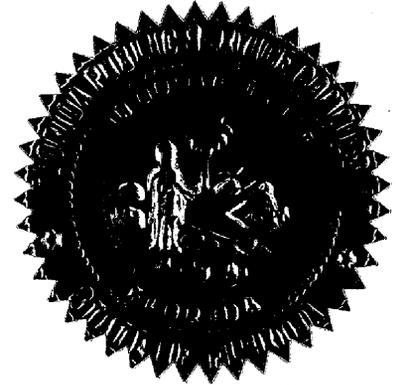


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSAL TO REQUIRE INVESTOR-OWNED DOCKET NO. 060078-EI
ELECTRIC UTILITIES TO IMPLEMENT
TEN-YEAR WOOD POLE INSPECTION PROGRAM.

PROPOSAL TO REQUIRE LOCAL EXCHANGE DOCKET NO. 060077-TL
TELECOMMUNICATIONS COMPANIES TO
IMPLEMENT TEN-YEAR WOOD POLE INSPECTION
PROGRAM.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 12A

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER J. TERRY DEASON
COMMISSIONER ISILIO ARRIAGA
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. TEW

DATE: Tuesday, February 7, 2006

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

REPORTED BY: LINDA BOLES, RPR, CRR
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DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION

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FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 CHARLES J. REHWINKEL, representing Sprint Florida.

3 NANCY WHITE, representing BellSouth
4 Telecommunications.

5 LEIGH HYER, representing Verizon Florida.

6 LEE WILLIS, representing Tampa Electric Company.

7 R. ALEXANDER GLENN, representing Progress Energy
8 Florida.

9 CHARLES J. BECK, representing the Office of Public
10 Counsel.

11 MICHAEL B. TWOMEY, representing Sugarmill Woods Civic
12 Association and Thomas and Genevieve Twomey.

13 THOMAS M. McCABE, representing TDS Telecom and Quincy
14 Telephone.

15 RICHARD MELSON, GENERAL COUNSEL, ROSANNE GERVASI,
16 ESQUIRE, ADAM TEITZMAN, ESQUIRE, BETH SALAK and BILL McNULTY,
17 representing the Commission staff.

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

2 CHAIRMAN EDGAR: Okay. As I was saying, it's been a
3 long day, so thank you for bearing with us. And we are on Item
4 12A.

5 Commissioners, I'll ask staff to present the item to
6 us.

7 MR. McNULTY: Good afternoon, Commissioners. My name
8 is Bill McNulty. And please bear with my voice; it's a little
9 scratchy today. Apparently I've picked up a cold.

10 Item Number 12A is staff's proposal that the
11 Commission require each investor-owned electric utility and
12 each local exchange company in Florida to implement a ten-year
13 wood pole inspection cycle beginning May 2006. Staff makes its
14 recommendation on the basis of the heightened severe weather
15 conditions to which the distribution and transmission
16 facilities are expected to be exposed. Staff also makes its
17 recommendation based upon the requirements of the National
18 Electric Safety Code as referenced in Commission rules.

19 Staff further recommends that the Commission specify
20 that the only type of strength inspection which would qualify
21 for these purposes is sound and bore inspections with
22 excavation where appropriate. The impact of pole attachments
23 on pole strength requirements should be included in the
24 inspections as well.

25 Staff recommends that the Commission require the

1 utilities and companies to annually report to the Commission
2 the results of their prior year inspections. The report will
3 be due March 1 of each year, and the first such report will be
4 due March 1, 2007.

5 In addition, staff recommends that each utility and
6 company be required to submit a comprehensive wood pole
7 inspection plan by April 1, 2006.

8 And I do have two corrections to make to staff's
9 recommendation. The corrections are as follows. On Page 6 of
10 the staff recommendation, the last paragraph, the second
11 sentence, the first appearance of the word "PEF's," that's
12 possessive, PEF's, should be replaced with the word "FPL's,"
13 possessive FPL's.

14 The second correction is on Page 13, last paragraph,
15 second to the last sentence. Delete the word "major" that
16 appears before "local exchange company."

17 Commissioners, staff understands that there are
18 parties here who are prepared to speak on the matters within
19 this recommendation.

20 COMMISSIONER CARTER: Excuse me. Go back to Page 6.
21 Restate that.

22 MR. McNULTY: Certainly. On Page 6, at the bottom of
23 the page, the very last paragraph, the second sentence, you'll
24 see "PEF's" is repeated twice within the same line. The first
25 "PEF's" should be stated as "FPL's."

1 COMMISSIONER CARTER: Okay. Thank you.

2 MR. McNULTY: Sure. Now staff understands that there
3 are parties who are here and they're prepared to speak on these
4 matters. And we are prepared to answer any questions you may
5 have, and we can go issue by issue or in any manner you deem
6 appropriate to proceed.

7 CHAIRMAN EDGAR: All right. Thank you.

8 Commissioner Arriaga, a question or procedural?

9 COMMISSIONER ARRIAGA: A comment and two questions.

10 CHAIRMAN EDGAR: Okay. Before we, before we go
11 there, can I go ahead and ask each of you to identify yourself
12 and who you represent so we know who is available to answer
13 questions or make comments. Is that okay if we -- let's start
14 there to my left.

15 MR. REHWINKEL: My name is Charles Rehwinkel with
16 Sprint, and I'm here to make brief comments and answer
17 questions.

18 MS. WHITE: Nancy White with BellSouth
19 Telecommunications. I'm also here to make some brief comments
20 and take questions.

21 MS. HYER: Leigh Hyer with Verizon Florida. I'm also
22 here to give brief comments and to answer questions.

23 MR. WILLIS: I'm Lee Willis representing Tampa
24 Electric Company. I will make some brief comments.

25 MR. GLENN: Alex Glenn representing Progress Energy

1 Florida.

2 MR. BECK: Charlie Beck, Office of the Public
3 Counsel.

4 MR. TWOMEY: And Mike Twomey on behalf of Sugarmill
5 Woods Civic Association, Inc.

6 CHAIRMAN EDGAR: Thank you. Commissioner Arriaga.

7 COMMISSIONER ARRIAGA: Thank you so much. Brief
8 comment to staff. I am pleased; I want to thank you for the
9 initiative that you have taken. I welcome it personally and
10 I'm looking forward to the deliberations that we're going to
11 have. This is a good opportunity and I'm glad you have
12 provided us with the opportunity for discussion. Thank you for
13 the initiative.

14 Now two questions. First, I want to make sure that
15 we assert our jurisdiction on this matter. And would you
16 kindly answer for me, do we have jurisdiction on the issues
17 that we're going to be pursuing today over IOUs, the telephone
18 companies, ILECs, telephone companies in general, municipals
19 and co-ops? That will be the first question.

20 And the second question I will ask before the
21 proceeding begins is why ten years? Why did you propose ten
22 years? When I read through the documents and in the
23 discussions we've had, we even spoke about the eight-year cycle
24 a long time ago. And I don't understand that if there is a
25 national standard that specifically applies to Florida and it

1 talks about eight years and some co-ops are already
2 implementing that policy or that standard, why did we fall
3 short? So I have those two, two comments to make. Thank you.

4 CHAIRMAN EDGAR: Commissioner Arriaga, if it's all
5 right with you, I'd ask staff to speak to the legal authority
6 question first, and then let's see if we have further
7 discussion on that. And then we can move on to your second
8 question.

9 COMMISSIONER ARRIAGA: Absolutely.

10 MS. GERVASI: Commissioner Arriaga, with respect to
11 your question concerning the electric IOUs as well as the
12 municipals and co-ops, the Commission does have jurisdiction,
13 we believe, to include all of those entities under this type of
14 an order, under the grid bill, under certain provisions of
15 Section -- of Chapter 366 and specifically Sections 04 and 05,
16 some of which apply only to the IOUs. Other sections apply
17 also to the municipals and the co-ops. And I'll let Adam speak
18 to the jurisdiction over the telecommunication companies.

19 MR. TEITZMAN: Commissioner, you'll find the staff's
20 analysis on jurisdiction on Page 10 of the recommendation. We
21 do believe we have jurisdiction under 364.15, Florida Statutes,
22 as well as the rules that are listed on Page 10. And I can
23 read those off for you. It's Rule 25-4.036, 25-4.03 -- and
24 25-4.038.

