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FPSC - COMMISSION CLERK BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20170200-WU

INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST KINCAID
HILLS WATER COMPANY, IN ALACHUA COUNTY, FOR
NONCOMPLIANCE WITH SECTIONS 350.113, 350.117, 367.121,
AND 367.145, FLORIDA STATUTES, AND RULES 25-30.110,
25-30.120, 25-30.355, AND 25-22.032, FLORIDA
ADMINISTRATIVE CODE.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 3

COMMISSIONERS
PARTICIPATING: CHAIRMAN JULIE I. BROWN
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK

DATE: Tuesday, November 7, 2017

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

REPORTED BY: ANDREA KOMARIDIS
Court Reporter and
Notary Public in and for
the State of Florida at Large

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

2 THE CHAIRMAN: All right. Circling back here
3 to Item 3, which, I believe, we will have a
4 participant on the phone, who would like to address
5 the Commission.

6 MR. KNOWLES: Yes, I'm -- I'm here.

7 THE CHAIRMAN: Okay. Could --

8 MR. KNOWLES: I'm not sure if that was my cue.

9 THE CHAIRMAN: No, that's not your cue.

10 MR. KNOWLES: Okay.

11 THE CHAIRMAN: If you could, mute yourself for
12 just a moment. We're going to have staff introduce
13 the item, and then we'll turn to you. Thank you.

14 MS. DuVAL: Good morning, Chairman and
15 Commissioners. Margo DuVal with Commission staff.

16 Item No. 3 addresses the initiation of show-
17 cause proceedings against Kincaid Hills Water
18 Company for failing to submit its regulatory
19 assessment fees for the years 2008, 2009, 2012,
20 2013, and 2016, failing to timely submit its annual
21 reports for the years 2009, 2010, 2011, 2012, and
22 2013; and for failing to respond to customer
23 complaints and Commission staff in compliance with
24 Rules 25-30.355 and 25-22.032 of the Florida
25 Administrative Code.

1 Staff has provided alternative recommendations
2 for Issues, 1, 2, and 3. In Alternative 1, staff
3 is recommending that Kincaid be ordered to show
4 cause in writing within 21 days why it is not
5 obligated to remit payment in full, for Issue 1
6 regarding RAFs; for Issue 2, regarding annual
7 reports; and for Issue 3, regarding the customer
8 complaints.

9 In Alternative 2, staff recommends that the
10 Commission direct staff to initiate certificate-
11 revocation proceedings against Kincaid pursuant to
12 Chapter 120 and Section 367.161 the Florida
13 Statutes.

14 Mr. Berdell Knowles, Jr., on behalf of the
15 utility is present by telephone and would like to
16 address the Commission on this item. The Office of
17 Public Counsel would also like to address the
18 Commission on this item.

19 And staff is available to answer any
20 questions.

21 THE CHAIRMAN: Thank you, Ms. DuVal.

22 Mr. Knowles, that's your cue.

23 MR. KNOWLES: Hi, everyone. Excuse my voice.

24 It's -- I'm in Seattle, so it's a little early.

25 And I'm -- it's a pleasure to at least virtually

1 meet all of you. It's my first time.

2 Before I repeat information you may have
3 already seen, I was able to prepare a response that
4 I submitted to Ms. DuVal only early this -- earlier
5 this morning. I wasn't sure if you had that before
6 you.

7 THE CHAIRMAN: We have --

8 MR. KNOWLES: If I could --

9 THE CHAIRMAN: We do have a copy of that. So,
10 you can proceed.

11 MR. KNOWLES: Okay. So, as the -- the -- that
12 letter highlights, it's -- you know, I want to
13 first apologize for the frustration and fatigue
14 that I'm sure staff has with dealing with the -- my
15 father, Berdell Knowles, Sr., and some of the, you
16 know, issues that he's allowed to languish and
17 not -- not address.

18 Not that it's any excuse, but this -- this
19 year, in particular, he -- he experienced a number
20 of -- of leaks that really stretched his -- his
21 resources. And he -- I want to say he shifted his
22 focus to making the repairs and correcting the
23 incursions that occurred in the system to keep from
24 the -- keep -- prevent there being interruption in
25 service.

