

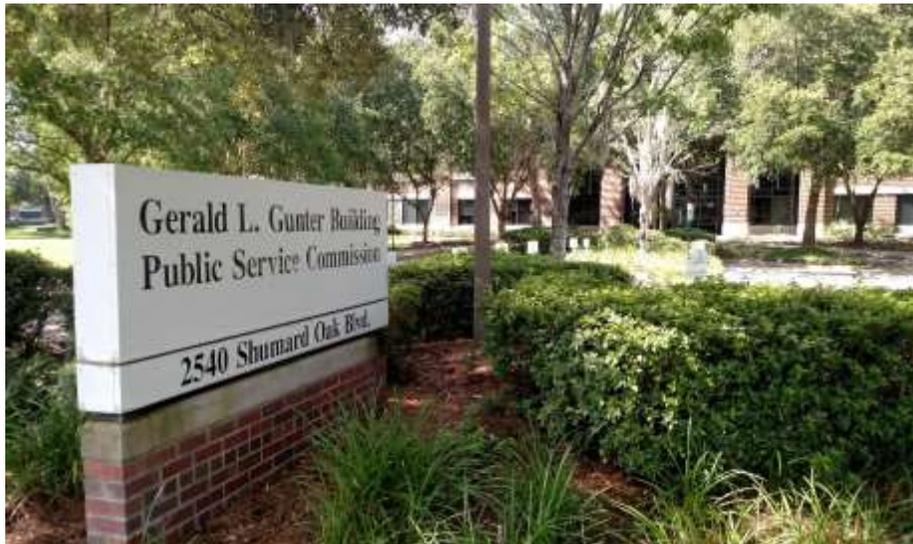
# Florida's "Public Service" Commission?

*A Captured Regulatory Agency*

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**October 2017**



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## Executive Summary

For most of its 130-year history, the agency now known as the Florida Public Service Commission was a three-person body, elected in statewide elections. In 1978, with the intent of taking politics out of the Commission's utility rate decisions, the legislature made the PSC a five-member appointed commission.

Since that change was made nearly 40 years ago, the Governor and the Florida Legislature have exercised considerable influence on the PSC through the nomination and appointment process. The utilities regulated by the PSC have a high degree of influence on the Governor and the legislature through political contributions and lobbying and have used that influence to pursue favorable regulatory decisions by the PSC, at the expense of the public. The result is an agency that has been "captured" by the industries it regulates – which often leads to decisions that are not in the best economic interest of Florida's families and businesses.

### Key Findings

- **The Florida Public Service Commission meets the criteria for a “captured” regulatory agency.** Investor-owned utilities make significant campaign contributions in Florida legislative races and have a formidable lobbying presence. The legislature has a great deal of influence on the PSC through its power of nomination and confirmation of commissioners as well as their oversight role for the Office of the Public Counsel.
- **The Public Service Commission needs more independence from the Florida Legislature.** The process for selection of PSC commissioners should be insulated from politics and lobbying.
- **Residential energy customers need more balanced prioritization.** Groups representing the interests of residential energy customers in rate proceedings are often outweighed by larger interests such as industrial users, retailers and hospitals.
- **Utilities are gaming the settlement process.** Utilities and those objecting to their requests routinely work out differences behind closed doors in settlement agreements. Utilities appear to approach the process of negotiation much like a used car dealer who marks up the initial asking price knowing that they will eventually agree to a lower amount.
- **The PSC is allowing utilities to shift risk from shareholders to customers.** Investor-owned utilities commonly pass risk and costs associated with the construction of speculative new reactors, natural gas fracking operations and other costs on to customers.

- **The Office of the Public Counsel needs more independence, just as the PSC, and should likewise be insulated from political considerations.**

### **Policy Options to Consider**

- **Return the Public Service Commission to an elected body or a mix of elected and appointed members.** This would give the public a voice in selecting commission members and make the commission more accountable to the public.
- **If all or part of the Commission is elected, consider prohibiting candidates for the commission from accepting campaign contributions from interests whose businesses are regulated by the PSC.** Mississippi, Alabama and Georgia currently prohibit those contributions.<sup>1</sup>
- **Broaden membership on the Public Service Commission Nominating Counsel to include, at minimum, consumer groups.** A model is Ohio, which has a broad-based nominating counsel that includes representatives of consumer groups and organized labor, in addition to the state bar, state accountancy board and other professional organizations.<sup>2</sup>
- **Require that the Office of Public Counsel must agree to any PSC settlements for cases in which it participates.**
- **If the commission is to remain an appointed body, require that it be nonpartisan by allowing no more than three of the commissioners to be a member of the same political party.**
- **Make residential and small business customers the focus of the Office of Public Counsel.**
- **Provide more funding for Office of Public Counsel.** Consider a dedicated source of funding for the office to further insulate the OPC from legislative control.
- **Explore making the Office of Public Counsel an independent entity like the Florida Commission on Ethics.**

## Introduction

The Florida Public Service Commission exists “to ensure that Florida's consumers receive some of their most essential services – electric, natural gas, telephone, water, and wastewater – in a safe, affordable, and reliable manner.” It exercises regulatory authority over investor-owned utilities concerning rates, competitive market oversight, and safety, reliability, and service issues.<sup>3</sup>

Although state law requires that the PSC “perform its duties independently,” the same law creates the agency as “an arm of the legislative branch of government” and delegates “a limited authority to the Governor...to participate in the selection of members.”<sup>4</sup> The law provides that potential commissioners be nominated by a Public Service Commission Nominating Council appointed by the Speaker of the House and the President of the Senate. The Governor then selects one of three nominees submitted by the Nominating Council for each vacancy. The Senate must confirm the appointment.<sup>5</sup>

Commissioners were elected from 1887 through 1978, when the law was changed to provide for their appointment,<sup>6</sup> in part to shield commissioners from campaign politics. Today the PSC is subject to a variety of ethics laws and prohibitions designed to insulate members from political or special-interest influence.<sup>7</sup>

Nevertheless, the independence of the PSC in exercising its powers over investor-owned utilities is questioned. A former commissioner and legislator said in 2014, “I’ve never seen anything so corrupt as the PSC.” She said that “after the third month” of her tenure, “the threats came in from the legislature to do as they say.” She and two other commissioners who took stands against the interests of utilities were not reappointed. “[A] corruptible legislature is at the heart of the Public Service Commission,” she said.<sup>8</sup> (See Appendix for details.)

Another former legislator echoed her views. “Unfortunately, the Public Service Commission and the Florida Legislature are bought and paid for by the utilities of Florida.”<sup>9</sup>

These views reflect a concern about “regulatory capture,” a process in which regulated industries co-opt regulatory bodies, using political means including campaign contributions and lobbying to attain undue influence over the regulators.<sup>10</sup>

This report examines the structure of the Florida Public Service Commission and the Office of Public Counsel. It explains how the PSC works and how commissioners are selected. It provides examples of egregious voting and unfair ratemaking and discusses the revolving door between the legislature, the PSC and the companies the PSC regulates. The report discusses why utilities are regulated, the need for utility consumer advocates and how utility regulators and

advocates are structured in other states. Finally, it provides policy reform options that might increase fairness of actions of the PSC to best serve the people of Florida. In the Appendix, the report also examines the functioning of the Office of Public Counsel.

