’ networks. Once it had acquired enough rivals to control a market it would refuse to interconnect with any independent providers. AT&T even acquired a controlling interest in its chief rival, The Western Union Telegraph Company (Western Union). These actions eventually got the attention of federal antitrust lawyers and the Interstate Commerce Commission (ICC), which received authority to regulate telephone service in 1910.

In 1913, AT&T reached a settlement with the Justice Department. AT&T agreed to divest its Western Union stock, interconnect with other companies, and not acquire any more independent companies without approval from the ICC. This began a decades-long practice by AT&T where, after pressure from potential competitors, courts, or regulators, AT&T would enter into agreements with state and/or federal authorities in order to maintain its control of the national telephone market.

By the 1920s, AT&T had sold the idea of telecommunications as a necessary “universal service” and a “natural monopoly” to state and federal regulators, who in turn discouraged or outright banned competitive telephone services. During this period, AT&T repeatedly agreed to be subject to heavy, rate-restricted regulation in exchange for a guaranteed monopoly in a particular area. AT&T’s market share rebounded during this period until it controlled nearly 80 percent of the national market.

Telephone regulation then looked a lot like today’s electric regulation. The local telephone markets were considered monopolies and were rate-of-return regulated. Companies submitted cost information, regulators established their revenue requirement, or rate base, and the companies’ rates were set to recover those costs. This became the de facto regulatory regime at both the federal and state levels.

By enacting the Communications Act of 1934 (1934 Act) as part of President Roosevelt’s New Deal, Congress created a new agency, The Federal Communications Commission (FCC), and

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8 Ibid.

9 Ibid.

10 Ibid.
transferred to it the ICC’s telecommunications jurisdiction. The new law enabled the FCC to codify its rate base regulation of AT&T while also protecting AT&T's monopoly market position. This regulatory scheme continued for several decades, allowing AT&T to grow into the largest corporation in the world. At its peak, AT&T became larger than most countries’ economies, and larger than the five largest U.S. oil companies combined.

Starting in the 1950s, cracks in the monopoly regime began to develop, and AT&T’s ability to negotiate its way out of competition began to erode, first with the courts, and eventually with the FCC itself. Federal proceedings and lawsuits with nicknames such as “Hush-A-Phone,” “Carterfone,” and “Above 890” forced AT&T to interconnect with competitors’ telephone equipment, wireless radio phones, and microwave networks.

Still, AT&T remained the largest corporation in the world when the federal government filed another antitrust suit in 1974. This action led AT&T to enter into one final agreement; this time to break itself up into smaller companies. The long distance and equipment markets had slowly become competitive and would soon be federally deregulated. AT&T offered to divest itself into eight major companies: seven regional Bell Operating Companies were established to continue the local monopolies, and AT&T, while barred from providing local service, remained as a competitor in the long distance and equipment markets. This action, known simply as Divestiture, became final in 1984, and as a result AT&T’s size dropped 70 percent.

Between 1984 and the 1990s technology continued to put pressure on the local and long distance telephone markets. Cable, cellular, and broadband services all showed promise as substitutes for traditional phone service. Divestiture had created the opportunity for Congress to rewrite the Communications Act to accommodate these technologies and open the local markets to competition.

Congress passed the Telecommunications Act of 1996 (1996 Act), rewriting the majority of the 1934 Act and setting up the ground rules for local competition. The new law encouraged local competition nationwide, and required massive rulemakings from both the FCC and state PSCs to ensure wholesale prices, consumer protections, and universal service principles were fair and reasonable. This effectively ended rate base regulation for the vast majority of local telephone services nationwide.

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12 Ibid.
16 Ibid.
Congress delegated to the FCC and the States the ability to write rules implementing the 1996 Act. Carriers were required to interconnect with one another, and the existing companies, called Incumbent Local Exchange Carriers (ILECs), were required to lease elements of their existing networks to the new competitors, called Competitive Local Exchange Carriers (CLECs). Wholesale rates for these Unbundled Network Elements (UNEs) had to be established at the state level using a specific and complicated cost methodology. Small, rural, independent ILECs could escape the voluminous interconnection rules if they could demonstrate to the state PSC that they could not implement the rules or if there was no demand by competitors in their area.\(^{17}\)

Companies were encouraged to negotiate interconnection agreements including UNE prices established by the States, adopt another company’s agreement, or resell a complete service. A process was also established for the regulator to step in should companies disagree and require arbitration. While the FCC was responsible for establishing the national framework for executing the 1996 Act, it was up to the States to complete the lion’s share of the implementation. It took several years to complete the initial implementation of the 1996 Act by the FCC and States.

While Congress hoped that the 1996 Act would settle the endless litigation in the telecommunications market, the opposite proved true. Since its passage, lawsuits involving the FCC and some aspect of the 1996 Act have been nearly continuous to this day. The FCC’s attempts to implement the interconnection and UNE access provisions were struck down, at least in part, no fewer than three times by federal courts. Finally, four tries and over eight years after the 1996 Act was passed, the FCC’s “Triennial Review Remand Order” (TRRO) stuck.\(^{18}\) The TRRO, following directives from the courts, limited CLEC access to several UNEs where competitive alternatives existed, as well as local loops combined with local switching, known as the UNE Platform (UNE-P). UNE-P was the primary method non-cable CLECs used to provide residential service. Once the courts struck down UNE-P access, CLECs essentially abandoned the residential market to cable and wireless companies.

**B. Florida Regulation**

While all this activity was occurring at the federal level, state actions were just as busy. The Florida Legislature (Legislature) added telephone and telegraph regulation to the Florida Railroad Commission’s responsibilities in 1911.\(^{19}\) The agency’s name was changed to the Florida Public Service Commission (FPSC or Commission) in 1965.

As previously described, rate base regulation was the norm up through the 1980s in Florida. In 1990, the Florida Legislature recognized the emerging competitive markets for some telecom services provided by the local carriers and delegated to the FPSC the authority to, in some


circumstances, allow price cap regulation for those services.\textsuperscript{20} If the FPSC decided that effective competition existed for a particular service or market, it could allow market conditions to control prices and eliminate rate-of-return regulation for that service or market.\textsuperscript{21}

Competition for more services developed and, by 1995, the emergence of cable companies made it obvious that competition for all local services was inevitable. In anticipation of a federal law becoming imminent, the Florida Legislature passed a sweeping revision to Chapter 364, F.S., finding that “the competitive provision of telecommunications services, including local exchange service, is in the public interest.”\textsuperscript{22} Competitive entry into the local market was allowed, and competitors were able to enter subject to a lesser degree of regulatory oversight than the incumbents. Also, incumbents were allowed to elect price caps for all their services, eliminating them from rate-of-return regulation altogether.\textsuperscript{23} The Legislature also required the FPSC to start issuing this report on the status of competition in Florida.

The Legislature followed up in 1998 by requiring the FPSC to issue a series of five reports on competition, including forward-looking cost estimates of local service, impacts to low-income assistance programs such as Lifeline, the relationships between costs and existing prices, what are fair and reasonable local rates, and impacts on multi-tenant environments.\textsuperscript{24}

To further accommodate the growing competitive landscape, in 2003 the Legislature passed another major amendment to Chapter 364, F.S. The changes included lesser FPSC oversight of long distance companies, and incumbent local carriers were allowed to petition the FPSC for lesser regulatory oversight, similar to the regulation of their local competitors. It also expanded Lifeline eligibility for low-income Florida consumers, and exempted Voice-over-Internet-Protocol (VoIP) services, which at that time were largely utilized by cable companies to provide telephone service, from FPSC jurisdiction.\textsuperscript{25}

In 2005, the Legislature amended Chapter 364, F.S., again, addressing local governments and broadband deployment, FPSC jurisdiction regarding advanced services, Lifeline awareness and participation, and storm damage recovery. It established rules that governmental entities, such as municipalities, must follow in order to provide communications services (cable, broadband, etc.) in competition with private providers. The 2005 revisions also clarified the FPSC’s jurisdiction, or more precisely the exemption from the FPSC’s jurisdiction, for advanced services, including wireless, broadband, and VoIP. The new law also further clarified and expanded Lifeline

\textsuperscript{20} Price caps are a regulatory scheme where, instead of regulators limiting a company’s percent return on investment, a company could elect to have its prices capped at a regulator-approved level, allowing the company to keep any profits generated by selling its services at or below the price caps.

\textsuperscript{21} See 1990 Fla. Laws ch. 90-244.

\textsuperscript{22} See 1995 Fla. Laws ch. 95-403.

\textsuperscript{23} Ibid.


eligibility and procedures. Finally, as a result of the storm season in 2004, it permitted the recovery of costs and expenses related to named tropical storms.26

In 2006, carrier of last resort obligations in multitenant environments were amended, and some previously enacted rate requirements were repealed. In 2008, changes included further rate reductions, rebalancing, and repeals. Also in 2008, an automated enrollment process for Lifeline was created, and the incumbents’ overall carrier of last resort obligations were allowed to sunset.27

In 2009, the definition of basic service was narrowed and regulation for nonbasic services was decreased. Service quality oversight for nonbasic services was eliminated and company tariffs were no longer required. Lifeline eligibility was again expanded. The Florida Department of Management Service was the agency designated to oversee broadband deployment in Florida. In 2010, the rate-of-return sections in Chapter 364, F.S., were repealed.28

The most recent revision to Chapter 364, F.S., came in 2011. This amendment finalized the deregulation of all retail services by the incumbent local providers. This included the elimination of rate caps, the elimination of the consumer protection and assistance duties of the FPSC, and the elimination of all service quality oversight. It also repealed the previously-enacted storm damage recovery provisions.29

In the telecommunications area, the FPSC still retains authority to monitor intercarrier relations and resolve wholesale disputes, oversee the Lifeline and Florida relay programs, and issue certifications. The FPSC also has authority over numbering issues, including area code relief, numbering conservation, and local number portability. The FPSC also still resolves complaints relating to Lifeline, the relay service, and payphones.

C. Status of Competition Report
As previously stated, Chapter 364, F.S., requires the Commission to prepare and deliver a report on the status of competition in the telecommunications industry to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives on August 1 of each year. Section 364.386, F.S., requires that the report address the following four elements:

1. The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.


2. The ability of customers to obtain functionally equivalent services at comparable rates, terms, and conditions.

3. The overall impact of competition on the maintenance of reasonably affordable and reliable high-quality telecommunications services.

4. A list and short description of any carrier disputes filed under Section 364.16, F.S.

The Commission is required to make requests to local exchange telecommunications providers each year for the data required to complete the report. The data request was mailed on February 27, 2020, to 10 ILECs and 256 CLECs. Responses were due April 15, 2020. The data and analyses that follow accurately reflect the information provided by the ILECs and the reporting CLECs.

This report is divided into chapters that summarize key events and data that may have a short-term or long-term effect on the Florida telecommunications market. Chapter II presents data regarding wireline access line competition in Florida, including access line trends, residential/business access line mix, and market share. Chapter III discusses the continued development of the wireline market’s principle forms of intermodal competition: broadband, wireless, and VoIP. Chapter IV primarily uses data outlined in the other chapters to address the four statutory issues delineated above. Chapter V provides a summary of state activities affecting local telecommunications competition in 2019, including intercarrier matters, Lifeline, and the Telecommunications Relay Service. Chapter VI details some of the major federal activities that may affect the Florida market.
Chapter II. Wireline Competition Overview

For the past decade, the technologies used to deliver voice telephony have continued to evolve. Analog circuits using traditional Time Division Multiplexing (TDM) and copper wires are being replaced by wireless cell-based transmission and VoIP, which is provided via a digital broadband connection, either wireless or wired. Wireless, VoIP, and broadband are all exempt from FPSC jurisdiction. The FPSC is therefore limited in what data it can collect regarding these technologies. Trends in these technologies are summarized in Chapter III.

TDM-based wireline service is still used throughout the country and Florida and is the primary subject of this report. Also, the wireless and broadband networks utilize many of the traditional wireline facilities for interoffice and long distance transport.

This chapter discusses the incumbent carriers’ corporate trends as disclosed in their federal financial reports. It then discusses the number, market mix, and market share of residential and business wirelines. Knowledge of the number of wirelines and the trends for market participants is essential to understanding the state of the market.

A. Incumbent Carriers

One tool to gauge whether the Florida market is isolated or part of a national trend is to look at companies’ annual federal filings. National trends are often reflected in the companies’ respective annual reports filed with the Securities and Exchange Commission. There are 10 ILECs providing wireline services in Florida, the largest of which are AT&T, CenturyLink, and Frontier.\(^{30}\) These companies’ annual reports showed that, like in Florida, they continue to face access line losses nationally as customers disconnect traditional landline services and migrate to alternative services.

AT&T reported losses of approximately 1,515,000 switched access lines nationwide (15 percent) in 2019. In Florida, AT&T’s total switched access lines declined by nearly 124,000 (17.4 percent) with residential access lines decreasing by over 12,000 (4.6 percent) and business lines by nearly 112,000 (25.1 percent). For 2019, AT&T reported a decrease in operating revenues in their communications segment of approximately $1.4 billion nationwide, a decline of 0.9 percent.\(^{31}\)

CenturyLink no longer uses access lines as a key operating metric, and the broadband subscription data they present does not lend itself to comparison with other companies’ telephone subscriber gains or losses.\(^{32,33}\) In Florida, CenturyLink’s total switched access lines

\(^{30}\) Responses to local competition data request 2020.


\(^{33}\) Ibid. p. 55: 4.7 million broadband subscribers at year end 2019.
declined by over 73,000 (15.7 percent), with residential access lines decreasing more than 57,000 (20.4 percent), and business access lines decreasing nearly 16,000 (8.5 percent). For 2019, CenturyLink reported a decrease in operating revenues of approximately $1.042 billion, a loss of 4.4 percent. CenturyLink’s capital expenditures for 2019 were over $3.6 billion, slightly higher than previously estimated.34

Frontier experienced a nearly 7.9 percent loss in access lines nationwide compared to 2018, ending 2019 with approximately 4.1 million subscribers.35 In Florida, Frontier’s total switched access lines declined by over 35,000 (16.1 percent), with residential access lines decreasing nearly 19,000 (23.6 percent) and business lines by nearly 17,000 (12.0 percent). For 2019, Frontier, reported a decrease in revenue of over $504 million nationwide, a loss of nearly 6 percent.36 In 2019, Frontier’s capital expenditures were over $1.2 billion.37 Frontier filed for Chapter 11 bankruptcy protection on April 15, 2020. Frontier filed its Chapter 11 Plan of Reorganization with the bankruptcy court on May 15, 2020. It expects to emerge from Chapter 11 in August 2020.38

The seven rural Florida ILECs experienced a more modest contraction in the number of switched access lines. In 2019, rural carriers in Florida saw their total access lines decline by over 400 (0.4 percent). While residential lines increased by over 300 (0.4 percent), business lines decreased by nearly 800 (2.3 percent).39

Windstream is the largest of the rural ILECs and operates in northeast Florida. For 2019, Windstream reported approximately 1.2 million subscribers nationwide, a decline of 9.9 percent over the previous year.40 In Florida, Windstream experienced an increase in switched access lines of nearly 2,500 (3.9 percent), consisting of an increase of more than 2,400 (4.8 percent) residential lines and an increase of more than 40 business lines (0.4 percent).41 The company attributes its growth to increased demand for its broadband product. According to Windstream’s

34 Ibid. p. 51.
35 Ibid. p. 52.
37 Ibid, p. 36.
38 Ibid, p. 41.
40 Responses to local competition data request 2020.
42 Responses to local competition data request 2020.
reporting, the company incurred $879 million in capital expenditures in 2019. In February 2019, Windstream and its subsidiaries filed for reorganization under Chapter 11, and, subject to regulatory approvals, also expects to exit bankruptcy in August 2020.

**B. Wireline Trends in Florida**

Figure 2-1 illustrates the overall trend in Florida for both residential and business lines (not including VoIP connections). Based on current data, the rate of decline in residential and business lines moderated somewhat in 2019. Business access lines totaled approximately 1,000,000, representing a decrease of 17.6 percent from 2018 to 2019. Residential access lines totaled nearly 614,000 as of December 2019, representing a decline of 12.6 percent from the previous year. Total combined traditional wirelines for ILECs and CLECs declined 15.7 percent, from approximately 1.9 million in December 2018 to 1.6 million as of December 2019. From 2015 through 2019, the total number of traditional wirelines decreased by nearly 1.7 million, a decline of 51 percent.

![Figure 2-1](image)

**Figure 2-1**

Florida Wireline Access Line Trends

Source: Responses to local competition data request (2016-2020)

---


C. Wireline Market Mix, Market Share, and Market Composition

1. Market Mix
The business-to-residential ratio of customers served by ILECs and CLECs has shifted over time. In general, both ILECs and CLECs have seen an increased concentration of traditional wireline business customers as residential customers migrate to other options. The business-to-residential customer mix for ILECs was about 30 percent business and 70 percent residential in 2004. By 2017, the mix for ILECs had shifted so much that the percentage of business wirelines exceeded the percentage of residential wirelines for the first time. In 2019, the ILECs had nearly 52 percent business lines and 48 percent residential lines.

The shift in mix has been even more pronounced in the CLEC market. In 2004, the business-to-residential customer mix for CLECs was about 63 percent business and 37 percent residential. In 2020, the CLEC customer mix was over 99 percent business lines.

2. Market Share
CLECs have traditionally focused on business customers. Figure 2-2 illustrates FPSC data on CLEC market share by business and residential customer classes. The inverse of this percentage would be market share for the ILECs in Florida. According to FPSC data, the CLEC residential market share decreased from 0.5 percent in 2018 to 0.4 percent in 2019, while the CLEC business market share increased from 33.7 percent in 2018 to 34.2 percent in 2019.

![Figure 2-2: Florida Residential & Business CLEC Market Share](image)

Source: Responses to local competition data request (2015-2020)
As shown by FCC data in Figure 2-3, ILECs have held an average 79.9 percent share of the traditional wireline market over the last eleven years. This share has remained relatively stable, varying from 72.4 to 86.2 percent.\footnote{FCC, Voice Telephone Services as of 12/31/18, Nationwide and State-Level Data for 2008-Present, released March 6, 2020, https://www.fcc.gov/voice-telephone-services-report, accessed on June 20, 2020.}

\begin{figure}[h!]
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\includegraphics[width=\textwidth]{figure23.png}
\caption{Florida ILEC TDM Wireline Market Share}
\end{figure}

Source: FCC Voice Telephone Services Report
When traditional TDM access lines are combined with VoIP lines, the combined wireline market reveals a continually declining ILEC market share as shown in Figure 2-4, with an average annual decrease of 3.8 percent.\textsuperscript{46}

\textbf{Figure 2-4}
Florida ILEC TDM and VoIP Wireline Market Share

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure2-4.png}
\caption{Florida ILEC TDM and VoIP Wireline Market Share}
\end{figure}

Source: FCC Voice Telephone Services Report

\textsuperscript{46} Ibid.
3. Market Composition

The market composition of access lines served by local exchange companies is illustrated in Table 2-1. In 2019, ILEC residential access lines decreased by 12.5 percent, while ILEC business lines decreased by 18.1 percent. The CLECs experienced a relatively small decline in the number of residential access lines, but given their small market presence, this yielded the largest percentage loss at 29.6 percent. CLEC business access lines decreased by 16.5 percent.

<table>
<thead>
<tr>
<th></th>
<th>ILECs</th>
<th>CLECs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>Residential 1,187,615</td>
<td>14,415</td>
<td>1,202,030</td>
</tr>
<tr>
<td></td>
<td>Business 1,104,197</td>
<td>681,398</td>
<td>1,785,595</td>
</tr>
<tr>
<td></td>
<td>Total 2,291,812</td>
<td>695,813</td>
<td>2,987,625</td>
</tr>
<tr>
<td>2017</td>
<td>Residential 911,814</td>
<td>8,341</td>
<td>920,155</td>
</tr>
<tr>
<td></td>
<td>Business 976,768</td>
<td>591,089</td>
<td>1,567,857</td>
</tr>
<tr>
<td></td>
<td>Total 1,888,582</td>
<td>599,430</td>
<td>2,488,012</td>
</tr>
<tr>
<td>2018</td>
<td>Residential 698,975</td>
<td>3,695</td>
<td>702,670</td>
</tr>
<tr>
<td></td>
<td>Business 803,240</td>
<td>409,122</td>
<td>1,212,362</td>
</tr>
<tr>
<td></td>
<td>Total 1,502,215</td>
<td>412,817</td>
<td>1,915,032</td>
</tr>
<tr>
<td>2019</td>
<td>Residential 611,329</td>
<td>2,600</td>
<td>613,929</td>
</tr>
<tr>
<td></td>
<td>Business 658,040</td>
<td>341,707</td>
<td>999,747</td>
</tr>
<tr>
<td></td>
<td>Total 1,269,369</td>
<td>344,307</td>
<td>1,613,676</td>
</tr>
<tr>
<td>Change</td>
<td>Residential -12.5%</td>
<td>-29.6%</td>
<td>-12.6%</td>
</tr>
<tr>
<td>2018-2019</td>
<td>Business -18.1%</td>
<td>-16.5%</td>
<td>-17.6%</td>
</tr>
<tr>
<td></td>
<td>Total -15.5%</td>
<td>-16.6%</td>
<td>-15.7%</td>
</tr>
</tbody>
</table>

Source: Responses to local competition data request (2017-2020)

4. Residential Wireline Access Line Trends

Figure 2-5 displays the wireline residential access line trends separately for AT&T, Frontier, CenturyLink, aggregate rural ILECs, and aggregate CLECs. Over the past five years, AT&T and CenturyLink have both averaged losses of around 18 percent per year, while Frontier has experienced an average of about 23 percent decline per year in residential access lines. During that period, CLEC residential lines declined by an annual average of 29.4 percent, while rural ILEC access lines declined by an average of 3.2 percent.
AT&T experienced residential wireline losses of 19.8 percent in 2018 and 4.6 percent in 2019. Frontier lost 24.1 percent of its residential wirelines in 2018 and 23.6 percent in 2019, while CenturyLink lost 30.2 percent of its residential lines in 2018 and 20.4 percent in 2019. The rural ILECs reported line losses of 1.6 percent in 2018 and gains of 0.4 percent in 2019, and the CLECs reported residential wireline declines of 55.7 percent in 2018 and 29.6 percent in 2019. The ILECs and CLECs experienced a moderation in the rate of line losses, while the rural ILECs experienced a slight gain in residential lines.


Figure 2-6 displays the wireline business access line levels separately for AT&T, Frontier, CenturyLink, aggregate rural ILECs, and aggregate CLECs. Over the past five years, AT&T has experienced an average decline of around 16 percent per year, while Frontier and CenturyLink have experienced average annual declines of around 10 percent, respectively. The average annual
decline in rural ILEC business access lines over the past five years is four percent, while CLEC business access lines declined by 16 percent annually over the same period.

Figure 2-6
Florida Business Wireline Trends by ILECs and CLECs

AT&T experienced business wireline losses of 12.8 percent in 2018 and 25.1 percent in 2019. Frontier lost 30.5 percent of its business wirelines in 2018 and 12.0 percent in 2019, while CenturyLink lost 18.7 percent of its business lines in 2018 and 8.5 percent in 2019. The rural ILECs reported line losses of 10.4 percent in 2018 and 2.3 percent in 2019, and the CLECs reported business wireline declines of 30.8 percent in 2018 and 16.5 percent in 2019 AT&T’s rate of business line losses accelerated, while the rates for all others moderated.
Chapter III. Intermodal Competition Overview

Total wireline access lines in Florida peaked 20 years ago at approximately 12 million. Florida’s population has increased over 40 percent since then, and communications services have continued to expand, yet as previously shown in Table 2-1, wirelines were down to 1.6 million by the end of 2019. So where did 87 percent of the access lines in 2000 go?

While the ILECs have continued to dominate the traditional wireline markets as discussed in the previous chapter, competition has exploded in other modes of communication, namely broadband, wireless, and VoIP services. At their core, these other modes are just a technologically different way to communicate over distance, so they can act as a substitute for voice service. However, the additional capabilities available with these technologies have led residential consumers and businesses to make the transition to these modes in droves. This chapter summarizes what is currently going on with these technologies.