1 Unfortunately, at the same time, I became
2 severely ill and have been -- I've spent most of
3 the -- the -- of 2017 in recovery mode and not
4 available to assist as I otherwise would have in
5 the past.

6 I'm in the process of getting reengaged and to
7 provide more support for these issues. And I think
8 that they can all be rectified rather swiftly. And
9 par- -- specifically, I want to say that I think
10 that my father is at the point where he -- he can't
11 continue to -- to stay on top of this. I think
12 that's pretty evident.

13 Some of the issues that -- in terms of the
14 history that staff provided have -- have been --
15 have been addressed before and they come --
16 continue to come up. So, I -- I thought that, you
17 know, my last intervention a few years ago would
18 have lasted a bit longer, but it's clear that it
19 hasn't. I need to do -- do some things to either
20 solve these issues permanently and -- and take over
21 from my father or prepare a -- the system for a
22 change of ownership.

23 We've been in talks with a couple of
24 interested parties that have experience with taking
25 over systems in distress, but frankly, the -- under

1 the -- the current distress, the decision -- the --
2 that the system is in with some of these issues
3 with the PSC, it -- it would not be feasible for
4 a -- for a transaction at this point.

5 Essentially, it comes down to, you know, six
6 issues. And I would like to share with you my
7 thoughts about timing for getting those resolved.
8 For Issue No. 1, there -- there have been -- and
9 I'm not -- there hasn't been any dialogue about
10 resolving some of the outstanding fees between this
11 system and staff.

12 And it's because, in part, you know, the --
13 the owner hasn't been responsive and hasn't been
14 able to deal with this. And I would like to take
15 that up on his behalf as soon as possible. I think
16 that we could mutually agree upon a -- a
17 resolution, in short order.

18 The second item, which is also related to some
19 of the outstanding regulatory assessment fees, I
20 think we could, again, work to come up with a
21 mutually-acceptable agreement to resolve that. I
22 think that it's what we agreed to previously, but
23 the steps to have those discussions, I -- I just
24 realized had not occurred between my father and --
25 and staff.

1 The third issue is the lapse in the
2 corporation with the Secretary of State. And
3 that's an issue that I think we could address. I
4 would like to establish a corp- -- you know,
5 establish that corporation as soon as possible, if
6 I'm permitted to do so.

7 The fourth issue is the -- the conversations
8 that -- and sort of settlement that was reached
9 previously envisioned a staff-assisted rate case.
10 And for reasons that I don't think are rational,
11 the owner declined to pursue that.

12 If permitted to take control or mandated to
13 take control, which may be necessary, from -- from
14 the current owner, that staff-assisted rate case is
15 something that we'd like to get going right away
16 because it -- it only keeps the system from being
17 self-sustainable in terms of generating enough
18 revenue to cover expenses, especially with the rash
19 of refurbishments and leaks that we've had.

20 The resources of the utility are not
21 sufficient to cover the expenses that have been
22 incurred recently, but I think we're getting out of
23 the woods on that. And if we could get that as
24 our -- that staff-assisted rate case, it would help
25 a lot.

1 The fifth is the 2016 RAF, regulatory
2 assessment fee. I could take care of that as soon
3 as possible as well. I deferred doing so because I
4 realized that, when I got in contact with
5 Ms. DuVal, it was too late to get it done from
6 where I was to prevent this next step from
7 occurring where we're appearing before you. So,
8 depending on what the outcome is, I would like to
9 hopefully be able to address that in the next
10 couple of days.

11 And finally, the sixth issue was the -- is the
12 customer complaints that -- you know, in the
13 community where the system operates. We're, you
14 know, in regular contract with almost all of our --
15 our customers. We're very visible every month. We
16 go out and read meters and -- and they are, you
17 know, very straightforward about bringing their
18 issues to us when we're on-site to read meters and
19 whatnot.