## **Analysis**

### **The Florida Public Service Commission**

The mission of the Florida Public Service Commission is “to facilitate the efficient provision of safe and reliable utility services at fair prices”.<sup>11</sup> But in fact, the agency now known as the Public Service Commission was created before there were utilities or utility rates.

The PSC was originally known as the Florida Railroad Commission and was first established in 1887. The Railroad Commission was abolished in 1891 and re-established in 1897. In 1911, the Railroad Commission was given jurisdiction over telephone services and in 1929 jurisdiction over motor carrier transportation was added.

In 1947, the agency’s name was changed to the Railroad and Public Utilities Commission and in 1951 jurisdiction over investor-owned electric utilities was added to its regulatory authority. The agency continued to evolve as the legislature gave it authority over investor-owned natural gas utilities and jurisdiction over safety only for municipal-owned gas utilities. In 1959, it was given jurisdiction over privately owned water and wastewater companies. In 1965 its name was changed to the Florida Public Service Commission.

Florida law gives the PSC regulatory authority over utilities in one or more of three areas including their rates, competitive market oversight and monitoring of safety, reliability and service issues.

As of 2016, the Florida PSC regulated five investor-owned electric companies, eight investor-owned natural gas utilities and 151 investor-owned water and wastewater utilities. It also has competitive market oversight for 336 telecommunications companies in Florida.

The PSC does not regulate the rates and service quality of the 35 publicly owned municipal electric utilities and 18 rural electric cooperative utilities. The Commission does retain jurisdiction over rate structure, territorial boundaries, bulk power supply operations and power supply planning for those utilities. The PSC has jurisdiction over 27 municipally owned natural gas utilities and four gas districts for territorial boundaries and safety. The Commission also has safety authority for all electric and natural gas utilities in the state.

An important structural change in the evolution of the modern-day PSC happened as a result of legislation passed during the 1978 legislative session. The law, a priority for then-Governor

Reubin Askew,<sup>12</sup> changed the makeup of the Commission from a three-person elected body to a five-person appointed body. The law gave the power to appoint the commissioners to the Governor, subject to confirmation by the Senate.

Current Commissioners are Chair Julie Brown, Donald Polmann, Art Graham and Ronald Brisé. The terms of the latter two are expiring and both applied for reappointment through the nominating council. In addition, a vacancy existed after the resignation of Jimmy Patronis, appointed by Governor Rick Scott as Chief Financial Officer in late June.<sup>13</sup>

Governor Rick Scott has announced that Commissioner Brisé will not be reappointed for another term and his seat will be filled by former state legislator Ritch Workman. Governor Scott also has reappointed Commissioner Graham to another term on the Commission and appointed Gary Clark to fill the vacant seat of Jimmy Patronis.<sup>14</sup>

The budget for the Florida PSC is subject to appropriation by the Florida Legislature and was \$24,618,639 for fiscal year 2017-18 with 277 staff positions.<sup>15</sup>

### **Public Service Commission Nominating Council**

Florida law<sup>16</sup> also provides for a Public Service Commission Nominating Council tasked with interviewing and evaluating applicants who want to serve on the PSC. The Nominating Council<sup>17</sup> usually meets twice a year and has 12 members, six appointed by the Senate President and six appointed by the House Speaker.

When a seat on the PSC becomes vacant,<sup>18</sup> the Nominating Council seeks, receives and reviews applications from those interested in serving on the Commission. It selects a list of the “most qualified applicants” based on qualifications prescribed by law for PSC members as well as those personal qualities and attributes of character, experience, temperament, professional competence and other characteristics deemed essential to Commission membership.

After selecting the list of qualified applicants, the Nominating Council interviews and investigates the applicants. The Council then selects, by a majority vote of its membership, the nominees to be submitted to the Governor. The Council nominates at least three applicants for each vacancy on the PSC.

Florida statutes also provide a procedure by which the Nominating Council can, by majority vote, make its own appointment to the PSC. The Council makes the appointment if the Governor does not appoint someone within 30 days after receiving the nominations, or if the Governor’s appointment is not confirmed by the Senate.

## **Office of the Public Counsel**

The Office of the Public Counsel was created by the Florida Legislature in 1974 to provide legal representation “for the people of the state” in utility-related matters.<sup>19</sup> The Public Counsel is appointed by the Joint Legislative Committee on Public Counsel Oversight and serves at the pleasure of the committee. Florida statutes<sup>20</sup> require the Public Counsel to be an attorney and represent the public in proceedings before the Florida Public Service Commission and before counties in water and wastewater proceedings.

The Public Counsel intervenes in utility rate proceedings before the Public Service Commission.<sup>21</sup> The Counsel performs independent analysis, presents testimony of independent witnesses, cross-examines utility witnesses and files recommendation and briefs in rate cases. The Public Counsel can also appeal decisions made by the PSC to state appellate courts.<sup>22</sup>

The budget for the Office of the Public Counsel is subject to appropriation by the Florida Legislature and was \$2,431,400 for fiscal year 2016-17.<sup>23</sup> The Office of the Public Counsel currently has 15 positions, six of which are attorneys.<sup>24</sup> The current Public Counsel is J.R. Kelly, who was appointed to the office in November 2007.

## **Joint Committee on Public Counsel Oversight**

The Joint Committee on Public Counsel Oversight is one of three joint legislative committees established in legislative rules.<sup>25</sup> The committee is responsible for hiring the Public Counsel and oversight of the office. The chair and vice chair of the joint committee are appointed by the House Speaker and Senate President respectively. The other committee members are selected according to each chamber’s rules.

According to the legislature’s website,<sup>26</sup> the Joint Committee on Public Counsel Oversight last met in February 2013.<sup>27</sup> At that time it heard a presentation from Public Counsel J.R. Kelly giving an overview of the office.

## **PSC Standards of Conduct**

Members of the Public Service Commission and its staff are subject to additional standards of conduct that go beyond the ethics code<sup>28</sup> contained in Chapter 112 of Florida statutes. Florida law<sup>29</sup> provides standards of conduct specifically for PSC commissioners, which include a prohibition on accepting anything from any business entity that either directly or indirectly owns or controls any public utility regulated by the Commission. The statute contains exemptions that allow commissioners to attend conferences and events and to receive meals, even if those meetings, meals or events are sponsored in whole or in part by a utility regulated by the PSC.

The standards of conduct also prohibit commissioners from accepting employment or engaging in business activity or having a financial interest with any utility or its owners regulated by the Commission. Commissioners are also required to avoid impropriety and act in a manner that promotes public confidence in the integrity and impartiality of the PSC. Commissioners must complete four hours of ethics training annually.

The law<sup>30</sup> also prohibits commissioners from initiating or considering “ex parte communications” (communications between the commission and one party in a dispute) in any pending proceeding. The PSC’s internal rules<sup>31</sup> also address ex parte communications between commission staff and parties to docketed proceedings before the commission. The rule requires any communication from or to a party in a proceeding be transmitted to all parties at the same time and it prohibits staff from relaying to a commissioner any communication that would be a prohibited ex parte communication under Florida statutes.

Florida law also prohibits former commissioners from appearing before the Commission representing any client or industry regulated by the PSC for two years after leaving the Commission. Former commissioners are also prohibited from accepting employment or compensation from entities that own or control a utility regulated by the PSC for two years after leaving the Commission. Former PSC staff are prohibited from appearing before the Commission on any matter they participated in that was pending when they left the Commission.