A. Broadband

Broadband service equates to high-speed Internet access and data services; this makes it the least similar to traditional voice service, and thus not a direct substitute for it. However, broadband service is the backbone of wireless and VoIP services and its availability is imperative to making those other two platforms attractive. There are many ways broadband can be delivered: through traditional copper wires as Digital Subscriber Line service (DSL), coaxial or fiber optic cable, or wirelessly via satellite, cellular service, etc.

Broadband deployment has become so popular that it is now integrally incorporated into several state and federal agencies’ infrastructure programs. Many of these projects have the end goal of expanding broadband to rural Americans who currently lack it. Broadband access also allows expanded communications abilities to be realized, such as telehealth, telework, distance learning, and video communications.

The latest report published by the FCC indicated that nationwide nearly 99 million households had fixed internet connections by the end of 2017, averaging download speeds of 60 megabits per second (Mbps). Of those, 86 million had connection speeds of at least 10 Mbps. The FCC also reported a 71 percent subscription rate of 25Mbps or greater fixed broadband connections in Florida in 2017. Cable modem services accounted for roughly five million of non-mobile broadband connections in Florida, while mobile broadband connections accounted for almost 20 million Florida connections.


49 Ibid, tables 3 and 4.
In order to help the expansion of broadband infrastructure, states have taken the initiative to create broadband deployment programs to better identify target areas that lack the FCC’s minimum 25 Mbps download speed for funding. The National Telecommunications and Information Administration (NTIA) administers grants that are focused on the deployment and use of broadband throughout the country. They oversee two programs: the Broadband Technology Opportunities Program (BTOP) and the State Broadband Initiative (SBI).\(^{50}\) Previously, in 364.0135, F.S., The Florida Department of Management Services (DMS) was the primary agency to apply for grants and lead broadband development efforts. However, the Florida Legislature passed SB 1166, which renamed the Florida Department of Economic Opportunity (DEO) as the primary agency to house the new Office of Broadband.\(^{51}\)

**B. Wireless**

Past reports have consistently shown that adoption of wireless services in the United States, and Florida specifically, far surpasses the adoption of other modes of communications. In the early 1990s, wireless service was still new, signal strength and network availability were limited, and the services were marketed primarily to enterprise and other business users. The general population of consumers could not afford the cost of the cellular phone, and the limited availability of network access meant that mass adoption of the platform would take time. Few analysts envisioned wireless services and the devices they would spawn would become the primary form of interpersonal communication.

1. **Market Share**

According to Statista.com and as shown in Figure 3-1, US market share among the top five wireless companies was split between AT&T with 39.9%, followed by Verizon at 29.2%, T-Mobile at 16.4%, Sprint at 13.3%, and US Cellular at 1.2%.\(^{52}\)

\(^{50}\) National Telecommunications and Information Administration, “Grants”, <https://www.ntia.doc.gov/category/grants?type=All&field_month_list_value=All&field_press_release_date_value%5Bvalue%5D%5Byear%5D=2010>, accessed July 7, 2020.

\(^{51}\) <https://www.flsenate.gov/Session/Bill/2020/1166>

2. Wireless Substitution

According to the most recent data from carriers’ financial reports, the four largest wireless service providers in the United States – AT&T, Sprint, T-Mobile, and Verizon Wireless – accounted for over 400 million connections at the end of the third quarter of 2019. The number of connections in the United States is enough for every US citizen to have a wireless device, and still have over 25 million remaining.

Over the last five years, the number of households with both wireline and wireless service has trended downward, but in 2019 increased slightly. Less than 38 percent of U.S. households subscribe to both wireline and wireless service. As shown in Figure 3-2, wireless-only households in the United States rose from 54.9 percent in June 2018 to 59.2 percent one year later.54

53 Companies’ 2020 Annual 10-K filings with the SEC.

3. Florida Trends
Florida’s wireless trends, generally, track closely with national trends. The most recent data available from the FCC, from December 2018, estimated Florida’s wireless subscriptions to be 21,884,000. This is an increase of approximately 1 percent from 2017 (21,208,000).\textsuperscript{55}

Florida’s wireless-only households increased to 60.9 percent in 2018, ahead of the national average of 56.7 percent. Nearly 73 percent of Florida’s children live in wireless-only households.\textsuperscript{56} This percentage is higher than the national average of 67.5 percent for the same period.\textsuperscript{57} Though Florida’s rate of substitution continues to maintain a level similar to the national average, it appears to be increasing.


4. New Technology

The demand for wireless broadband service continues to grow with each new evolution of technology. The fifth generation of wireless connectivity, known as “5G,” will bring a more robust broadband experience to wireless services. The newest generation of devices will benefit from increased spectrum, a reduction in latency, and improved signal quality. Technological advances notwithstanding, the switched access network is still necessary. Wireline facilities are the backbone of the new generation of wireless tools available to consumers, and will continue to be instrumentally critical to current wireless technology and its future evolutions. Consumers use their devices wirelessly, but once their signal reaches a cell tower/receiver, the voice and data signals are transported primarily through landline facilities to the termination point. The wireline network will continue to be vital to the development of current 5G services as well as those yet to come.

Verizon launched 5G Ultra-Wideband Network in 31 markets in 2019 and hopes to expand that footprint to 60 cities in 2020.58 In Florida, Verizon’s 5G service is available in Miami and Panama City.59

AT&T began offering 5G services to consumers in 20 communities in December 2019, and plans to have mobile 5G service nationwide to more than 200 million people by the second quarter 2020.60 In January 2020, AT&T announced its 5G network was available in parts of Miami and Miami Gardens, Florida,61 and in April the company announced the addition of Bradenton, Dixie County, Fort Pierce, Hamilton County, Hardee County, Ocala, Pensacola, Sarasota, and Tampa.62

In April 2020, T-Mobile and Sprint (T-Mobile US) completed their merger. In its annual report, T-Mobile noted that by the end of 2019, its 5G network covered more than 200 million people and 5,000 communities.

C. Voice over Internet Protocol (VoIP)

VoIP technology utilizes digital computer protocols in order to complete telephony voice calls over the Internet. Interconnected VoIP allows users to make and receive calls between their VoIP


networks and the public switched telephone network (PSTN). These calls can be provided via separate interconnected digital channels, privately managed, or “over the top” of existing Internet traffic. Interconnected VoIP is a substitute for traditional TDM-based service, and so is included in this report to the extent information is available. Non-interconnected VoIP services lack the capability of interconnecting with the PSTN, and therefore are not a substitute for TDM. Non-interconnected VoIP is not discussed in this report.

VoIP providers include cable companies, ILECs, CLECs, and Over the Top (OTT) providers. Customers usually subscribe to a broadband service and lease/purchase telephone equipment from the VoIP provider. Calls are sent through the broadband connection.

OTT companies include Magic Jack, Vonage and Skype. OTT calls can be viewed as interconnected VoIP services because of their ability to connect to internet infrastructure and route calls through the PSTN. These companies require the customer to have a broadband internet connection. Some use plugin converters between the consumer’s existing phone and their standard phone jack. Calls are made through an existing internet connection.

FCC data from June 2014 through the end of 2018 shows a continued growth rate for VoIP of four percent per year, while subscribership to traditional wireline services decreased by 12 percent. The FCC also reported that there were approximately 67 million VoIP subscribers in the U.S. Table 3-1 shows U.S. VoIP subscribership by customer type as of December 2018. Data collected by the FPSC also shows nearly 2.5 million residential VoIP subscribers in Florida as of December 2019.

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63 47 C.F.R. § 9.3.

64 47 USC § 153(36). An example of a non-interconnected VoIP network is a video game console service such as Xbox Live.


66 Ibid, Table 1, accessed on March 23, 2020.

67 Responses to local competition data request 2020.
### Table 3-1
U.S. Interconnected VoIP Subscribership by Customer Type
(In Thousands)

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Over-the-Top</th>
<th>All Other VoIP</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ILEC</td>
<td>69</td>
<td>13,132</td>
<td></td>
<td>13,201</td>
</tr>
<tr>
<td>Non-ILEC</td>
<td>10,082</td>
<td>43,644</td>
<td></td>
<td>53,726</td>
</tr>
<tr>
<td>Total</td>
<td>10,152</td>
<td>56,776</td>
<td></td>
<td>66,927</td>
</tr>
</tbody>
</table>

**Residential**

<table>
<thead>
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<th></th>
<th>Total</th>
<th>Over-the-Top</th>
<th>All Other VoIP</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>ILEC</td>
<td>2</td>
<td>9,034</td>
<td></td>
<td>9,036</td>
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<tr>
<td>Non-ILEC</td>
<td>2,325</td>
<td>27,246</td>
<td></td>
<td>29,571</td>
</tr>
<tr>
<td>Total</td>
<td>2,327</td>
<td>36,280</td>
<td></td>
<td>38,607</td>
</tr>
</tbody>
</table>

**Business**

<table>
<thead>
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<th></th>
<th>Total</th>
<th>Over-the-Top</th>
<th>All Other VoIP</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>ILEC</td>
<td>67</td>
<td>4,098</td>
<td></td>
<td>4,165</td>
</tr>
<tr>
<td>Non-ILEC</td>
<td>7,757</td>
<td>16,3997</td>
<td></td>
<td>24,155</td>
</tr>
<tr>
<td>Total</td>
<td>7,825</td>
<td>20,495</td>
<td></td>
<td>28,320</td>
</tr>
</tbody>
</table>

Source: FCC Voice Telephone Services Report, December 2018

1. **National Market**

VoIP subscriptions have enjoyed steady increases for the past several years, both nationally and in Florida, while traditional switched lines have decreased. However, recent data indicates that customer migration to VoIP, particularly for residential customers, may have plateaued. As shown in Figure 3-3, the FCC reported approximately 67 million VoIP subscriptions and 43.5 million retail switched lines by year end 2018. These figures total up to approximately 110 million wireline voice retail connections. Of those 110 million connections, 51 percent were residential and 49 percent were business.

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68 Ibid, p. 2.

69 Ibid, Figure 1.
Figure 3-3
U.S. Retail Voice Telephone Subscriptions
(In Thousands)

Source: FCC Voice Telephone Services Report, December 2018

a. Facilities-Based VoIP Providers

According to the FCC, non-ILEC companies accounted for nearly 29.5 million residential VoIP subscribers as of December 2018, compared to 9 million ILEC VoIP subscribers. This represents over a 75 percent market share for the non-ILECs in this market.70 Comcast, the country’s largest cable provider, reported a decrease of nearly three percent from 2018 (10.2 million) to 2019 (9.9 million).71 The second largest cable provider, Charter Communications, reported a total of approximately 9.4 million residential VoIP subscribers at year-end 2019, a decrease of nearly seven percent from 2018.72 AT&T reported approximately 3.8 million U-verse consumer VoIP subscribers at year-end 2019, nearly a 17.4 percent decrease from the previous year.73

Each of these top three facilities-based providers reported that improvements in wireless carriers’ broadband infrastructure is a factor in consumers’ decisions to leave wireline broadband and VoIP services. These providers have developed wireless and video services and bundle them in an attempt to retain customers.

70 Ibid Table 1.


b. Over the Top VoIP Providers

Routing voice calls over a customer’s existing Internet connection allows over-the-top providers to have a much lower cost of service than wireline and wireless competition. According to the FCC, there were 10 million OTT VoIP subscribers in the U.S. as of December 2018. This total included nearly 2.3 million residential subscribers and approximately 7.8 million business subscribers nationwide. The FCC’s figures showed an increase of approximately 13.5 percent in residential subscribers, and nearly a six percent increase in business subscribers from June to December in 2018.12

2. Florida Market

The FPSC does not have jurisdiction over VoIP services, which limits the agency’s ability to determine an accurate estimate of the total number of VoIP subscribers in Florida. However, several ILECs and CLECs in Florida voluntarily responded to the Commission’s data request and provided information on the number of residential VoIP subscribers. The Florida Internet and Television Association reported nearly 1.9 million residential VoIP subscribers for the five largest member providers, but it has not historically provided business line data. The FCC reported non-ILECs in Florida served approximately 1.6 million business interconnected VoIP subscribers by December 2018, an increase of nearly 11 percent from 2017.13


Figure 3-4 shows an estimated 2.5 million residential VoIP subscribers in Florida as of December 2019. This data indicates a decrease of nearly 250,000 residential VoIP subscriptions in 2019. The five year trend indicates that the residential VoIP market in Florida may have matured and/or stagnated. As previously stated, the major VoIP carriers have indicated that increased competition from wireless competitors has affected VoIP subscriptions.

![Figure 3-4](image-url)

**Florida Residential Interconnected VoIP Subscribers**

Source: Responses to FPSC data requests (2015-2019)
Alternatively, the business VoIP market in Florida continues to expand. Figure 3-5 displays VoIP business subscribers by ILEC and Non-ILEC carriers as reported by the FCC. ILECs and non-ILECs combined for double-digit growth in 2018, adding to the aggressive growth Florida business VoIP subscribers have enjoyed for several years. Business VoIP growth lagged behind residential growth for several years as cable companies concentrated on the residential market, but as that market matured they turned their attention towards business customers.

**Figure 3-5**

Florida Business Interconnected VoIP Subscribers

![Bar chart showing VoIP business subscribers by ILEC and Non-ILEC carriers from 2014 to 2018.](chart.png)

Source: FCC, Voice Telephone Services Report, State Level Subscriptions
Chapter IV. Competitive Market Analysis & Statutory Issues

A. Statutory Issue – Competitive Providers

The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.

Functionally equivalent services are available to consumers via wireline telephony, wireless telephony, or VoIP. As of June 22, 2020, 227 CLECs had responded to the Local Competition Report data request. Of those responding, 54 companies indicate they provided local voice service in Florida in 2019. Many offer multiple services and/or bundled packages.

As discussed in Chapter III, total wireline residential and business markets in Florida declined by 16.4 percent. CLEC total lines decreased 19.7, while ILEC total lines decreased by 15.5 percent. The CLEC wireline market share in Florida decreased from 21.6 percent in 2018 to 20.7 percent in 2019.

Florida residential VoIP subscribership accounted for 2.5 million connections by December 2019, representing an 11.1 percent decrease in lines. Comparable 2019 end of year data was not available for business VoIP segments of the market. However, data for 2018 from the FCC indicated that the number of Florida business VoIP lines grew 10.7 percent from end of year 2017 through December 2018. With the decline in CLEC and ILEC wirelines as well as residential VoIP lines in the state of Florida, consumers appear to be migrating to wireless services. Several CLECs reported providing a number of services: local phone service (54 CLECs), VoIP (82), broadband Internet access (67), video service (8), and bundled services (67).

The data suggests that CLECs, VoIP, and wireless carriers are able to provide functionally equivalent services to residential and business customers at rates, terms and conditions acceptable to consumers. Responses to FPSC data requests indicate that a substantial number of CLECs offer a variety of functionally equivalent services at comparable terms.

In response to FPSC data request questions, the majority of CLECs reported no barriers to competition or elected not to respond. However, the companies that did report competitive concerns mentioned issues with ILEC pricing practices and the lack of a formal plan for IP transition. We note that the CLECs have not filed any petitions with the Commission to address these issues. Some of these issues may be addressed by the FCC.

74 Responses to local competition data request 2020.

75 Ibid.


77 Responses to local competition data request 2020.
Conclusion: Dozens of competitors offered multiple combinations of services to attract customers. Also, subscriptions to wireline telephony decreased again in 2019, indicating consumer choice continues to be primarily wireless and VoIP services. Based on the multiple services offered by alternative providers and their significant market share, companies are offering functionally equivalent services to both business and residential customers.

B. Statutory Issue – Consumers

The ability of consumers to obtain functionally equivalent services at comparable rates, terms, and conditions.

If companies are making functionally equivalent services available at comparable rates, terms, and conditions, as concluded in the previous issue, this issue determines whether or not there are significant impediments to consumers obtaining those services. One of the best determinants of whether consumers can obtain alternative services is the degree to which they are actually subscribing to them in large numbers.

Over the past 20 years, total traditional access lines have declined by around 87 percent in Florida, as the population has increased substantially by around 40 percent. Given the importance of telecommunications service and the large percentage decline in traditional access lines, consumers must be finding service elsewhere. Competitors have been successfully maintaining substantial and increasing shares in traditional access lines and other technologies, such as wireless and VoIP. By December 2018, the number of wireless connections in Florida reached 21.8 million, which equates to more than one connection per person. Some consumers have migrated to VoIP. The ILEC residential VoIP market share has averaged 17 percent over the last eleven years, while peaking in 2015 at 26.3 percent.

Conclusion: The ILEC wireline residential market share continues to increase; however, the traditional wireline market continues to decrease despite population growth. Increasing demand for service is being met by wireless subscription growth and VoIP. There are more wireless connections in Florida than people. Consumers are choosing to obtain a majority of wireless subscriptions and VoIP from competitors. Given competitors’ substantial wireless and VoIP market shares, consumers are able to obtain functionally equivalent services at comparable rates, terms, and conditions.

C. Statutory Issue – Affordability & Reliability

The overall impact of competition on the maintenance of reasonably affordable and reliable high-quality telecommunications services.

In order to successfully compete in a free market, a business needs to provide equivalent value to consumers. The value of telecommunications service is most broadly determined by affordability and reliability. As shown in Figure 4-1, the average Florida household telephone subscription

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rate has been nearly 94 percent over the last seven years.\textsuperscript{80} This high telephone subscription rate is not a recent occurrence; the average household telephone subscription rate has been 93.2 percent over the past 35 years.\textsuperscript{81}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure4-1.png}
\caption{Telephone Service Subscription: Florida vs. Nation}
\end{figure}

Following the passage of the Florida Regulatory Reform Act in 2011, the FPSC no longer retains jurisdiction over telecommunications consumer complaints and holds no data on quality of service.\textsuperscript{82} However, consumers freely choosing competitors for telecommunications service suggests that they view competitors’ services as having reliability that is sufficiently comparable to ILEC service.

\textbf{Conclusion:} A competitive market requires comparable affordability and reliability of service. The vast majority of Florida households subscribe to telephone service. Consumers are willing and able to choose telecommunications service from competitors using a variety of technologies, so competitors have been maintaining significant market share over an extended period of time. Based on competitors’ substantial market share and market pressures requiring comparable affordability and reliability, competition is having a positive effect on the maintenance of reasonably affordable, reliable telecommunications services.

\textsuperscript{80} FCC, Staff Interview, March 19, 2020.

\textsuperscript{81} FCC, Staff Interviews (1985-2020)

\textsuperscript{82} Florida Department of State, State Library and Archives of Florida, Telecommunications (Regulatory Reform Act), \url{http://laws.flrules.org/node/5694}, accessed on June 23, 2020.
D. Statutory Issue – Carrier Disputes

A listing and short description of any carrier disputes filed under Section 364.16, F.S.

Conclusion: There were no carrier disputes filed with the FPSC under Section 364.16, F.S., in 2019.
Chapter V. State Activities

This chapter provides a summary of state activities affecting local telecommunications competition in 2019. The state activities discussed in this chapter are important in helping to gauge how well the market is functioning for Florida businesses and consumers.

A. Intercarrier Matters

Wholesale performance measurement plans provide a standard against which the Commission can monitor performance over time to detect and correct any degradation in the quality of service ILECs provide to CLECs. The Commission adopted performance measurements for AT&T in August 2001 (revised in 2010), for CenturyLink in January 2003 (revised in 2013 and 2016), and for Verizon in June 2003 (revised in 2007). Trending analysis is applied to monthly performance measurement data provided by each ILEC.83

AT&T is the only ILEC that is required to make payments to CLECs when certain performance measures do not comply with established standards and benchmarks. AT&T’s approved Performance Assessment Plan consists of 47 measurements; financial remedies are applied to 24 of these measures. In 2019, AT&T paid $324,814 in remedies to CLECs, which is a decrease of 41.6 percent from 2018. The greatest cause of this decrease was the avoidance of any trunk line incidents, which often result in a substantial number of blocked and redialed calls.

On October 15, 2015, CenturyLink filed proposed revisions to its Performance Measurement Plan as a result of a negotiated settlement with the Nevada Public Utilities Commission. The revisions included revising reporting requirements from monthly to quarterly, eliminating several performance measures from the plan, and amending two measures. The proposal was approved for Florida by the Commission on February 15, 2016.84 CenturyLink has reported no noncompliances in the three years since the settlement.

Frontier Communications completed its purchase of Verizon Florida’s wireline operations in April 2016. In its role as a major ILEC, Frontier is responsible for a Performance Measurement Plan that includes 29 measures. In 2019, Frontier maintained an average monthly compliance rate of 77.3 percent, ranging from 73.0 percent to 83.9 percent. This result represented a slight decline from 2018’s average monthly compliance rate of 78.6 percent.

The Commission processed a number of other telecommunications-related items in 2019. The Commission processed 46 service schedule and tariff filings, 61 interconnection agreements and amendments, 11 carrier certifications, five certificate cancellations, and over 150 general inquiries/informal complaints.

83 FPSC Dockets: No. 20000121A-TP (AT&T), No. 20000121B-TP (CenturyLink), and No. 20000121C-TP (Frontier FL).
**B. Lifeline**

As a part of the FCC’s Lifeline Modernization Order, released on April 27, 2016, the FCC directed the Universal Service Administrative Company (USAC) to develop the National Lifeline Eligibility Verifier (National Verifier). The purpose of the National Verifier is to determine initial subscriber eligibility, conduct annual recertification, populate a national database consisting of Lifeline customers, and provide support payments to providers serving these customers. Throughout 2019, USAC conducted quarterly launches that transitioned states and U.S. territories into the National Verifier.

On December 31, 2019, USAC finished their final launch, encompassing all 50 states, as well as all U.S. territories into the National Verifier. Upon inception into the National Verifier, states entered a soft launch period in which usage of the National Verifier was encouraged, but not mandatory, to determine customer eligibility for the Lifeline program. During this period, carriers were still able to determine Lifeline customer eligibility using previously acceptable processes.

During the soft launch period, USAC conducts a one-time reverification process. During this process, all current Lifeline customers are required to have their eligibility for the Lifeline program re-determined in order to populate the previously mentioned database. Customers being served by ETCs who do not have on hand documentation proving their eligibility for the Lifeline program are contacted by USAC, and given 60 days to provide their Lifeline eligibility documentation. Those who are non-responsive or who are not able to provide this documentation are de-enrolled from the Lifeline program.\(^{85}\) After a determinate amount of time in soft launch status, USAC transitions states to hard launch status, in which customers must be verified through National Verifier eligibility processes. Florida entered hard launch status on March 24, 2020.

In 2007, the FPSC established the Lifeline Electronic Coordinated Enrollment Process (Coordinated Enrollment) in conjunction with the Florida Department of Children and Families (DCF)\(^ {86}\). The Coordinated Enrollment process establishes a computer interface between the FPSC and DCF, in which prospective Lifeline customers applying for either the Supplemental Nutrition Assistance Program, or Medicaid, could automatically be enrolled into the Lifeline program. Customers opting to be enrolled in the Lifeline program would then be directed to choose an ETC from which to receive Lifeline service. That customer’s information would be uploaded to an FPSC database, and would be accessible to the relevant ETC. Due to the National Verifier’s hard launch requiring all eligibility determination to be conducted by USAC, the Coordinated Enrollment process was no longer able to automatically enroll potential Lifeline customers.

FPSC staff has made all Florida ETCs aware of a shift in functionality of the Coordinated Enrollment database. DCF continues to populate the database with customer information;

\(^{85}\) The reverification process begins during the inception of a state’s soft launch period but is not usually completed by the time the soft launch process ends.

\(^{86}\) Chapter 364.10(g)(2), Florida Statutes.
however, these customers are no longer deemed eligible at the time ETCs access this information. ETCs are now charged with contacting and directing their customers to apply for the Lifeline program with USAC before being able to provide Lifeline service to them.

Though consumers are encouraged to apply for the Lifeline program online through the National Verifier portal, ETCs have been instructed by USAC on how to assist customers applying for the National Verifier. Upon completion of an application, and subsequent approval for the Lifeline program, customers are able to find a Lifeline service provider through USAC’s “Companies Near Me” tool. Consumers who wish to receive a paper application, or who do not have access to the internet, may call the Lifeline customer service hotline. Individuals who are disabled may request assistance in completing an application by phone using the same Lifeline customer service hotline.