20 So, the customers who have made the
21 complaints, there have -- have been responses, but
22 unfortunately, the owner has not prepared the
23 necessary documentation for PSC to document that --
24 what that follow-up was. And that's something that
25 I could also resolve in short order.

1 THE CHAIRMAN: Are you done?

2 MR. KNOWLES: I guess and -- my last comment
3 would be that, you know, the -- that, you know,
4 the -- for the past 30 years, you know, my -- the
5 owner has been able to safely provide service to
6 the customers that it serves.

7 And it's definitely at -- at the point where
8 he -- he probably shouldn't continue, but I think
9 that we, if allowed to, can either put in a new --
10 new management team or prepare the -- the system
11 for transition to a third party to -- to take over.

12 THE CHAIRMAN: Thank -- okay. Thank you,
13 Mr. Knowles. Could you please mute your line right
14 now --

15 MR. KNOWLES: Yes.

16 THE CHAIRMAN: -- while Office of Public
17 Counsel addresses -- I believe that the
18 Commissioners will have questions for you.

19 MR. KNOWLES: Okay.

20 THE CHAIRMAN: So, just mute your line until
21 you are called on, please.

22 Mr. Sayler.

23 MR. SAYLER: Good morning, Madam Chair,
24 Commissioners. And congratulations, Commissioner
25 Graham, on your election. My name is Erik Sayler

1 for the Office of Public Counsel on behalf of the
2 customers of this utility.

3 First, we would like to commend the staff for
4 its very-thorough background in this matter. The
5 facts presented by staff in the recommendation are
6 serious. As clearly laid out in the
7 recommendation, this utility has a demonstrated
8 pattern of behavior that disregards Commission's
9 directions, orders, and rules.

10 It has failed to timely file annual reports.
11 It fails to remit required regulatory assessment
12 fees to the Commission. And it fails to follow
13 through on its promises of future compliance.

14 As fully discussed in the recommendation, the
15 utility failed to pay regulatory assessment fees
16 for the years 1995 to 2003. As a result, there was
17 a show-cause initiated in 2004. A payment plan was
18 set up and a compliance plan to give the op- --
19 give this utility an opportunity to remit those
20 past-due fees, penalties with interest.

21 However, the utility remitted less than the
22 agreed-upon amount for those years and then also
23 failed to pay those regulatory assessment fees for
24 the years 2004, '05, and '06, prompting yet another
25 show-cause proceeding by this Commission in 2007.

1 The end result of that 2007 proceeding was
2 another promise to pay those unpaid regulatory
3 assessment fees for that period of time -- excuse
4 me. As a result of 2007 proceeding, the Commission
5 decided to actually write off what was owed and
6 submitted to the Department of State and said,
7 these are uncollectible; let's write these off.

8 Continuing in the same pattern, the utility,
9 once again, failed to pay regulatory assessment
10 fees for 2008, '09, '12, and '13. Once again, the
11 utility was allowed to enter into some sort of
12 compliance plan for these delinquent fees, which
13 it, once again, failed to comply with. This
14 utility also has failed to pay its most-current
15 2016 regulatory assessment fees.

16 When you look at staff's recommendation, this
17 utility has paid -- timely paid its regulatory
18 assessment fees only four times in the last 21
19 years, and has only timely filed six annual reports
20 since 1994.

21 Bottom line, Commissioners, is that the
22 ratepayers of Kincaid Hills have faithfully and
23 appropriately paid the regulatory assessment fees
24 as part of their rates each and every year.

25 When the utility fails to remit its annual

1 fees to the Commission, the utility is, in effect,
2 keeping the ratepayers' money for its own purposes.
3 Based upon this utility's continued disregard for
4 the statutes and rules under this Commission's
5 jurisdictions, it is simply unfair and unreasonable
6 to allow this utility to continue retaining the
7 ratepayers' money that is designated to be paid to
8 this Commission and the state of Florida.

9 In discussing this case with my boss, the
10 Public Counsel, he reminded me of the definition of
11 insanity: Doing the same thing over and over again
12 and expecting a different result.