## **Ratemaking**

When a utility under the jurisdiction of the Florida PSC wants to change its rates, it must seek and receive permission.<sup>32</sup> The PSC investigates the rate request and sets new rate levels if Commissioners determine the request is merited. It is the responsibility of the PSC to balance the needs of a monopoly utility with the needs of consumers and to set rates that are fair, just and reasonable. It also must set rates that allow utility investors to earn a reasonable return on their investment.

There are two ways that rates can be adjusted or changed. The PSC has the authority to allow certain expenses that can vary year-to-year to be recovered through annual cost recovery clauses. Hearings are held annually to determine the validity of requested expenses including fuel costs, conservation program costs, environmental compliance costs and costs associated with building new nuclear power facilities.

Rates can also be changed through general rate base proceedings. The filing of a rate case application initiates a process that, by law, must be completed within eight months.<sup>33</sup> PSC investigations into utility rate requests can be extensive and include customer hearings within the utility’s service area. For example, in Gulf Power’s October 2016 request for a rate increase, PSC Commissioners scheduled two January 2017 hearings in Pensacola and Panama City.<sup>34</sup>

Customers can make comments or ask questions about the proposed rates as well as comment on the utility's operations.

Following the customer hearings in the utility's service area, technical hearings are held where evidence is presented by expert witnesses in support of the various viewpoints in the rate case.<sup>35</sup> Interested parties can intervene in the proceedings and present witnesses. The Office of the Public Counsel, which is appointed by the Florida Legislature and is independent of the PSC, represents the utility's customers in the rate case hearings. Witnesses are cross-examined by the utility, the Office of the Public Counsel, intervenors and staff.

In rate cases, customers are grouped together into rate classes based on energy use characteristics.<sup>36</sup> Classes include single and multi-family residential, small, medium and large commercial and industrial. Other rate classes include street lighting, irrigation, water pumping and standby service.

After all evidence has been presented, the Commission reviews the record and decides. The decision determines the level of rates the utility will be allowed to collect. Rates are supposed to be calculated to generate revenues that allow a utility to earn the amount needed for all approved expenses plus the authorized return on investment for the utility's stockholders.

Often, the Office of the Public Counsel and representatives of the utility seeking a rate increase can negotiate a settlement and are able to avoid a formal regulatory hearing.<sup>37</sup> Under the negotiated settlement process, the Office of the Public Counsel and the utility negotiate terms with regard to the proposed rate increase as well as other items. The negotiated settlement is then presented to the PSC, which almost invariably approves the agreement.

Once the Commission issues its final order, new rates take effect in 30 days. The decision can be appealed to the state's appellate court system.

### **The Need for Utility Consumer Advocates**

Many state utility consumer advocate offices were established in the 1970s. Until that time, regulation appeared to work effectively. New energy supplies were brought online, utilities achieved efficiencies in generation and transmission, consumers' energy rates declined and utilities still made substantial profits.

But in the 1970s, the energy industry changed with the Arab oil embargo, cost overruns on nuclear power plants and the Three Mile Island nuclear reactor accident in 1979. Growing environmental concerns lengthened the process of developing and constructing new power plants and slowed regulatory approval. Consumers began pressuring regulators to deny utilities higher

rates they sought to pay for cost overruns.<sup>38</sup> As a consequence, states created utility consumer advocacy offices with authority to intervene in rate cases on behalf of consumers.

Florida's Office of Public Counsel was created by the legislature in 1974 because of "legislative and public concern that the diverse functions concentrated in the Florida Public Service Commission of judge, investigator, advocate, and enforcer of the state's public utility regulatory statutes were mutually incompatible."<sup>39</sup>

## **Regulatory Capture**

Some consumer-oriented groups support strong independent utility consumer advocate offices to offset "regulatory capture," a process in which regulated industries co-opt public service commissions. In this process, regulated utilities use political means, including campaign contributions and lobbying, to attain undue influence over the regulatory bodies to achieve the outcomes they desire. They "overwhelm the voices of ordinary citizens" and pervert the regulatory process: "Regulation by a captured regulatory agency is worse than no regulation at all because it wields the authority of government but without the accountability to the public."<sup>40</sup>

Among the signs that a regulatory body has been "captured" by the industry it regulates, academic experts say, is an inordinate focus on what additional money the company wants, at the expense of attention to what the public interest needs. Another sign is lack of independence: when the regulated body can go to the governor or legislature and pressure the regulator behind the scenes. "Agencies that have a choice: cave, or remind the governor that her influence over sitting commissioners is no greater than any other citizen. The wrong choice is evidence of capture." Warning signs include both the actions of regulated companies and the actions or inactions of the regulatory agency and political leaders.<sup>41</sup>

## **Appointed Versus Elected PSC**

For much of its history, the body now known as the Florida Public Service Commission was a three-member board elected in statewide elections. In 1978, the legislature changed the PSC to a five-member appointed board.<sup>42</sup> According to Martin Dyckman's biography of former Florida Governor Reubin Askew, the change was made in a 1978 special session that followed the regular session.<sup>43</sup>

Askew, who strongly supported moving to an appointed PSC, said the change "would broaden the range of expertise...and provide for better representation of the public." The idea originally came up during the 1977 legislative session. That year, Governor Askew had the support of House Speaker Donald Tucker, but the legislation was blocked by Senate President Lou Brantley.

Governor Askew continued the fight for an appointed PSC in 1978. One of the then-elected PSC Commissioners, William Bevis, asked to be appointed to the newly created Crime Victims' Compensation Commission, where he would not have to face another election or continue to quarrel with fellow PSC Commissioner Paula Hawkins.<sup>44</sup>

Askew appointed Robert Mann to fill the Bevis vacancy. Mann was a former legislator and appeals court judge who had become a University of Florida law professor. Askew was quoted as saying Mann epitomized the "quality" Floridians could expect if all PSC members were appointed. According to Askew biographer Dyckman, most Republican legislators opposed the bill to create an appointed PSC because they saw it as a threat to Hawkins, who at the time was the only Republican statewide elected officeholder.

Hawkins, who first ran for the PSC in 1972, billed herself as the "housewife from Maitland" (Florida), and she was known for voting against utility rate hikes and advocating for open meetings.<sup>45</sup> Governor Askew considered her to be honest and a consumer advocate who "was not under the influence of the utilities."<sup>46</sup> But he also thought she was overplaying her hand and endangering the electric power industry's ability to raise capital. Askew was quoted as saying, "When you start voting against almost everything that comes before your commission, you create the image of an unfair regulatory practice."

When the regular 1978 legislative session concluded, Senate President Brantley had again successfully blocked passage of the PSC reform legislation. Askew called a special session, ostensibly to deal with an issue involving sovereign lands, but secretly Askew was also negotiating with legislative leaders other than Senator Brantley for the appointed PSC.

When the two-day special session adjourned, Governor Askew had his appointed PSC. Askew said the PSC reform bill would "take the complex and technical and controversial issue of establishing utility rates out of the hands of politicians and put it into the hands of competent, qualified individuals."