25 COMMISSIONER ARRIAGA: Okay.

1 CHAIRMAN EDGAR: Commissioner Arriaga, any further
2 questions on --

3 COMMISSIONER ARRIAGA: Not on jurisdiction.

4 CHAIRMAN EDGAR: Okay.

5 COMMISSIONER ARRIAGA: It's clear to me that we can
6 proceed. We have jurisdiction over IOUs, telecom, munis and
7 co-ops. Thank you.

8 CHAIRMAN EDGAR: Thank you. Commissioners, any -- we
9 can come back to this point. But before we move on, comments
10 or questions? Not at this time.

11 Okay. If I could ask Mr. McNulty or whomever you
12 point to to address Mr., or Commissioner Arriaga's second
13 question.

14 MR. McNULTY: Certainly. Before I explain exactly
15 why we went with ten years, I want to give some background as
16 to what the rural utility service guidelines are. That will
17 provide a launching point for answering your question directly.

18 Staff has proposed a ten-year cycle, and it's a
19 generalized and simpler application of the RUS guideline. The
20 guideline states that initial inspections should be done for
21 the Decay Zone 5, which is location of -- Florida is within the
22 Decay Zone 5; that those initial inspection cycles should be
23 eight to ten years; and that reinspection cycles should be
24 eight years within Zone 5. The staff proposed a simple
25 ten-year sound and bore inspection cycle, and I should note

1 that utilities with designated wood pole inspection cycles have
2 indicated that their current methods aren't distinguishing
3 between inspection and reinspection. They're just using an
4 inspection cycle for wood poles. So we felt, to be somewhat in
5 line with the current methods that are being used, that we
6 would simply simplify that guideline to some extent.

7 There are specific reasons for why we chose a
8 ten-year inspection cycle is that, first, companies and
9 utilities are currently practicing widely varying wood pole
10 sound and bore inspection cycles, in some cases with
11 inspections not happening at all, in some cases except -- on a
12 total basis, and in some cases with inspection cycles lasting
13 as long as 60 years. The difference between the eight- to
14 ten-year cycles is small relative to, compared to what is being
15 practiced today for these types of inspections. So in staff's
16 view, a ten-year cycle is reasonable. So is an eight-year
17 cycle. We think that there's a band of reasonableness, and
18 I'll get into why we chose ten in a moment.

19 The Commission has access at this time to really a
20 paucity of data as relates to wood pole inspections. The data
21 is simply not available to the Commission to be able to state
22 with certainty from empirical evidence whether an eight-year or
23 a ten-year cycle or some other cycle is optimal from the
24 standpoint of inspection program effectiveness or program cost.
25 Thus, we are highly reliant upon the RUS guidelines for

1 determining the appropriate inspection cycle. The best we can
2 say is that we do at least have some evidence that suggests
3 that extremely long inspection cycles results in a higher level
4 of deterioration. Without the necessary data, staff is
5 proposing a ten-year cycle period until further evidence is
6 available to suggest that a more stringent cycle is needed.

7 CHAIRMAN EDGAR: Commissioner Carter.

8 COMMISSIONER CARTER: Thank you very much.

9 Staff, am I to understand that we're saying that
10 every ten years there will be an inspection of the wood poles;
11 is that correct?

12 MR. McNULTY: That's correct. Within a, within a
13 ten-year period every pole that is owned by the company at the
14 beginning of that ten-year period will have been inspected
15 using sound and bore.

16 COMMISSIONER CARTER: Thank you. Yes.

17 CHAIRMAN EDGAR: No further questions? Not yet.

18 Okay. Mr. Beck, would you like to make a comment?

19 MR. BECK: Yes, please. Thank you, Madam Chairman
20 and Commissioners. Thank you today for taking our comments.
21 My name is Charlie Beck with the Office of Public Counsel. And
22 I would like to join Commissioner Arriaga in congratulating the
23 staff on taking the initiative on proposing this rule for
24 inspection of wood poles. The damage that's been incurred by
25 the hurricanes in 2004 and 2005 has been, been just horrendous.

1 You know, Florida Power & Light on its own estimates that
2 according to their figures almost \$900 million each in damage
3 in 2004 and 2005. And, of course, that's damage to their
4 system. That doesn't include the harm to customers for
5 prolonged outages, as well as businesses. It's been quite
6 devastating. And I think the staff is very correct in bringing
7 this to the Commission when it has and doing it quickly.

8 We're supportive of the staff recommendation but
9 would like to support the eight-year option. If I might, I
10 would like to hand out the RUS bulletin that staff, you know,
11 discusses in their recommendation.

12 (Pause.)

13 Should I go ahead?

14 CHAIRMAN EDGAR: Mr. Beck.

15 MR. BECK: Yes. Thank you, Commissioners.

16 Commissioners, on Page 4 of the RUS bulletin they discuss the
17 decay zones that Mr. McNulty mentioned briefly in his remarks.
18 According to their guidelines, and they have a map that follows
19 on the next page, this is under Section 2.3 at the bottom of
20 Page 4, they've developed five different decay severity zones
21 in the United States in the RUS. It says that these zones were
22 originally based on summer humidity and temperature information
23 but later on a pole performance study conducted by the Rural
24 Electrification Administration. And the severity ranges from a
25 Zone 1, which is the least severe, to the most severe, which is

1 Zone 5. And on the next page, which is Page 5, there's a map
2 that shows where those severity zones are. And you can see
3 there's two states essentially in the union that come under
4 Zone 5, which is the most severe, and that's Louisiana and
5 Florida, where our entire state is in the, the highest decay
6 severity zone. When I saw this thing, it immediately brought
7 to my mind trying to clean a wood deck and get the mold off of
8 that. And anybody who's done that, I think you can appreciate
9 why Florida is in the Zone 5 because it's just a yearly effort
10 to do some -- to clean a deck.

11 On the next page, on Page 6 at the bottom under
12 Section 3.2 the RUS shows their recommendations according to
13 the decay zone. And, of course, as you'd imagine,
14 Decay Zone 1, which includes Arizona and New Mexico, you know,
15 they have a -- they require less frequent inspections than they
16 do in the others.

17 The recommendations for Zones 4 and 5, again, Florida
18 being in the 5 zone, it's eight to ten years for initial
19 inspection and eight years for the subsequent reinspection, as
20 Mr. McNulty stated.

21 Mr. McNulty stated one of the reasons they went with
22 ten was the lack of, of great volumes of empirical evidence,
23 and I agree with that. I would like to, to briefly mention
24 something that was presented in the infrastructure workshop
25 just several weeks ago when Florida Power & Light sponsored a

1 KEMA study which had some evidence of the practices and what
2 they were finding.

3 And let me just read one small paragraph, if I could,
4 from the KEMA study. It said, "In August 2005 FPL made a
5 decision to focus its 2006 inspection and maintenance program
6 on creosote poles, the initial geographic focus being in the
7 Brevard and Treasure Coast management areas. Osmose," that's a
8 contractor that FPL uses for the wood pole inspection, it says,
9 "just completed the first phase of this 2006 program within the
10 Brevard area at the end of 2005. Results so far indicate out
11 of 1,620 poles inspected, 18 percent require either bracing or
12 replacement." That's 15 percent for FP&L poles and 24 percent
13 for non-FPL poles. It says, "These rates are substantially
14 higher than the industry survey results of 5 percent, but may
15 be high since FPL is specifically targeting areas with older
16 pole populations."

17 Commissioners, we find that comment in the KEMA
18 report rather startling. What they're saying is one out of
19 seven poles that they inspected, and, admittedly, they were
20 focusing on the older creosote poles, but one out of seven of
21 the FPL poles required either bracing or replacement.
22 Essentially one out of four of the non-FPL poles, which I
23 imagine is mostly the telephone company poles, needed the same
24 thing. That's startling in our view.

25 Now if you could compare those statistics to what

1 staff says at Page 6 of their recommendation, and it's toward
2 the bottom half under the section "USDA Rural Utility Services
3 Guidelines Regarding Pole Inspection Cycles." And they state
4 that the RUS suggests wood pole reinspections in Florida every
5 eight years.