13 Commissioners, this utility has been given
14 second chance after second chance, after second
15 chance; and yet, here we are, again, on yet -- yet
16 another show-cause proceeding on the same issues.

17 Staff's recommendation discusses additional
18 issues such as failing to address customer
19 complaints, which I will, for the sake of time, not
20 go into any detail.

21 Clearly, based upon the facts alleged in the
22 case background, the owners and utility -- excuse
23 me -- the owners and the officers of this utility
24 have demonstrated that they can no longer operate
25 this utility in the public interest nor comply with

1 the Commission's rules, regulations, and orders.
2 And we do not see anything that would suggest to us
3 that this utility will implement any behavioral
4 change.

5 Therefore, on behalf of the ratepayers, we
6 respectfully recommend that you select
7 Alternative 2 of staff's recommendation and
8 initiate show-cause -- excuse me -- initiate
9 revocation proceedings.

10 In addition, regarding the unpaid regulatory
11 assessment fees, these fees should not be written
12 off. If the utility is not going to remit these
13 fees to the Commission, we would respectfully
14 request that these fees be refunded to the
15 customers as soon as possible.

16 Thank you for this opportunity to address the
17 Commission.

18 THE CHAIRMAN: Thank you, Mr. Sayler. And I
19 really do appreciate the comments that you made,
20 including the insanity remark, too. Excellent
21 points.

22 Commissioner Graham.

23 COMMISSIONER GRAHAM: Thank you, Madam Chair.

24 I guess I can start off by saying: Are you
25 kidding me? This has got to be one of the most

1 ridiculous things I've seen since I've been here
2 the last seven-and-a-half years.

3 I can't always say this, but I completely,
4 100-percent agree with Mr. Sayler on his analysis.

5 (Laughter.)

6 COMMISSIONER GRAHAM: This is insanity. He's
7 already been given four different restarts. I look
8 at it this way -- and now, granted, I'm the only
9 one up here who doesn't have any children, but I
10 picture someone that's got a little five-year-old,
11 and you're telling him to go back and put his toys
12 away.

13 And you -- you sit back and say, okay, I'm
14 going to count to three. And you count one, two --
15 and when you get to three, the child gets up and
16 starts making his way towards the room. And then
17 you sit back down, and the child doesn't do
18 anything.

19 And you say, yet, a second time, if you don't
20 put your toys away -- you know, and then you start
21 counting to three. And you get to three and the
22 child makes another motion towards the room and,
23 still, nothing happens.

24 And then it gets up to the third time. And
25 then you finally say, okay, if I get up, I'm going

1 to give all your toys away to Goodwill. Okay. So,
2 now, finally, you get the child to go into his
3 room, and he puts away the toys -- well, the ones
4 that he wants, but you know, the ones he doesn't
5 want are still on the floor.

6 And so, you -- you know, upset, the parent --
7 you say, what did you do this for. He goes, well,
8 you know, I don't want those. You can choose to
9 throw those away.

10 I mean, I think this is absolutely ridiculous.
11 You know, even the last one, we couldn't get ahold
12 of Mr. -- senior -- Knowles, Sr. We had to,
13 through our own efforts, through staff's own
14 efforts, find a number for Knowles, Jr. And that
15 was back in October of 2015, 2014. Had a
16 conference call with them, sat down, thought we
17 worked all this out.

18 The same thing that he's claiming to want to
19 do now, we did back then, and made the -- came up
20 with the compliance plan, came up with the
21 agreement. They wrote the first check for almost
22 \$8700. And then they saw nothing. They saw two
23 annual reports come out, and that was it.

24 So, if you wanted your last, best effort, that
25 was that time, back in 2014. I mean, there's only

1 so many times that the dog can eat your homework.
2 There's only so many times that your grandmother
3 can die. I mean, now it's time to be done with it.
4 I mean, I think it's -- once again, it's: Are you
5 kidding me? I think it's time that we need to
6 revoke this and move on.