From the beginning, utility lobbyists exerted a strong influence on the appointed PSC through the legislature.<sup>47</sup> The bill established a nine-member nominating council, appointed by the Senate President and House Speaker, to recommend candidates to the Governor for appointment to the PSC. The council fought with Governor Askew, sending him names only for the two new seats on the now five-member appointed board, leaving the three PSC elected incumbents in place.

Months later, the nominating council left incumbent Commissioner Robert Mann off its interview list, even though Governor Askew had said Mann was exactly the "quality"

commissioner Floridians could expect through an appointive process. The move was reprisal for a vote by Mann that Florida Power Corporation didn't like. The council later restored Mann to the list after criticism from the media.

In the years since 1978, there has been criticism of the undue influence of the utilities on the legislature and indirectly the PSC through the appointment process. A Palm Beach Post story from February 1992 quotes former Florida Senator Jack Gordon: "I have always been for an elected PSC.... I just think this process (appointive) is not a very good one."<sup>48</sup> Gordon was criticizing the appointment process for being too political following the reappointment of Thomas Beard to the PSC by former Florida Governor Bob Martinez.<sup>49</sup> The Post reported that Beard had been the personnel manager for Clay Electric Cooperative and had raised campaign money for Martinez.

### **Recent Attempts at Reform**

In the 2000s, criticism of the influence of the utilities on the appointive process increased as did legislative efforts to return to an elected process. When he was Attorney General in 2005, Charlie Crist issued a statement in support of returning to an elected process.<sup>50</sup> "The past few years have seen record-setting telephone rate hikes, surcharges added to electric bills, and investigations into the propriety of certain actions by some of the PSC commissioners themselves. Enough is enough," Crist said.

"If the people of Florida are required to pay higher costs for essential public services, they should certainly have a voice in the process. The surest way to give them that voice is to allow them to directly choose the members of the PSC," he said.

In the 2006 legislative session, then-Senator Nancy Argenziano sponsored Senate Bill 1222,<sup>51</sup> which carried out Attorney General Crist's call for a return to an elected PSC. Under the bill, the PSC would continue to be a five-member commission, with members being elected statewide to staggered four-year terms. The bill and its House companion, HB 537, were never heard in committee.

In 2010, more evidence emerged that the utilities had the ability to exert undue influence through the legislature on the appointment of PSC commissioners. In 2009, the two largest electric utility providers in the state, Florida Power & Light and Progress Energy (now Duke Energy) requested sizable rate increases. Then-Governor Crist was a vocal opponent of the rate hikes and had appointed members of the PSC who were considered friendly to utility customers.<sup>52</sup>

In January 2010, the PSC ruled against the Progress Energy and FPL rate requests.<sup>53</sup> Just a few months later, during the 2010 legislative session, the Florida Senate refused to confirm two of

Governor Crist's new PSC appointees. The failure to confirm the two sitting commissioners, David Klement and Benjamin "Steve" Stevens, came amidst reports that rejecting the customer-friendly Crist appointees was a "priority" for Florida's largest utilities.<sup>54</sup> Klement and Stevens were two of the four commissioners who voted against the utility's rate hike requests.

Later that same year, the legislature-dominated Public Service Commission Nominating Council failed to re-nominate the other two members of the PSC who voted against the two utility rate increases.<sup>55</sup> The 12-member Nominating Council voted to interview 18 candidates for the two positions on the PSC, but refused to interview PSC chairwoman Nancy Argenziano or Commissioner Nathan Skop.

Both Argenziano and Skop had asked to be reappointed to the PSC, but were opposed by the utility industry. The nominating council was chaired by then-state Senator Michael Bennett. Bennett also chaired a political committee at the time that was named "Committee Supporting Utilities and Competitive Commerce."

Since the utilities exercised their legislative muscle to remove the four PSC commissioners, the PSC rarely rejects a request by the utility industry. In November 2016, the PSC unanimously approved a \$400 million Florida Power & Light rate hike for 2017 as well as a \$411 million increase over the next three years.<sup>56</sup> The agreement was endorsed by the Office of the Public Counsel, but was opposed by consumer groups, including the Sierra Club and AARP. The ruling was a typical settlement agreement in which the utility backed off its original rate increase request of \$1.3 billion in return for the four-year rate guarantee.

The removal of the commissioners who voted against the utility rate hike in 2010 did prompt new calls for reform of the appointment process. In 2011, joint resolutions were filed in both the Senate<sup>57</sup> and the House<sup>58</sup> to return the PSC to an elected body. In addition to returning to an elected PSC, the legislation also would have prohibited candidates for the PSC from accepting campaign contributions from a public utility or any business entity regulated by the Commission. The legislation did not receive a committee hearing.

In 2013, there was another attempt to return the PSC to an elected body. Bills by Democratic members of the Senate and the House would have made the Commission a nonpartisan, elected body and prohibited campaign contributions by the utilities to candidates<sup>59,60</sup> Under the bills, the five PSC commissioners would be elected in separate districts corresponding to the District Courts of Appeal. Again, the bills were never heard by a committee.

Legislators also filed bills for the 2015 legislative session attempting to reform the PSC appointment process.<sup>61</sup> The bills did not attempt to return to an elected Commission and instead would have required the Governor to appoint separate commissioners who live in five districts

that align with the boundaries of the five District Courts of Appeal. The bill also would have limited commissioners to two four-year terms of office and prohibited elected officials from being appointed to the PSC for two years after they leave office. Those bills were never heard by a committee.<sup>62,63</sup>

In 2016 and 2017 there were no legislative attempts to return the PSC to an elected body. A bill by the House Energy and Utilities Subcommittee in 2017 would have made changes to the appointment process including requiring the Governor to appoint commissioners from five districts that align with the District Courts of Appeal.<sup>64</sup> It also would have decreased the term limits for PSC commissioners from three four-year terms to a maximum of two four-year terms and it would have prohibited former legislators from serving on the PSC for six years after leaving office. The bill was heard and passed by two House committees, but ultimately died without being considered by the full House.

The influence of the utilities on the Florida Legislature through campaign contributions and lobbying expenditures was documented in a 2014 Integrity Florida report titled *Power Play: Political Influence of Florida's Top Energy Corporations*.<sup>65</sup> The report found that the state's four largest investor-owned utilities had "outsized influence" on the Florida Legislature and indirectly the PSC through campaign spending and lobbying expenditures. That outsized influence by the utilities may explain why bipartisan legislative efforts to reform the PSC appointment process have typically not been given a committee hearing, much less a discussion and vote by the full House and Senate.

Despite the reluctance of the legislature to reexamine the decision almost 40 years ago to move from an elected to an appointed PSC, it's an open question as to whether the agency truly serves the "public" as its name implies. Policymakers should consider whether steps need to be taken to further insulate the PSC and its regulatory decisions from influence and interference by the legislature and the utilities.

Policymakers should also revisit the intent of former Governor Askew and the legislature in 1978 when they decided an appointed PSC would "provide for better representation of the public." Askew said he wanted to take "utility rates out of the hands of politicians and put it into the hands of competent, qualified individuals." Evidence suggests there is still too much political influence on PSC commissioners and the ratemaking process.

## **Controversial Rate Decisions**

Contested rate cases often involve base rates, which allow utilities to recover their costs with a fair and reasonable rate of return, as well as cost recovery for expenses relating to fuel costs, environmental compliance, conservation and advance cost recovery for nuclear power facilities.