6 The RUS also suggests reinspections more frequently
7 than eight years in the event that a sampling of poles reveals
8 advanced decay in greater than 1 percent of the poles
9 inspected. Now, again, we don't have great evidence, but what
10 we did have from the KEMA report would indicate that, that we
11 ought to be on the more stringent side of looking at this. And
12 when the RUS suggested this, this is going at a frequency more
13 frequent than eight years when they find more than 1 percent.
14 And at least in that targeted inspection by FPL the numbers
15 were far, far greater than 1 percent.

16 So we think -- again, I think the staff -- we're very
17 supportive of what staff's done. They've taken initiative,
18 have made a proposal that needs to be addressed, it's very
19 important, but we think that you ought to go with the
20 eight-year cycle, that that's -- in some senses it's rather
21 conservative to go on the eight years, given the results we
22 have. And thank you for hearing that.

23 CHAIRMAN EDGAR: Questions for Mr. Beck.

24 Mr. Beck, we may come back to you. Then I'm going to
25 suggest we keep moving down to the left. Mr. Glenn, did you

1 want to make a comment?

2 MR. GLENN: Yes. First, we wanted to express our
3 appreciation to the Commission and the staff for taking the
4 time to review this issue, which is obviously important and
5 complex. One thing, one specific comment that we have
6 regarding one of the issues is Issue 4, in which the staff
7 recommends the submittal of a comprehensive wood pole
8 inspection plan.

9 One issue we wanted to emphasize here is that this
10 plan needs to have flexibility both in the crafting of it and
11 the implementation of it, and the ability to modify that plan
12 as you get more data and as you see if there are any trends out
13 there. So we would just urge the Commission to adopt a
14 flexible approach, that we don't hamstring ourselves that three
15 years down the road what plan we initially thought was good may
16 need tweaking in certain areas. Thank you.

17 MR. WILLIS: I'm Lee Willis representing Tampa
18 Electric Company. Likewise, we would like to express our
19 appreciation to the staff and the Commission for your interest
20 in this area. We understand and appreciate that interest, and
21 in that regard we stand ready to implement whatever decision
22 you make.

23 However, just as Mr. Glenn mentioned, we believe that
24 Issue 4 is extremely important and that flexibility is
25 important. It's important that, that we present to you a plan

1 of inspection and that, that you review that with a
2 practicality in mind and not to be inflexible in the way you
3 look at this. Because, first of all, we think that there are
4 some details, probably things that we haven't even thought of
5 yet that we would maybe place in the plan that would show how
6 this can be gone about in a very sensible way. So we would
7 urge that in your approval of whatever you approve today, that
8 you do express that flexibility. Thank you.

9 COMMISSIONER ARRIAGA: A question, Madam Chairman.

10 CHAIRMAN EDGAR: Commissioner Arriaga, hold just a
11 moment, please.

12 Mr. McNulty, could you speak to the point that was
13 raised about the ability within the staff recommendation to
14 have some flexibility as additional data is perhaps learned or
15 information comes in, realizing that we are all learning, the
16 Commission, Commissioners, our staff, the companies, consumers,
17 businesses, as we go, as we try to address information that has
18 come to us due to the hurricane cycles that we've had to date?

19 MR. McNULTY: Certainly. I think I could address
20 those concerns and that staff viewed the evaluation of these
21 plans as a flexible process in itself, that we would be looking
22 at the position which each utility comes to us with their
23 current level of data gathering capability, their current level
24 of pole information that they may have, and then the different
25 methods by which they may want to enforce the pole inspection

1 and gathering results, understanding that they most often are
2 involved with subcontracting of the pole inspections
3 themselves, and the whole gamut of not only the pole
4 inspections on sound and bore, but also the, the pole
5 attachments and the effects that has on pole strength.

6 CHAIRMAN EDGAR: Thank you. Commissioner Arriaga.

7 COMMISSIONER ARRIAGA: Yes. I think staff has
8 already mentioned that they're willing to be flexible and let
9 us all learn through the process.

10 Mr. Willis, what specific flexibility are you asking
11 from us and from staff, because I didn't understand?

12 MR. WILLIS: Well, it would just be an expression,
13 just as we've talked about just -- that Mr. McNulty just
14 presented to you, that you would understand and agree with the
15 points that he just made.

16 COMMISSIONER ARRIAGA: Absolutely. Thank you.

17 CHAIRMAN EDGAR: Commissioner Deason.

18 COMMISSIONER DEASON: Well, I had this question.
19 Maybe now is a good time to raise it. We are entering into a
20 new era in lots of ways, and this initiative, I think, is
21 indicative of that. When we, when we start moving into areas
22 where we've not had a great deal of experience before,
23 sometimes we encounter unforeseen circumstances. I don't know
24 what we're going to face. Obviously, when we start getting
25 some data, I think it's going to be very helpful to help tweak

1 and craft things on a going-forward basis. But just one thing
2 comes to mind right off. If we go forward with your
3 recommendation, whether it's eight or a ten-year cycle, it
4 seems to me that there's going to be an immediate increase
5 demand for pole inspectors. I think heretofore that's
6 primarily been outsourced. There have been -- there are
7 private vendors who do that. I don't know what the effect is
8 going to be; if there are going to be enough pole inspectors in
9 the Florida market to initially meet the demand that's going to
10 be there. I don't know. Hopefully there will be, but that's a
11 question I have, I don't know the answer to, and maybe only
12 experience will show.

13 Other things like the rigidity of the inspection
14 program -- what if we have another hurricane season? How is
15 that going to affect the schedule? I don't, I don't know. I
16 know that I as one Commissioner would certainly want resources
17 to be devoted to replacing poles and restoring service as
18 opposed to diverting resources to inspections. I think
19 inspections should be done when circumstances allow that. Is
20 that the kind of flexibility you're talking about, or can you
21 expand on that?

22 MR. McNULTY: As to your first point related to the
23 resources, the physical and human resources in order to be able
24 to do the inspections, these types of inspections are done
25 nationwide. We're just one of 50 states. There's a

1 possibility that those kinds of resources can be drawn from
2 outside and through training and so forth. The utilities would
3 probably be well positioned to be able to also address that
4 question. But I will note that Gulf Power Company managed to
5 increase their number of inspections at the end of 2005 to
6 include another 40,000 inspections in a fairly short period of
7 time, and that some utilities actually condense all their
8 inspections in a short time frame within a particular year. So
9 there is some, some flexibility as far as that's concerned.
10 There is obviously an upper limit to what a single inspector
11 can do in a particular week. I've heard numbers of 125 to 150
12 poles to be inspected under sound and bore as a figure that's
13 been thrown out there. But, you know, that's essentially on
14 the first point.

15 And then the second point related to, you know, the
16 flexibility in terms of costs and what that might cost in
17 deciding which priority to go with in a particular year. I
18 would say maybe some flexibility may be needed there. But I've
19 also been kind of attuned to the idea that -- and this is the
20 result of a, a kind of -- I'm drawing upon at this point a
21 report by KEMA which indicated in its appendix that there was a
22 study done of a variety of companies and entities throughout
23 the southeast and the nation basically saying, you know, what
24 happens in the event of, of expenditures. And sometimes this
25 is the type of program, this pole inspection program is the

1 type of program that is compromised in its actual expenditures
2 compared to budget when it comes down to a press of, of dollars
3 in a particular year. So that sometimes happens. And I can
4 understand where you -- I think where you're going there is to
5 say maybe in one year you wouldn't quite reach your 10 percent
6 and in another year you might go a little bit above 10 percent
7 and balance it out like that. And it's going to be hard to hit
8 that 10 percent right on the head each year. I would admit
9 that that may be unrealistic. They might be going a little bit
10 above or a little bit below. But that would be a judgment call
11 as well that some level of flexibility would have to be done
12 there.

13 But I would say that if we get these reports in,
14 staff gets these reports and reviews them and finds that
15 there's something troublesome, it would behoove staff to bring
16 it to the Commission's attention that it appears as though that
17 the cycle inspections that were anticipated aren't quite
18 meeting, keeping track with the time frame. And I hope that
19 answers your question, Commissioner Deason.

20 COMMISSIONER DEASON: Thank you.

21 CHAIRMAN EDGAR: Thank you. We'll go on down the
22 line then. Ms. Hyer.

23 MS. HYER: Yes. We had discussed amongst ourselves
24 that Mr. Rehwinkel would speak first, so I'd like to suggest we
25 move this way down the table.