Based upon June 2019 SNAP participants, Lifeline eligible households decreased by 7 percent, while the participation rate of those households in the Lifeline program decreased by 2.7 percent from the prior year. This decline in subscribership follows a trend of National decline in subscribership and does not necessarily reflect the impacts of the National Verifier on Florida. Table 5-1 shows the Lifeline eligibility and participation rates in Florida for the last five years.

<table>
<thead>
<tr>
<th>Year</th>
<th>Lifeline Enrollment</th>
<th>Eligible Households</th>
<th>Participation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jun-15</td>
<td>833,426</td>
<td>2,011,166</td>
<td>41.4%</td>
</tr>
<tr>
<td>Jun-16</td>
<td>852,255</td>
<td>1,712,005</td>
<td>49.8%</td>
</tr>
<tr>
<td>Jun-17</td>
<td>685,864</td>
<td>1,662,374</td>
<td>41.3%</td>
</tr>
<tr>
<td>Jun-18</td>
<td>694,647</td>
<td>1,628,111</td>
<td>42.7%</td>
</tr>
<tr>
<td>Jun-19</td>
<td>604,693</td>
<td>1,513,284</td>
<td>40.0%</td>
</tr>
</tbody>
</table>

Source: U.S. Department of Agriculture


89 USAC, Lifeline Customer Service Hotline, 1 (800) 234-9473.


91 Ibid.
**C. Telephone Relay Service**

Telecommunications Relay Services (TRS) facilitates telephone calls between people with hearing loss or speech disabilities and other individuals by using special equipment and a communications assistance operator to relay information. Section 427.704, F.S., charges the Commission with overseeing the administration of a statewide telecommunications access system which provides TRS. Funding for TRS in Florida is through a surcharge on telephone landlines. The current assessment rate is $.10 per landline.\(^2\) In 2017, the contract for the provision of relay service was due for renewal. The FPSC oversaw the bidding process and awarded the contract to Sprint, which began in March 2018.

The COVID-19 pandemic had a significant impact on relay service in Florida and throughout the country. It was recognized by the FCC and state TRS programs as a Force Majeure event that triggered the need for a number of temporary adaptations to TRS operations throughout the country. The FCC has granted TRS providers temporary waivers of rules relating to call answer times.\(^3\) These waivers are effective from March 1, 2020, through May 15, 2020.

Sprint has made adjustments to its operations to respond to the crisis and maintain the availability of relay services for users. For example, Sprint temporarily suspended in-state routing rules when service levels are deteriorating due to high call volumes. Instead, Sprint routed to the next available agent in an attempt to handle calls as quickly as possible. In addition, all forms of quality assessments and test calls that divert communications assistance operators away from handling calls were temporarily suspended.

\(^2\) The rate may not exceed $.25 per landline.

Chapter VI. Federal Activities

A. Mergers and Acquisitions

Telecommunication carriers seeking to transfer assets or corporate control in mergers and acquisitions must first receive approval from the FCC, which examines the public interest impact of proposed mergers or acquisitions. In 2019, there were approximately 80 telecommunications mergers and acquisitions nationally. Recent transactions of interest to Florida are described below.

1. Sprint/T-Mobile

During the past several years, AT&T, Verizon, T-Mobile and Sprint have been the four major wireless carriers in the U.S. These four carriers represented over 98 percent of the wireless market in 2019.\(^\text{94}\) In April 2018, T-Mobile announced its decision to acquire Sprint.\(^\text{95}\) This was done in order to gain access to new spectrum holdings, and to gain a greater scale of service which would be supported by their developing 5G wireless market.\(^\text{96}\) The merger was met with opposition from the Federal Trade Commission, the Department of Justice, and numerous State Attorneys General. A February 2020 court decision finalized the deal, creating the $26.5 billion merger. Sprint was required to sell off its prepaid services, Boost mobile, Virgin Mobile, as well as its 800 MHz spectrum.\(^\text{97}\)

2. Frontier Communications/Everest/WaveDivision

Early in 2019, Frontier Communications (Frontier) sold off close to 100 U.S cell sites for $80 million to Everest Infrastructure.\(^\text{98}\) Frontier is currently in the process of selling off wireline assets in four western states for a total of $1.35 billion to WaveDivision.

B. FCC Forbearance

On May 4, 2018, the United States Telecom Association (USTelecom) filed a petition with the FCC seeking forbearance from several ILEC regulatory obligations under the Communications Act of 1934 as amended by the Telecommunications Act of 1996 (Communications Act), such as requirements to provide wholesale access to unbundled network elements (UNEs) and resale.


USTelecom also requested that states not be allowed to issue similar unbundling and resale rules if forbearance is granted.

Since the USTelecom petition, the FCC has issued orders forbearing from requirements that price cap ILECs provide their competitors with legacy transport facilities on an unbundled basis at regulated rates between wire centers. It also relaxed requirements that price cap ILECs offer CLECs analog voice-grade copper loops on an unbundled basis at regulated rates and legacy services for resale at regulated rates. These orders do not apply to unbundling obligations enabling the provision of broadband services. These FCC forbearance orders have been challenged by the trade association Incompas, the California Public Utilities Commission, and others in federal court.

On November 25, 2019, the FCC proposed additional forbearance to eliminate and/or reduce requirements that ILECs provide the following UNEs used for broadband and legacy voice: dark fiber transport where competitive fiber exists within one-half mile of a wire center, voice-grade loops, DS0 Loops for voice and/or broadband in urban census blocks, and DS1 and DS3 Loops for broadband in areas deemed competitive. The FCC also proposes to forbear from the requirement that non-price cap ILECs resell retail legacy telecommunications services at statutorily prescribed rates.

Following these ordered and proposed forbearances, many CLECs will find competition to be more difficult because they will no longer be guaranteed access to interconnection or resale at regulated rates. The CLECs that can best compete are those affiliated with ILECs and the larger CLECs that have invested in their own networks. In Florida, the impact on residential customers should be minimal given that CLECs comprise less than one percent of the market. Businesses would also be somewhat insulated given that the business market is mostly served by facilities-based, large CLECs, ILEC-affiliated CLECs, and ILECs.

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C. Broadband Deployment

FCC Chairman Ajit Pai has stated that his number one priority is expanding broadband access. The FCC and the federal government have been using several strategies to pursue this goal. One method that the FCC is using to facilitate the process of broadband deployment is the creation of the Broadband Deployment Advisory Committee, a federal advisory committee that is intended to provide an effective means for stakeholders to exchange ideas and develop recommendations and advice on how to accelerate the deployment of high-speed internet access. The FCC gauges its progress through the issuance of broadband deployment reports. The 2020 Broadband Deployment Report provides the most detailed view of broadband expansion, showing significant progress particularly in rural America.

The FCC has authorized rural broadband expansion support through the Alternative Connect America Model consisting of more than $5.6 million over ten years for 1,025 locations in Florida. The FCC has also authorized rural broadband expansion support through the Connect America Phase II auction consisting of $5 million over ten years for 9,859 locations in Florida. Other major developments include the launch of the Rural Digital Opportunity Fund, which will award $20.4 billion nationally in support of rural broadband networks over ten years. The FCC has also proposed the 5G Fund for Rural America, which would provide $9 billion nationally over ten years to support mobile 5G connectivity.

The FCC is not the only agency that has been working to improve broadband deployment. The United States Department of Agriculture has also been active in promoting broadband expansion including making $550 million available to rural areas in 2020. The National

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Telecommunications and Information Administration’s American Broadband Initiative Milestones Report details strategies from over 20 Federal agencies for increasing broadband access and encouraging private-sector broadband investment.112

D. Open Internet/Net Neutrality

In 2018, the FCC reversed its net neutrality policy as outlined in previous reports, and opted to return to a less restrictive framework of regulating broadband as an information service under the Communications Act. As a result of this reversal, 34 states and the District of Columbia proposed net neutrality legislation, and five passed net neutrality laws or resolutions.113 Six state governors issued executive orders that effectively bar state agencies from doing business with ISPs that violate net neutrality principles.114

Multiple parties, including attorneys general from 22 states, also filed legal challenges to the new policy.115 On October 1, 2019, the DC Circuit Court of Appeals upheld the majority of the FCC’s deregulation of net neutrality rules, while remanding to the FCC questions on how public safety, pole attachments and Lifeline program rules would apply to information service providers if those companies are not subject to rules for common carriers.116 Following the ruling, the FCC issued a public notice seeking comment on these issues.117

E. Universal Service

Universal service is the policy that all Americans should have equal access to communications services. While Florida consumers benefit from being able to make and receive calls from all parts of the nation, there is a cost associated with this policy. The Universal Service Fund (USF) is the federal fund that supports the budgets of universal service programs. The USF is funded by telecommunications providers based on an assessment of interstate and international end-user revenues.


115 Ibid.


In general, Florida consumers pay more into the USF than what is returned to eligible service providers in Florida. For 2018, only consumers in New York and California were larger net contributors than consumers in Florida. The FPSC monitors and participates in ongoing proceedings at the FCC and with the Federal-State Joint Board on Universal Service. Table 6-1 shows Florida’s estimated contribution and receipts for 2018 and provides a comparison of net contributions for 2016 and 2017.

<table>
<thead>
<tr>
<th></th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Estimated</td>
<td>Estimated</td>
<td>Service</td>
<td>Estimated</td>
</tr>
<tr>
<td></td>
<td>Net</td>
<td>Net</td>
<td>Providers</td>
<td>Consumer</td>
</tr>
<tr>
<td>High-Cost</td>
<td>($211,994)</td>
<td>($225,547)</td>
<td>$55,575</td>
<td>$285,611</td>
</tr>
<tr>
<td>Low Income</td>
<td>4,004</td>
<td>(928)</td>
<td>79,977</td>
<td>68,636</td>
</tr>
<tr>
<td>Schools &amp; Libraries</td>
<td>(48,257)</td>
<td>(27,616)</td>
<td>86,341</td>
<td>129,047</td>
</tr>
<tr>
<td>Rural Health Care</td>
<td>(13,639)</td>
<td>(12,188)</td>
<td>4,225</td>
<td>17,637</td>
</tr>
<tr>
<td>Total</td>
<td>($280,312)</td>
<td>($276,681)</td>
<td>$226,118</td>
<td>$513,019</td>
</tr>
</tbody>
</table>

Source: FCC Universal Service Monitoring Report, various years, Table 1.9

1. Contribution System Reform

Telecommunications service providers fund the USF based on a quarterly FCC assessment factor applied to interstate and international telecommunications revenues. Mobile wireless carriers and interconnected VoIP providers are also required to participate. As detailed in Figure 7-2, the assessment factor has reached a high of 25 percent for the first time in the fourth quarter of 2019. Since 2016, the assessment factor has averaged about 20 percent. The assessment factor has increased over time as the fund size of the universal service programs has grown and the assessable base (interstate and international revenues) has shrunk. By way of comparison, for 2001, the average assessment factor for the year was 7 percent. While the FCC opened various proceedings to address the growth in the assessment factor, no significant reforms have been forthcoming from the FCC. Figure 6-1 illustrates assessment factor rates and projected rates since 2016.

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119 Wireless carriers and interconnected VoIP providers may use the interim safe harbor percentages to estimate the interstate portion of their revenues.

2. High Cost

Since 2011, the FCC has been modernizing the federal high-cost programs to maintain voice services and extend broadband capable infrastructure.\textsuperscript{121} In 2019, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to establish the $20.4 billion Rural Digital Opportunity Fund (RDOF) to bring high speed fixed broadband service to rural homes and small businesses that lack it.\textsuperscript{122} On January 30, 2020, the FCC adopted a Report and Order, which established the framework for the RDOF, building on experience of FCC’s Connect American Fund auction by using reverse auctions in two phases.

The Phase I auction, which is scheduled to begin on October 22, 2020, will target over six million homes and businesses in census blocks that are entirely unserved by voice and broadband with download speeds of at least 25 Mbps. The RDOF is structured to prioritize higher network speeds and lower latency. Phase II will cover locations in census blocks that are partially served,


as well as locations not funded in Phase I. Figure 6-2 provides a map identifying areas in Florida that will be part of Phase I.

![Areas in Florida Eligible for Rural Digital Opportunity Fund](image)

Source: FCC, Shapefile by Census Tracts

In April 2020, the FCC released another NPRM relating to high-cost support for the deployment of 5G wireless technology in rural areas. In the NPRM, the FCC considered the establishment of a budget of up to $9 billion, to be distributed in two phases. Phase I would budget $8 billion to support eligible rural areas, whereas Phase II would focus on harder to serve areas such as farms and ranches. Like the RDOF, the 5G Fund for Rural American would use a competitive reverse account format to award funding for wireless broadband service. The FCC is considering different options that would begin the auctions either in 2021 or a couple of years later to provide additional time for better wireless broadband data to be collected.

3. Schools and Libraries

The schools and libraries support program, commonly known as the E-rate Program, provides financial support to eligible schools and libraries for connectivity. This support helps to reduce the cost associated with telecommunications services, Internet access, and eligible equipment.

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The discounts range from 20 percent to 90 percent of the costs of eligible services, depending on the level of poverty and whether the school or library is located in an urban or rural area. The E-Rate program has two funding categories that support schools and libraries. Category one provides connectivity to schools and libraries and category two provides connectivity for services within schools and libraries.

In 2014, the FCC took steps to continue to modernize the E-Rate program by adopting a new budget approach for category two funding. The FCC established a five-year trial period (from 2015 to 2019) to help determine if this approach would be a more effective means to ensure greater access to E-Rate discounts for internal connections. In 2017, the FCC sought comment and received near-unanimous support of the new category two budget approach. It found that under this approach greater funding was available for internal connections, funding was distributed to more applicants in a more equitable and predictable manner, and it gave applicants more flexibility to determine how best to upgrade their systems. Therefore, in December 2019, the FCC released an Order making the category two budget approach permanent.\textsuperscript{124}

Figure 6-3 shows the amount of support distributed to Florida by service type between 2015 to 2018. Although the FCC has noted greater availability of funding for internal connections under the category two budget approach, support to Florida for internal connections continues to decline.

Schools and libraries have been greatly affected by COVID-19 as they close for extended periods of time to protect their students and patrons. In response, the FCC has temporarily waived and extended several E-Rate filing, information request and service implementation deadlines.\textsuperscript{125} Also, acknowledging the need for increased connectivity during this pandemic, the FCC waived the E-Rate program gift rules through September 30, 2020.\textsuperscript{126} This waiver will enable service providers to offer, and E-rate program participants to solicit and accept improved broadband connections or equipment for remote leaning without running afoul of FCC rules.

4. Low Income

The Lifeline program provides a monthly discount on phone or broadband service for qualifying low-income consumers to ensure that all Americans have the opportunities and security that phone service brings. On April 27, 2016, the FCC released its Lifeline Modernization Order that further reformed the Lifeline program by establishing a budget of $2.25 billion in federal funding, indexed to inflation. The FCC stated that in order to be sustainable and achieve its goals of providing low-income consumers with robust, affordable, and modern services, a forward-

\textsuperscript{125}FCC 20-364, CC Docket No. 02-6, Schools and Libraries Universal Service Support Mechanism, Order, released April 1, 2020.

\textsuperscript{126}FCC 20-290, WC Docket No. 02-60, CC Docket No. 02-6, Rural Health Care Universal Service Support Mechanism, Schools and Libraries Universal Service Support Mechanism, Order, released March 18, 2020

Included in the Lifeline Modernization Order were reforms that began a phase-down of federal funding support for voice-only services. Reductions in support are scheduled each year, eventually phasing out completely by December 1, 2022. Lifeline customers who receive voice-only service now receive a $7.25 discount on their monthly bills. Lifeline customers who select either broadband or a bundle of broadband and voice services that meets the FCC’s minimum service standards are entitled to continue to receive a $9.25 Lifeline discount. Prior to the complete phase out of support for voice-only services, the FCC will reevaluate its conclusion as part of a 2021 report on the state of the Lifeline marketplace. Table 6-2 outlines the FCC’s phase down schedule.

\begin{table}[h]
\centering
\caption{Lifeline Support Phase Down Schedule}
\begin{tabular}{|c|c|c|c|c|}
\hline
Effective Dates & Fixed Voice & Mobile Voice & Fixed Broadband & Mobile Broadband \\
\hline
\hline
From 12/1/20 to 11/30/21 & $5.25 & $5.25 & $9.25 & $9.25 \\
\hline
After 11/30/21 & 0 & 0 & $9.25 & $9.25 \\
\hline
\end{tabular}
\end{table}

\begin{flushright}
Source: FCC 2016 Lifeline Modernization Order (FCC 16-38)
\end{flushright}

At the 2019 National Association of Regulatory Utility Commissioners (NARUC) Summer Policy Summit, resolutions were passed urging the FCC to halt its planned phase down of fixed and mobile voice support on December 1, 2019.\footnote{NARUC, Resolution on the Lifeline National Verifier Launch and Minimum Service Standards, adopted July 24, 2019, \url{https://pubs.naruc.org/pub/3C86755C-FD04-1CF1-7558-180073A15B6A}, accessed on April 20, 2020.} The resolutions also urged the FCC to completely forego their plans to ultimately eliminate voice-only Lifeline support. According to NARUC, if ETCs are unable to invest in the technologies required to provide the ever-increasing minimum broadband standards, they may be forced to relinquish their ETC designations. NARUC also asserts that if voice-only ETCs opt to relinquish, many elderly and low-income individuals will be forced to purchase higher cost bundled Lifeline service from the remaining service providers.
On March 17, 2020, the FCC released an Order suspending the usage requirement rule of the Lifeline program as a result of the COVID-19 pandemic.\textsuperscript{129} The Order also suspends de-enrollment due to customer reverification non-response, halts USAC from requesting new reverification eligibility information from customers, and waives the recertification rules of the Lifeline program. A follow-up Order, released on April 29, 2020, amended the income eligibility rules for the Lifeline program.\textsuperscript{130} Under these new provisions, customers qualifying for the Lifeline program under income eligibility documentation need only provide three consecutive months of documentation proving they make at or less than 135 percent of the Federal Poverty Guidelines.\textsuperscript{131} The amendment allows customers to provide documentation proving recent unemployment due to COVID-19, such as a notice of unemployment benefits, or notice of a successful application for unemployment benefits. The follow-up Order extends the suspension of March 17, 2020’s rules, and institutes the amendment of the income eligibility rules, until June 30, 2020.

5. Rural Health Care

The goal of the Rural Health Care (RHC) Program is to ensure the affordability of telehealth services in rural communities to promote healthcare in underserved and hard to reach geographic areas. To achieve these goals, RHC Program provides funding to eligible rural healthcare providers for broadband and telecommunications services.\textsuperscript{132} Funding is distributed through two programs: the Telecommunications (Telecom) Program and the Healthcare Connect Fund Program.

The Telecom Program subsidizes the difference between urban and rural rates for telecommunications services. By comparison, the Healthcare Connect Fund Program promotes the use of broadband services by providing a flat 65% discount on an array of communications services to both individual rural healthcare providers and any related healthcare consortia.\textsuperscript{133} In June 2018, the FCC increased the cap of the RHC Program from $400 million to $571 million. This cap is annually adjusted for inflation. Figure 6-4 illustrates a comparison of the amounts disbursed for funding years 2015-2019 by program in the state of Florida.


On August 1, 2019, the FCC adopted an Order reforming the RHC Program. The reforms are intended to ensure funds are disbursed efficiently and equitably and promote transparency in the program’s administration. Among other changes, the Order restructured how funding was distributed by identifying different rural classes: Extremely Rural, Rural, and Less Rural. Should demand exceed the funds available, the support will be prioritized based on rural class tiers, with extremely rural areas getting the highest priority over less rural areas, and whether the area is medically underserved.

F. Major Calling Actions

Federal and state agencies routinely initiated regulatory actions and enforcement proceedings to deter noncompliance with government regulations. In 2019 and 2020, the FCC and Federal Trade Commission (FTC) took several actions to protect Florida residents and businesses, from robocalls, calling violations, call completion issues, cramming, customer privacy violations, and Universal Service Fund violations.

1. Robocalls

The FCC took several actions in 2019 to build on its previous efforts to halt the proliferation of robocalls. These actions including issuing a declaratory ruling allowing carriers to block illegal and unwanted calls before they reach consumers’ phones and beginning work on a report on

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consumer call blocking options. Following the adoption of the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, which provides for a longer statute of limitations and enhanced fines for robocalls, the FCC sent letters to several telecom carriers that provide international gateway service to encourage cooperation in efforts to trace robocalls that originate on or pass through their networks. The FCC also mandated the adoption of caller identification authentication standards to reduce spoofing and identify robocalls.

2. Call Completion Issues

The FCC is charged by the Communications Act with making communications service available for national defense and safety of life and property. In keeping with that responsibility, the FCC takes enforcement actions when calls are not or cannot be completed. On November 4, 2019, the FCC announced settlements of $400,000 and $175,000 and respective compliance plans with CenturyLink and West Safety Communications, respectively, to conclude investigations into a multi-state 911 outage that took place on August 1, 2018.

3. Calling Violations

The Truth in Caller ID Act prohibits callers from deliberately falsifying caller ID information. Disguising one’s identity with the intent to harm, defraud consumers, or wrongfully obtain anything of value is called “spoofing.” Changes in technology have made it easier and cheaper for scammers to make robocalls and to spoof caller ID information. To address this consumer problem, the FCC and FTC have focused both on enforcement actions and on pursuing policies to help consumers and their service providers block malicious robocalls. Some recent examples of calling violation enforcement actions include:


• On January 13, 2020, the FTC announced settlements totaling more than $7.8 million against Christopher Cotroneo and call center Cabb Group, LLC, and Christina and Robert Peterson II for making millions of illegal robocalls from 2014 through 2017, on behalf of Florida-based Grand Bahama Cruise Line LLC and others.¹⁴²

• On January 31, 2020, the FCC fined Scott Rhodes nearly $13 million for using caller ID spoofing in thousands of robocalls in 2018 that targeted specific communities with the intent to cause harm in several states, including making racist attacks about a Florida gubernatorial candidate.¹⁴³

4. Cramming
“Cramming” is the illegal act of placing unauthorized charges on a customer’s telephone bill. Crammers often rely on confusing telephone bills to trick consumers into paying for services they did not authorize or receive, or that cost more than the consumer was led to believe. On August 13, 2019, CenturyLink agreed to a settlement of $550,000 and a compliance plan to resolve an investigation into the company’s placement of unauthorized third-party charges and fees onto consumers’ bills.¹⁴⁴

5. Customer Privacy Violations
The Communications Act requires telecommunications carriers to protect the confidentiality of certain customer data related to the provision of telecommunications service, including location information. Carriers that violate those rules are subject to enforcement action. On February 28, 2020, the FCC proposed fines totaling $208 million against the nation’s four largest wireless carriers for selling access to their customers’ location information without taking reasonable measures to protect against unauthorized access.¹⁴⁵

6. Universal Service Fund Violations
In order to maximize the efficiency of limited funding for universal service programs, the FCC takes enforcement action against companies that commit Universal Service Fund violations. On April 2, 2020, the FCC proposed fines of over $6 million against the prepaid wireless carrier TracFone Wireless for seeking federal Lifeline support for ineligible subscribers and for


fabricating fictitious subscriber data for hundreds of subscriber accounts in Florida and thousands of subscriber accounts in Texas in 2018.\textsuperscript{146}

\section*{G. Public Safety}
Florida has faced numerous public safety challenges in the use of its telecom networks.