## **Rate Settlements**

Substantially affected parties often intervene in rate proceedings while the Office of the Public Counsel (OPC) intervenes on behalf of consumers. These decisions can involve rate hikes, cost recovery and the determination of an allowable return on equity (ROE), or profits allowed. Many contested rate cases are resolved by the public counsel and other intervening parties forming a settlement agreement. In theory, these agreements are in everyone's best interest as litigation is costly and time-consuming for both sides.

In most cases, the negotiated settlement process involves the consumer representative and other involved parties negotiating terms with regard to consumer rates and other items outside of formal regulatory hearings. The parties then submit the settlement to the PSC for approval and if the settlement is approved, no formal evidentiary hearing takes place and the terms of the agreement are upheld.<sup>66</sup> Sometimes the OPC is able to negotiate more immediate rate decreases in settlements than is possible under a traditional proceeding in exchange for other benefits to the utility. However, there has been at least one instance where a utility filing the rate request negotiated a settlement with interested parties to move forward without the OPC's approval.<sup>67</sup>

## **Controlling Utility Rates**

When evaluating rate increases, the PSC is tasked with balancing the interests of both ratepayers (customers) and the utilities' shareholders. Ratepayers fall into one of several rate classes based on common energy use characteristics. Residential customers may fall into single family or multi-family dwelling classes. General service or commercial class are subdivided into small, medium, and large. Additional classes are the industrial rate class and other classes such as street lighting, irrigation, water pumping and standby service.<sup>68</sup>

In its government program summary, the Florida Legislature's Office of Program Policy Analysis & Government Accountability (OPPAGA) questioned how effective the commission is at controlling utility rates. As a performance measure the OPPAGA report points to the annual utility increases for average residential usage compared to inflation as measured by the Consumer Price Index. They state that the commission's goal was to limit the increase to one percent more than the actual index of 2.62 percent for the 2014-2015 fiscal year. However, for that year, the commission reported an increase of 5.7 percent for all industries.<sup>69</sup>

## **Regulatory Capture: Industry Influence on the Commission**

A review of rate proceedings for Florida's four largest electric utilities suggests that these companies exert a high and unbalanced degree of influence on the PSC's rate decisions, especially in contrast to those representing the interests of residential ratepayers. This is consistent with previous Integrity Florida research<sup>70</sup> which found that the Florida Legislature and

the Public Service Commission routinely side with electric utilities rather than consumers. This is consistent with the definition of “regulatory capture” - an agency that is captured by the very utilities it is charged with regulating.

## **FLORIDA POWER & LIGHT**

### **2009 FPL Rate Hike**

A previous Integrity Florida report looked closely at a controversial 2009 rate request by Florida Power & Light (FPL) for a \$1.3 billion rate hike vehemently opposed by Governor Crist and the OPC, who went as far as to recommend a decrease in FPL’s base rate by \$364 million.<sup>71</sup> Through the course of the proceedings FPL admitted to overcharging customers \$1.25 billion for aging infrastructure which they used partly as the basis for the rate request. High executive pay and uses of company dollars on corporate jets and helicopters led to questions by some as to why the company needed such a dramatic increase in rates.<sup>72</sup>

In January of 2010, the PSC ruled against FPL’s rate request along with a separate rate hike request by Progress Energy (now Duke Energy). Apparent retribution by the utilities and their allies in the legislature was swift, raising questions as to whether commissioners can act independently to protect consumers when serving on a commission that is an extension of the legislature.

Several months after commissioners voted against the rate hike requests, four of the five PSC commissioners who voted against the increases in rates lost their jobs on the commission. Two were awaiting their official Senate confirmation after being appointed by Governor Crist but were suddenly rejected by Senators.<sup>73</sup> Similarly, two of the strongest consumer advocates on the commission, Nancy Argenziano and Nathan Skop, were in effect fired when the PSC Nominating Council, appointed by the President of the Senate and Speaker of the House, rejected the two commissioners’ applications for another term of office.<sup>74</sup> In December of 2011, Eric Silagy was named the new president for FPL when Armando Olivera retired.<sup>75</sup> Silagy had previously been promoted to senior vice president of regulatory and state government affairs in May 2010 after he led a secret campaign to challenge the PSC commissioners who were later removed from the commission.<sup>76</sup>

### **The Whistleblower Letters**

As tension mounted around FPL’s 2009 rate-hike request the PSC received the first of several whistleblower letters from three senior level management employees of NextEra Energy, FPL’s parent company. The first several letters arrived in January of 2010 before the PSC ruled on the FPL rate case. The whistleblowers claimed that through a tax scheme the company was stripping \$1 billion in benefits from ratepayers. The authors alleged that employees who questioned the

practice were told to shut up and that the right people at the PSC knew about it.<sup>77</sup> Another letter appeared later that month making similar allegations<sup>78</sup> and then a third in early February<sup>79</sup> and a fourth in 2011. The whistleblowers specifically blamed several FPL executives for deceptive and fraudulent activities, including Silagy, vice president of regulatory affairs, Tim Fitzpatrick, vice president of communications, Wade Litchfield, general counsel and Armando Olivera, FPL president.<sup>80</sup>

In a second letter in February 2010 addressed to FPL's CEO,<sup>81</sup> as well a third whistleblower letter in June 2010<sup>82</sup> and fourth in December 2011,<sup>83</sup> anonymous employees admitted to a list of potentially criminal acts they performed under the direction of company heads. This included providing inaccurate, selective, self-serving and incomplete info to the PSC in rate case proceedings. The authors alleged that they were directed and instructed to craft, draft and manipulate facts, data, and half-truths for their communications and customer service teams as well. The authors said that they were also deceptive with stakeholders when trying to influence opinion leaders, politicians and customers.<sup>84</sup>

Most relevant to the rate proceeding was an allegation by the anonymous authors that FPL managers had them create two different budgets: one for internal use and one with inflated expenses that they used in the 2009 rate hike proceedings.<sup>85</sup> In response to the letters that had arrived while the FPL rate proceeding was still active, the PSC said it would look into the allegations, but dismissed their connection to the rate proceeding at hand.<sup>86</sup>

In December 2011, the fourth whistleblower letter accused NextEra's senior officers of fraud and illegal conduct. The company discovered that the anonymous letter came from Jeff Bartel, who admitted to being the author while serving as FPL vice president for compliance and corporate responsibility.<sup>87</sup> Bartel was soon laid off when the company restructured in 2011 and then sued by FPL several years later.<sup>88</sup> Some speculate that Bartel was disgruntled that he was not chosen to succeed Armando Olivera and that instead Eric Silagy was given the position.<sup>89</sup>

In 2013, the PSC again received what eventually became a high-profile whistleblower complaint from a former Peoples Gas employee named Pam Carollo. She alleged that the utility was not maintaining a safe infrastructure and that managers were avoiding a critical safety review by befriending the PSC's utility inspector with free lunches and special treatment. Ms. Carollo's complaint led to audits of the company that resulted in the PSC eventually levying a \$3 million fine on the company in March 2017. When asked why the commission did not credit or acknowledge Carollo's complaint, the commission's executive director, Braulio Baez, stated that they are legally prevented from dealing with whistleblowers because their allegations carry legal significance for any court enforcing the whistleblower statute.<sup>90</sup>