1 CHAIRMAN EDGAR: Okay. Mr. Rehwinkel.

2 MR. REHWINKEL: Thank you, Madam Chairman. For
3 Sprint we -- I guess Don Quixote had nothing on me because I'm
4 going to go ahead and tilt at some windmills a little bit here.

5 I am here to essentially talk about the process that
6 we faced. I have no comments to make about the substance of
7 the recommendation today. We've had seven business days to be
8 engaged in this process. I don't know if the electricians were
9 involved in it more because they were involved in the
10 undergrounding workshop, but we, we felt blindsided by the
11 recommendation that came out. Our problem at this point is
12 that we who have operational responsibility have absolutely no
13 interaction with staff in the development of this
14 recommendation. I don't know that we have significant
15 procedures, substantive concerns with the recommendation, but
16 I -- that's just a problem that I have. I'm not prepared to do
17 that at this time.

18 We don't agree that a recommendation of this
19 magnitude that affects the operational characteristics of the
20 company for years forward should be undertaken without any
21 interaction with the parties who have to implement it. Because
22 this is a PAA recommendation that can only be challenged in the
23 traditional sense by asking for a hearing, we feel like we're
24 in a take-it-or-leave-it position here. We don't want to have
25 to ask for a hearing. We would rather do what's been done in

1 the past and find ways to reach a middle ground or
2 accommodations that recognize our role in the process, that
3 recognize that maybe telephone is a little bit different from
4 electric with respect to how we're configured aboveground and
5 just our relative percentages. For example, Sprint is
6 94 percent underground and only 6 percent aerial. We don't
7 believe that, that we have quite the exposure and quite the
8 operational risks that might call for the level and type of
9 inspections that are, that are recommended by the staff. But
10 we don't know that for sure.

11 We don't believe that it's good public policy to do
12 this without the dialogue with the affected parties. We think
13 there should be a dialogue, and we're asking the Commission to
14 allow us to have that. We don't think this dialogue should
15 take place down the road, but we think it can and should take
16 place on an expedited basis. We think if we do have that
17 dialogue, we can explore a cost-effective middle ground
18 potentially. We don't like having to ask for hearing as our
19 only option.

20 We would request that you set a workshop where -- on
21 an expedited basis so that this issue can move forward, but
22 that costs, benefits and operational options can be explored.
23 I'm prepared to give you the options that we think the
24 Commission has and suggest one that we think might be optimal
25 at the appropriate time. Those are my comments. Thank you.

1 CHAIRMAN EDGAR: Commissioners, questions, comments?

2 COMMISSIONER ARRIAGA: I do have a comment, but I
3 would rather listen to the other two telecoms.

4 CHAIRMAN EDGAR: Okay.

5 COMMISSIONER ARRIAGA: Thank you.

6 CHAIRMAN EDGAR: Then, Commissioner Arriaga, we will
7 come back to you.

8 COMMISSIONER ARRIAGA: Yes, please.

9 CHAIRMAN EDGAR: Okay. Ms. White.

10 MS. WHITE: Thank you. Thank you, Madam Chairman.

11 Nancy White for BellSouth Telecommunications. We agree with
12 the comments of Mr. Rehwinkel. We also agree with some of, of
13 the suggestions he has. We also are concerned about the
14 process that led to this, this staff recommendation. And I
15 guess one of the issues I've got is that I think that there's
16 an issue around whether the Commission should be doing this in
17 an order or whether it should be rulemaking, and I believe that
18 it should be rulemaking.

19 Section 120.54 of the Florida Statutes states that
20 rulemaking is not a matter of agency discretion and that
21 agencies should adopt their policies through rulemaking.

22 An agency policy is a rule that must be promulgated
23 in accordance with the Administrative Procedures Act if its
24 effect requires compliance, which is what, just what this order
25 is doing.

1 A nonrule policy -- I think that there are benefits
2 to rulemaking, and that is mainly -- two main ones that I see
3 is, first of all, you have a dialogue with the industry, and,
4 second, you have to show that -- you have to explore whether
5 there are lesser cost alternatives to the regulated utility.
6 And I think the dialogue with the industry could lead to some
7 other alternatives than what the staff is recommending.

8 I also believe that if you're going to leave it as an
9 order, it's a nonrule policy, and a nonrule policy has to be
10 supported by substantial, competent evidence and it can't
11 impose excessive regulatory costs on the regulated person. I
12 mean, there are a lot of facts stated in this recommendation
13 that aren't shown by empirical evidence. They're not backed up
14 by empirical evidence.

15 We believe that to some extent for the telephone
16 companies anyway, for BellSouth in particular, staff is
17 mandating a solution when there's no problem, there's no
18 evidence of a problem. We believe that our infrastructure
19 performed very well this last hurricane season. 98.5 percent
20 of our poles stood up in the Wilma hit area. At least
21 80 percent, more than 80 percent of our customers kept service.
22 We just don't see that there's a problem that requires this
23 specific, requires the Commission to tell us exactly how many
24 poles to inspect each year for a set number, period of years
25 and how those inspections should be conducted.

1 So those are, those are BellSouth's main comments.

2 CHAIRMAN EDGAR: Ms. Hyer.

3 MS. HYER: Verizon's comments at this point are also
4 primarily procedural. We, too, are troubled that we were not
5 engaged in any sort of dialogue before this recommendation came
6 out. As the recommendation indicates, there is an ongoing
7 audit of Verizon's current pole inspection practices and
8 procedures, but that has not even been completed yet. We have
9 not had an opportunity yet to comment on any of that. There
10 has been no record that is specific to the telephone companies
11 on which we've had any input that went into this
12 recommendation. We, you know, believe that that might not be
13 the case for the electric companies; we don't know for sure.
14 We understand that there was a workshop, but we were not
15 invited to it. So, therefore, we are very troubled by the fact
16 that there does not appear to be any competent evidence that is
17 specific to the telephone companies on which we've had any
18 input, and would like to see the Commission at the very least
19 to defer the decision as it applies to the telephone companies
20 until such time as we can have that dialogue.

21 And, and we would join in Sprint's request for a
22 workshop. At a workshop we can look into issues that have not
23 been addressed with the telephone companies yet such as cost
24 benefit analysis, financial impact, cause and effect with
25 respect to telecommunications facilities particularly, not just

1 electric facilities, whether the concerns and considerations of
2 the electric industry are the same as the telephone industry.
3 We believe they are not, but we have not been engaged in that
4 discussion. Cost recovery considerations, they're very
5 different for the electric industry and for the telephone
6 industry, which is a -- where we are regulated on a price cap
7 basis and in a competitive market.

8 And the most important piece of this would be in a
9 workshop we could engage with the staff on possible
10 alternatives that fit with our particular needs and our
11 particular infrastructure if, in fact, something different is
12 required and necessary for the telephone companies. So all
13 we're looking for is the ability to engage in that discussion
14 before a recommendation and an order is issued on the subject.
15 Therefore, we, again, would join in Sprint's request that the
16 Commission convene a workshop to allow us to address the
17 factual issues and to develop a factual record. Thank you.

18 CHAIRMAN EDGAR: I'm not sure who to address this to,
19 so I guess, Mr. Rehwinkel, I'll start with you since I was told
20 that you were kind of the designated spokesperson. And we
21 could certainly come back to you, Ms. White and Ms. Hyer. But
22 it sounds to me as if what you're telling this Commission is
23 that you were surprised that this agency was taking a look at
24 ways to minimize service disruption due to hurricane-related
25 outages. And with all of the actions that this Commission has

1 taken and all of the reports in the papers and the discussions
2 downtown, I find it a little surprising that you would have
3 been surprised. This is something that this agency has been
4 looking at ways that we can minimize. Comment?

5 MR. REHWINKEL: Yes. Madam Chairman, I certainly was
6 not surprised that the Commission is taking action. I think
7 the Commission has been taking action in a forthright manner
8 all along, dating back to 2004. I was surprised, and I think
9 the other companies, I'll let them speak for themselves, I was
10 surprised that this particular proposal was coming forward. I
11 mean, we had literally less than 24 hours' notice that this was
12 coming forward. We -- from the telecom side we did not
13 perceive that the public interest, that the legislative
14 interest, the media interest was directed at the performance of
15 our network. We're not saying that our network was better or
16 worse than the electricians. It's just that we have a different
17 level of exposure to the elements with respect to how we
18 deliver service aboveground. So, yes, ma'am, we were, we were
19 surprised that this particular action is being proposed.