7 THE CHAIRMAN: Thank you. Thank you,
8 Commissioner Graham. I could not agree more with
9 everything you just said and also with what
10 Mr. Sayler said regarding -- the facts of the
11 matter is customers have been paying for this, for
12 the RAFs. They are in the -- in the rates. And
13 the utility has blatantly disregarded the
14 remittance to the Commission.

15 And this is a knowledgeable utility owner. I
16 mean, this is someone who is very knowledgeable of
17 our process, and it is -- it is beyond
18 disrespectful to this Commission. It's
19 disrespectful to its customers. And it's ludicrous
20 to even consider any other option but revocation.

21 Commissioner Polmann.

22 COMMISSIONER POLMANN: Thank you, Madam
23 Chairman.

24 I -- well, I agree with Mr. Sayler. I agree
25 with Commissioner Graham. I agree with your

1 comments. I had a number of questions. I don't
2 see that it's necessary to go through all those
3 because the points were -- have been made.

4 My concern is service to the customers. It's
5 unclear to me that they've been getting the safe
6 service that Mr. Knowles referred to on -- during
7 his comments on the phone.

8 I don't know that we have the information in
9 the record regarding their compliance with their
10 DEP permits, with the health department
11 requirements, and so forth.

12 What -- what is clear to me is that the
13 utility is, as you indicated, not respecting
14 statute and rule requirements. I have -- I do not
15 have confidence in their operation. It was
16 suggested by Mr. Knowles a change of management,
17 change in ownership. So, there is a recognition
18 that there is a problem.

19 I -- I want to go to a couple of questions on
20 Alternative 2, if -- if I may, to staff counsel.
21 With respect to Alternative 2, this is the
22 revocation proceeding. Could you please help me
23 understand the nature of the burden in that
24 process?

25 If we proceed with Alternative 2 -- and this

1 would be for all of the substantive issues, one,
2 two, and three -- what's the nature of the burden
3 during that process?

4 MS. DuVAL: Yes, Commissioner. Generally, in
5 a hearing before the Commission, the -- the burden
6 would be on the utility to -- to put on its case.
7 For example, in a rate case, the burden is on a
8 utility.

9 In a show-cause proceeding or a revocation
10 proceeding, the burden shifts to the Commission
11 staff that is acting in the prosecutorial role to
12 show that in -- in a revocation proceeding, to show
13 that the utility's certificate should be revoked.

14 And the process follows Chapter 120. So, the
15 order initiating revocation proceedings would be
16 considered the administrative complaint. So,
17 proper notice is required under 122, the utility,
18 itself.

19 The Commission would also provide notice to
20 the customers that the proceedings have been
21 initiated. And then, after that point, if the
22 utility objects to the proceedings, themselves,
23 then, the revocation hearing would go forward. And
24 at that point, it would be similar to a show-cause
25 hearing before the Commission.

1 COMMISSIONER POLMANN: Okay. Is there any
2 particular certainty to that outcome? As you say,
3 it's a show-cause. So, the utility could prevail
4 or the Commission could issue -- what's the type of
5 order that comes out of that? Is that -- is that a
6 proposed order? A final order? What -- what is
7 the -- the possibility is the end result?

8 MS. DuVAL: So, the revocation hearing would
9 proceed. And it would be very similar to -- to
10 hearings that we do all the time. There would be
11 prefiled testimony, live testimony, an opportunity
12 for cross-examination, an opportunity for customers
13 to provide testimony.

14 If it were an instance where it were ripe for
15 a Bench decision, that could be made at that point.
16 And that would be the determination of the
17 Commission as to whether or not the burden of proof
18 has been met by Commission staff showing that there
19 is -- normally, in a Chapter 120 proceeding, the --
20 the burden of proof is a preponderance of the
21 evidence.

22 It's my understanding that, in a license-
23 revocation proceeding, it's escalated a bit more to
24 clear and convincing evidence. So, it would be the
25 Commission's determination as to whether or not

1 that burden has been met, and out of that decision,
2 it would be a final order that would be issued.