## 2012 FPL Rate Hike and the OPC

In 2012, FPL again asked the PSC to raise base rates by \$690.4 million per year and for an 11.5 percent rate of return, up from 10 percent, to cover the projected costs of a new plant. The OPC contested the rate request as being excessive and was joined by the Florida Retail Federation and AARP in opposition. Public Counsel J.R. Kelly specifically argued that FPL was making excessive profits, using its utility as a monopoly to subsidize shareholder earnings for the non-regulated side of its business at its parent company, NextEra.<sup>91</sup>

In response, the PSC sidestepped the OPC by approving a settlement agreement with the Florida Industrial Power Users Group, the South Florida Hospital and Healthcare Association and Federal Executive Agencies.<sup>92</sup> The settlement with these larger energy users allowed FPL to raise its maximum allowed profit margin from 11 to 11.5 percent while granting the company the entirety of the \$690.4 million rate request with an additional \$304 million over four years as new plants came into service. The OPC warned that this deal could work against the public in the future by encouraging utilities to circumvent his office.<sup>93</sup>

The OPC continued to oppose the rate increase, arguing it was a bad deal for consumers by shifting costs from commercial to residential customers, raising their rates by \$10 per month over a four-year period. Later that same year, in October, the OPC took the extreme step of requesting that the Florida Supreme Court halt the rate settlement,<sup>94</sup> arguing that the settlement served only the largest businesses of the state. Kelly felt the settlement was invalid because his office did not sign off on it.<sup>95</sup>

In its brief to the court, The Office of Public Counsel (OPC) argued that the PSC order would give FPL \$500 million more in annual revenues than experts recommend and it would add at least an additional \$450 million in previously unrequested rate increases during 2014 and 2016. OPC called the PSC decision a lopsided and unjust order “heavily skewed to favor FPL to the detriment of customers.”<sup>96</sup>

This was the first time the PSC had approved a settlement without the public counsel’s consent. The court was asked to invalidate the rate increase on that basis.<sup>97</sup> However, Chief Justice Jorge Labargea concluded in a 62-page opinion that state law allows the PSC to independently determine rates and that the power is not dependent on the approval of the Office of Public Counsel.<sup>98</sup> The court also rejected an argument that the settlement violated the due process rights of more than 99 percent of FPL’s customers who received a rate increase while the company’s commercial users, who comprise less than one percent of the customer base but use a proportionately higher amount of electricity, got a rate reduction.<sup>99</sup>

In 2015, Senator Jack Latvala attempted to pass legislation that would have reversed the court’s opinion regarding the significance of the OPC’s role in rate cases.<sup>100</sup> Among other things, the

bill would have prohibited the submission of a settlement to the PSC in cases where the OPC was a party to the relevant proceeding, but not a party to the settlement. It would have also prohibited the PSC's approval of such settlements, giving the OPC significantly more leverage to protect the interest of consumers in rate proceedings.<sup>101</sup> That language was stripped from the bill before its final passage.

## **2016 FPL Rate Hike**

In 2016 FPL was granted another large rate hike by the PSC. The company initially sought a \$1.3 billion rate increase over three years, amounting to a 24 percent increase on customers' monthly bills.<sup>102</sup> FPL also asked to increase its allowed shareholder profit, or rate on equity (ROE), from 10.5 percent to up to 12.5 percent.<sup>103</sup> The OPC eventually claimed victory for consumers after entering into a settlement agreement with FPL with sign-off from the South Florida Hospitals and Healthcare Association along with the Florida Retail Federation.

The PSC unanimously approved the settlement that included an \$811 million increase with an ROE range from 9.6 to 11.6 percent. This amounted to a \$400 million increase on customer's bills in 2017, to be followed by \$411 million in rate hikes over the next three years, during which FPL would not be able to request additional base rate hikes. However, the company can still request rate increases to fund projects.<sup>104</sup>

The Florida Industrial Users Group, Federal Executive Agencies and the Sierra Club did not sign off on the settlement agreement. A central argument by opponents to both the initial rate request and the settlement agreement was that FPL was speculating on new energy sources with customers' money rather than shareholders bearing that risk. Opponents also said the high ROE approved in the settlement to boost company profits was anti-consumer.<sup>105</sup> Consumer advocates also pointed out that FPL was making this request while earning \$1.6 million more in profit over the previous year while funding Amendment 1, which was perceived by many as an anti-solar energy effort led by the utilities.<sup>106</sup> The amendment failed to achieve the required 60 percent threshold for approval.

Commissioners justified the rate increase as a good deal for consumers in that it limited rate increases to four years, creating some predictability. They also argued it would pave the way for the utility to invest in a large solar expansion while preventing the company from further engaging in natural gas hedging, a practice that has resulted in millions of dollars in losses and enormous expenses for customers.<sup>107</sup> According to the public counsel's office, hedging has cost customers \$6.5 billion since 2002.<sup>108</sup>

The national Sierra Club recently requested that the Florida Supreme Court overturn the PSC's decision involving the 2016 FPL rate hike. The Sierra Club argues the decision requires FPL customers to fund natural gas expansions that FPL has failed to justify as the most necessary or

cost-efficient option. The Sierra Club also argues that the PSC did not require FPL to analyze alternative energy options such as solar. At the time this report was written, the utility had dismissed the legal challenge as frivolous and no further action had occurred by the utility or the court.<sup>109</sup>

### **Customers Bear Risk of Speculative Nuclear Project**

Earlier this year in May, FPL announced that it would postpone the Turkey Point nuclear expansion for at least four years.<sup>110</sup> FPL has been planning the addition of two new nuclear power units at this site since 2008 while using the state's advanced nuclear cost recovery law<sup>111</sup> to collect \$281 million from customers over that time period with the PSC's permission.

FPL's announcement included a request to the PSC that the company be allowed to continue accruing costs, for later recovery from customers, - another \$25 million in 2017 and \$90 million or more through 2021, despite FPL's own admission that the project would be placed on hold for years. FPL also requested that the PSC waive the requirement that it demonstrate the feasibility of the project. Without a feasibility analysis, the Commission cannot determine whether the project remains a good economic deal for FPL's customers.

The City of Miami, consumer groups, the OPC and others urged the PSC to reject FPL's request for a waiver on the grounds that the company should justify charging customers for a project that may no longer be feasible.<sup>112</sup> Consumer groups further questioned the feasibility of this project when Westinghouse, the firm selected to design and build the reactors, announced that they would be leaving its plant construction business, throwing the fate and feasibility of the project, and other projects in the southeast region, further into question.<sup>113</sup>

FPL's proposals to build the two new reactors along with 89 miles of transmission line above ground were approved by the PSC in 2008;<sup>114</sup> the Governor and the Cabinet sitting as the State Siting Board approved the proposals in 2014.<sup>115</sup> However, the portion dealing with the transmission lines was reversed and remanded by the Third District Court of Appeal, which argued that the PSC had overreached its authority.<sup>116</sup>

The court ruled in favor of the City of Miami, Miami-Dade, and other local governments that opposed the plan because the PSC had not taken local development rules into consideration.<sup>117</sup> FPL appealed the Third District Court's decision<sup>118</sup> to the Florida Supreme Court, which declined to hear the case, leaving the lower court decision in place.<sup>119</sup>

This led FPL to pursue state legislation<sup>120</sup> in 2017 in hopes of overturning the court decision by clarifying that the PSC had sole authority to determine plans regarding utility lines.<sup>121</sup> SB 1048<sup>122</sup> passed the Senate with ease despite facing opposition from local government officials.<sup>123</sup> However, the House companion bill, HB 1055,<sup>124</sup> died in its final committee stop.