20 Now we are not suggesting, at least I'm not
21 suggesting that the Commission should halt what it's doing or
22 change the course of action. In fact, one of the proposals
23 that I would urge you consider is, although I, I would, there
24 are other options that I would prefer such as deferral or
25 denial both with workshops or rulemaking, I think an optimal

1 thing for you to do is vote the PAA out, but hold a workshop on
2 an expedited basis, let us have the dialogue. There's a 21-day
3 window where your staff drafts the order that comes out of
4 today's vote. If we can have a workshop in that period of time
5 and if we have a better mousetrap to present to you, we'll
6 bring it to you, and you've still got an opportunity to, to
7 maybe substitute that for what you proposed. And I'm just
8 talking about telecom, not for the electric, substitute that.
9 Or if there's nothing, there's not a better mousetrap that we
10 bring along, and I'm talking about with dialogue with the
11 Public Counsel, with the staff, then the order goes out and we
12 just make our decision about whether we ask for a hearing or
13 not. But I'm just asking within the time frame that you have
14 in this process, there's a 42-day window, maybe a little more,
15 maybe a little less, for parties to sit down and talk. All the
16 while your process goes forward. But say in that first part of
17 that let's have that dialogue. That way nothing is being
18 changed. Your momentum carries forward. We just have the
19 dialogue that we feel deprived of from before.

20 Everything that happened to this day has dealt with
21 electricians with respect to the infrastructure, with respect to
22 any formal proceedings that you had. An audit was initiated on
23 November 8th with us. It was a list -- the audit -- it was a
24 list of questions that went out to some of our operations
25 people. It said that it would be published, the letter

1 initiating the audit said it would be published in March.
2 We're here in early February. We did not anticipate that
3 anything would occur before that audit concluded. We think the
4 electric audits were either materially or completely done well
5 before this process was started with the electricians. We just
6 feel like we're in a little bit different boat. But I
7 certainly commend the Commission for the actions it has taken
8 and it is taking going forward.

9 CHAIRMAN EDGAR: We've gone down the line and back
10 again, and thank you for responding to my comment and question.

11 Mr. Twomey.

12 COMMISSIONER ARRIAGA: Madam Chairman.

13 CHAIRMAN EDGAR: Just a moment. I'm sorry. We will
14 come right back to you.

15 MR. TWOMEY: Yes, ma'am.

16 CHAIRMAN EDGAR: Commissioner Arriaga.

17 COMMISSIONER ARRIAGA: I just want to, to keep myself
18 within the telecom situation that I mentioned before.

19 Mr. Rehwinkel, my ears are all open to your comments
20 and you're making a good point. I have no question about -- we
21 just said to Mr. Willis a few minutes ago that we're open to be
22 flexible and we have to be flexible because we are all under a
23 learning process. However, I'm trying to figure out where you,
24 all three of you are coming from. And as I said, I'm very
25 clear as to your proposal, I understand it. I know you're

1 talking about the opportunity for dialogue, expedited, quick so
2 we can get moving on and attend to the business we have in
3 front of us, which is a hurricane season less than 180 days
4 away. So we can do that. I think we can do that, but I'll ask
5 staff a little later.

6 But BellSouth goes a little further. I think we
7 should go into rulemaking, which is business as usual, which
8 would probably take us 180 days and hurricane season will be
9 here. So I just, my comment to BellSouth is be aware that we
10 have a hurricane season coming, that your poles in South
11 Florida were affected commingled with Florida Power & Light's,
12 and there were issues between your two companies that were
13 brought out in the media. So we can't wait for a rulemaking or
14 we can't wait for being threatened with the possibility of a
15 hearing or a protest. We have a responsibility to our public,
16 to our, to our state. We are liable for setting safety
17 standards and we have to.

18 So having said that, I think very clearly that what
19 Mr. Rehwinkel is bringing to the table is a posture that I'm
20 willing to work with and accept rather than being shown the
21 sword that if you don't, we're going to go into rulemaking or
22 we're going to go for a hearing. So that's basically --

23 MS. WHITE: Well, and I'm sorry, I'm sorry if I was
24 misunderstood. I was just trying to make -- there's a point,
25 there's an issue as to whether rulemaking should be required or

1 not. I can agree with Mr. Rehwinkel's suggestion, absolutely.
2 And, believe me, I know hurricane season is on the way. I live
3 in Miami and we're either getting ready for a hurricane, having
4 one or cleaning up afterward. I understand that poles went
5 down for BellSouth. I'm just -- it's not the be-all and
6 end-all, inspection may not be the be-all and end-all. I
7 think, for telecom companies I think there has to be some
8 discussion in the industry with staff and Public Counsel to see
9 if there are other ways, better ways.

10 CHAIRMAN EDGAR: I feel compelled to make a comment,
11 which I assure you all is not going to happen all that often,
12 but I don't think -- I don't see anywhere in this
13 recommendation where it says that pole inspection is the be-all
14 and end-all. I think that we are all trying to look at a
15 number of factors and a number of measures.

16 And, Mr. Twomey, I am going to come back to you, I
17 promise.

18 Commissioner Carter.

19 COMMISSIONER CARTER: Thank you, Madam Chair. I'm
20 just on this, from my read of the staff report, Rule 25-4.038,
21 there's a safety consideration that we have to consider. And
22 there are three things that can happen when a pole goes down,
23 none of them are positive: It could fall on somebody or
24 something; it could break into pieces and become a projectile,
25 I'm talking about during a storm; or if it's collocated, it

1 could pull down the power source. So those things don't sound
2 very pleasant.

3 Now from the staff report on Page 11 we see that
4 BellSouth has 459,312 poles, Verizon has 107,863 poles and
5 Sprint Florida has 38,731 poles. It's okay to say that there
6 was only 1 percent damage and all like that, but if it's your
7 house that the pole went down from, you know, that's
8 100 percent. So the Commission -- now I commend staff for
9 listening to the Commission and taking up this charge, and
10 we're trying to do something to address a public safety issue.
11 That's what we're talking about.

12 CHAIRMAN EDGAR: Mr. Twomey.

13 MR. TWOMEY: Madam Chair, Commissioners, thank you.
14 Mike Twomey. I mentioned earlier I was appearing on behalf of
15 Sugarmill Woods Civic Association, which some of the older
16 Commissioners will know has been active for years in Commission
17 cases, water and sewer, electric as well. They're served by
18 Progress Energy in Citrus County. I also want to speak on
19 behalf of my parents who have also been in a number of cases
20 over the years, Thomas and Genevieve Twomey; they're served by
21 Florida Power & Light. And on their behalf, I'd like to
22 commend Florida Power & Light for the recently announced
23 hardening and inspection regime that they have put forth.
24 Although, in support of Public Counsel, I want to say that the
25 ten years is not enough. I would join Public Counsel in saying

1 that ten or eight years -- the experience that the co-ops
2 apparently have had for years in this state seems demonstrably
3 beneficial, and that given the experience we've had the last
4 two years, we need a change and you might as well go to eight.
5 And I would add if you go forward in any more comparisons, I
6 don't recall that you had time in the infrastructure workshop
7 to compare, but it might be worthy at some point of examining
8 the damage experience that the co-ops had with adjacent IOUs
9 for the same wind structure, wind speed, hurricane damage. If,
10 in fact, there is value in the eight-year inspection regime
11 and, in fact, if they are conducting it eight years as they're
12 supposed to, then it would likely show itself in the relative
13 damages of the adjacent utilities.

14 I want to -- as a Sprint customer myself, I want to
15 say that I find it puzzling that Mr. Rehwinkel would suggest
16 that they don't have much of an aerial exposure. I, like, I
17 suppose, most of the people in this room are currently paying a
18 monthly surcharge, I forget the amount, to reimburse Sprint for
19 some \$30 million that the Commission decided they were entitled
20 as a resort of -- as a result of storm damage, I believe it was
21 suffered in 2004.

22 So the, the telephone companies -- a pole is a pole,
23 a wooden pole is a wooden pole, they're all the same thing,
24 they're all subject to the same weather, ground experiences,
25 the environments, the deterioration would be the same. So it

1 strikes me that irrespective of whether you're dealing with a
2 telephone company pole, an electric company pole or either pole
3 that might be carrying the services of both, that the
4 inspection regime should be the same. Thank you.