3 COMMISSIONER POLMANN: Okay. All right.

4 Madam Chairman, just a comment -- we received
5 a letter here. And, frankly, from my perspective,
6 that -- that's simply untimely. We've heard
7 comments here. Mr. Sayler indicated some time-line
8 issues. That's clear in the material we got from
9 staff.

10 And I do appreciate staff's providing all this
11 background. I think it's quiet per- -- persuasive.
12 That's really all. I don't want to go back through
13 all this. I think the material here is quite
14 clear. And I agree with everything that's been
15 said. Thank you.

16 THE CHAIRMAN: Thank you. And I want to
17 commend staff for all the time and energy -- and
18 Public Counsel as well -- for putting into this. I
19 know it has been a lot to get -- to get information
20 out of the utility. And appreciate the son
21 participating in today's discussion, but it's a
22 little too late.

23 Commissioner Graham.

24 COMMISSIONER GRAHAM: Thank you, Madam Chair.

25 I ditto what the Chairman just said and

1 Commissioner Polmann said. For OPC and staff -- I
2 know you guys -- I couldn't imagine the frustration
3 you guys have experienced dealing with this.

4 Back to the RAF rates, my understanding of the
5 RAF rates is it's basically just a pass-through.
6 This -- these are dollars that are collected from
7 the ratepayers. They're get- -- they're being paid
8 to the state as RAF rates.

9 So, basically, the owner is just the middle
10 man. And the fact that he is not passing along
11 those RAF rates means he's basically stealing from
12 the state. Is that a harsh way of putting that?

13 MS. EARNHART: The rates do encompass the
14 regulatory assessment fees. So, you're correct.

15 COMMISSIONER GRAHAM: So, if we go and revert
16 and -- and take away certificate -- because I know
17 we can't take his property, but we can take away
18 the certificate, and then this goes into
19 receivership -- and then I take it the county will
20 force a sale of the utility? Is that how that
21 works?

22 MS. DuVAL: The -- essentially. The county
23 would petition the Circuit Court for a receiver to
24 be appointed. Who that receiver is -- that depends
25 on who the Circuit Court deems to be the

1 appropriate entity or individual.

2 COMMISSIONER GRAHAM: Now, how do we go about
3 making sure that those RAFs get paid to the state
4 like they're supposed to get paid? I mean, is that
5 something -- do we put a lien on the equipment so,
6 when it's sold, that lien needs to be fixed? Do we
7 go through the attorney general and do it through
8 criminal charges?

9 How do we go about getting that RAF? Because
10 those were dollars that were collected that were
11 supposed to be passed through that have not been
12 passed through. And it seems like it's been waived
13 before, but I want to make sure this silliness
14 doesn't continue.

15 MS. DuVAL: Right. The Commission has the
16 statutory authority to -- to enforce the payment of
17 the RAFs through the means of stat- -- the
18 statutory liens. However, where we were at right
19 now is essentially just trying to determine whether
20 or not the revocation proceedings should be made.

21 So, I believe that that would be an issue that
22 would be addressed through those proceedings.

23 COMMISSIONER GRAHAM: So, is it something that
24 we need to do now to make sure -- to give staff
25 that direction? Because -- and now, granted, it

1 doesn't -- you know, in the dollars that we deal
2 with, you know, day in and day out, this is not a
3 huge dollar amount.

4 But this is somebody, in my opinion, that's
5 been gaming the system, now, for 30 years. And
6 every time you smack his hand, he says he's sorry,
7 and the same stuff goes on again.

8 MS. DuVAL: I don't believe that that's
9 something that needs to be addressed at this point.
10 Once the proceedings have been initiated, then, at
11 that point, we will be addressing that -- that
12 matter.

13 COMMISSIONER GRAHAM: Thank you.

14 THE CHAIRMAN: Thank you. The board here is
15 lighting up.

16 Commissioner Brisé.

17 COMMISSIONER BRISÉ: So, going back to a
18 question that Commissioner Polmann asked and -- and
19 I wasn't clear either in terms of the service
20 component and the customers.