A decision on FPL's request to continue accruing costs on the proposed reactors, for later recovery from customers, without a feasibility analysis is pending before the Commission. Recently, the V.C. Summer nuclear project in South Carolina was abandoned. An owner of the project, Santee Cooper, projected significant cost increases after the Westinghouse bankruptcy which brought the total cost of the project to over \$25 billion.<sup>125</sup>

### **Woodford Project**

The courts again checked the power of the PSC earlier this year when the Florida Supreme Court ruled that the commission had exceeded its authority by allowing FPL to charge customers for a speculative investment in an out-of-state fracking company.

The Woodford Project was a \$191 million joint venture between FPL and Oklahoma-based Petro-Quest to explore for natural gas. In December 2014, the PSC approved FPL's request to pass the cost of investment and risk associated with the project to customers as a fuel charge on their monthly bills.

In June 2015, the PSC further approved FPL's request to invest as much as \$500 million a year in similar exploratory natural gas drilling operations.<sup>126</sup> The commission ignored a strongly worded staff recommendation urging the commission to reject FPL's proposal to expand on the Woodford project. The staff's recommendation argued that the project was untested and a risky investment with potential to benefit FPL's shareholders more than its customers.<sup>127</sup> Additionally, they argued that the benefits of the proposal were not equitable between FPL and its customers. Whereas the company would enjoy immediate benefits through additional profits, customers could be waiting for decades before they saw any decrease in fuel costs.<sup>128</sup>

The investment was a departure from the typical practice of utilities buying natural gas and then passing along costs to customers after the service is delivered. This also would have set a new precedent for utilities making profits off the fuel itself, which until now has not been the case. However, FPL argued that the investment would act as a long-term hedge against volatile fuel costs, thus benefitting their customers. Opponents argued that the commission was allowing FPL to transfer the risk of a speculative investment from its shareholders to customers.<sup>129</sup>

The proposal was opposed by the Public Counsel, the Florida Industrial Power Users Group, the Florida Retail Federation and environmental groups. However, the PSC ignored its staff and other opponents and sided with FPL, granting its ability to charge customers up to \$500 million per year for unregulated natural gas fracking and other activities without oversight for five years.<sup>130</sup>

When seeking permission from the PSC for the charges FPL had argued that the savings from the investment would most likely be \$107 million in the first year. Instead it resulted in a loss of

\$5.8 million. FPL representatives blamed computer simulations when their predictions proved to be wrong.<sup>131</sup>

In May 2016, the Florida Supreme Court ruled in a 6-1 decision<sup>132</sup> that the PSC had exceeded its authority when approving FPL's request to pass the costs associated with the Woodford Project on to their customers.<sup>133</sup> The court argued that the PSC was requiring FPL's customers to guarantee the capital investment and operations of a speculative oil and gas venture without statutory authority when treating the recovery costs as a long-term physical hedge.

During the 2017 Florida legislative session, FPL once again turned to allies in the legislature for help in the face of a court decision limiting their goals and the PSC's authority. SB 1238<sup>134</sup> and HB 1043<sup>135</sup> would have overturned the Supreme Court's ruling by expanding the jurisdiction of the PSC to approve cost-recovery requests relating to the gas reserve investments at issue in the Woodford Project.

This was one of two bills being pushed by FPL during the 2017 session and fast-tracked by lawmakers to overturn court decisions that had kept the PSC in check when it exceeded its authority to approve controversial plans by FPL.<sup>136</sup> The other bill, SB 1048, overturned the Third District Court of Appeals decision to limit the PSC's authority to approve utility transmission lines without taking local development rules into consideration.

Both bills were notably placed on the agenda of their first Senate committee stop after the committee chair, Senator Frank Artiles, was photographed wearing a jacket with the "NextEra" logo at a Daytona 500 race sponsored by FPL's parent company, NextEra Energy. Senator Artiles also used the event to conduct a fundraiser, raising over \$10,000. During the first meeting of Senator Artiles' energy committee it heard both of FPL's bills, SB1238 and SB1048.<sup>137</sup> Senator Artiles left office later in the session due to unrelated controversies and both bills eventually died.<sup>138</sup>

SB1238 passed both of its committees of reference and was heard on the Senate floor several times, but ultimately died. While it moved through committees easily, it did meet some bipartisan criticisms. Senator Jack Latvala in the Rules Committee said the bill would "for the first time make the ratepayers pay for exploration" while allowing "the utilities to charge a rate of return on that exploration cost."<sup>139</sup> He compared this proposal to the nuclear cost recovery fee that allowed utilities to charge customers for nuclear power plants without guaranteeing that the projects would ever be built.<sup>140</sup> The House companion bill was voted out of one committee of reference but died without being heard in its second or third committee stops.

## **DUKE ENERGY**

As the state's largest electric utility provider, FPL is often at the center of contentious rate proceedings. However, the influence utilities have at the Public Service Commission can be seen in proceedings relating to other companies as well.

### **Failed Nuclear Projects**

In 2013, the commission faced the question of who would be responsible to pay for Duke Energy's (formerly Progress Energy) \$5 billion in failed nuclear projects. On a 4-1 vote, the PSC officially put Duke's customers on the hook for up to \$3.2 billion of costs related to the shuttered Crystal River nuclear plant and the canceled Levy County project.<sup>141</sup>

Commissioner Eduardo Balbis was the lone vote against the agreement, calling for additional inquiry and citing insufficient expert testimony and too few public documents regarding insurance matters. Charles Rehwinkel, OPC at the time, said that Duke was poised to appeal his requests for additional documentation in support of their request and that the case could have dragged on for years. Consumer advocates urged the PSC to delay the decision and to hold hearings so that they would hear from ratepayers directly but the commission rejected the requests, saying that state law did not allow them to take testimony other than from expert witnesses in this kind of case.<sup>142</sup>

In May of 2017, Duke announced that it would seek an additional \$82 million in costs associated with the cancellation of the Levy County nuclear plant.<sup>143</sup> The PSC is expected to approve that request later this year. If approved, it would raise rates in January of 2018 by \$2.51 per month for 1,000-kilowatt hour (kWh) of usage. Duke is also seeking recovery of \$50 million for costs associated with the closing of the Crystal River nuclear plant, which will also be voted on by commissioners later this year.

Earlier this year, Duke Energy requested a mid-year residential rate increase of about five percent, increasing monthly bills from an average of \$117.24 to \$123.23, pointing to a decrease in sales and the rising prices of natural gas and coal as justification.<sup>144</sup> However, the rate increase is also intended to make up for the company's miscalculation of fuel prices for power plants, which left the company with a \$182 million deficit. On June 5, 2017, the PSC unanimously decided to postpone Duke's request to the fall when the utility would be back for their annual fuel cost recovery hearing.<sup>145</sup>

In August of this year, these and other issues were addressed in a 2017 second revised and restated settlement agreement that was filed with the PSC.<sup>146</sup> The OPC, the Florida Industrial Power Users Group, the Florida Retail Federation, PCS Phosphate and Southern Alliance for

Clean Energy are signatories to the agreement. The agreement is pending before the Commission and will be considered at a hearing on October 25, 2017.