5 CHAIRMAN EDGAR: Thank you, Mr. Twomey. I'm trying
6 to decide whether you're including me as one of the older
7 Commissioners or not, but I'm going to let that go and just sit
8 here and wonder.

9 Commissioners, questions at this point?

10 COMMISSIONER CARTER: Madam Chair.

11 CHAIRMAN EDGAR: Commissioner Carter.

12 COMMISSIONER CARTER: Just a comment. We can talk
13 but we really have to act. You know, the people are -- when I
14 say the people, it's that, you know, it's a situation where if
15 you watch even just the news, you'll see about we're in a cycle
16 of storms in Florida. And also you'll see where there were
17 people, Dade, Broward, Palm Beach, South Florida and then to a
18 lesser extent Central Florida, where people were without
19 necessary utilities, necessary communication systems and all
20 like that, and we recognize that, but we have to move forward.
21 And in order to move forward, we have to see what's available.
22 We're talking about these wooden poles out there. And, again,
23 I mean, I'm not trying to single out the telecommunications
24 people, but I'm just saying this, that a pole -- and these
25 three things that I've enunciated, you know, when the pole is

1 coming down, it doesn't discriminate. You know, if you've got
2 a collocated pole and you're a senior citizen with an oxygen
3 tank at the house, the pole comes down, whether it's got phone
4 and utility or whatever, oxygen goes off. You've got a pole
5 that's collocated with utilities and telephone, it comes down
6 and Ray Ray is trying to get out of the neighborhood because of
7 flooding, falls down, you've got a live wire, same set of
8 circumstances. So what we have to do is we're trying as much
9 as possible, as Commissioner Arriaga reminds us all, is that
10 there is a time window here when the storm season will be upon
11 us again. And I think the staff has done an outstanding job in
12 coming up with a reasonable -- this is based upon national
13 standards -- come up with a reasonable way for us to address a
14 significant issue in our community, and I think that's what we
15 need to be talking about.

16 CHAIRMAN EDGAR: Commissioner Arriaga.

17 COMMISSIONER ARRIAGA: Mr. Rehwinkel, I really mean
18 it. I think that we need to somehow evaluate what you have
19 proposed and do it within a period of time that will allow us
20 to be as quick as possible and resolve the situation and get an
21 agreement on everybody so we can move forward. So I'm going to
22 ask you and at the same time staff, is there a notice problem
23 here? Does this have to be noticed? Are there time frames
24 that have to be met for us to accommodate a workshop and blah,
25 blah, blah, the whole thing?

1 MR. REHWINKEL: I think if you have a workshop within
2 the next two weeks, that that would be plenty of time for us
3 and that, is -- you can get a notice out in sufficient time to
4 do that.

5 COMMISSIONER ARRIAGA: Staff, how does that change
6 your program, your schedule? Does that affect you positively,
7 negatively, does it affect you at all?

8 MS. GERVASI: The one thing that comes to mind is the
9 need for an FAW notice, and I don't know that there would be
10 enough time to, to publish a notice in the FAW or if that's
11 necessary, but it might be something to think about.

12 CHAIRMAN EDGAR: Ms. Gervasi, thank you for raising
13 that point. Mr. Melson, do you have anything to add?

14 MR. MELSON: Yes. Ms. Gervasi is more familiar with
15 the time requirements than I am.

16 If an FAW notice is required, I think the deadline to
17 submit one to the FAW is tomorrow. But then it cannot be
18 published until a week from Friday. And assuming you've got to
19 give -- I'm not sure what the minimum notice is for a workshop,
20 whether it's seven or ten days, that notice requirement alone
21 carries us out toward the end of this 21-day period. It
22 certainly doesn't make it impossible, but it, it adds time.

23 To, you know, to the extent the, the parties who are
24 here today wanted to, not in terms of a noticed public
25 workshop, but wanted to meet informally with the staff and with

1 each other and have that dialogue, there's, I don't think
2 there's anything that prohibits that from taking place. But to
3 have a full-blown noticed workshop just inserts some procedural
4 delays.

5 MR. REHWINKEL: From my standpoint, if I may, Madam
6 Chairman, we're not hung up on the formalities of it. We just
7 want the opportunity to talk with people who are interested in
8 talking with us.

9 CHAIRMAN EDGAR: I like to talk, Mr. Rehwinkel.
10 Commissioner Arriaga.

11 COMMISSIONER ARRIAGA: Are you speaking on your
12 behalf or all three?

13 MS. WHITE: Yeah. I'm not going to worry about a
14 notice. I think if we can get the telecom industry, at least
15 the bigger players together with the staff, I think that would
16 do the trick hopefully.

17 MS. HYER: And Verizon is on the same page. We would
18 like to see that dialogue happen. Whether it happens
19 informally or formally doesn't really matter. We just want to
20 make sure that our concerns are heard before this
21 recommendation is, is imposed upon us.

22 CHAIRMAN EDGAR: Commissioner Carter and then
23 Commissioner Deason.

24 COMMISSIONER CARTER: Madam Chair, I just want to
25 state for the record that our goal is not to be draconian. Our

1 goal is to look for -- you know, take care of the public safety
2 of our citizenry. So, I mean, if they want to talk to staff,
3 that's fine with us. But our goal is to, you know, is to move
4 beyond the status quo and protect the safety of our citizenry
5 and to do it in a timely manner. So, I mean, I think staff
6 would welcome the opportunity to speak with -- I'm not speaking
7 for staff, but I think they would welcome the opportunity to
8 speak with the telecom industry if they have any questions or
9 concerns, you know, with the understanding that there's some
10 critical things that we really need to do as an agency.

11 CHAIRMAN EDGAR: Thank you.

12 Commissioner Deason.

13 COMMISSIONER DEASON: Madam Chairman, I see
14 Mr. McCabe back there, so I have a question for him, if he
15 doesn't mind answering it. Does Quincy Telephone receive any
16 rural utility service funding, and, if so, are you subject to
17 an eight-year inspection cycle?

18 MR. McCABE: We don't receive any funding, no.

19 COMMISSIONER DEASON: Okay. Thank you.

20 MR. McCABE: I have more to say though. Just
21 quickly.

22 COMMISSIONER DEASON: That's between you and the
23 Chairman.

24 MR. McCABE: I'm sorry.

25 CHAIRMAN EDGAR: Mr. McCabe.

1 MR. McCABE: I would just -- I mean, we're certainly
2 not going to sway how this thing comes out and that's why I was
3 keeping quiet, but I agree with some of the comments that
4 Charles made. I mean, I think it would be helpful if we were
5 able to get together and make sure that does include the small
6 local exchange companies. I only have about 1,000, 1,200
7 poles. I don't know if, you know, perhaps maybe a contractor
8 is not going to want to come into Gadsden County to do
9 200 poles in a year. I mean, there's a cost benefit associated
10 for him as well. So those are some things that are going to
11 need to be looked at in terms of how effective this can be.
12 And it might also be a situation if it's going to apply to
13 municipalities, we'll be able to work with those folks in terms
14 of coming up with a comprehensive plan that will help us out.
15 But I think that's going to take longer than an April 1st date
16 for a comprehensive plan.

17 CHAIRMAN EDGAR: Well, Commissioners, I think that we
18 are all in agreement that we are all looking for good ideas and
19 the right ways to proceed to try to bring -- again, to minimize
20 disruption, to minimize disruption time, to increase
21 reliability and public safety. And I think I can speak for all
22 of us by saying that we know that not all good ideas originate
23 in-house. That the best ideas come from a dialogue, and that
24 includes the consumers, businesses, the companies that we
25 regulate and our Commission staff and each of us. So I think

1 this has been a good dialogue. I think that we've brought some
2 very good ideas forward.

3 Before we move on, I would like -- it seems to me
4 that we have kind of been focusing our discussion on Items 1,
5 2 and 4. So before we move on, I would like to ask staff to
6 address Item 3 in a little more detail, please, of the
7 recommendation.

8 MR. McNULTY: Yes, Chairman. Issue 3 addresses to
9 the, speaks to the type of inspections that should be required,
10 and staff's recommendation is that the sound and bore technique
11 be required for all wood poles and should include excavation
12 for Southern Pine poles and other poles as appropriate, and
13 that the inspection should also include the strength impact
14 assessments of pole attachments. And essentially what we
15 looked at here was we tried to look at what the RUS guideline
16 said, and they basically said that visual inspections are not
17 adequate for purposes of an inspection to test to the strength
18 requirements of the National Electric Safety Code. So that was
19 a very easy read for us; the sound and bore was necessary.