\subsection*{1. Hurricanes}
On August 28, 2019, Florida Governor Ron DeSantis declared a state of emergency for 26 counties in Florida that were in the path of Hurricane Dorian.\textsuperscript{147} The eye of the hurricane did not directly strike Florida, although the edges did some damage to the coasts. According to the FCC, at the peak level of damage in the affected Florida counties, nearly 0.2 percent of cell sites were rendered nonfunctional, while more than 35,430 cable and wireline subscribers experienced service outages.\textsuperscript{148}

The FCC took several steps to prepare and respond to these issues by promoting public safety and connectivity. These steps included updating status and restoration efforts with status reports and granting an extension of the deadline for the Commission to certify carriers for high-cost support.\textsuperscript{149} Additionally, on November 7, 2019, the Intergovernmental Advisory Committee of the FCC released reports that offer recommendations and best practices based on the experience and expertise of state, local, Tribal, and territorial officials and lessons learned from Hurricane Michael.\textsuperscript{150} On March 27 2020, the BDAC approved a report and recommendations from its Disaster Response and Recovery Working Group. The report discussed best practices during disaster planning, response and recovery, as well as recommendations for enhancing resilience and promoting further coordination between stakeholders.\textsuperscript{151} The FCC also proposed a framework to share information from its Network Outage Reporting System and Disaster Information Reporting System with qualified federal, state, Tribal and local government agencies that reasonably require the information for public safety.\textsuperscript{152}

\begin{itemize}
\end{itemize}
2. COVID-19

COVID-19 was declared a pandemic by the World Health Organization. The virus and virus control efforts are causing great disruptions in the United States and in Florida. In order to help ameliorate the situation, the FCC has taken several actions including granting waivers for Lifeline recertifications and reverifications, TRS telework, extending E-Rate application deadlines, issuing Special Temporary Authority to several carriers for spectrum sharing, and allowing competitive ETCs flexibility in use of USF support. The FCC has also issued the Keep Americans Connected Pledge for broadband and telephone service providers. The pledge commits providers to not terminate service and to waive any late fees for any residential or small business customers impacted by COVID-19, and to open access to Wi-Fi hotspots for 60 days. As of March 24, 2020, more than 550 companies and associations have taken the pledge. A list of FCC COVID-19 actions is available at the agency’s website.\(^\text{153}\)

Also in response to COVID-19, on March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), which in addition to many other provisions, grants an additional $100 million for rural broadband support under the Rural Utilities Service of the USDA, $200 million for the Rural Health Care Program of the FCC, $25 million for the RUS Distance Learning, Telemedicine and Broadband Program, and $50 million for museum and library digital network funding through the Institute of Museum and Library Services.\(^\text{154,155}\)

3. Cybersecurity

In 2019, following increasing concerns of cybersecurity threats from foreign components in US telecommunications networks, President Trump signed an executive order prohibiting ownership of communications technology in US networks by foreign adversaries.\(^\text{156}\) The FCC subsequently issued an order barring use of Universal Service Fund support for equipment or services from companies posing a national security threat, and the FCC also opened an online portal where participants in the FCC’s Universal Service Fund programs must report on use of impermissible

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equipment and services and costs of replacement. To help with those costs, President Trump also signed into law the Secured and Trusted Communications Act into law, which provides financial support for providers to replace equipment in their networks that poses a security risk.


## Appendix A. List of Certified CLECs as of December 31, 2019

**Indicates companies that did not respond to the Commission's data request as of July 6, 2020**

<table>
<thead>
<tr>
<th>TY060</th>
<th>382 Networks, Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>TA057</td>
<td><strong>A.SUR Net, Inc.</strong></td>
</tr>
<tr>
<td>TX880</td>
<td>Access One, Inc.</td>
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TX819  inContact, Inc.
TY127  INDIGITAL, INC d/b/a INDigital
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TY101  Integrated Path Communications, LLC
TY121  InteleTel, LLC
TA080  Intelletrace, Inc.
TX614  Intellifiber Networks, LLC
TX364  Interactive Services Network, Inc. d/b/a ISN Telecom d/b/a IPFone
TX792  InterGlobe Communications, Inc.
TY079  InterMetro Fiber, LLC
TA081  IPC Network Services, Inc.
TY102  ITS Fiber, LLC d/b/a ITS Fiber
TL712  ITS Telecommunications Systems, Inc.
TX085  ITS Telecommunications Systems, Inc. d/b/a ITS Fiber
TX884  J C Telecommunication Co., LLC
TY181  JEA
TY107  **Joytel Wireless Communications, Inc.
TX504  Keys Energy Services
TX215  Knology of Florida, Inc. d/b/a WOW! Internet, Cable and Phone
TA063  Latin American Nautilus U.S.A. Inc.
TX238  Level 3 Communications, LLC
TA013  Level 3 Telecom of Florida, LP
TX994  Lightspeed CLEC, Inc.
TX476  Lingo Telecom of the South, LLC
TX823  Litestream Holdings, LLC
TY069  Local Access LLC
TY041  Local Telecommunications Services - FL, LLC
TY170  Luxury Telecommunications LLC d/b/a Luxury Telecommunications
TY147  Magna5 LLC
TX937  Maryland TeleCommunication Systems, Inc.
TY023  MassComm, LLC
TX841  Matrix Telecom, LLC d/b/a Impact Telecom d/b/a Startec d/b/a Americatel d/b/a Matrix Business Technologies d/b/a Trinsic Communications d/b/a Vartec Telecom d/b/a Excel Telecommunications d/b/a Clear Choice Communications d/b/a Lingo
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TX408  Metropolitan Telecommunications of Florida, Inc. d/b/a MetTel
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TX984  Micro-Comm, Inc.
TX865  Mitel Cloud Services, Inc.
TY136  MIX Networks, Inc.
TY171  **Mobex, Inc.
TY128  Mobilitie Management, LLC
TA079  Mobilitie, LLC
TY044  MOSAIC NETWORKX LLC
TX901  MULTIPHONE LATIN AMERICA, INC.
TY164  Myakka Communications, Inc.
TY066  Nebula Telecommunications of Florida LLC
TL715  NEFCOM
TA083  Network Innovations, Inc.
TX187  Network Telephone, LLC
TX805  Neutral Tandem-Florida, LLC
TX935  New Horizons Communications Corp.
TY174  NGA 911, L.L.C.
TX934  Norstar Telecommunications, LLC
TY034  **North County Communications Corporation
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| TX108  | Offramp, LLC |
| TX927  | One Voice Communications, Inc. |
| TY087  | Onvoy, LLC |
| TY021  | Opextel LLC d/b/a Alodiga |
| TX797  | **Optical Telecommunications, Inc. d/b/a HControl Corporation d/b/a SH Services LLC |
| TX038  | **Orlando Telephone Company, Inc. d/b/a Summit Broadband |
| TY119  | PacOptic Networks, LLC |
| TX234  | PaeTec Communications, LLC |
| TY151  | **Paradigm Telecom II, LLC |
| TY133  | Paradigm Telecom, Inc. |
| TY154  | PeakNet, LLC |
| TX891  | Peerless Network of Florida, LLC |
| TX676  | Phone Club Corporation |
| TX409  | **PNG Telecommunications, Inc. d/b/a PowerNet Global Communications |
| TX959  | Preferred Long Distance, Inc. |
| TX874  | Protection Plus of the Florida Keys, Inc. d/b/a ENAGE COMMUNICATIONS |
| TY120  | **Pure Telephone Corp |
| TY172  | QCSTelecom, Inc. |
| TX372  | QuantumShift Communications, Inc. |
| TY062  | RCLEC, Inc. |
| TY140  | Real Fast Networks LLC |
| TY110  | Reddot Networks Inc. |
| TX433  | Sandhills Telecommunications Group, Inc. d/b/a SanTel Communications |
| TY126  | SBA DAS & Small Cells, LLC |
| TY027  | Seminole Telecom of Florida, LLC |
| TY180  | Simwood, Inc. |
| TY134  | **SKYNET360, LLC |
| TX176  | Smart Choice Communications, LLC |
| TX252  | Smart City Networks, Limited Partnership |
| TY159  | Smart City Solutions II, LLC |
| TX625  | Smart City Solutions, LLC d/b/a Smart City Communications |
| TL731  | Smart City Telecom |
| TX301  | Southeastern Services, Inc. |
| TA059  | Southern Light, LLC |
| TX610  | Southern Light, LLC |
| TX414  | Southern Telecom, Inc. d/b/a Southern Telecom of America, Inc. |
| TX722  | Spectrotel, Inc. d/b/a OneTouch Communications d/b/a Touch Base Communications |
| TX045  | Sprint Communications Company Limited Partnership |
| TY144  | SQF, LLC |
| TY036  | Stratus Networks, Inc. |
| TX895  | **SunEsys, LLC |
| TY138  | Synergem Technologies, Inc. |
| TX691  | T3 Communications, Inc. |
| TY103  | Talk America Services, LLC |
| TX036  | Talk America, LLC d/b/a Windstream Talk America, LLC |
| TY122  | TALKIE COMMUNICATIONS, INC. |
| TY131  | TampaBay DSL Inc d/b/a PBX-Change |
| TL718  | TDS Telecom |
| TX606  | Telapex Long Distance, Inc. |
| TX993  | TelCentris Communications, LLC |
| TY045  | Telco Experts, LLC |
| TX912  | TelCove Operations, LLC |
| TX836  | Tele Circuit Network Corporation |
| TX903  | Telecom Management, Inc. d/b/a Pioneer Telephone |
| TA085  | Teleport Communications America, LLC |
| TY153  | Telix, Inc. |
| TX870  | Telrite Corporation |
| TX791  | Terra Nova Telecom, Inc. |
| TY081  | **TerraNovaNet, Inc. |
| TX082  | The Other Phone Company, LLC |

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TY149  TIME CLOCK SOLUTIONS, LLC
TY090  Time Warner Cable Business LLC
TY178  **Tone Communication Services LLC
TY094  Total Marketing Concepts, LLC
TX936  Touchtone Communications Inc.
TX900  Tristar Communications Corp.
TY146  Triton Networks LLC
TY142  United Commercial Telecom, LLC
TY145  Uniti Fiber LLC
TX165  US LEC of Florida, LLC d/b/a PAETEC Business Services
TY056  US Signal Company, LLC
TX987  Vanco US, LLC
TY175  **Vector Axis Florida LLC
TY004  Velocity The Greatest Phone Company Ever, Inc.
TX071  Verizon Select Services Inc.
TY160  Vero Fiber Networks, LLC d/b/a Vero Networks
TY125  Vesta Solutions, Inc.
TX964  VoDa Networks, Inc.
TY098  Vodafone US Inc.
TY043  Voxbeam Telecommunications Inc.
TY135  **WAHL TV INC.
TY157  WANRack, LLC
TY141  Webpass Florida LLC
TX607  West Safety Communications Inc.
TX590  West Telecom Services, LLC
TX641  Wholesale Carrier Services, Inc.
TY054  Wide Voice, LLC
TY031  WiMacTel, Inc.
TL16  Windstream Florida, LLC
TX957  Windstream KDL, LLC
TX645  Windstream Norlight, LLC
TX824  Windstream NuVox, LLC
TY038  WonderLink Communications, LLC
TX953  WTI Communications, Inc.
TX205  XO Communications Services, LLC
TX850  YMax Communications Corp.
TY074  Zayo Group, LLC
## Glossary

| **4G** | The short name for fourth-generation wireless, the stage of broadband mobile communications that will supercede the third generation (3G). A 4G network requires a mobile device to be able to exchange data at 100 Mbit/sec. |
| **5G** | 5G is the coming fifth-generation wireless broadband technology. 5G will provide better speeds and coverage than the current 4G. 5G is set to offer speeds of up to 1 Gb/s for tens of connections or tens of Mb/s for tens of thousands of connections. 5G is not scheduled for launch until 2020. |
| **Access Line** | The circuit or channel between the demarcation point at the customer’s premises and the serving end or class 5 central office. |
| **Backhaul** | In wireless networks, the connection from an individual base station (tower) to the central network (backbone). Typical backhaul connections are wired high-speed data connections (T1 line, etc.), but they can be wireless as well (using point-to-point microwave or WiMax, etc.). |
| **Broadband** | A term describing evolving digital technologies offering consumers integrated access to voice, high-speed data services, video on demand services, and interactive information delivery services. |
| **Circuit** | A fully operational two-way communications path. |
| **CLEC** | *Competitive Local Exchange Company*. Any company certificated by the Florida Public Service Commission to provide local exchange telecommunications service in Florida on or after July 1, 1995. |
| **Communications Act or The Act** | The federal Communications Act of 1934, as amended by the Telecommunications Act of 1996, established a national framework to enable CLECs to enter the local telecommunications marketplace. |
| **DSL** | Digital Subscriber Line, a technology that connects the user to broadband connections across a telephone network. It uses the same copper loops as wireline telephone service. |
| **Facilities-based VoIP service** | This term refers to VoIP service provided by the same company that provides the customer’s broadband connection. Facilities-based VoIP services are generally provided over private managed networks and are capable of being provided according to most telephone standards. While this service uses Internet Protocol for its transmission, it is not generally provided over the public Internet. |
| **ILEC** | *Incumbent Local Exchange Company*. Any company certificated by the FPSC to provide local exchange telecommunications service in Florida on or before June 30, 1995. |
| **Interconnected VoIP service** | According to the FCC, it is a VoIP service that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment; and (4) permits users generally to receive calls that originate and terminate on the public switched telephone network. |
| **Intermodal** | The use of more than one type of technology or carrier to transport telecommunications services from origination to termination. When referring to local competition, intermodal refers to non-wireline voice communications such as wireless or VoIP. |
| **Internet Protocol (IP)** | The term refers to all the standards that keep the Internet functioning. It describes software that tracks the Internet address of nodes, routes outgoing messages, and recognizes incoming messages. |
| **Over-the-Top VoIP service** | This term refers to VoIP service that is provided independently from a particular broadband connection and is transmitted via the public Internet. |
| **Switched Access** | Local exchange telecommunications company-provided exchange access services that offer switched interconnections between local telephone subscribers and long distance or other companies. |
| **TDM** | Time Division Multiplexing is a method of transmitting and receiving independent signals over a common signal path by means of synchronized switches at each end of the transmission line so that each signal appears on the line only a fraction of the time in an alternating pattern. TDM circuit switched lines represent the traditional wireline access line data within this report and do not include VoIP connections. |
| **U-verse** | U-verse is the brand name of AT&T for a group of services provided via Internet Protocol (IP), including television service, Internet access, and voice telephone service. |
| **Universal Service** | This term describes the financial support mechanisms that constitute the national universal service fund. This fund provides compensation to communications entities for providing access to telecommunications services at reasonable and affordable rates throughout the country, including rural, insular, high-cost areas, and public institutions. |
| **Universal Service Administrative Company (USAC)** | USAC is an independent American nonprofit corporation designated as the administrator of the federal Universal Service Fund by the Federal Communications Commission. USAC is a subsidiary of the National Exchange Carrier Association. |
| **VoIP** | *Voice over Internet Protocol.* The technology used to transmit voice conversations over a data network using Internet Protocol. |
| **Wireline** | A term used to describe the technology used by a company to provide telecommunications services. Wireline is synonymous with “landline” or land-based technology. |
DATE: July 17, 2020

TO: Braulio L. Baez, Executive Director

FROM: Marissa Ramos, Public Utilities Supervisor, Division of Engineering
Todd M. Brown, Public Utilities Supervisor, Division of Accounting & Finance
Shannon J. Hudson, Economic Supervisor, Division of Economics
Matthew Vogel, Public Utilities Supervisor, Office of Industry Development & Market Analysis
Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel
Kurt Schrader, Senior Attorney, Office of the General Counsel

RE: Briefing on water and wastewater items: Testing in Water Distribution System/Quality of Service, Flushing Requirements and Practices, Boil Water Noticing, Reserve Funds, and Customer Deposits

CRITICAL INFORMATION: Place on July 28, 2020 Internal Affairs Agenda. Briefing Only

Over the past several months, the Florida Public Service Commission (Commission) has had discussions and raised questions about several topics in the water and wastewater industry. These topics include: testing in the water distribution system with respect to quality of service, flushing requirements and practices, boil water noticing, reserve funds, and customer deposits. Commission staff from the Divisions of Engineering, Accounting & Finance, Economics, the Offices of Industry Development & Market Analysis and General Counsel prepared this briefing memorandum to address these topics.

I. Testing in Water Distribution System/Quality of Service

A. Florida Department of Environmental Protection water quality testing protocols and practices

In order to address water quality, the Florida Department of Environmental Protection (DEP) enforces the federal Safe Drinking Water Act\(^1\) in Florida and has adopted the U.S. Environmental Protection Agency’s (EPA) rules and regulations. Water quality is evaluated based on primary and secondary drinking water standards. Primary drinking water standards protect the public health and DEP Rule 62-550.310, Florida Administrative Code (F.A.C.), contains the maximum contaminant and residual levels to maintain these standards. Secondary

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\(^1\) The Safe Drinking Water Act is the main federal law regarding drinking water quality in the United States and authorizes the EPA to promulgate national drinking water standards to protect against health effects from exposure to naturally occurring and man-made contaminants in drinking water.
water quality standards regulate contaminants that may impact the aesthetics such as taste, odor, and color of drinking water. DEP Rules 62-550.320 and 62-550.325, F.A.C., address the maximum contaminant levels and treatment techniques for secondary drinking water standards.

To ensure compliance with state and federal drinking water laws and standards, the DEP regularly reviews how, where, and when drinking water is tested and the data resulting from these tests. Additionally, the DEP conducts facility site inspections to ensure that permit requirements are met. The DEP also conducts inspections in response to complaints or identified compliance concerns. If a compliance concern does arise, the DEP works with the utility to perform a system analysis to identify operational improvements and corrective actions to bring the facility back into compliance with drinking water standards as quickly as possible. Following a compliance issue, utilities may be required to increase the frequency of their water testing. The DEP reviews the results to ensure the facility returns to compliance. The DEP also makes the water-quality test results available to the public.2

With respect to testing in water distribution systems, the DEP requires testing for several primary water contaminants including, but not limited to: lead, residual disinfectants, and asbestos. The scheduling and frequency of testing for these primary water standards is mandated and monitored by the DEP and is also dependent upon individual characteristics of the utility.

Testing of secondary water contaminants is required once every three years with the testing location(s) at the water supply entry point(s) to the distribution system, pursuant to Table 7: Monitoring Frequencies and Locations of DEP Rule 62-550.822, F.A.C. Currently, there are no DEP mandated testing requirements for secondary water quality within the water distribution systems. While the DEP rules do not require testing in the distribution system for secondary standards, this does not preclude the DEP from ordering such testing to be conducted.

B. PSC authority and practices

Chapter 367, Florida Statutes (F.S.), sets forth the Commission’s authority over water and wastewater utilities and addresses, among other things: certificates, regulatory assessment fees, the fixing and changing of rates, petitions to revoke certificates of authorization, and quality of water service.

Specifically, Section 367.0812(1), F.S., states:

(1) In fixing rates that are just, reasonable, compensatory, and not unfairly discriminatory, the commission shall consider the extent to which the utility provides water service that meets secondary water quality standards as established by the Department of Environmental Protection. In determining whether a utility has satisfied its obligation to provide quality of water service that meets these standards, the commission shall consider:

2 https://floridadep.gov/sites/default/files/drinking-water-standards-facts_0.pdf
(a) Testimony and evidence provided by customers and the utility;
(b) The results of past tests required by a county health department or the Department of Environmental Protection which measure the utility’s compliance with the applicable secondary water quality standards;
(c) Complaints regarding the applicable secondary water quality standards filed by customers with the commission, the Department of Environmental Protection, the respective local governmental entity, or a county health department during the past 5 years.

Pursuant to Section 367.111(3), F.S., the Commission may, on its own motion or based on complaints of customers of a water utility subject to its jurisdiction, review water quality as it pertains to secondary drinking water standards established by the DEP. In addition to complaints filed with regulatory agencies, water utilities seeking a rate increase to provide a copy of all complaints that the utility has received regarding secondary water quality standards during the past five years pursuant to Rule 25-30.440, F.A.C.

Customer input is a key factor in the Commission’s evaluation of a utility’s quality of service as it relates to secondary water quality standards. As such, it is important to ensure that customer communications regarding water quality are obtained. Customers may provide comments via email, letter, or telephone. Customers may also speak at customer meetings, if applicable. The information gathered from these resources is placed in the docket file of the active proceeding for the Commission’s consideration. If there is not an active docket for the utility when a customer comment is received, the customer’s comments are addressed by the Commission’s Bureau of Consumer Assistance or by technical staff. Additionally, customers have an opportunity to speak at Commission conferences.

When the quality of service for a water utility is determined to be unsatisfactory, the Commission has taken a variety of actions. In the past, the Commission has implemented additional reporting or testing requirements, imposed a reduction to the utility’s return on equity, or reduced a utility officer’s salary in an effort to hold utility management accountable for the identified quality of service issue.

As discussed above, testing for secondary contaminants is required by the DEP at least once every three years at the water distribution entry point(s). However, the water a customer consumes may be miles away from the location where the water samples are taken. As such, the water customers consume may have different characteristics than the water at the entry point to the distribution system. The DEP has discretion to require testing in the distribution system, if circumstances warrant. Based on a review of prior water rate case proceedings, the Commission has ordered, or staff has requested, additional testing in a utility’s distribution system four times in the last 25 years. A brief description of these cases is provided below in chronological order.
**Aloha Utilities, Inc.**

In 1997, pursuant to Commission Order No. PSC-97-0280-FOF-WS, in Docket Nos. 19950615-SU and 19960545-WS, the Commission determined that the quality of service provided by Aloha Utilities, Inc. (Aloha) was unsatisfactory and ordered Aloha to evaluate treatment alternatives for the removal of hydrogen sulfide. In that Order, the Commission noted numerous customer complaints regarding discoloration of the water.

Later that same year, by Order No. PSC-97-1512-FOF-WS, the Commission required Aloha to survey its customers to determine how many customers had quality of service problems. The Commission further stated that it would conduct visits at selected homes based on the result of the required survey.

In a subsequent order, the Commission noted that Aloha was meeting DEP standards at the point of delivery to the distribution system. However, the Commission recognized that customers were not satisfied with the product they received. Giving consideration to the input from Aloha's customers, the Commission ordered Aloha to implement a pilot project to enhance the water quality and to file monthly reports regarding the status of the pilot project. The Commission also acknowledged that the piping in customers' homes could be a cause for the discoloration and stated that if the utility were to propose an incentive program to customers for re-piping, the Commission could review recovery of the associated costs. In 2006, the Commission approved a settlement between Aloha, OPC, and several individual interveners which resolved the water quality concerns.3

**Utilities Inc. of Florida**

In 2010, as part of Docket No. 20090462-WS, the Commission ordered Utilities Inc. of Florida (UIF) to update a 2009 secondary water system quality test for its Summertree water system. The Summertree water system was one of several water systems evaluated in that docket. In its order, the Commission noted that the water provided to the Summertree system was in compliance with DEP’s secondary standards at the point of entry into the distribution system. However, the Commission recognized that, dependent upon water usage by customers, water quality can diminish during low consumption periods. The updated test provided by UIF indicated that the Utility continued to meet DEP secondary standards at the point of entry.

In 2014, by Order No. PSC-14-0025-PAA-WS, the Commission found the quality of water in the Summertree water system to be unsatisfactory due to customer complaints. The Commission reduced the return on equity 100-basis points for the Summertree system. UIF was also ordered to engage its Summertree customers and present suitable options to address the quality issues relating to secondary water standards. The customers were surveyed on the presented options, and customers voted for the interconnection with Pasco County.

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3 Docket No. 20050018-WU, In re: Initiation of deletion proceedings against Aloha Utilities, Inc. for failure to provide sufficient water service consistent with the reasonable and proper operation of the utility system in the public interest, in violation of Section 367.111(2), Florida Statutes.
As part of the approval of the cost of the interconnection, by Order No. PSC-16-0505-PAA-WS, the Commission required UIF to provide secondary water quality results for portions of its Summertree water distribution system at least every six months until the Commission found the quality of the water to be satisfactory. The specific testing locations were determined by CPH Engineering in its treatment alternatives analysis report, which was submitted on behalf of UIF. As of the date of this memorandum, UIF continues to file test results with the Commission and the results appear to be passing DEP standards. It should be noted that because of its interconnection with Pasco County, the Summertree system is now a consecutive water system and according to the DEP, it is not subject to its secondary water standards. UIF has not requested the removal of the 100-basis point reduction at this time.

**Cypress Lakes Utilities Inc.**

In 2013 (Docket No. 20130212-WS), Cypress Lakes Utilities Inc. (Cypress Lakes) applied for a rate increase. Preliminary data showed that the Utility was in compliance with all DEP primary and secondary water quality standards. However, to address water quality concerns raised by seven customers at the customer meeting, staff requested that Cypress Lakes conduct tests of the water in the distribution system at locations close to these seven customers’ meters. Cypress Lakes conducted tests at eight points in its water distribution system and the total cost for the testing was $2,200 ($275 per test location), which was recovered through customer rates. The test results, which were below the DEP’s maximum contaminant levels, were considered in the Commission’s ultimate determination that the quality of service provided by Cypress Lakes was satisfactory.