21 So, can someone talk to us about the quality
22 of service that people are receiving currently?
23 Because obviously, there is a management breakdown,
24 an operational breakdown. So, I want to understand
25 if that also bleeds into the service that people

1 are receiving as well.

2 MS. DuVAL: I'm going to defer to our --

3 COMMISSIONER BRISÉ: Sure.

4 MS. DuVAL: -- engineering staff.

5 THE CHAIRMAN: Sure.

6 MR. BALLINGER: Good morning, Commissioners.

7 My understanding is they are in compliance
8 with DEP and their regulations. There was a few
9 things of monitoring that they didn't report, but
10 DEP has not taken any action to put them in non-
11 compliance.

12 The customer complaints, I think, were
13 outlined in the recommendation here. There's those
14 three that have not been addressed yet, but we
15 didn't go into it in great deal in this pro- --
16 this process right here.

17 COMMISSIONER BRISÉ: Okay. Thank you.

18 THE CHAIRMAN: Going back to Commissioner
19 Polmann.

20 COMMISSIONER POLMANN: Thank you, Madam
21 Chairman.

22 To -- to follow on to Commissioner Graham,
23 on -- on the series of activities or events, and
24 not with -- not a specific time line because things
25 will evolve in time as -- you know, as they do,

1 whatever they are.

2 But could you maybe explain -- to Ms. DuVal --
3 the sequence of events? What we're talking about
4 here is the initiation of a process. And I think
5 you understood you said, you know, we initiate and
6 go through a hearing process. And then, depending
7 on that -- the outcome, then -- then we go to the
8 Court and we seek -- whatever we do.

9 So, maybe help us understand -- we start at a
10 certain place. And then there's an outcome. And
11 there's a concern that's raised about the
12 continuity of service. We don't really participate
13 in that aspect, but there's a receivership.
14 There's a transfer. There's some interim operator,
15 perhaps. There's a new ownership, perhaps. But
16 there are certain things we have control of and --
17 and we try to initiate and direct.

18 And -- and where I'm going with this is this
19 distinction -- because where we are right now,
20 today -- if I can just characterize it in general
21 terms -- is we have a whole series or whole set of
22 unknown unknowns.

23 There are things that we've tried to do, but
24 we don't really -- because we're depending on the
25 current owner, and they're not responsive. And we

1 don't know what they're going to do. We just have
2 a history of what they haven't done. But if we go
3 forward down the certain path, we don't know the
4 outcome.

5 And then we have the series of -- of a
6 particular sequence that may be a certain burden
7 and so forth, but we know what it is, essentially.
8 We haven't done it for 20 years, but I -- I think
9 we know what it is.

10 Can you just maybe walk through -- to the best
11 of our knowledge, we start here and we go there and
12 we go there and we go there. And my big concern is
13 make sure that people get the water. So, not to
14 rehash what we've already talked about, but maybe
15 just walk through the steps. I don't know.

16 MS. DuVAL: Sure --

17 COMMISSIONER POLMANN: I'm not even sure what
18 my question is, but -- thank you.

19 MS. DuVAL: I'll try my best.

20 So, if today's vote were to result in an order
21 initiating revocation proceedings, those
22 proceedings would be initiated. And through --
23 through all of the pre-hearing time line, there is
24 an opportunity for the utility representatives to
25 discuss with --

1 COMMISSIONER POLMANN: May I -- may I --

2 MS. DuVAL: Sure.

3 COMMISSIONER POLMANN: I'm sorry. We
4 initiate, and then we get to the end, and there's a
5 final order. Okay. I think -- I think we --

6 MS. DuVAL: You want to jump to that.

7 COMMISSIONER POLMANN: Yeah, I think --

8 MS. DuVAL: Okay.

9 COMMISSIONER POLMANN: -- we addressed that.

10 MS. DuVAL: Okay.

11 COMMISSIONER POLMANN: So, after that -- and
12 forget about the appeal process.

13 MS. DuVAL: Sure.

14 COMMISSIONER POLMANN: That goes to court,
15 right?

16 MS. DuVAL: So, if a revocation order is
17 issued, the final revocation order, what -- what
18 the Commission has done in the past is followed the
19 statutes regarding abandonment.