20 They went on to say that excavation is needed for
21 certain types of poles, including the Southern Pine. So we
22 just basically drew upon the National Electric -- excuse me,
23 the Rural Utility Service's guidance on that.

24 And then, in addition, in just a simple reading of
25 the code, it says that the, the strength requirements at the

1 time of installation of a pole has to consider the pole
2 attachments that are expected to be attached. And we have, you
3 know, of course, some knowledge that third parties may be
4 attaching without the knowledge of the companies in some cases.
5 And if that were to occur and if that does occur in certain
6 instances, overloading can occur on the pole and that is a
7 violation. Therefore, the only way to overcome that violation
8 is through an inspection of that issue as well.

9 So those are the two types of inspections that we
10 basically talked about, sound and bore plus excavation, and
11 looking to see that each pole that is inspected using sound and
12 bore also meets the requirements of the, the pole attachments
13 loading requirement of the National Electric Safety Code.

14 CHAIRMAN EDGAR: Thank you.

15 COMMISSIONER ARRIAGA: Madam Chair, I have a question
16 for you.

17 CHAIRMAN EDGAR: Commissioner Arriaga.

18 COMMISSIONER ARRIAGA: Madam Chairman, it's a
19 question to you procedure wise. I think the telecoms have
20 raised an issue that we're willing to discuss, and that would
21 affect how Issues 1, 2, 3 and 4 are worded. So do we take that
22 as a prior motion or what, what do we do with that? In other
23 words, the fact that they want a hearing or, I'm sorry, a
24 meeting with staff, a formal meeting, will affect the time
25 frames that staff has laid down, probably affect the time frame

1 staff has laid out for the reports that are required from the
2 companies. So do we agree on something before we vote on 1, 2,
3 3 and 4?

4 CHAIRMAN EDGAR: Well, Commissioner Arriaga, I'm not
5 sure we're there yet, but we will be, and we will try to answer
6 your questions.

7 Before I recognize you, Mr. Melson, I know when I was
8 looking at, at the issue, at the information that staff has
9 presented to us in the recommendation and also, of course, just
10 as one Commissioner when I was thinking through these issues
11 with all of the discussions that we have had over the past few
12 months, it did seem to me that a more comprehensive pole
13 inspection requirement than what currently exists may indeed be
14 in order and may indeed be in the interest of the public. And
15 that's looking at the data that we have and recognizing the
16 data that we don't have. I mean, one of the things that I
17 think we had when I was briefed by staff is that we have data
18 gaps on this point. So, again, not -- we're -- I think we're
19 all trying to get to the same place. We're, you know, trying
20 to address the issues that have been raised about pole failure
21 over the past two hurricane cycles that this state has
22 experienced. And while I think that through a few more
23 minutes, Mr. Melson, did you have a comment for us?

24 MR. MELSON: I was going to go back and, and talk
25 about the timing of an informal meeting, if you were to choose

1 to go that way.

2 It's pretty clear that the FAW notice requirement
3 would apply to a Commission workshop. I think since we've got
4 a docket established, an informal meeting of the parties
5 probably can legitimately be done without that notice. We
6 can -- if you chose to go that route, the Commission can issue
7 its own notice of that informal meeting, send it to parties on
8 our telecom mailing list, which is essentially everyone who's
9 expressed an interest in telecom matters, you know, put the
10 date and time, if necessary, on our website. And I think in
11 that way we legitimately can have a multiparty meeting in one
12 of these dockets without necessarily having to go through the
13 strict time strictures in the FAW.

14 CHAIRMAN EDGAR: Well, again, realizing that we are
15 trying to address a problem that has been brought to our
16 attention through a variety of means, we certainly also are not
17 trying to shut anyone out of, out of our data collection and
18 analysis and decision-making process. And realizing that it is
19 February, are there further comments or thoughts? Commissioner
20 Deason.

21 COMMISSIONER DEASON: I have a question concerning
22 procedure. If we go forward with a PAA at this time and we
23 also entertain the idea of an informal meeting, and if at that
24 meeting staff and the parties come to some type of an agreement
25 that there is a better way, what do we do with the PAA that is

1 out there at that time?

2 MR. MELSON: I think in essence you would, staff
3 would come back and ask you to reconsider that PAA on your own
4 motion. And if the -- under our rules a party cannot ask for
5 reconsideration of a PAA because it's, it's not a final and
6 effective action until the time has run to request a hearing.
7 But I don't see any impediment to the Commission reconsidering,
8 in essence recalling or modifying that PAA on its own motion.

9 COMMISSIONER DEASON: So if we go that route and the
10 dialogue, the informal meeting doesn't yield anything that
11 staff feels is beneficial or would, or should change the PAA,
12 the PAA is out there and we've lost no time.

13 MR. MELSON: Correct. And, and I was trying to
14 listen to Mr. Rehwinkel. I think his suggestion was that that
15 workshop should be held -- ordinarily the staff issues a PAA
16 order within 20 days after the Commission's vote, that we
17 should try to hold the workshop within that 20-day period.
18 And, in essence, if staff's mind wasn't changed, staff would
19 then go ahead, issue the PAA that you voted out. That then
20 triggers their 21 days to request a hearing. If, prior to the
21 time the physical order is issued, the staff was convinced that
22 the Commission should consider a change, we would then
23 basically delay issuing that order and bring it back to you at
24 the very next agenda.

25 COMMISSIONER CARTER: Madam Chair.

1 CHAIRMAN EDGAR: You know -- just a moment,
2 Commissioner Carter. I can't help but come back to the thought
3 that has been in my mind the last few days as I've been
4 reviewing this, which is, you know, a pole is a pole. And if
5 we have a concern about pole failure and a need for a
6 comprehensive inspection program and looking at some of the
7 data that we have about collocation of electric and ILEC
8 distribution facilities, then, then separation gives me pause.
9 But yet if there is a way to gather, if there is a way to move
10 forward but yet to give the opportunity for good ideas, I am
11 very much in favor of, you know, good minds working together to
12 try to address some of these issues.

13 Commissioner Carter.

14 COMMISSIONER CARTER: Madam Chairman, what I was
15 going to do is ask Mr. Melson is that if during this time that
16 staff is presented with some ideas, do we get a chance to
17 review it? I mean, you know, you said if staff suggests it. I
18 mean, there may be some good ideas that our colleagues across
19 the floor here come up with. Do we get a chance to review
20 that? I mean, what impact does that have procedurally on where
21 we are?

22 MR. MELSON: I guess it depends on what direction you
23 give staff. In one way a cleaner way to handle it might be
24 simply to ask staff to hold an informal meeting with the
25 parties and to come back to a designated agenda either with

1 this same recommendation or the recommendation that staff has
2 modified based on the input. That way we don't get into the
3 potential situation of staff making a decision whether we're
4 convinced enough to go ahead and issue an order.

5 I mean, there are two or three different ways to skin
6 the cat, and I just don't know what, what sends the best
7 message to the companies and the public that we are serious
8 about this, we want to move forward quickly, we're not
9 deferring for sake of deferring.

10 COMMISSIONER CARTER: Thank you, Madam Chair.

11 CHAIRMAN EDGAR: Thank you.

12 Mr. Beck, do you have a thought that you would like
13 to add to this discussion?

14 MR. BECK: Just that we get going. I mean, if you
15 want to have a workshop or a meeting, we'll do all we can to
16 work with the companies and we'll be there. But let's get
17 going.

18 COMMISSIONER DEASON: Madam Chairman, we need to get
19 going. I'm ready to make a motion.

20 CHAIRMAN EDGAR: Commissioner Deason, I'm ready for a
21 motion.

22 COMMISSIONER DEASON: Madam Chairman, I would move
23 staff's recommendation on all issues, with the exception that
24 on Issues 1 and 2 we go to an eight-year cycle. And I believe
25 by my math, instead of having inspecting 10 percent of the

1 poles, it would be 12.5 percent of the poles. And that we go
2 forward with the understanding that there will be an informal
3 workshop in which all interested parties obviously would be
4 invited to attend, and that that take place as, on an expedited
5 basis, and that staff would, before the PAA order has to be
6 protested, that if it needs to be brought back to the
7 Commission, it would be brought back to the Commission.