**Bocilla Utilities, Inc.**

In 2017, as part of Docket No. 20160065-WU, the Commission determined the overall quality of service for Bocilla Utilities, Inc., (Bocilla) to be unsatisfactory and assessed a 50-basis point reduction to its return on equity. The Commission’s determination of unsatisfactory was based on customer complaints regarding the quality of Bocilla’s product and its customer service. Bocilla purchases and resells water to its customers, as such, it is a consecutive water system and according to the DEP is not subject to its secondary water standards. However, the Commission ordered Bocilla to demonstrate that it met DEP’s secondary water quality standards at six locations. The six locations selected for testing were based on locations that Bocilla was currently using for flushing and monitoring purposes. Bocilla filed a letter and documentation demonstrating that it had made the Commission’s ordered improvements and that the water in its distribution system was passing DEP standards. The Utility also requested that the matter be brought before the Commission to consider restoring the 50-basis point reduction to its return on equity. The Commission approved Bocilla’s request, found its quality of service as satisfactory, and removed the 50-basis point reduction within the same docket.

**C. Funding for Additional Testing**

In each case discussed above, the decision to require testing in a utility’s distribution system was the result of input from dissatisfied customers and not DEP water quality tests results taken at the point of entry to the distribution system. The number and locations of the tests were based on case-specific information. Additionally, in the cases above, the utility was responsible for
conducting the testing and providing the results to the Commission. The Commission does not perform water quality testing as water quality tests are performed by independent labs.

There has been significant consideration given to customer input before requesting or ordering additional testing for purposes of evaluating a utility’s quality of service. It is important to understand that there are costs associated with water quality tests. Traditionally, these costs would be eligible for recovery from the general body of ratepayers, but could also be assigned directly to the customers who are dissatisfied, much like a meter test. The cost of testing, the assignment of the costs, the potential rate impacts, and who benefits from the test(s) should all be considered.

In the Cypress Lakes matter mentioned above, the Utility conducted tests at eight points in its water distribution system, as discussed above. The total cost for the testing was $2,200 ($275 per test location) which was recovered through customer rates. Depending on the size of the system and the number of tests required, testing in the utility’s distribution system can be costly. The Commission regulates water systems with varying customer counts which can range anywhere from 50 to 5,000 customers. The rate impact of testing within the distribution system of a small utility may be greater because there are fewer customers to absorb the costs. Moreover, it is possible that not all customers would benefit from these tests as the tests are performed to address the concerns raised by a specific customer or group of customers.

As an alternative to the general body of customers paying for testing in the distribution system, staff estimated what it could cost if the Legislature were to authorize the Commission to fund such testing. Staff calculated the average expense for additional testing by looking at the average number of staff assisted rate cases (SARCs) filed with the Commission per year, estimating cost per test using the cost data from the Cypress Lakes docket, and estimating the number of tests needed per system. The average number of SARCs filed each year for the past five years was six, the cost of testing in the Cypress Lakes case was $275 per test, and it was estimated that 10 tests per utility would be conducted. This resulted in a total expense of $16,500 for additional testing in the distribution system annually for six utilities. It should be noted that this is only an example, and this type of expense goes beyond the PSC’s current budget authority.

II. Flushing Requirements and Practices

The DEP oversees water utility flushing requirements and practices. Florida’s water management districts also have rules regarding water utility operations during water shortage events; some of these rules regulate flushing practices during such events. Flushing is performed to maintain water quality and residual disinfectant concentration levels throughout a utility’s distribution system. Utilities perform flushing at their discretion and pursuant to DEP Rule 62-555.350(2) and (6), F.A.C, which states that water suppliers should flush dead-end water mains conveying finished drinking water quarterly, or in accordance with a written flushing program established by the water supplier. Additionally, these dead-end water mains containing finished drinking water should also be flushed as necessary when legitimate water quality complaints are received. Flushing should also be conducted after the water supplier increases the residual disinfectant
concentration to the required minimum level and should be continued until the disinfectant concentration is restored.

In accordance with PSC Rule 25-30.4325(1)(e) and (10), F.A.C., staff analyzes a utility’s flushing volumes when comparing the gallons of water a utility has pumped with the gallons of water it has sold and when calculating excessive unaccounted for water (EUW). Staff does not include the gallons used for flushing in its calculation of EUW because they are accounted for by the utility and flushing is employed to improve water quality. Based on past Commission cases, it appears that flushing is conducted more often in systems with a seasonal customer base or systems where customers are more spread-out within the distribution system.

At its May 19, 2020, Internal Affairs meeting, the Commission heard comments that water management districts may be placing limits on the amount a utility flushes, which in turn could cause issues with water quality. However, this issue has not surfaced in past rate proceedings. Staff will continue to evaluate the flushing practices of the utilities regulated by the Commission. If issues regarding water management district limitations on flushing arise, they will be brought to the Commission’s attention.

III. Boil Water Notices

Pursuant to the EPA’s Public Notification Rule 65 FR 25982, boil water notices must be distributed within 24 hours of a situation where there is the potential for human health to be impacted. The EPA requires water suppliers to utilize media outlets such as television, radio, and newspapers, post their notice in public places, personally deliver a notice to their customers, or use an alternative method approved by the primary agency. For water systems in Florida, the primary agency is the DEP district office or the county health department, depending on which agency is responsible for the water system.

Based on the Commission’s inquiry, staff explored the use of email and text messaging to convey boil water notices. After discussions with the DEP, staff found that if approved by the primary agency, the water utility may deliver boil water notices via email or other electronic method such as text messages. However, these methods may not adequately reach the entirety of a customer base because some customers do not have access to or utilize email or text messaging. Boil water notices must contain all information required by the EPA, which may be difficult to convey via text messaging.

With the ranging characteristics of water utilities regulated by the Commission, the way utilities render boil water notices may differ based on a number of factors such as the situation calling for the notice or demographics of the utility’s customer base. It appears that many of the utilities use door hangers for boil water notices, which may be attributable to the reason for the boil water notice being a localized incident. However, other methods for communicating boil water notices have been utilized. For example, utilities have posted notices at community entrances, on Radio/TV, and have used an automated calling system.
As noted above, several different modes may be used by a utility if approved by the utility’s primary agency. Furthermore, since the Commission is not the primary agency, the Commission does not have the authority to require a particular delivery method for boil water notices. The primary agency is the DEP district office or the county health department, depending on which agency is responsible for the water system. Additionally, there may be additional costs to set up the email or text notifications of boil water notices.

IV. Reserve Funds

A. Statutory Background
Water and wastewater utilities’ lack of cash reserves, and limited availability of owner, bank, or investor financing affect the ability of the utility to cover repair costs for critical infrastructure. To address concerns over deferred maintenance of critical infrastructure and delays in necessary repairs, during the 2016 Legislative Session, the Florida Legislature enacted House Bill 491, which modified Section 367.081(2)(c), F.S. This statute states that, upon its own motion or upon the request of a utility, the Commission may authorize a utility to create a utility reserve fund for infrastructure repair and replacement for a utility for existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. Further, the Commission was required to adopt rules to govern the implementation, management, and use of the reserve fund. The Legislature determined the establishment of a utility reserve fund may reduce borrowing costs and make funding for repairs more readily available. The availability of the reserve funds may allow the utility to avoid or defer the need for a future rate case, the expenses of which are ultimately borne by ratepayers.


B. Rule 25-30.444, F.A.C., Utility Reserve Fund
Rule 25-30.444, F.A.C., implements Section 367.081(2)(c), F.S., which allows the Commission to authorize a utility reserve fund for water and wastewater utilities. Under the rule, reserve funds are funded through rates in the form of a surcharge prior to project implementation. Section 367.081(2)(c), F.S., requires the Commission’s rule to include: (a) provisions related to the expenses for which the fund may be used; (b) segregation of the reserve fund accounts; (c) requirements for the utility to maintain a capital improvement plan; and (d) requirements for Commission authorization prior to disbursement from the reserve fund.

Eligible Projects
Subsection 25-30.444(1), F.A.C., identifies considerations that must be applied in determining whether a future infrastructure repair or replacement project is eligible for advance funding through a utility reserve fund and whether a utility reserve fund is the most appropriate

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4 Florida House Bill Analysis, Regulatory Affairs Committee, February 9, 2016, p. 3.
methodology to address the required project. Projects that are eligible for a utility reserve fund include projects to repair or replace infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability and upgrades or enhancements of existing facilities necessary to comply with federal, state, or local regulatory requirements. The rule excludes certain projects and expenditures, including those related to the general plant that are not directly associated with the physical operation of the plant and for which other financing options are generally available, such as office equipment, tools, and vehicles. Projects related to expanding facilities to address future growth are also excluded.

**Filing Requirements**
Subsection 25-30.444(2), F.A.C., identifies the information utilities must submit in an application to create a reserve fund. For example, the subsection requires a utility to provide a capital improvement plan that includes general information about the condition of the utility’s facilities and a description of all infrastructure repair and replacement projects that the utility anticipates will be necessary within the next five years, at a minimum. The subsection also requires detailed information about the projects that the utility is requesting be included in a utility reserve fund such as: a description of reasons why each project is necessary to either maintain or improve the quality or reliability of the water or wastewater service; whether the projects are required by a regulatory agency, such as the DEP; cost estimates; a projected timeline; and a description of any other funding sources that may be available to pay for a portion of the projects. The rule also allows any utility that has received an Asset Management Plan prepared by the Florida Rural Water Association to submit that plan in lieu of preparing a separate capital improvement plan. In addition, the subsection requires a description of the procedures that the utility will implement to segregate the monies collected from the utility reserve fund surcharge on the utility’s books and records.

**Reporting Requirements**
Subsection 25-30.444(3), F.A.C., identifies reporting requirements for the utilities in order for the Commission to review the monies collected in the utility reserve fund. This subsection provides several reporting requirements that will continue as long as the utility reserve fund is in effect. The reports include: monthly reports of the money deposited into and disbursed from the utility reserve fund; project status reports every six months; an annual update in the utility’s annual report; and an update of the utility’s capital improvement plan every three years.

**Disbursement of Funds**
Subsection 25-30.444(4), F.A.C., lists the information that a utility must file with the Commission to request disbursement of funds from an escrow account or authorization to use funds secured by an irrevocable letter of credit to carry out its capital improvement plan.

**Utility Reserve Fund Modifications**
Subsection 25-30.444(5), F.A.C., allows for modification of the reserve fund when a utility must undertake a project that was not anticipated when the reserve fund was created or when the utility must make significant modifications to a previously approved project. To apply for a modification, the utility must file the necessary information, including a statement describing why the new project or modification of a previously approved project is necessary and whether
the utility is requesting a change in the utility reserve fund surcharge or only acknowledgement of the project modifications. If the new project or project modification is required by a governmental or regulatory agency, the utility must provide the Commission with a copy of the rule, regulation, order, or other regulatory directive that requires the new project or project modification.

**Final Disposition of Reserve Fund**

Subsection 25-30.444(6), F.A.C., identifies the conditions under which the Commission will determine the final disposition of a utility reserve fund. This subsection provides that the utility reserve fund surcharge will be discontinued after all approved eligible projects have been completed, sufficient funds have been collected in the utility reserve fund to cover the cost of the approved eligible projects, and the final disbursement has been made from the utility reserve fund. The rule provides that during the utility’s next rate proceeding, the utility’s rate base, capital structure, operating expenses, and rates shall be adjusted as needed to reflect the completed projects. Any monies that remain in the utility reserve fund following the last disbursement for the completed eligible projects shall be refunded to the customers with interest. The rule also provides a process for evaluating the reserve fund if there are any changes in utility ownership or if the utility is abandoned. If the utility fails to follow through with the eligible projects or comply with the security, fund maintenance, or reporting rule requirements, the Commission shall initiate a review of the utility reserve fund and surcharge to determine whether the reserve fund and surcharge should be discontinued and whether all monies in the reserve fund should be refunded to the customers with interest.

**C. Emergency Funds**

During the development of the rule, the utilities argued that reserve funds may be needed to pay for emergency work that was not part of the capital improvement plan submitted to the Commission. To address the utilities’ concerns about situations where an emergency may require the use of the funds in the reserve account, the Commission included language in the rule to allow disbursements from the reserve fund for certain emergency repairs under specific circumstances so that the utilities’ access to the funds could be considered in limited emergency situations. Assuming that a utility has implemented a reserve fund, and there are funds available, the rule provides an exception for the use of reserve funds for emergency repairs to infrastructure directly related to the provision of water and/or wastewater service. The rule language also requires the utilities to reimburse the reserve fund for the emergency repairs or describe how the utility reserve fund projects or timeline could be modified to address the funding needs of the previously approved projects. If these options are not possible, the utility may request a modification of the surcharge.

As noted earlier, because no water and/or wastewater utilities have established a reserve fund at this time, there are no reserve funds available for emergency use. To expand the use of the reserve fund methodology for use in addressing a broader range of emergency situations, it would be necessary to make a statutory change to Section 367.081, F.S., and amend Rule 25-30.444, F.A.C., to broaden the applicability of funds collected through a reserve fund surcharge for emergency purposes.
V. Customer Deposits

Rule 25-30.311, F.A.C., Customer Deposits, addresses two kinds of customer deposits. There are initial deposits and new or additional deposits.

The amount of a new or additional deposit is not contained in a utility’s tariff. Pursuant to Rule 25-30.311(7), F.A.C.:

A utility may require, upon reasonable written notice of not less than 30 days, such request or notice being separate and apart from any bill for service, a new deposit, where previously waived or returned, or an additional deposit, in order to secure payment of current bills; provided, however, that the total amount of the required deposit should not exceed an amount equal to the average actual charge for water and/or wastewater service for two billing periods for the 12-month period immediately prior to the date of notice. In the event the customer has had service less than 12 months, then the utility shall base its new or additional deposit upon the average monthly billing available.

Thus, under Subsection (7) of the rule, a utility may require a new or additional deposit in order to secure payment of current bills. Historically, utilities have applied this rule to current customers who would not qualify for a refund of a deposit pursuant to Rule 25-30.311(5), F.A.C. Under this interpretation of the rule, some utilities have requested a new or additional deposit when a current customer, in the preceding 12 months: (a) made more than one late payment of a bill (after expiration of 20 days from the date of mailing or delivery by the utility); (b) paid with a check refused by a bank; (c) has been disconnected for nonpayment; (d) at any time tampered with the meter; or (e) used service in a fraudulent or unauthorized manner. The amount of a new or additional deposit does not require prior Commission approval. The rule governs the determination of the amount for the new or additional deposit.

For initial deposits, the dollar amount of the initial deposit must be approved and contained in the utility’s tariff. Rule 25-30.311(1), F.A.C., states:

Each company’s tariff shall contain their specific criteria for determining the amount of initial deposit. Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with the utilities’ rules for prompt payment of bills.

The rule does not specify the methodology for determining the amount of the initial deposit. Historically, the Commission has adopted the average actual charge for water and/or wastewater service for two billing periods similar to new or additional deposits. However, new or additional deposits are based on the average usage of the individual customer and initial deposits are based on the average residential usage of the utility since there is no prior history of usage.

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6 Section 367.081(1), F.S., provides that, with exceptions not applicable to customer deposits, a utility may only charge rates and charges that have been approved by the Commission.
The reason the deposit is based on a two-month average is that, at the point in time the water meter is actually read by a meter reader, typically a full month of usage has already passed. The usage period is referred to as the service period, or the period of time from the previous meter reading to the current meter reading. Typically, this period of time is approximately 30 days, if the utility has a monthly billing cycle. However, the cycle time may vary between 27 to 33 days.

Once the meter is read, a bill is prepared and rendered. The time between the meter read and the bill preparation varies among utilities, but is usually between five to seven days. Payment is due twenty days from the date the bill has been mailed or presented, consistent with Rule 25-30.335(4), F.A.C. Therefore, the actual payment is due approximately two months after the service is actually rendered.

If payment is not received by the 20th day, it is considered delinquent pursuant to Rule 25-30.335(4), F.A.C. At that point in time, the utility may begin disconnection of services. Pursuant to Rule 25-30.320(2)(g), F.A.C., a utility may discontinue service for nonpayment of bills, provided the customer has been provided “at least 5 working days’ written notice,” and there has been a diligent attempt to have the customer comply. Thus, service cannot be disconnected until well after two months subsequent to the bill being rendered. Also, an additional month of usage has already been provided to the delinquent customer, and presumably another month’s bill has been issued by the time service can be disconnected.

Staff found that the majority of states have rules similar to Florida, where deposits are set based at two months of estimated bills. The following outlines customer deposit practices of varying states.

- The following states cap the amount for customer deposits at two months of estimated bills:

  - Florida
  - Alabama
  - Arizona
  - Arkansas
  - California
  - Delaware
  - Illinois
  - Massachusetts
  - Missouri
  - New York
  - New Mexico
  - North Carolina
  - Oregon
  - Pennsylvania
  - South Carolina
  - Tennessee
  - Virginia
  - Washington

- Two states, Mississippi and West Virginia, cap the amount of customer deposits for one month of estimated bills.

- Louisiana caps the amount of customer deposits at two and a half months of customer bills.
• Iowa and Colorado cap the amount of customer deposits at three months of customer bills.

• Indiana caps the amount of customer deposits at four months of customer bills.

• Staff found one state that has a fixed amount for customer deposits. Texas caps the amount for a deposit for water and wastewater, separately. The fixed amounts are $50 for water customers and $50 for wastewater customers.

• The following states do not have commission regulation of water/wastewater services:

  District of Columbia
  Georgia
  Michigan
  Minnesota
  North Dakota
  South Dakota

The Commission has recognized that customer deposits may be required to encourage payment of bills or recovery of past due amounts. Collecting a customer deposit is consistent with one of the fundamental principles of ratemaking - ensuring that the cost of providing service is recovered from the cost causer. The cost of providing service varies among utilities, in turn, so do the rates. In addition, the demographics in terms of average usage varies as well. The rates and average usage determine the appropriate amount of a deposit and are unique to the individual utility. Since deposits are a product of the aforementioned components, it may be challenging to benchmark deposits. Benchmarking could lead to inadequate deposits. If utilities do not collect adequate deposits to cover the cost of providing service, the result could lead to an increase in bad debt expense. Ultimately, the bad debt expense is included in the utility’s revenue requirement, and therefore is included in the service rates charged to the general body of ratepayers.

Overall, deposits minimize the exposure of bad debt expense for the utility, which benefits the general body of ratepayers. In order to capitalize on this minimization, deposits must be designed based on the cost of providing service by the utility.

MR:pz

cc: Keith Hetrick, General Counsel
    Apryl Lynn, Deputy Executive Director - Administrative
    Mark Futrell, Deputy Executive Director - Technical
II. Outside Persons Who Wish to Address the Commission at Internal Affairs

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

**Note:** The records reflect that there were no supplemental materials provided to the Commission during this Internal Affairs meeting.
IV. Transcript
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

PROCEDINGS: INTERNAL AFFAIRS

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

DATE: Tuesday, July 28, 2020
TIME: Commenced: 9:30 a.m.
Concluded: 11:20 a.m.
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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PROCEDINGS

CHAIRMAN CLARK: All right. We will go ahead and get started this morning. Good morning, and welcome to Internal Affairs. We will call this meeting to order. It's great to see everyone this morning, and we are going to have a -- we got a little bit lengthier IA than normal, but I think we've got a lot of great information that we are going to cover today, and hopefully we will have some insightful conversations and are able to give our staff some -- some great direction.

So we will open it up with Item No. 1, it's the Draft Review of the 2020 Report on the Status of Competition in the Telecommunications Industry. And I believe, Mr. Baez, are you going to introduce that or is that straight to Mr. Wooten -- or Mark, I am sorry.

MR. FUTRELL: Yes, sir, Mr. Chairman. We have staff on the phone, and so with your indulgence, we will let -- suggest Mr. Eric Wooten from IDM to introduce the item.

CHAIRMAN CLARK: Thank you.

Mr. Wooten, you are recognized.

MR. WOOTEN: Morning, Commissioners, Eric Wooten from the Office of Industry Development &
Market Analysis.

Item No. 1 is the draft of the 2020 report on the status of competition in the telecommunications industry. The report shows that, consistent with previous years, the wireline market continues to decline, market shares remain relatively stable, and consumers continue to transition to wireless and voice services.

The report must be submitted to the Legislature by August 1st, and staff is seeking your approval to do so, as well as administrative authority to make minor edits, if needed.

Staff is available for questions.

CHAIRMAN CLARK: All right. Commissioners, any questions on the telecom report?

Commissioner Fay.

COMMISSIONER FAY: Thank you, Mr. Chairman.

I just have two quick questions. One is, the report talks about the reduction of landline that you were mentioning, Eric. And when you look at the data in here, there is a 23-percent reduction for Frontier, a 20-percent reduction for CenturyLink, and then a 4.6-percent reduction to AT&T. Any idea why the AT&T reduction is so much lower than the -- the other providers?
MR. WOOTEN: Yes -- yes, sir.

So we don't actually have the reasons for the differential in the data that staff received, but we can investigate further and get back to you if you like.

COMMISSIONER FAY: Yeah, I would appreciate that. I mean, it's just such a significant difference. I know there is going to be natural -- a natural reduction in landlines because of the obvious transition to wireless, but there is -- between Frontier and AT&T, I mean, AT&T is, you know, 20 percent less difference in line reductions, and so they are either doing something really right, or their customer base just isn't -- isn't quite making that turnover yet. But, yeah, if you have got any feedback on that, I would appreciate it.

And the other question, kind of in the same line, is the report shows that there is a slight uptick for those who have wire -- wireline and wireless lines in 2019, in which the previous years we've seen a reduction in that. So just curious if you have any thoughts on what might have occurred in 2019 that -- that bumped that. And it might just be the significant wireless increase, but it
was hard to tell from the report.

MR. WOOTEN: Yes, sir, well -- this is Eric again.

So my thoughts -- I mean, I don't have a definitive reason for that, but I would think that it could be something to do with fumbling. That's what they are all pushing now, and so I know that that's one of the reasons I maintain a landline is because it's cheaper, so -- I mean, I don't -- I don't -- see if my supervisor Mark Long has any insight on this one.

MR. LONG: Hi, this is Mark Long.

Not particularly. You know, one-year changes happen frequently. Once it becomes two or three years, then we try to find out if it's a trend or not.

And far as historically the line loss previous question. In previous years, AT&T has had line losses in the teens where Frontier and/or CenturyLink have been in the low single digits, so, you know, they kind of swapped places. And so, you know, a one-year kind of anomaly like that we don't legal really raise our eyebrows at, but if it happens over a couple of years, then we start trying to find out what's up.
Thanks. I appreciate that.
And just one last question. The report, on page 40, talks about the TRS services, and the FCC's extension of the requirements of those services. So essentially they are allowed to be a little bit slower with their -- their responses to the call intakes for obvious reasons, just since the virus the call numbers have gone up. And they've got a waiver in there for those providers up to May 2020, but do you know if the FCC has, or is going to extend that waiver for them so these providers can, you know, continue to manage these calls that might take a little longer without being dinged for it?

MR. WOOTEN: Yeah, this is Eric. They've extended that through August 31st.

COMMISSIONER FAY: Great. And that will cover those call numbers, the response times?

MR. WOOTEN: Yeah. Yeah. Those were the previous orders, and they just extended it again.

COMMISSIONER FAY: Great. Good news.

All right. Well, thank you. I appreciate it.

That's all I have.

CHAIRMAN CLARK: Thank you, Commissioner Fay.
Commissioner Brown.

COMMISSIONER BROWN: Thank you, Mr. Chairman.

I guess along the same vein, I appreciate you putting a section in here regarding public safety, and including hurricanes and COVID and cybersecurity. Do -- Eric or Mark, do we know any additional information that the telecom companies are doing to address COVID-19?

MR. WOOTEN: Well, the -- this is Eric.

So the industry, one of the big things, you seem to be aware that the FCC has their Keeping Americans Connected plan, and -- I mean, voluntary pledge, that is. And they ended up with more than 800 companies signing up to that where they would agree not to cut anyone's service or add late fees and for business -- small business and residential customers, and also that -- that has expired.