20 So, in that case, notice would be provided to
21 the county that a receiver needs to be appointed,
22 and there needs to be a time line set forth for
23 when the certificate would actually be surrendered
24 to the Commission so that there is no lag in
25 service to the customers. And I believe that that

1 would essentially be, until a receiver is
2 appointed, the utility still must provide service
3 to the customers.

4 After the receiver is appointed, then, at that
5 point, the certificate would sur- -- or the
6 utility, excuse me, would surrender their
7 certificate to the Commission.

8 And then, at that point, the receiver would be
9 operating the utility until it could be sold or
10 disposed of or assumed by the entity that is going
11 to maintain the -- the service on a permanent
12 status.

13 COMMISSIONER POLMANN: Okay. So -- so,
14 there's an established process. And we don't know
15 exactly when that transfer would occur, in terms of
16 the court action and setting up the receiver and so
17 forth, but there will be continuity of service.
18 That's well-understood. And compliance with --
19 with the DEP and quality of the water and all that
20 is -- is understood.

21 So, we take a certain action. Then, it
22 transfers through the Court and so forth and so on,
23 but that's clear. So, the customers are taken care
24 of.

25 MS. DuVAL: Correct.

1 COMMISSIONER POLMANN: And -- and so, we do
2 our part, and then everything else happens and --
3 I'm good with that, Madam Chairman. I mean, that
4 makes sense to me.

5 THE CHAIRMAN: All right. I'm good with it,
6 too.

7 Commissioner Brisé, are we ready for a motion?

8 COMMISSIONER BRISÉ: Quick question before we
9 get to the motion.

10 THE CHAIRMAN: Very quick.

11 COMMISSIONER BRISÉ: So -- so, can the current
12 owner of the utility, even though we -- we proceed
13 with the revocation, can they come back in, in the
14 interim, and say they found a buyer and sort of
15 address all these issues and taking care of the
16 customers in the interim with that possibility.

17 MS. DuVAL: Yes, there is the potential for a
18 stipulation or settlement agreement.

19 COMMISSIONER BRISÉ: All right.

20 THE CHAIRMAN: All right. So, with all
21 that -- we've had a lot of discussion on this very
22 serious matter. We are ready for a motion.

23 Commissioner Graham.

24 COMMISSIONER GRAHAM: I apologize, Madam
25 Chair. I need to ask a question from what

1 Commissioner Brisé just said. If he comes in with
2 an owner, do we have to approve that owner and that
3 sale? Because what I don't want to see happen is
4 senior sell it to junior and we're pulling this
5 dance again.

6 MS. DuVAL: Yes, Commissioner, and -- any
7 suggested, like I said, settlement agreement or any
8 sort of plan like that would be brought back to you
9 all for your approval.

10 COMMISSIONER GRAHAM: Thank you.

11 THE CHAIRMAN: With that, Commissioner Graham,
12 are you ready to make a motion?

13 COMMISSIONER GRAHAM: Yes, I move staff
14 recommendation, Alternative 2, where we're going to
15 start the process of revoking -- revoke- -- taking
16 back the certificate.

17 THE CHAIRMAN: That sounds good.

18 Is there a second?

19 COMMISSIONER BRISÉ: Second.

20 THE CHAIRMAN: Any further discussion?
21 Commissioner Polmann?

22 COMMISSIONER POLMANN: Issues 1, 2, 3?

23 COMMISSIONER GRAHAM: One, two, three, or it's
24 going to be Alternative 2.

25 THE CHAIRMAN: Any further discussion?

1 Seeing none, all those in favor on the motion
2 supporting Alternative 2 on the staff
3 recommendation, signify by saying aye.

4 (Chorus of ayes.)

5 THE CHAIRMAN: Motion passes unanimously.

6 Thank you. And thank you for your
7 participation today.

8 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, 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,
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attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED THIS 15th day of November, 2017.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #GG060963
EXPIRES February 9, 2021