8 MR. MELSON: Let me make sure I understand,
9 Commissioner. We would issue the order in the normal 20 days.
10 But if as a result of the workshop process we believe that
11 should be revisited by the Commission, we would bring that back
12 before the protest period has run.

13 COMMISSIONER DEASON: That was my understanding.
14 That way I think we'd lose no time. Is that correct?

15 MR. MELSON: Yes, sir. I think that's correct. I
16 just wanted to --

17 MS. SALAK: Commissioner, may I just ask for a
18 clarification? Sorry.

19 CHAIRMAN EDGAR: Yes, ma'am.

20 MS. SALAK: Beth Salak with staff. I just wanted to
21 ask for a clarification. You said workshop. Would that just
22 be for the telecommunications companies?

23 COMMISSIONER DEASON: Yes. Just telecom is my
24 intent.

25 MS. SALAK: Yes. Thank you.

1 CHAIRMAN EDGAR: Mr. Melson.

2 MR. MELSON: And I would make one additional
3 suggestion. Issue 5 talks about the effect of a protest. I
4 would like you to consider, and I'm sorry we did not lay this
5 out very clearly in the recommendation, making the PAA order,
6 I'm going to say, severable in the sense that any company that
7 does not protest it, it would become final as to them. So if
8 we end up with only one or two companies that believe they've
9 got a unique situation and the others are satisfied with the
10 result of the PAA order, that a protest by one of those
11 companies would not hold it up as to the nonprotesters. In
12 essence, we're issuing, although it's all under one umbrella
13 order, we're issuing separate PAA orders to each company
14 directing them to do this and giving each of them an
15 opportunity to protest if they believe it places an undue
16 burden on them.

17 COMMISSIONER DEASON: That seems workable to me.

18 CHAIRMAN EDGAR: That seems workable to me.

19 Commissioner Arriaga had a comment before we move
20 further.

21 COMMISSIONER ARRIAGA: It is a question to
22 Commissioner Deason to see, Commissioner Deason, would you
23 accept a modification to your motion to include municipals and
24 co-ops based on the fact that hurricanes do not distinguish
25 between who owns the pole? And if we're saying that IOUs and

1 telecoms, the poles are not different, well, they're not
2 different for municipals and co-ops. And, as I said at the
3 beginning, we have jurisdiction to do that.

4 COMMISSIONER DEASON: Commissioner, that's not part
5 of my motion and I would not entertain that at this point as
6 part of my motion.

7 CHAIRMAN EDGAR: If I may, again, before we move
8 forward, to staff, we are talking about an expedited time
9 frame, and I know that, that you are working on these issues.
10 But does this time frame seem workable to you as has been laid
11 out by Commissioner Deason and Mr. Melson?

12 MR. TEITZMAN: Yes, Chairman.

13 CHAIRMAN EDGAR: Thank you, Mr. Teitzman.

14 Commissioner Tew.

15 COMMISSIONER TEW: Did your motion include the
16 flexibility we talked about earlier with regard to Issue 4 and
17 the comprehensive plans that the utilities would provide?

18 COMMISSIONER DEASON: Yes. That was my
19 understanding.

20 CHAIRMAN EDGAR: And that was my understanding of the
21 motion as well. Okay.

22 COMMISSIONER CARTER: I second the motion.

23 CHAIRMAN EDGAR: Commissioners, we have a motion and
24 we have a second. And am I correct that the motion does
25 address all five issues that are before us?

1 COMMISSIONER DEASON: Yes, that is the intent.

2 CHAIRMAN EDGAR: Okay. Further comments or question
3 before I call -- okay. A motion and a second on Item 12A, 1
4 through 5, as Commissioner Deason has explained to us and has
5 been discussed by this body. All in favor, say aye.

6 COMMISSIONER CARTER: Aye.

7 COMMISSIONER DEASON: Aye.

8 COMMISSIONER TEW: Aye.

9 CHAIRMAN EDGAR: Aye.

10 Opposed?

11 COMMISSIONER ARRIAGA: Nay.

12 Madam Chairman, may I reason my vote?

13 CHAIRMAN EDGAR: Absolutely. Please show Item 12A
14 approved per the motion on a vote of 4 to 1, and Commissioner
15 Arriaga for a follow-up comment.

16 COMMISSIONER ARRIAGA: And the reason I voted no,
17 it's not that I'm against the eight-year cycle. On the
18 contrary, it was the one that I first proposed when this whole
19 conversation began today. So I do agree that we have to go to
20 an eight-year cycle. But I'm worried that we're not exercising
21 our full authority and our full jurisdiction. I lived in South
22 Florida and, you know, we're permanently hit by hurricanes, and
23 also the municipalities that were hit during the last season
24 had different types of damage. And it may happen again. I
25 just don't want somebody in the future to say to us, you should

1 have told the munis, you should have told the co-ops to live by
2 the same standard. And if a hurricane comes around and does
3 damage to Homestead, somebody may point it to us and we'll have
4 responsibility. That's the reason why I voted no. Thank you,
5 Madam Chairman.

6 CHAIRMAN EDGAR: Commissioner Arriaga, thank you for
7 your comments. And I know that --

8 COMMISSIONER DEASON: Madam Chair, may I take just a
9 motion and explain the motion in greater detail, why I would
10 not entertain the amendment?

11 CHAIRMAN EDGAR: Commissioner Deason.

12 COMMISSIONER DEASON: Okay. Thank you. I certainly
13 respect that. I am reluctant to, even though we may have
14 jurisdiction and, then again, we may not when it comes to the
15 munis and co-ops in this regard, I think that our jurisdiction
16 historically in terms of the munis and co-ops has been limited
17 in a number of situations. And what we're talking about here
18 is the inspection of wood poles that's basically at the
19 customer level, the distribution level. It's no doubt that we
20 have jurisdiction when it comes to integrated grid in the state
21 of Florida. But I believe that the munis and co-ops have the
22 ability of themselves, being that they are entities which
23 either serve their constituents or else are utilities which are
24 owned by the customers, that they have the ability to go
25 forward with their own inspection program and it doesn't have

1 to be mandated by this Commission. And that is -- there does
2 not -- does not imperil the integrated grid which is primarily
3 at a transmission level. For those reasons, I don't think it's
4 prudent at this point to go forward with mandating it for those
5 particular entities.

6 CHAIRMAN EDGAR: Commissioner Deason, thank you for
7 your comments.

8 Commissioner Tew.

9 COMMISSIONER TEW: Might I propose that staff reach
10 out to the munis and co-ops and talk to them about further
11 dialogue in this area. Maybe they'd be willing to meet these
12 standards even voluntarily and come forward with some kind of
13 proposal. Just a suggestion there.

14 CHAIRMAN EDGAR: Commissioner Tew, you beat me to it.
15 Thank you. I was going to say that I was at an emergency
16 planning exercise earlier this week and another issue as
17 relates to our authority and our work with the IOUs and the
18 munis and co-ops came up. So I do think that this is an area
19 of interest to each of us, and I would ask staff to pursue
20 that, as Commissioner Tew has described.

21 Mr. McNulty.

22 MR. McNULTY: I'm happy to do so. We have already
23 been in touch with the electric cooperatives and with the
24 municipal organizations, and we have already -- their
25 representative for the municipals, Barry Moline, has already

1 stated that it's common practice for the municipals to follow
2 the lead of what it is that the Commission often does with
3 investor-owned utilities' requirements and didn't see this as
4 being anything different. But I will be more than happy to
5 discuss with both of those entities what's been done here today
6 and find out what their expectations are. And we can report
7 that information back to you as to what it is that they --
8 they're -- what their response would be to this action taken
9 today by the Commission, if that's your, if that's your wish.

10 CHAIRMAN EDGAR: All right. Thank you, Mr. McNulty.
11 Thanks to all for participating. Mr. Rehwinkel, an almost
12 closing comment.

13 MR. REHWINKEL: Madam Chairman, thank you for
14 listening to us and accommodating our concerns today. Thank
15 you.

16 CHAIRMAN EDGAR: And, of course, we urge full
17 participation in our workshop that's coming up. Thank you.

18 (Agenda Item 12A concluded.)
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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 5th DAY OF FEBRUARY, 2006.


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