What the FCC -- they extended it once and then they let it expire with the idea that if they are not pulling in revenue, you know, eventually some of the companies would go out of business and then no one would have service. But a lot of the individual companies are still maintaining some of those, you know, provisions where they are -- are working with their customers for -- for COVID-19.
issues.

So -- I mean, the companies are still doing what they can. But it is becoming a problem for the smaller companies. And that's why I guess the FCC is just now advocating to Congress that recognize that those companies need help.

And so then that kind of rolls into when the CARES Act, which was the first big coronavirus relief act, had some money for that, and then -- but, yeah, so the companies are still trying to do what they can as that Keeping Americans Connected pledge expired.

COMMISSIONER BROWN: But they -- but they are receiving federal aid to help keep America connected?

MR. WOOTEN: So, no, that didn't provide any. The CARES Act did provide a lot more money for broadband support and for telehealth and some of these programs that have been used more.

The telehealth you have see in the last couple of months, they've really expedited approval for telehealth projects. There have been 11 telehealth projects in Florida worth more than $5 million of support that stems from some of that, but there is some federal support for some of the programs.
that's been ramped up.

COMMISSIONER BROWN: Thank you. That's what I thought it had to do with more rural -- rural broadband and the telehealth funding. So I appreciate that.

And again good report as always, and I support the submission of it.

MR. WOOTEN: Thank you.

CHAIRMAN CLARK: Thank you, Commissioner Brown.

Any other questions from any Commissioners?

All right. I will entertain a motion to approve this report and granting staff authority to make any necessary changes.

COMMISSIONER BROWN: So moved, Mr. Chairman.

COMMISSIONER FAY: Second.

CHAIRMAN CLARK: I have a motion and a second to approve.

Any discussion on the motion?

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN CLARK: Opposed?

(No response.)

CHAIRMAN CLARK: Motion carries.

All right. Thank you very much, Mr. Wooten.
and Mr. Long, appreciate it.

All right. Next item up is a briefing on water and wastewater items. Mr. Baez declared this was water day at the PSC, and I was going to bring any swim trunks and super soaker, but I didn't think that was necessary, so...

We do want to have a discussion today about some of the issues that have come up during a couple of our recent water cases. Some of the concerns that the Commission has expressed in how we are dealing with four or five specific areas. And, Mr. Baez, I will call on you to -- to introduce the item if -- if you choose to do so.

MR. BAEZ: I will do a brief introduction, but then pass on down the line to the folks that actually know things.

What -- what we tried do and place before you, Commissioners, is -- is a -- is a primer -- I think that's the right way to say it -- for you all to get acquainted with -- with the issues and to give you a basis for discussion today.

I want to thank staff for their hard work on this. A lot of people had their -- had their hands on it and put in some -- had some good output. So thanks to staff for putting it together, and I hope
you agree and use it to your liking.

CHAIRMAN CLARK: Thank you.

Mark.

MR. FUTRELL: Mr. Chairman, Marissa Ramos is on the phone, and along with the other staff that participated in this project, and Ms. Ramos will introduce the item for you.

CHAIRMAN CLARK: Thank you.

Ms. Ramos, you are recognized.

MS. RAMOS: Good morning, Commissioners. I am Marissa Ramos speaking on behalf of Commission staff, and here to present IA memo briefing on several water and wastewater items.

I will give a brief overview of the items discussed in the memo, and then we can turn it back to Commissioners for discussion and questions.

This briefing is in response to discussions and questions raised by the Commission about several topics in the water and wastewater industry. These topics are testing the water distribution system in regards to the quality of service, flushing requirements and practices, boil water noticing, reserve funds and customer deposits.

First, the memo discusses elements of
conducting additional testing in the water utility's distribution system for secondary water quality standards. The DEP requires utilities to test for secondary water contaminants once every three years at the water supply entry points. However, this does not preclude the DEP or the Commission from ordering additional testing it be conducted in the distribution system.

Staff provided examples of previous cases where the Commission has ordered such testing to be conducted, and it has also discussed possible funding options for the testing within the memo.

At a previous Internal Affairs meeting the FRWA discussed limits on flushing and its impact on water quality. Florida's water management districts monitor and regulate the state's water supply and have rules that impose flushing limits during water shortage event. However, staff is not aware of any quality of service issues brought about a flushing restriction in any docket before the Commission, but if such issues do arise, we will bring them to the Commission's attention.

The Commission has also raised questions about the delivery methods of boil water notices, specifically if it was possible for utilities to
send boil water notices via electronic methods, such as text or email.

It staff reached out to DEP, and it was determined that the primary agency, which is either the DEP District Office or County Health Department, has the authority to approve additional or alternative delivery methods. In addition, DEP indicated that it is not aware of any anticipated changes to the public noticing rule by any agencies.

The next section of staff memo addresses the concerns of utilities' lack of cash reserve and limited financing options and the affect it has on repairing critical infrastructure.

Additionally, staff discusses aspects of the Commission's utility reserve fund rule and how the rule contemplates disbursements from the reserve fund for emergency repairs.

Finally, staff explains -- finally, staff explains the Commission's practice in establishing new initial deposits, and provides examples of how the deposits are calculated in other states.

Traditionally, the Commission has calculated customer deposits that are equivalent to the average of two monthly service bills --
UNIDENTIFIED SPEAKER: Hello.

MS. RAMOS: -- that concludes my briefing overview.

Thank you for having us here today to present this briefing. Myself and staff members from the other divisions are here on the line to discuss these topics and answer any questions you may have.

CHAIRMAN CLARK: All right. Thank you, Ms. Ramas.

We have someone whose line is unmuted. If you would please check your line. It's none of the -- Commissioners, it's not you. It's someone that has called in apparently, so we are trying to identify that individual now. We are getting a little bit of feedback and interference here. So I think we've got it fixed now.

All right. So here is, just for discussion purposes, how I would like to proceed with this item this morning. We did ask staff to bring back a list of our current practices and -- and a little bit of explanation as to what we are currently doing in regards to these five specific areas. One of the key ones that came up in the discussion was the need for additional testing as it relates to this commission's approval during a rate case, and
how those -- those additional testing costs could be included in the rates. Was there funding available? What were the options and alternatives we had.

What I would like to do is go through these five items one at a time -- just open them up for disconnection. Say again.

Mark Long, your line is open. If you would please mute your line.

Do we have it muted? Okay. We think we -- all right. Moving on.

UNIDENTIFIED SPEAKER: I don't know like an hour or two probably. I am doing it now, so as soon as I am done, I can send it to you, call and let you now.

CHAIRMAN CLARK: All right. We've got him -- all right. We are back to -- back live.

We are going to go through these items one at a time and just open them up for Commission discussion. The first one being the testing in the water distribution system as it relates to quality of service.

And I want to thank the staff for the analysis they did and the hard work on all of the report, but it seemed to me that we came up with a number
that, worst case scenario, in a year's time we would be looking at about potentially $16,000 in expenses if we did testing in each one of these cases.

My concern was that the DEP testing standards as it relates to where their samples are taken did not adequately -- adequately address the concerns that the consumers had when it came to the actual source of the -- the actual quality of the water that was entering their house.

We also had a discussion about potential problems that were associated with the entry pipes between the meter and the house, and those being a source of contaminants and problems. So that could also be something that was included in the testing. If they were tested at the meter, just on the backside of the meter before it went through the customers' pipe, and then tested inside the customers' homes, that might give us some better understanding of the quality of service that the utilities are providing before we go into a decision on rates.

16,000 seemed like a fairly low number to me. If we can figure out how that number could be absorbed, if there is a -- if we need budgetary
authority to -- to spend those dollars at the Commission's request, is this something that the Commission wants to consider approving on as an as-needed basis? If we have a -- a case that comes in and we see concerns, do we want to ask that additional testing be done, and then figure out where those costs are going to come from?

I would to open this up for your thoughts, ideas and discussion this morning, Commissioners.

COMMISSIONER POLMANN: Thank you, Mr. Chairman.

Could you please clarify the $16,000? I think you said annually, but maybe I can get some help on that.

CHAIRMAN CLARK: The 16,000 was an estimate that staff came up with based on, I believe that was six cases -- six SARCs cases per year and a 225-dollar average cost per water test, and doing X number of tests per case, that would equal about 16,000 annually if you had to do testing on all six of your cases each year. That would be the high-end number.

MS. RAMOS: Commissioner, this is Marissa. Just to -- just to point out, that number,
that 16,500, we estimated that just for SARC. So the number could potentially be higher if we did conduct testing as well for cases, or even in limited proceedings.

CHAIRMAN CLARK: Correct. Those would -- that would -- yeah, I think I pointed that out as well, that was strictly SARCs cases.

MS. RAMOS: Okay.

CHAIRMAN CLARK: Thank you.

COMMISSIONER POLMANN: Mr. Chairman, as I understand it, our historical practice has been requiring or -- or undertaking secondary water quality testing for those systems where there has been a history of complaints, and it's on a case-by-case basis, and some determination of a significant number of complaints, and significant being some judgment call. So there is no practice historically that I am aware of that -- that there is routine sampling, and certainly the -- the requirements for DEP there are no distribution system sampling, as the staff has summarized here. And not -- not to make a negative remark about DEP, they have their rules, and they are what they are, but as we have been directed by the Legislature, they don't -- those rules don't meet
our purposes. So I think this is a good discussion for us to have, because we have different -- we have a different need. We have a different purpose.

The -- the concern I have is monitoring in the distribution system becomes an important factor because we are -- we are trying to understand the influence of the actual underground pipes as they can impact the quality of water as it's moving from the treatment plant to the homes. That's well understood in terms of how that collection is done in the system, and so forth, and staff has presented us with a cost estimate.

The more complicated question, and Mr. Chairman, you have already identified this, is sampling from the meter to the homes, and -- and we've talked before about the type of piping and the incidents of lead pipe and those things, and then the debate on the costs.

So I don't know if that's a separate discussion to have. That's a -- a nationwide problem. So I am not suggesting we take that on here today. I think that's much more complicated. So, Mr. Chairman, I don't know what -- what you would like to do, how you want to proceed with
this, so I will just put that question on the

table. What would you see as the next steps on
this? I think this is informative, but I don't --
I don't know what our next steps are, sir.

CHAIRMAN CLARK: I think -- thank you,
Commissioner Polmann.

I think that that -- my goal here today was to
bring in a level of awareness of -- of the problem
and the situation and get commission input as to
what our next steps should be. And I guess as a
commission, we have certain opportunities before
us. We could certainly look at a rule hearing
where contemplated a rule that required secondary
water testing at the meter on a certain sample size
for every utility.

I came up with some -- some ideas for a -- if
you had a system that had over 500 customers, that
maybe we required certain amount of testing to be
done prior to submittal of a rate case, so prior to
this commission approving a rate increase. Maybe
if it was smaller sized systems, if we had funding
available to assist with the testing.

I don't want to bear the -- I don't want to
put all the burden of this testing on the
consumers. I honestly believe it's the utility's
responsibility to provide a quality service.

The -- the testing standard -- my concern is the testing standards that we are using now are taking their samples at a location that is not indicative of the quality of the water that the customer is receiving and paying for. And I want to ensure that if our -- our utility companies are asking us for approval for a rate increase, that they are -- that it is based on a quality of service that those consumers expect.

And what I saw specifically in the last case that we dealt with was compelling evidence on behalf of the consumers that there is a problem there. And every time I kept asking the question to come back how are we going to deal with this, well, we don't deal with that. That's not something we deal with. We -- we kind of keep setting that back aside and not addressing it.

Well, I want to put it out in the forefront so that it is an issue, that it is a factor that is being considered by this commission before we make a decision on a rate case.

And, Commissioner Polmann, I am not sure how we do that. That's why I wanted us to have that discussion.
Commissioner Graham, you are recognized.

COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

I -- it's quite interesting to see you suffer through some of my old pains. I agree with what you said.

And then, Commissioner Polmann, testing is definitely a problem when it comes to water. I would definitely suggest we go to some sort of rule-making, because you will find out -- I am not quite sure what that was.

You will find a lot of these water systems have other places that they actually do testing at, but the requirement, as staff said, for DEP as it hits -- as it gets into the distribution system, where there may be other testing costs along the way. I mean, a lot of it comes down to -- I think once you get into rule-making, you start bringing people to the table, you may -- you may get suggestions from them that may be something that they can do that they -- places that they can currently test that will give them a good idea of what's going through the distribution line, or, you know, if you have to somewhere have them put in testing pots, or testing stations for -- for them to get a better sample; because, you know, we all
know, when it comes out of the -- when it comes out of the plant, when it gets into the distribution line, you could have, you know, hundreds of feet or hundreds of yards of pipe you go through, and God knows how old those pipes are. And we've all seen those pipes, you know, they get 15, 20 years old, and you can hardly see through those pipes. It looks like they are jammed full of clay or all kinds of heavy metals, and it's going -- it's going to change the way that the water is -- is -- it's going to change the taste and the color of the water when it gets to the homeowners.

And so I agree, there is something we have to do different. I know I talked about this before with staff. Don has talked about this before with staff. I hear you are talking about it now. I mean, we -- we have to -- we have to open this up, you know, we have to start that rule-making.

And if we have to go back to the legislators for some sort of funding source, because they are the ones that tasked us with doing this. And we are doing our best what we could with what DE gives -- what DEP gives us, but that is sufficient maybe 75, 85 percent of the time. There is the other 20 percent of the time where we need to have
more data, and there needs to be a funding for that
data, and be it coming -- wherever it comes from,
but we -- we -- I think we need to start that
dialogue officially.

CHAIRMAN CLARK: Great. Thank you,
Commissioner Graham.

Commissioner Polmann, you were -- you had your
hand up a second ago when I called on Commissioner
Graham. You are good?

COMMISSIONER POLMANN: You can come back to
me. I -- I have some -- something back on that,
but I see Commissioner Fay has his hand up.

CHAIRMAN CLARK: Commissioner Fay.

COMMISSIONER FAY: Okay. Thank you, Mr.
Chairman and Commissioner Polmann.

So I -- one issue that I think was maybe not
directly raised in -- in this memo, but I think is
worth talking about, as I, similar to my colleagues
here, had concerns about this process and what it
looks like.

There are scenarios where we -- and the -- the
estimation for this is on the SARC, and I think
that Ms. Ramos pointed that out. The number could
be bigger depending on the number of limited rate
cases that we have for these water utilities,
but -- but part of the process since I have been here that is a challenge that we will have those decisions in front of us, and three months after that decision will be the three-year mark for the water to be tested. And so we make a decision based on the information we have in front of us, but then the idea is that down the road, that test comes back with something, staff could potentially raise it and bring it back to the Commission, so that dialogue -- I think as we talk about this process, whatever we do to change it, or potentially alter it, I think the timing is definitely something that we should consider.

And then just one -- one question for clarity, and I -- I might be putting Braulio on the spot here. I am not sure who on staff this question should go to, but when I read this memo, it looks like it's stating that no matter what the number is related to asking from the Commission's perspective, that we would need the authority to -- to pay for that testing. We wouldn't be asking for the appropriation itself. We would just be asking for the authority within our trust fund, correct?

MR. BAEZ: That is approximately correct, Commissioner. Much like everything else, what we
are seeking is budget authority out of our own trust fund to -- to fund that. I -- I was told that Tom Ballinger is on the line, and while we are on the -- while we are on the general subject of what the -- what to do about this, there seems to be obviously consensus for the Commission for you all to -- to move this issue forward in some way. I know that Tom had something to -- to contribute in terms of process that might -- might help you decide.

CHAIRMAN CLARK: Great.

MR. BAEZ: Tom.

CHAIRMAN CLARK: Tom, are you on the line?

MR. BALLINGER: Good morning. Yes, I am.

CHAIRMAN CLARK: Good morning.

MR. BALLINGER: Can y'all hear me?

CHAIRMAN CLARK: Yes, sir.

MR. BALLINGER: Good morning.

You are correct. This has been a -- a problem, but as the memo points out, we have had four instances where the Commission has ordered testing over 25 years. So clearly, you have the authority to gather that additional data, and I think the way staff has approached it is if and when we see these complaints arise that looks like
there is a problem and the disconnect between the utility passing a test at the source but customers complaining of what they consume, we see there is a disconnect. And that's when we can look at additional testing in the distribution system. You can pull it from ports that are close by the customer's meter. It may be a fire hydrant. It may be another testing spigot that they use for disinfection byproducts, things of that nature. So the existing ports are there. We can get a call for a test.

What staff is anticipating doing the next time we have this situation arise is come to the Commission and say, here's the situation. They are passing standards at the well, customers are dissatisfied with the odor, color, taste of the water. If you want to do some additional tests, it's going to cost this much. It could be just rolled into rates, and the utility customers pay for it, or the requesting customers pay for it, or perhaps the Commission budget. That's a whole different thing of who funds it. But the thing of it is, is to get Commission approval, if you will, up front to do this testing and recovery of these costs, to get that information before final rates
are set.

I think if you go to a rule-making, we've explored this before of what metrics when to do the testing and all that is very subjective. It's going to be difficult. And it may not be appropriate since 80 to 90 percent of the time it's not an issue. So are you imposing this cost on a bunch of utilities that may not be necessary. And that's -- that's the balance we are trying to strike here.

So I think the case-by-case approach, where we can bring it to you when there is an issue and a disconnect, and let the Commission decide do they want the additional testing, and they will know how much it's going to cost and how much it's going to impact ratepayers, and we can move from there.

CHAIRMAN CLARK: Thank you, Tom.

Commissioner Graham.

MR. BALLINGER: You are welcome.

COMMISSIONER GRAHAM: Yes, Mr. Chairman.

I -- I don't know that there is some simple way to all this stuff. Some of the things that Tom says makes sense. I don't know if you need necessarily to bring it back to the Commission. Maybe just make it a staff function, if staff has
the information in front of them, or maybe just bring it to the Chairman, and they want to do more testing. Because I think once you -- once you write the recommendation, once you set the rates, once it comes before us, it becomes problematic going back out and trying to do testing and changing all that stuff.

I think if you make it part of the staff function before they write the recommendation, so we actually have that data and look at the recommendation that's in front of us, I think that's a better way of handling it.

And I don't know if that's through rule-making. I don't know how we -- how we give that authority to staff. And I am also not quite sure that it should come out of the trust fund, you know, maybe some of these cases it's just negligence and it should come from the utility. That's part of the question I don't have the answer for.

CHAIRMAN CLARK: All right. I tend to agree, Commissioner Graham, with where it's funded from. I am not certain that there is a right answer there either.

My concern with -- Tom, with the approach that
you are suggesting. I don't disagree with it in any regard. My concern is that we get to the same point we were at in the last case. We have the authority to do this, but we haven't been doing it, and so what -- what keeps us from actually going and doing the testing?

And in my opinion, in the last case where we had a problem, we should have probably done some testing there, but staff didn't do it. No one here ordered it. So what is -- is there a -- a failsafe mechanism, a safety net to make sure that this gets done besides having a rule that says if you have X number of complaints in a system of X size that's -- that's coming before the Commission for a rate increase, then here, that triggers a set of testing procedures.

Braulio, you have a --

MR. BAEZ: I have some quick thoughts.

MR. BALLINGER: Can I address that? I'm sorry --

MR. BAEZ: Oh, I will defer to Tom. Go ahead, please.

CHAIRMAN CLARK: Tom, Braulio has deferred to you. Go ahead.

MR. BALLINGER: Thank you very much.
In the last case I think that came up, staff saw the significant number of complaints, so we were going to recommend unsatisfactory anyway. So the need to do additional testing wasn't there. Staff was already imposing, or going to recommend a -- a ROE penalty, or whatever, like that.

Other times, it may come up after the customer service hearing you have complaints, and we can still put the case on pause until we get additional testing.

So I think it depends on where you are in the situation. If a case is going along and it looks everything is fine, there was minimal complaints of the customers, that may be one we bring to the Commission to say, there has been 10 complaints, if you will, of this. You can do additional testing to get the information. Do you want to -- do you want to direct the utility to proceed?

I am a little uncomfortable with giving staff the authority to tell the utility to incur costs that's going to go to ratepayers. That -- when -- you know, when you say making it a staff function to incur this cost, that makes me a little uncomfortable.

CHAIRMAN CLARK: Okay. Braulio.
MR. BAEZ: I would agree with Tom. I think that's -- and -- and really, that's a -- I know that we can work -- there is a solution here that -- that avoids that issue.

But to Commissioner Graham's suggestion, while -- while having administrative authority, delegating it to staff does make it easier for us to put -- because I think the problem is one of timing.

We are -- we are not exactly walking in with -- with -- with the testing in hand, as you suggest, so that -- so that your decision has a full complement of information. So -- so getting -- moving that testing point, or that opportunity earlier in the process, certainly before you all have -- have a recommendation on the case before you is -- is where we want to be.

I think that Tom is correct, you know, that is -- that affects rates. That is a cost recovery issue, and that's something that I think it's arguably is the province of the Commission itself.

So I don't know. It sounds like Tom was describing, you know, like an interim issue, right? An interim issue before the Commission in order to go off and do this.
Now, it can be our judgment whether to bring it forward -- or it can be the staff's judgment of whether to bring it forward or not based on some criteria that -- that would agree to or set, but the decision ultimately has to be yours. If y'all are comfortable with that sort of interim issue coming up and -- and taking a crack at it that way, that's one way we can proceed.

Now, I think the dangers of the rule-making is that now you are making the standard for everyone, and I think you can all -- you have all seen -- you have all seen the implication of -- of the -- of the added cost, in many instances, unnecessarily.

CHAIRMAN CLARK: Well, every -- everything we do as a commission has a rate implication, and there is some things that -- that I think maybe -- maybe we should be having -- maybe they should have rate implications, and maybe water quality standards are one of those factors that maybe that should have some rate implications.

MR. BAEZ: I'm not -- I'm not inclined to disagree, Chairman. I think that's -- that's fine, as long as the Commission understand that that really is an ultimate question as it should -- should the costs be created because it's in the
public interest to do so --

CHAIRMAN CLARK: Yeah.

MR. BAEZ: -- and let that rest there?

I did have a question, though, because there

has been -- there has been -- at least early on

there was a distinction made, and certainly our

estimates in the memorial are based, as Marissa had

mentioned, were based on average SARC --

CHAIRMAN CLARK: SARC, correct. Yes.

MR. BAEZ: -- and -- and that's something

that -- that may be appropriate for, you know, the

funding discussion. Perhaps that's a cost that the

Commission winds up bearing, and maybe that's

appropriate.

Are you all comfortable with that type of

distinction? Because if you are a utility of a

certain size, then socializing the -- the

additional costs potentially that you all would be

agreeing is in the public interest is probably more

appropriate.

CHAIRMAN CLARK: Right. And -- and I think

that that's one of the things that I would like to

see a little bit more analysis. And water quality

standards should not be limited to utilities of

certain sizes. And -- and I am saying that -- I
understand that right now we are talking about testing specifically to SARC s. That's typically the small system.

MR. BAEZ: Sure.

CHAIRMAN CLARK: So do you -- do you cover their costs and then allow the other customers to reininclude that this their rate base? I think that would depend on where the breakdown occurs.

I was running through my head the cost of if you had a system that had at least 500 -- at least 500 consumers, is it, you know, 10 cents a month per consumer? Does that rate impact just justify testing X number of systems per year? I don't know.

I think that we could run some numbers out and see what those costs were, and see what the rate -- potential rate impacts to the consumers were, and then the Commission could say, okay, that is in the public interest, and that is something that we want to consider, or we want to be included.

And maybe it's a -- it's a -- and that's kind of why I come back to wanting to look at it from a rule perspective, is to say, no, this doesn't just apply to certain systems. It doesn't just apply when you come in for a rate increase. Some of
these water quality standards I think are probably going even beyond our notice, and customers are complaining. If you look at our complaint log, I know we get a lot of those calls in, maybe we should be requiring certain amounts of testing at -- at the consumer level.

MR. BAEZ: And -- and I don't -- I want to be clear.

CHAIRMAN CLARK: Sure.

MR. BAEZ: I wasn't trying -- I wasn't trying to draw a distinction on -- on the issue of applicability, right --


MR. BAEZ: -- going to get tested, and the secondary standards --

CHAIRMAN CLARK: Yes.

MR. BAEZ: -- apply to everyone. Clearly, I think we were talking more about, you know, how --

CHAIRMAN CLARK: Right.

MR. BAEZ: -- when -- I don't know, putting it bluntly, but when the Commission is on the hook for -- for -- for the cost.

CHAIRMAN CLARK: Yes, I agree.

MR. BAEZ: And -- and the reason I raised the
point that way is because we are already -- the
SARC process, as you know, is a -- is a
Commission-assisted process, and -- and therefore,
the implication there is the Commission is taking
on --

CHAIRMAN CLARK: Right.

MR. BAEZ: -- costs of a rate case
essentially.

CHAIRMAN CLARK: Right. Correct.

MR. BAEZ: So that -- the distinction that I
was suggesting works -- works more within that
construct.

CHAIRMAN CLARK: It does.

MR. BAEZ: Is consistent with how we're
doing -- with what we are doing now.

CHAIRMAN CLARK: Right.

MR. BAEZ: Would just be some incremental, you
know, whether -- whether -- how painful it is and
what the estimates ultimately are, I have no idea.
And April is probably going to punch me later for
committing to it, but I see that is a more natural
distinction --

CHAIRMAN CLARK: Sure.

MR. BAEZ: -- to -- to carry on. The
applicability is something different. I think --
CHAIRMAN CLARK: And I am trying to draw that association, too, is that it's so important that we need to establish the standard I think, and then figure out, okay, now, how do we divide the costs out? Now how do we -- where does this break out in terms of who's paying for what.

Once we say everyone needs to have this set of standards applied them. Every utility needs to have this set of standards, and then figure out how we divide the costs out, and figure out where that line makes sense. It may make sense at 200 customers, 500 customers or 1,000 customers that we assist in some way from a -- a -- from a rate case assistance perspective, where we've already got that cost built in. Maybe that's part of the SARC's process from this point on.

I am just throwing out some ideas, but if we continue to leave this to, well, we will deal with it on a case-by-case basis, that concerns me that the next case that comes in, we didn't apply the same set of standards, and maybe everyone is not being treated the same from that perspective.

I am not saying that anyone is doing it intentionally. But, okay, we had customers complaining, but, you know, we followed up on three
of them, but, you know, the other 200 we missed, or
something like that.

MR. BAEZ: Right. And I think -- and I think
what Tom's suggestion, if I understood what -- what
he was saying is, how do we -- I mean, we
acknowledge -- the Commission acknowledges that
taking these types of actions is creating or
imposing a new cost --

CHAIRMAN CLARK: Correct. Yes.

MR. BAEZ: -- new regulatory costs, and
everybody is clear on that --

CHAIRMAN CLARK: Yes.

MR. BAEZ: -- and then from -- breaking from
that point is how do we -- how do we make the
imposition of that cost as efficient as possible?
By that, I mean, you know, that you are not -- that
you are not imposing costs where the conditions do
not exist --

CHAIRMAN CLARK: Absolutely. Yes. Yes.

MR. BAEZ: -- and unfortunately, that's sort
of a case-by-case basis. I -- I think from a
procedural standpoint, whatever we can do to move
that decision point, right, whether -- whether you
are going to require additional testing
irrespective of -- of who is bearing the cost for
the moment, earlier in the process then -- then the
goal of having the Commission have all of the
relevant information for their decision is met and
you start avoiding the after process, the report
back in six months, the go out and test and, you
know, et cetera, et cetera.

That does change the dynamic on a penalty,
too. I -- I don't want that to be lost as well.
Now -- now a penalty is just a penalty, and it
stays because there may be no -- no redemption --
no road to redemption provided after the decision.

So those types of things are things that you
want to consider as well.

CHAIRMAN CLARK: And I want to -- just one
final point is I don't know that -- what I would
like to see ultimately is the utility companies to
take this on as a natural form of doing business.

I -- I don't want to compare the electric
business with the water business, but in the
electric side, when you had a consumer complaint
that involved a meter, typically you performed a
meter test at that location.

And so from the water utility side, it seems
like we don't really want to test everyone that
complains water quality issue at their meter
because we don't know what to picks up. We don't know where things come from, or how things get in the certain state that they are in. We are going to meet the standard that's required. We don't require a standard for testing at the house right now. And I think that's -- that's the real differentiation that I want to make. Maybe they take that on as their own responsibility.

Okay. Let me move to Commissioners.

Commissioner Polmann.

COMMISSIONER POLMANN: Thank you, Mr. Chairman.

I have heard a lot here, and I have a suggestion, if you will bear with me for a few minutes. I know Commissioner Brown would -- would like me to speak for her.

COMMISSIONER BROWN: Absolutely.

COMMISSIONER POLMANN: Thank you.

My recollection over all these cases with regard to -- to water quality is that we addressed this when we -- when we have customer complaints, and really only when we have customer complaints and so that's the driver, as I see it.

So we have been given direction from the Legislature and -- and authority to consider, and
that's -- that's a pretty broad term. And as we all know, the secondary standards are really just -- and I don't mean to trivialize it, but aesthetics, and not a health standard. So every individual who complains has -- has some personal opinion about that. And the solution that the utilities traditionally bring back to us is flushing the system. And many of -- many of the customers say, yeah, we think it was great after they flushed, and, you know, two, three, four weeks later, the problem is back.

So the issue is always what is the cost, as we spent a lot of time here talking about that. And in flushing, the cost gets hidden to some degree, so -- so never really on the money.

CHAIRMAN CLARK: You have been upstaged by a baby, Commissioner Polmann. Hang on one second.

MR. BAEZ: I believe it was a staff member.

COMMISSIONER POLMANN: I was just wondering if -- if she was done. So --

CHAIRMAN CLARK: All right. Go ahead.

COMMISSIONER POLMANN: Thank you.

So we are dealing with more aesthetics, and then we measure that by not meeting the standards. And then the question is how much data do we need?
And the issue then is delaying the improvement to the customer because we are trying to figure out what's going on, and the -- the -- the issue that we are debating here is whether we need a rule.

I would suggest that, as Commissioner Graham indicated, we -- we have discussed the rule, and I -- I was involved in -- in some detailed discussion about how to establish what the criteria were. We concluded that that -- that would not necessarily be a crucial exercise. It becomes very, very complicated to decide how to prepare the rule.

I -- I want to suggest an alternative approach, and I will -- I will describe it as a policy, and let -- let me come back to that in just a second.

So the fix for the water quality issue is going to be, in my mind, one of -- one of two types of things, and one is an underground infrastructure problem, which really needs to be determined on a long-term value. So we are talking about, in that case, significant dollars for capital improvements. But first you have to identify, is -- is there a major issue with the pipe? Is there a break? Is there something fundamentally broken?
But then a more likely case is that there is a problem with the hydraulics in the piping system which then is typically fixed by the flushing, but maybe there is a dead end, or should be a pipe connection, something that is -- that can be changed. And that requires some engineering, some modeling and some other things, but nobody does that, because flushing is easy. And I -- I would suggest that that's more the analogy of the physical therapy before you do -- before you do surgery. So everybody is doing physical therapy out there. Let's just flush the pipe, because we don't want to do surgery.

So -- so my suggestion, Mr. Chairman, is this: If we could agree, short of rule-making -- a lot of discussion here today, and my suggestion is that what may be helpful to the Commission is to ask staff to prepare something that looks like a decision tree that will bring together for us an opportunity to look at how staff might make a decision that forms the recommendation that would give us an opportunity to see the process and procedures for the Commission can make a policy decision giving direction. Because we have talked about everything being a case-by-case, but then we
don't want it to be case-by-case. We want it to be somewhat uniform.

So in order to make a more unified approach to this, is there a decision tree that has the factors built in that you have described, Mr. Chairman? And then we can -- we can talk about, well, what should be the factors be? What are the parameters if you go down one part of the tree and turn left or right? It's actually laid out for us in some type of a chart.

At the end of that, we can then determine, is it appropriate to go into rule-making? Is there enough specificity in that decision tree that we can say, yes, this -- this is very much a fixed process, and we can assign a policy decision to this, and it -- and it becomes something we are very comfortable with, and we can explain to the public and the utilities, and then it looks like a rule.

The other thing we talked about a few moments ago was how much water quality sampling might be beneficial when -- when someone comes in for a rate case.

So in terms of rule-making, perhaps we want to consider -- and this, again, will be part of the
decision, that if there are any customer complaints, that we could require, in a rule change, to have, not just the list of customer complaints over the past five years, but more recently, have the utility be required to collect water quality sampling across their system, again, in some specified manner that -- that would become part of this decision tree, and say, tell us what the complaints are, but also provide us with some water quality data -- now, how you pay for that, we can debate -- so that we have some information and don't have a long drawn-out delay for the customer.

So just a couple of thoughts, and I see Commissioner Brown. So she's not satisfied with what I said, so, Mr. Chairman, back to you.

CHAIRMAN CLARK: Oh, thank you, Commissioner Polmann.

Commissioner Brown.

COMMISSIONER BROWN: Thank you.

And I just think the most fastidious way to -- to kind of encapsulate this entire discussion is probably going to have a staff workshop to flush -- flush out all of these comments and details, and I think we can maybe move on to the next item.

CHAIRMAN CLARK: I was kind of leaning in the
same direction, Commissioner Brown. I wanted to --

to -- I want everybody's opinions, get everybody's
thoughts on this, but a staff workshop -- and I
think that getting some utility feedback in here
would be extremely important for us as we look at
the next step in this.

And to take into account Commissioner
Polmann's thoughts and ideas, I think you are -- I
think you are right on target, Commissioner
Polmann. I think that is -- is definitely a --
where I would hope we could get is a, I don't want
to say non-rule rule, is that right? Is that the
thing you can't do is have a non-rule rule, but get
to a policy perspective where here are the
questions that we answer.

And I would ask that each of the
Commissioners, if you would, let's move in this
direction. I will take a couple of comments real
quick before we close but -- on this issue, but if
you would list out the things that you have
concerns about specifically and get those into
staff.

Commissioner Polmann, we use those questions
to help make that decision tree that you are
talking about, and then use that to go into the
staff workshop to have those questions so we know
what questions we are looking for answers to as we
begin to develop that. And I think that might at
least be a good starting point.

Again, today's intent was to be a starting
point for the discussion to look at where we can
take this in the future, and I don't want to
belabor it and something dig in it too long.

Any final comments on this particular portion
of the report?

Commissioner Polmann.

COMMISSIONER POLMANN: Yeah, I wasn't done.

CHAIRMAN CLARK: Say again. I'm sorry.

COMMISSIONER POLMANN: Yeah, I -- I wasn't
done. There is more in this item unfortunately.

So with your indulgence, sir.

CHAIRMAN CLARK: We are -- we are going
through all five of the items on a line-by-line.

We just started with that, Commissioner Polmann.

Was that what you were asking?

COMMISSIONER POLMANN: Okay.

CHAIRMAN CLARK: We are going to go through

the next four.

COMMISSIONER POLMANN: Yeah, I want to --

thank you.
CHAIRMAN CLARK: Okay. All right. Any -- any -- so the final comments are on this particular -- on the water quality testing. Any questions or comments on that portion?

Commissioner Polmann.

COMMISSIONER POLMANN: No. I am done with that.

CHAIRMAN CLARK: Okay. Anybody else?

Okay. Let's move to the next item, flushing requirements and practices, comments and discussion in this portion? No -- no questions on flushing practices.

So I do want -- I want to address this because it's one of the things that I'm came up was I believe one of the utility companies had reported that they were being prohibited from doing flushing because of some permitting issues with the water management district. Was -- Mark, do you recall that being the case?

MR. FUTRELL: That sounds familiar. I don't recall it specifically. Maybe a member of the staff has a better recollection than I.

MR. BALLINGER: This is Tom. That came up at a presentation you had by Gary Williams of FRWF, indicating some utilities had reached that impasse,
if you will, with the water management district.

What staff has found in our rate cases, we have not had that issue arise, where a utility has been prohibited from flushing because of a water management district which was impacting water quality. So we have not seen it arise yet in a rate-making setting. If and when it does, we can address it.

CHAIRMAN CLARK: So so, Tom, we have not seen it arise in a rate-making case, but that's a very limited -- limited number, I assume, of -- of utilities that could be facing this problem. From -- from a Commission's perspective, if there are utilities out there that are having this issue, is there something this commission can do to work with the water management districts to ensure they are able to do the things that are going to provide consistent water quality?

MR. BALLINGER: And I -- I think we would at time of a rate case of looking at it there. So what I am saying is when utilities come before us, when we look at water quality, which is during a rate case, we have not seen where water quality has suffered because of plaque lack of flushing.

Remember FRWR is also dealing with utilities
that probably aren't in our jurisdiction. So they've got a wider net that they deal with. So there may be, and I don't doubt it that there is utilities facing that problem, we just have not had to address it yet.

CHAIRMAN CLARK: Okay. Well, I certainly -- I certainly would like to -- to -- I want to make sure that we offer our assistance where we can. I appreciate the comments from staff on that.

Any questions on flushing?

All right. Next item was boil water notices.

Commissioner Brown, I believe this one has your name written all over it. You are recognized.

COMMISSIONER BROWN: Thank you, Mr. Chairman. And I was eager to get to this particular item, as well as the reserve fund, so thank you for moving the -- the dialogue along a little bit.

I wanted to ask staff where they are in their discussions with DEP, and how they are going to be -- continue to approach the boil water notices as technology continues to be enhanced, and there are a lot of different ways to communicate.

The important message of a boil water notice, which we -- in our jurisdiction, what we've seen is a lot of the complaints regarding boil water
notices are there because they -- the utility is small, they put a door hanger on the house and -- and it blows away, or the customer just never receive notice at all.

So I wanted -- when we had this discussion at the -- one of the last water cases we had, I thought it would be nice to have a little exploration into how we can adapt in the 21st Century in communicating with customers. So I am kind of just setting that tone, and if you could provide us with some of the comments and knowledge that you have of investigating this issue.

CHAIRMAN CLARK: Mark, would you like to address it?

MR. FUTURELL: Yes, Commissioner Brown.

I think Ms. Ramos can probably provide some more information. She, in fact, has contacted DEP to explore your questions, and the questions that came up in the discussions in more depth, so Ms. Ramos can probably provide more input on that.

CHAIRMAN CLARK: Ms. Ramos.

MS. RAMOS: Sure. This is -- this is Marissa. We first reached out to DEP just to get a better understanding of the rule, the noticing rule. It is an EPA rule that DEP enforces, so
first reached out to DEP just to get a better understanding of how the notices should be rendered and what the requirements are.

And then we also asked DEP about if the, you know, electronic method could be used. And right now, it's up to the primary agency, which is the local DEP office or county health department to make the decision as to whether it's appropriate to implement the electronic message.

And then also asked DEP if -- if rule-making was on their radar, to go ahead and include the electronic method in the public notification rule. And our contact at DEP said that not right now, she's not aware of any other agencies, Department of Health, or any of the other agencies engaging in rule-making like that, but it doesn't mean that they won't in the future.

COMMISSIONER BROWN: Thank you, Marissa.

And so my thoughts are, again, you know, we are in the 21st Century. We have -- although, with regard to the boil water notices, and the health department, and DEP as primary authority over that, this does come before us, and -- and we should at least encourage our utilities to adapt some additional measures. I am not that saying the only
way that they can communicate is via email or text message, but they should explore, especially the sophisticated utilities like our Class A and some the Class B that have the capabilities readily at hand when a customer opens an account. I don't -- I don't think it would be burdensome or costly to potentially have an additional measure that -- with the information that they already have.

Is there any -- anything that you think that our commission can do to encourage the additional measures regarding -- boil water notices are not something that are slight. I mean, oftentimes, it is a -- it's a health issue for the end users. So is there anything that we could use to help facilitate the communication measures?

CHAIRMAN CLARK: Commissioner Brown, I would like to just tag on right here for a second. I don't -- your question may have been directed to Ms. Ramos, but from my understanding, the -- the notice requirement is a DEP statutory requirement. They are taking that on. It appears they have not taken the initiative to pursue faster, better notification.

I agree with you 100 percent. Door hangers are absolutely inadequate in this day and time.
That's an insufficient notice.

I would like to ask our General Counsel to look into an additional requirement that this commission placed on the utility companies. And while we do not have the authority to issue the boil notices, we do have, it is my understanding, the authority to mandate to the utility companies that they notify their customers in another manner that the boil notice -- boil water notice was issued.

I don't see where we could not look at and explore options to at least put out -- there are certain -- I recall EPA qualifications or EPA considerations that have to go into boil not -- boil -- I keep getting that messed up -- boil water notices, and certainly that may need to be something that is -- that is written out and spelled out. But I see no reason why we can't mandate any issue where a boil water notice was -- was delivered to the consumer that that be notified via text, email or other electronic medium. We can certainly ask our General Counsel to look into our authority to do so, if that satisfies your curiosity, Commissioner Brown.

COMMISSIONER BROWN: Mr. Chairman, this is why
I love you. You could not have articulated in a fashion better than anyone here. That was exactly what I would love to explore, and I think it -- again, getting these utilities in -- in a position where they can communicate better with their customers, like our electric industry is doing, and our gas industry is doing, I think is really, really ripe. So thank you.

CHAIRMAN CLARK: Thank you.

Commissioner Polmann.

COMMISSIONER POLMANN: Thank you, Mr. Chairman.

Can somebody please tell me if this type of noticing to customers is a recoverable cost?

CHAIRMAN CLARK: I will look for an expert opinion, but my assumption would be that it absolutely would be recoverable.

Mark.

COMMISSIONER POLMANN: Well, that's why I was looking for an expert.

MR. FUTRELL: I agree, it would be something that's required by -- by -- by an agency, so it's a cost of doing business that would be recoverable.

CHAIRMAN CLARK: Yeah.

COMMISSIONER POLMANN: Mr. Chairman, I -- of
course, I am not the attorney, but I play one at work. I -- I think that may well be a basis on which we -- we can presume, but again, that's a stretch, presuming, but that gives us some kind of authority, you know, to put our foot through that door.

To say that -- the utility is asking the customers to pay for notifying them so that we should -- we should be able to require them to prove to us that they provided notice.

CHAIRMAN CLARK: Yeah.

COMMISSIONER POLMANN: And -- and have some say over the -- the methods or -- or sufficient notice.

So I think that you are on point and going the right direction. There is something wrong here that customers are saying they are not being noticed -- they are not receiving notice, and -- but they are paying for it, you know, I -- I think we have some authority to -- to do this. There is no question about it.

And -- and back to the point that was made earlier. The boil water notice is on the basis of a health requirement. You know, it comes about because there is a loss of pressure in the
pipeline. The pressure falls below a certain point, and -- and there is an expectation that there is contamination in the pipe. And that's why you issue boil water notices, is a suspicion of a health problem. So this is not a minor issue.

Thank you, Mr. Chairman.

CHAIRMAN CLARK: Thank you, Commissioner Polmann.

Any other comments or questions on the boil water notice?

All right. Let's move to the next item, reserve funds. Any commissioner have particular interest on the reserve funds?

Commissioner Brown.

COMMISSIONER BROWN: I do. And when we -- when this rule was adopted I was little involved in it, so I do want to see how our utilities, particularly the small ones that really have projects that -- dire project that need infrastructure replacement, how are they utilizing this mechanism right now? And do we have data in support of what they are using it for?

CHAIRMAN CLARK: Mark.

MR. FUTRELL: Yes, Commissioner.

Mr. Todd Brown and Andrew Maurey from the
accounting and finance division are on the phone. They can provide you more information. My understand it's been limited participation, if any, but they can give you more detail.

COMMISSIONER BROWN: Thank you.

MR. BROWN: Commissioner Brown, this is Todd Brown. I will take a stab at it.

Unfortunately, the utilities really haven't availed themselves of the rule and kind of the possibility of using reserve funds.

I have only had a couple of calls since the rule went into effect from utilities, and I, you know, provided them the information that is contained in the rules, but none of them have moved forward with, you know, with putting together a reserve fund at this point.

COMMISSIONER BROWN: So similar to the way that staff, when they educate our utilities throughout the -- the different sizes about the index measure that, you know, we have actively been educating the utilities, is this something that we could help educate them?

It is limited to certain eligible products, and, you know, when it was originally developed, there was a lot of discussion from consumer groups
and from small -- smaller utilities saying that
this could be really a beneficial regulatory
mechanism for addressing those critical projects
that -- that need to be handled expeditiously.

Could we take a more overt action -- action
the way that we are doing with the index factor?

MR. BROWN: I think there is definitely room
for improvement on our end. I -- one of the things
that we discussed in the briefing the other day was
the possibility of including language, kind of
reminding the utilities that there is a reserve
fund rule out there for them to use, and including
that when we sent out our -- our notices, like at
the beginning of the year when the new index -- you
know, when we are getting the information out there
on the new index increase, including language in
there to remind them about the reserve fund.

And then later in the year, when we let people
know, hey, you know, there is still time to get
your index down, we can -- you know, we could
certainly put similar language in there to remind
them about using the reserve fund, or at least
looking into it; especially since those are notices
and correspondence that the utility -- you know,
that the Commission is already having with the
COMMISSIONER BROWN: Absolutely. I think the whole intent behind the creation of this rule was to provide relief for, you know, projects that need immediate attention, whether it's regulatory requirements or infrastructure requirements, and so I think this is something -- how exactly, for a utility -- can you walk us through the process of the creation of a reserve fund for a utility that doesn't want to go through a rate case, for example, and they just want to do it really streamlined, kind of the way that the index factors are in place?

MR. BROWN: Well, I don't know if it's going to be as streamlined as -- as doing an index, but the one -- I think one of the things that may be a little daunting for the utility based on -- on the rule itself is coming up -- like, I know FWRA can help them put together a asset management plan.

Absent the asset management plan, the utility would have to put together a capital improvement plan. And I think that is probably a little daunting, especially for some of the smaller utilities that we deal with. But it's -- I mean, the same type of help that's available to utilities
filing rate cases is also available to -- to them.

If they qualify for a SARC, you know, they are also going to -- they would also qualify for staff assistance in -- in filing this and helping out.

Now, I don't know if that goes as far as us helping them put together, you know, a capital improvement plan, but we would certainly work with them step-by-step through the process. I don't know if we are headed in the direction that -- that you wanted or not.

COMMISSIONER BROWN: No, thank you, Todd.

I think that the best thing to do is to at least educate the customers -- I mean, pardon me, I mean, the utilities about this mechanism, really. And I think you probably the best suggestion, is that look into putting it on the notice that we already send out regarding the index.

MR. BROWN: And we can --

COMMISSIONER BROWN: So if you could explore that, that would be helpful, I think, to everyone, all stakeholders.

MR. BROWN: Yeah. I think that's something we can definitely look into as we -- especially as we get closer sending out those notices, you know, after the new index is -- is approved by the
Commission.

COMMISSIONER BROWN: Thanks, Todd.

MR. BROWN: You are welcome.

CHAIRMAN CLARK: All right. Any other questions on reserve funds?

Commissioner Polmann.

COMMISSIONER POLMANN: Thank you, Mr. Chairman.

And so I understand it, based on the comments we just heard, this -- this is something utilities have not taken advantage of. And on the filing requirements, when I read that paragraph, the thought that I had was that that, to my mind, would be exactly the reason that they have not pursued it; because in reading that, that is a very high hurdle, as I see it.

And putting together an asset management plan and -- and a list of projects that you would be preparing for, intending to -- to undertake in the next five years at a minimum, so forth and so on, everything in that paragraph in order to establish the reserve fund is a tremendous amount of work. If not something to the utility is going to do on their own.

If I read it literally, you have got to hire a
consultant, or you are going to go FRWA if you are a small, and so it didn't occur to me, as Todd was indicating, that it -- that it would be something that we would get assistance from staff through a SARC. If I was reading the rule and saw that, I would say, well, I am not going to -- I am not going to bother putting all of that together. I mean, that's just how I read it. So I think as someone said, it's daunting.

That's just -- that's just my reaction, Mr. Chairman. Reading that, it wouldn't surprise me at all if no one pursued it. So I could don't know how to interpret it, how to explain it to the -- to the utilities. If there was some other intention, then perhaps we can -- we can provide that additional information, or -- or some other education, or make it clear that -- that there is another avenue.

That's my comment, Mr. Chairman.

CHAIRMAN CLARK: Thank you, Commissioner Polmann.

Other comments?

All right. Thank you.

Let's move on to the last item, consumer deposits.
Any commissioner have questions or comments about consumer deposits?

I will make a note that I read with great interest the current deposit structure, and -- and how we came to that. And I would also contend that, you know, two months deposit is probably not an adequate number. Three months is much more of a -- a way to cover and ensure that a utility company does not incur a loss should consumers decide not to pay their bills.

I would also turn around and -- and advocate that there are some greater alternatives to deposits. And looking at the potential for, just like in the electric business, prepaid services. Prepaid in the water business might could be considered as well, and that's a great way to avoid potential deposits.

But I will open it up to any questions or comments from Commissioners on this item?

Commissioner Fay.

COMMISSIONER FAY: Thank you, Mr. Chairman.

Just real quick, and this is sort of consistent with the dialogue on the electronic notices. I noticed the document states Texas has a cap -- a fixed amount and a cap for their
customers. As we are talking about these smaller utilities and the costs for administrative functions and the time that they put into doing these types of things, to me, it seemed like it would be at least worth having the discussion if a simpler, more straight-up calculation would be -- would make more sense for those smaller utilities.

It may be that it's too rigid and wouldn't allow the flexibility that potentially would -- the Commission might want. But I think it's at least worth visiting as we try to, you know, do everything we can for these really small utilities to streamline their process.

Thank you.

CHAIRMAN CLARK: Thank you, Commissioner Fay.

Other questions?

All right. Well, that concludes our water and wastewater discussion for the day. I want to thank you all for your indulgence in -- in letting me get this item on the agenda. I think there has been some very productive discussion, some ideas that have come out of it, and some direction for staff in regards to things that the Commission would like to consider at a later date, like to have at least reviewed and explored.
Mr. Baez, is there any question from you or any staff about where the Commission is wanting to move here?

MR. BAEZ: I -- I think I am clear on the direction based on my notes. I don't know what the --

CHAIRMAN CLARK: I am getting lots of head nods in here, so I think everybody is onboard. Mr. Hetrick, in your responsibilities as well? Okay. All right. Great. We will move on to the next item. I am still going to try to get us out of here on a reasonable time schedule today.

General Counsel's report, Mr. Hetrick.

MR. HETRICK: Thank you, Mr. Chair. I will be real brief.

We have been, as you know, extraordinarily busy navigating this new telehearing environment with a number of hearings on the horizon. We have been looking at new telehearing -- telecustomer hearing mechanisms. We have also been looking at this new -- this new world we live in seems to have afforded us the opportunity to look at -- at rule-making with respect to new electronic filing opportunities as well.

So legal staff has been really busy. And as
you know, since last May, we have been ramping up hearings, ramping up working with our IT folks at presenting workshops, agendas, simple hearings, settlement hearings, and moving into more complex hearings, such as the Duke CR3 hearing we just held, and ultimately culminating with a fairly complex hearing on the horizon dealing with the storm protection plans. So my staff is just -- ever day is a new issue, a new opportunity, and everyone is thoroughly busy.

I would like to -- I am excited to announce that the recent hiring of our new Senior Legal Assistant Melissa Marzicola, who will be a wonderful addition to Kandis. She comes to us with a very -- have a wealth of high level paralegal experience from several personal injury firms over time. So she is -- and she is very stable and consistent, extremely bright, and has the kind of experience now we are really looking for, and she will be a welcome addition to Kandis The hearing process would most definitely require two senior legal assistants doing that work, so we are excited to have her onboard. So that -- and I look forward to the Commissioners meeting her, maybe through this new tele remote environment.
And that's my report, Mr. Chair.

CHAIRMAN CLARK: Thank you, Mr. Hetrick.

And just a quick comment. I want to thank all the of our legal team for the work they have done in helping us to navigate through these hearings. I know that a lot of work went into it. We have had a number of discussions prior to each hearing, and making sure that we met the legal requirements, and your folks have also worked on the technology side as well, and I just want to say a very special thank you to our legal team for the extra work they have put in on this as well.

Commissioner Brown.

COMMISSIONER BROWN: You took the words right out of my mouth. I know it's a very hairy time for everyone, but especially our legal folks are having additional challenges and issues, so I really want to give them great some gratitude for all the work that you have been doing. I know you are working on so many issues, so thank you.

CHAIRMAN CLARK: Thank you, Commissioner Brown.

All right. Next on the agenda, Executive Director's report. Mr. Baez.

MR. BAEZ: Thank you, Mr. Chairman,
Commissioners.

Commissioners, good morning again. I want to join you as well, if you don't mind, in thanking not just the legal staff, but the entire staff of the Commission for all the work that they continue to do. As I always say, we -- we are here today and having these discussions in large part because of their hard work in not just setting them up, but providing content for us to discuss, so thanks -- thanks to all of them, and I urge them to keep up the good work. They are doing us very, very proud.

Commissioners, last week, our legislative team forwarded to you all via email a final wrapup of -- of bills. Hopefully it was useful for you in terms of getting up to speed as to what -- what had passed up until that date, and certainly where the Commission stood in terms of impact from -- from legislation, including our budget.

So I -- I urge you, if you have any questions, please reach out to us, or -- or to the legislative team directly and they would be happy to answer any of your questions on -- on the bills at that that have passed, or the status of bills that haven't been to the Governor yet.

Lastly, Chairman, you had -- you had
referenced at I believe our last Internal Affairs a letter that was circulated to all the Commissioners from Representative McClure having to do with his request for the Commission to get an in-depth -- and I am -- I am quoting here -- an in-depth and thorough review of applicable rules and appropriate regulatory policies related to customer-owned renewable facilities. And the shorthand being net metering for rooftop -- rooftop solar specifically.

And we -- the staff has been in discussions and trying to work out what the Commission's options in -- in order to -- to, I guess, be true to the Representative's request, certainly whatever your will is, we will do. But we were -- we were thinking of what you are options were, and -- and certainly what the best options were to proceed under the circumstances.

The first one. Originally we had, I will confess, a certain amount of heartburn over moving forward while that NARUC petition was -- was at FERC. That has since been resolved, perhaps not completely in a legal sense, but it's certainly quite now, and I think that that -- that concern, speaking only for myself, no longer applies.

So in terms of moving forward and what we can
take as a first step, Chairman, we can -- we can run the gamut from, whether it's providing you white papers or -- or organizing a workshop. The main thrust of it to be -- or the main purpose would be, in my eyes, to get the Commission reacquainted, for starters, with the issue, because I think the last time -- I don't think that we've fully aired out the net metering issues for -- for many, many years. I know that Commissioner Graham has specific interest in it as Chairman, and we tried to do a little work there, but time and time conspired against us.

So it has been some time since we teed it up, and so I think it would be useful for the Commission to get reacquainted with the issues. I am sure many of the issues have changed. Certainly, if not in -- in quality but in intensity and quantity as well, I am sure.

We would propose, you know, programming presentations from several stakeholders, and let you all get into it with the -- with the subject matter as you see fit. That would be one -- that will be one suggestion. Probably the best road to take.

The other, as I had mentioned before, is to --
to have staff return with some kind of product that
certainly would serve the same purpose, we hope, to
get you acquainted with the -- with the issue as
well.

    I -- personally, I prefer more hands-on and
more interaction. I think you might prefer that as
well, but I leave it to your good -- good judgment
to decide which way you want to go on either of
these.

    CHAIRMAN CLARK: Thank you, Mr. Baez.

    I wanted to address this for just a brief
moment. I don't want to turn this today into a
discussion on the -- the pros and cons of net
metering. I want it to be focused strictly on
where -- what steps we need to take to address this
issue. But you all -- all are in receipt of
Representative McClure's letter, and I felt like we
were asked to at least take a look at some issues
that have been on my mind, and have been a concern
for me. And I would like to say that Commissioner
Graham kind of passed the baton here, and his
concerns that he has addressed with net metering
over the last couple of years.

    But I do want to actually sit down with the
entire Commission. I would like to propose a
workshop to be held fairly short order. I would like to look at no later than mid-September having a Commission workshop on the net metering concept. At the same time.

I would like to ask Director Baez to get staff to begin doing preliminary assessments of net metering policies in other states. Look at what has worked and what is working. Also to address our legal team in terms of asking them to begin the evaluation of Florida's current net metering statutes, and looking at how our rules apply to those statutes, and what flexibility -- what leeway we might have within current statutes.

I think we were asked by -- specifically by Representative McClure if there were any changes that needed to be made from a statutory perspective, that he certainly wanted to be involved in that. And I am not suggesting that this commission is going to choose to do anything, but I do want a -- to do a thorough analysis of where the industry, the renewable industry has come during the last 10, 15 years as we have seen basically exponential growth in the renewable side.

We see the amount of subsidy that continues to be added into the rate base for this particular
product, and I want to make sure that we are at least analyzing, taking a look at that. We may continue to choose to do that in the future, but I want us to do it with eyes wide open, understanding exactly what those costs are, and how this is benefiting the system.

I would also like to, as you said, Director Baez, have some stakeholder input into this scheduled for our workshop, to have some presentations from the pros and cons of each of those -- each methodology that we are looking at. That's kind of the direction I would like to go.

What I am seeking today is your blessing, or consensus that you want to move forward and put this on the agenda for the near term.

Commissioners.

Commissioner Graham.

COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

I -- it's interesting, every time this issue comes up, something overwhelming comes and derails it. Last time, there was a ballot initiative that came up, and we didn't want to be in the middle of the ballot initiative, taking sides one way or the other, so we basically pulled it off the table and waited to see what happened with that, so I am glad
you are bringing it up again.

One of the things that you did not touch on
that I want to make sure that we look at are some
of the insurance requirements --

CHAIRMAN CLARK: Yes.

COMMISSIONER GRAHAM: -- that they have -- the
utilities put on the homeowners. They have a Tier
1 and Tier 2, anything under, I believe it's 10
kilowatts did not need to have any sort of
liability insurance. Anything above 10 kilowatts,
I believe is Tier 2. Between 10 and 100 kilowatts
had $1 million liability policy.

We came up with that maybe 12 years ago, back
before there was any data, any background knowledge
on a lot of these home systems. I think we can
probably look at those numbers. I don't know,
because there is a lot more people going above 10
kilowatts because you have the EV cars and other
things, other opportunities for them to use. So
maybe we want to put that -- maybe we want to look
at the insurance requirement, and that's something
we can get the feedback from -- from the utilities
to see if there was -- if there has been a problem
in the last 12 years. If we can change that, you
know, maybe change it -- maybe have another tier,
so it goes from 10 kilowatts to 25 kilowatts, and then anything above 25 kilowatts, you have the $1 million policy.

I don't know the answer to this, but there was a reporter that wrote an article on this probably a year or two ago, and I kind of held off on it because I feared once we got into this, we are going to have to get into the entire net metering. And if you are going to open that door, I would like to look at the insurance requirements as well.

CHAIRMAN CLARK: Absolutely. We will make specific note of that.

Other -- other issues that Commissioners would like do have addressed and prepared for discussion?

Commissioner Polmann, you had a hand up earlier.

COMMISSIONER POLMANN: Thank you, Mr. Chairman.

The -- the workshop concept I think is very good. I -- I just have a little bit of concern that -- that you review the scope of the subject matter, the agenda before you commit to that.

I -- I heard what you said, and I think it's very broad. You covered a lot of topics. And it sounds to me like an all-day event. Now, you know,
I am happy to participate at whatever level you choose -- you wish to cover, but there is a lot of material, as I see it, and I don't want to create an expectation that we are going -- going to deal with very a broad subject matter and then have the parties, participants, stakeholders feel that we didn't adequately cover everything.

When you began, I was wondering if we are going to have a staff and commission workshop so that we get introduced, and then have subsequent stakeholder involvement. I just wanted to raise that, Mr. Chairman. Thank you.

CHAIRMAN CLARK: Mr. Baez.

MR. BAEZ: I didn't -- I didn't hear Commissioner Polmann's reference to a workshop -- a question on the workshop specifically, I didn't hear what he said.

CHAIRMAN CLARK: Could you repeat that, Commissioner Polmann? I am having a little bit of difficulty understanding you.

Can we turn his volume up a little bit? We can't? Okay.

COMMISSIONER POLMANN: Well, what I said was really good.

MR. BAEZ: No, I got the -- I got the scoping
part, and I wanted to speak to that first before we move on.

Commissioner, we would, as always, commit to scoping the -- the workshop in a way that gets as much information, but -- but with proper breadth, right? We are not going to get too wide afield on it. And we would be glad to, you know, continue contact with your office in case you have issues that -- that you would also want covered.

I mean, the discussion on -- on what you might like answers to is -- shouldn't be finished at the -- at the end of this meeting, obviously. We would -- we would urge you any suggestions, any particular interest, please let us know.

CHAIRMAN CLARK: And that's my commitment as well, is to work on the scoping, and to make sure we've got something, Commissioner Polmann, that's a manageable meeting.

There are -- there are about four key issues that -- that I really want to see addressed, and that's why I was asking for Commission input into other, as Commissioner Graham's discussion on the insurance absolutely is not one that was one of my top priorities, but yes, that will be now part of our scoping. I will probably narrow mine down to
three points, and that being the fourth. But that's why I wanted your feedback on other issues you would like to see included in the meeting.

And I did intend this to be a Commission workshop, with input from stakeholders. That was my concept, but strictly, I am open to you guys' opinion.

COMMISSIONER POLMANN: I have nothing to add. I was -- and I think you did take the point that scope appropriately for -- for a reasonable amount of time, I could envision that there is a tremendous amount of material that we, you know, we could be in workshop all day and not feel that we've covered all the material, but I think you -- I think you got the point --

CHAIRMAN CLARK: Yes, sir.

COMMISSIONER POLMANN: -- with the scoping idea. So thank you, sir.

CHAIRMAN CLARK: Point noted.

Commissioner Graham.

COMMISSIONER GRAHAM: Yes, Mr. Chairman.

I say amen to what Don Polmann just said.

I -- I think if you don't -- if we are not careful about the questions that we ask, we may get answers to things that we didn't ask the question for.
And I do like the idea of -- you may want to have a workshop that brings everybody up to speed on where we are currently with net metering, and then have a second workshop, as Don has said, that maybe with the staff and some of the stakeholders, because it can be one of those things that you don't know what's coming in, and the volume of information coming in, and that can just be organized, and we can review it at that time.

CHAIRMAN CLARK: That's a -- that's a very valid point, and something that we will certainly take into consideration.

There is a lot of information. This is one of those that's going to be a -- certainly a contested issue, a contentious issues, and it's going to be fun.

Director Baez.

MR. BAEZ: Nope, just kind of working off what Commissioner Graham said. If -- if there are any after -- after steps, obviously, at the -- at the workshop point, we are going to discuss next steps, if anything -- whatever becomes necessary off of that, we --

CHAIRMAN CLARK: And one of the things that we will -- we will commit to do is we will set a fixed
time. There is -- there is nothing wrong with us, as a commission, establishing a fixed time. We are going to have a two-hour or three hour workshop, and we are going to adjourn it at that point, no matter where we are. So we could -- we could do that as well, so to make sure we get as much in there as quick as we can.

Commissioner Brown, you were --

COMMISSIONER BROWN: Thank you.

I -- I appreciate you teeing this up. This is a hot topic, pun intended, and I am sure we are going to hear a lot of input from all of the various groups.

So I like your approach, though, taking it from a historical perspective and getting the data of where we are and where the rest of the country is on their net metering policies. I think that will be helpful setting the -- the tone of further discussions.

And that insurance component, I think, is also a very good point, Commissioner Graham, to include.

I don't have any additional topics, but I think that we are at a juncture in our state where we need to have the dialogue. So thank you for the leadership on this.
CHAIRMAN CLARK: Thank you, Commissioner Brown.

Anyone else, any comments?

Commissioner Fay.

COMMISSIONER FAY: Thank you, Mr. Chairman.

Just -- just real quick to, I guess, confirm procedure. I know you are probably already doing this, or going to do this, but we would -- we would have some form of a response to the representative that sent us that -- that letter, that this is how we are proceeding and -- and moving forward.

CHAIRMAN CLARK: Yes, sir. Absolutely. We will be responding to him this week. I have actually spoke with him on the phone, and just to let him know that we were working on his -- a response to his request, but we will be drafting that and getting it to him this week.

COMMISSIONER FAY: Okay. Great. Thank you, Mr. Chairman.

CHAIRMAN CLARK: All right. I believe that includes -- concludes everything on the agenda. Are there any other matters?

Commissioner Brown.

COMMISSIONER BROWN: Thank you. I have two. First I wanted to ask staff, and I don't mean
to blindside you on this, but I did want to find out what you know about the Southeast Energy Exchange Market, the SEEM, that's being developed in the southeast United States. I understand it an adaptive model to increase utility resiliency test by self power more competitively, and I know Florida is not included right now in the proposed SEEM; although, Duke Energy in the Carolinas is. Is there any more details you have about that, and are you tracking it?

MR. BAEZ: Commissioner --

MR. BALLINGER: Commissioner Brown, this is Tom Ballinger.

I spoke with the FRCC about this, and you are correct, Florida is not involved in it yet. But Florida does have a similar, if you will, marketplace for buying power broker system. We have the as available energy rates and hour-by-hour contracts going on.

This was done more out of the SERC region to try to incorporate that whole region as to one market.

COMMISSIONER BROWN: And -- and the intent behind creating this -- this kind of like -- not an RTO, but kind of an interesting hybrid is do you
know the evolution of it, the reason behind it?

MR. BALLINGER: I do not know the evolution of it. Quite frankly, what I know is what I have read in the articles and the clips, and speaking a little bit with FRCC, and they are not involved with it at this juncture.

COMMISSIONER BROWN: Okay. I will follow up with you on that and -- and see how it relates to our state. And I just wanted historical, I guess, data on what it is and why Florida is not entertaining it.

CHAIRMAN CLARK: Commissioner Brown, can -- can we follow up with a question on that?

How is this different, Tom, than an RTO? I mean, I understand the concept behind an RTO, but this group -- what I read is just -- is the only difference the fact that they are trading actively for, you know, dollars for kilowatt hours?

MR. BALLINGER: I think it's more of a marketplace as opposed to a planning that you have in an RTO, where they would actually plan and construct the distribution system and transmission system. This is more of a market clearinghouse concept, I believe.

CHAIRMAN CLARK: Mark.
MR. FUTRELL: Yeah, I would agree, just tagging on to what Tom said. We have had something in place here for many years, an energy broker, where utilities may have some excess energy to offer at a certain price, can bid that out and other utilities can, in a wholesale setting, can -- can offer, make offers in order and establish purchases and sales to help facilitate in a more efficient use of generation.

And I think that sounds like what this is going to, is an informal exchange market without the layer of controls that RTO establishes over planning and the movement of power between utilities.

CHAIRMAN CLARK: But wouldn't this same energy marketing group have to go through the RTO to deliver the power? Isn't that going to be a part of the -- the whole process? You are buying X amount of power, moving it across the system, the RTO has to have --

MR. FUTRELL: There is no RTO in the southeast, so the -- so the utilities in the southeast region, certainly they all have open access tariffs filed with FERC so that any -- any party can access the transmission system and pay
the -- the rates to use the transmission system.

So I think this is just another way of facilitating the -- the more efficient use of energy across the transmission system.

CHAIRMAN CLARK: But each -- each independent operator, I guess, would be a better term than RTO. Each independent operator has its own balancing mechanisms in place, and that's kind of what I am questioning.

MR. BAEZ: We do that, too.

And the larger answer to Commissioner Brown's question, why -- why we are not participating and -- I mean, the -- that -- that's routed in history as well, the same reason we don't participate in an RTO, is -- is that our -- we always used to say Florida is different. I don't know -- I don't know if the answer -- if that still applies. I am sure it does. And -- and so there is many physical limitations that we have here that kind of militate against having been involved in something on a regional -- on a regional level. It's not to say that it couldn't be, but probably -- probably a little harder for us to do so.

So we have made do with -- I mean, it's our --
our utilities are active with each other in terms of energy brokers and -- and that sort of exchange. It approximates what we are talking on a regional level.

CHAIRMAN CLARK: All right. I apologize, Commissioner Brown. You are recognized.

COMMISSIONER BROWN: Thank you.

Just if we could get more details about it, and provide it to the individual offices --

MR. BAEZ: Will do.

COMMISSIONER BROWN: -- and have that -- you know, the evo -- how it continues to evolve and how it could impact our state, if any.

MR. BAEZ: We would be happy to. Thank you, Commissioner.

COMMISSIONER BROWN: Mr. Chairman, I have one more thing, I don't know if you have questions on the SEEM.

CHAIRMAN CLARK: Yes, you are recognized.

COMMISSIONER BROWN: Thank you.

I just wanted to -- I know we have a workshop tomorrow, a very important workshop on COVID, but I wanted to let you all know that I am a member of the NARUC Emergency Preparedness Recovery and Resiliency Task Force. We had our first meeting
last week, and I wanted to kind of give you just an update and seek your input as well.

So it's comprised of about 12 Commissioners from around the country, and it also has other stakeholders from DOE, FEECA, AGA, EEI and NASUCA, as well as NASEO. So it has kind of a broad spectrum of folks. And the actual deliverables that they are charging us with creating is a federal funding reference manual for commissions' sake, consensus construction standards, a black sky technical playbook and a COVID-19 lessons learned documentation.

So they are charged -- we are charged with kind of developing that, and the four focused areas that we are looking at, and so any input that you all have or would like to offer on behalf of our state, I would gladly incorporate and offer that up.

The four focus areas are research and ongoing education on the federal funding to support recovery. And that includes not just with COVID, but also disaster recovery types of events.

Also the other three are construction standards for FEMA during rebuilding and recovery; guide disaster preparedness, as well as the COVID
lessons learned and Best Practices, which of course are ongoing. So they are going to be looking at each of our states to offer up what -- what we are seeing -- that's not me -- and to incorporate that into the deliverables that we will ultimately provide.

So I am looking forward to tomorrow, and if there is anything that you -- each of our offices would like to include, I will continue to update you. I will know after each meeting, we will provide a memo summarizing it. And we had some technical staff that are also engaged in this, but really wanted to reach out to any of you to see if there is anything that you would like to focus on.

CHAIRMAN CLARK: Great. Well, thank you, Commissioner Brown, for your work.

If any commissioner has things they would like to submit for consideration, please get those to Commissioner Brown's office.

Thank you very much.

COMMISSIONER BROWN: Thank you.

CHAIRMAN CLARK: All right. Any other matters?

Commissioner Polmann.

COMMISSIONER POLMANN: Thank you, Mr.
Chairman.

Just a note, Commissioner Brown, if you could share those bullet lists that you just identified, share that with us, that would be really helpful.

COMMISSIONER BROWN: Absolutely. Thank you.

CHAIRMAN CLARK: All right.

COMMISSIONER POLMANN: Commission, we have -- we have a hearing on the storm protection plans coming up in two weeks. I have prehearing this afternoon. The hearing in two weeks, I think, is on our calendar for three-and-a-half days. This afternoon, I will try to get the parties to settle everything, or at least condense that -- that hearing down to three-and-a-half hours.

My motivation for that is on August 12th, I will be absent because I will -- I will be visiting with the Public Service Commission Nominating Counsel. So, Mr. Chairman, I just want to let everybody know that if the hearing for the storm protection plan continues to August 12th, I will be in Ft. Myers, sir.

CHAIRMAN CLARK: Understood. That's as valid excuse as you could possibly have for missing a meeting.

COMMISSIONER BROWN: Good luck.
CHAIRMAN CLARK: Commissioner Graham gave you a huge thumbs up from cutting it from three days to three hours. You are speaking his language now.

COMMISSIONER POLMANN: Now, I will do my best. Of course, that will depend on the parties.

CHAIRMAN CLARK: All right.

COMMISSIONER POLMANN: Thank you, Mr. Chairman.

CHAIRMAN CLARK: Other comments? Any other matters?

All right. Well, Mr -- Commissioner Polmann does have a prehearing conference this afternoon, and we will resume tomorrow morning at 9:30 for our COVID-19 workshop. Until then, great to see everyone. Have a great day. This meeting is adjourned.

(Proceedings concluded at 11:20 a.m.)
CERTIFICATE OF REPORTER

STATE OF FLORIDA   )
COUNTY OF LEON     )

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

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

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

DATED this 11th day of August, 2020.

____________________________
DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020