## **TECO**

In 2013, TECO requested a 10 percent rate increase which would have raised rates on customer's monthly bills from \$102.58 per 1000 kWh to \$113.<sup>147</sup> The justification was that it was needed to offset rising fuel costs and less consumption by users.

Consumer advocates pointed out that utilities have the responsibility of reducing assets to match the reduction in demand and should consider taking underused power plants offline and reconsider agreements to buy extra power when demand drops. They argued that consumers should see the full benefit of a reduction in their use or demand.<sup>148</sup>

The OPC, the Florida Industrial Power Users Group, Florida Retail Federation and Florida Hospital Association opposed the initial request. But the OPC reached a settlement with TECO reducing the initial request the first year by half while lessening the blow to consumers with stepped increases each year for 2014 and 2015. The settlement also allowed for a large jump in 2017 rates to cover the expansion of a Polk power station. In September of 2013, the PSC unanimously approved the settlement.<sup>149</sup>

Several months later, in November, the PSC approved another TECO rate hike to reflect rising fuel costs. Commercial customers would see their rates rise by one percent, while industrial customers would see them drop by 1.4 percent.<sup>150</sup>

## **GULF POWER**

The PSC approved base rate hikes for Pensacola-based Gulf Power in 2013 and again in 2017. In 2013 Gulf was granted a \$4.06 increase on the typical 1,000 kWh monthly residential bill, which was to increase their revenue by \$35 million that January, with another boost in 2015.<sup>151</sup>

The amount in the settlement was dramatically lower than the company's initial request of a \$74.4 million base rate increase with a further \$16.4 million increase in 2015. The company justified these increases partly with plans to fund what was being called the largest construction program in the company's history. The increase was part of a settlement between the utility, consumer groups, business groups and federal agencies that represent military bases in the Panhandle.<sup>152</sup>

In 2017, after high-profile contentious negotiations, the PSC commissioners approved another base-rate increase by Gulf Power of \$62 million with a \$54.3 million net impact to customers

through 2019. The settlement also allowed a return on equity of 10.25 percent. The original request by Gulf Power would have raised base rates by \$106.8 million to fund new infrastructure with an increase of an allowable return on equity to 11 percent.<sup>153</sup> Eventually, Gulf dropped plans to significantly increase residential customers' fixed charges – an unavoidable charge that cannot be reduced through smarter energy use – a move that would have hurt lower income and fixed income customers.

The OPC, the Southern Alliance for Clean Energy and the Florida Industrial Power Users Group signed on to the settlement agreement, calling it a fair deal, while the Sierra Club, the Florida League of Women Voters, the Federal Executive Agencies and WalMart did not oppose the agreement.<sup>154</sup>

## **Energy Efficiency Goals**

In 2007, the American Council for an Energy Efficient Economy (ACEEE) looked at Florida's energy efficiency potential and reported that energy efficient improvements could offset the majority of Florida's load growth over the next 15 years, leading to substantial savings for consumers and businesses.<sup>155</sup>

For years energy conservation had been a priority with bipartisan support. Former Governor Jeb Bush was often quoted as stating that "the cheapest, easiest and fastest kilowatt we generate is the one we save through efficiencies."<sup>156</sup>

State law requires that the PSC set and review utility conservation goals every five years.<sup>157</sup> In 2009, as the PSC was set to revise goals, utilities lobbied regulators heavily to limit energy efficiency expectations and goals established under the Florida Energy Efficiency and Conservation Act<sup>158</sup> (FEECA).<sup>159</sup> The PSC's staff sided with utilities, arguing that creating incentives for customers to use less energy by taking steps like installing more efficient appliances or lighting would lead to less money for the utilities, which could in turn trigger a base rate increase. At that same time FPL and Progress Energy were already seeking a roughly 30 percent increase in their base rates.<sup>160</sup> Ultimately, they did not get all of the cuts to efficiency goals they desired during the 2009 revision. However, the companies would get a chance to influence the commission again five years later.<sup>161</sup>

In 2014, the PSC drew outrage when it approved proposals by FPL, Duke, Gulf Power and TECO to dramatically cut Florida's energy efficiency goals by more than 90 percent while also terminating solar rebate programs by the end of 2015.<sup>162</sup> In a 3-2 split, the commission voted in favor of staff recommendations that supported utility proposals to dramatically reduce the state's efficiency goals. Commissioners Lisa Edgar and Julie Brown were the lone votes against the plan, saying they could not agree with a plan that so drastically altered state energy policy.<sup>163</sup>

The investor-owned utilities essentially argued that energy conservation programs are too expensive and that it makes more sense to build additional electric plants than to conserve power.<sup>164</sup>

## **Hedging**

Since 2002, Florida's four investor-owned utilities have lost \$6.5 billion due to hedging programs related to natural gas. Those losses were effectively passed on to customers with the PSC's approval.<sup>165</sup>

Utilities enter hedging contracts to purchase fuel at an agreed upon price for a designated time period. The price is then locked in. If fuel costs rise during that period, consumers would save money, but if the costs decline, as they have with natural gas, utility customers end up paying more than they need to.<sup>166</sup> For 15 years, substantial company losses were passed on to consumers due to hedging contracts, even though the costs of natural gas prices declined during that period.

In 2016, FPL, Duke, Gulf Power and Tampa Electric entered a stipulated agreement with the PSC to halt the practice of hedging for one year.<sup>167</sup> In a separate agreement Gulf Power agreed to not enter any new hedging contracts through 2021.<sup>168</sup> FPL also agreed to halt its use of hedging as part of the 2016 rate settlement agreement.<sup>169</sup>

In April 2017, FPL, Gulf Power, Duke Energy Florida and Tampa Electric continued to assert before the PSC that they should be allowed to continue the practice of hedging because it reduces price volatility and would benefit consumers if the costs of gas increase. The Office of Public Counsel, the Florida Industrial Power Users Group and the Florida Retail Federation have called for a halt to the practice. However, after hearings in April, the commission voted to hold another evidentiary hearing in late September of 2017.<sup>170</sup> PSC staff still supports allowing utilities to enter hedging contracts.<sup>171</sup>

## **The PSC and Ethics**

### **Revolving Door**

Upon leaving their positions, PSC commissioners and staff commonly take lucrative positions with the utilities they once regulated or with firms that represent those utilities. This dynamic is well-documented by news reports and is often referred to as the "revolving door."<sup>172</sup>

This trend creates the perception that commissioners and staff, while serving at the PSC, are basing decisions at least partly on their own personal career prospects rather than looking out for the best interest of consumers.

State law imposes several limits on the revolving door. Florida Statute 350.0605 states that “any former commissioner of the Public Service Commission is prohibited from appearing before the commission representing any client or any industry regulated by the Public Service Commission for a period of two years following termination of service on the commission.” In addition, commissioners are prohibited, for two years after leaving office from working for any business entity which directly or indirectly, owns, controls or is a subsidiary of a public utility regulated by the PSC.<sup>173</sup>

State law does not currently prohibit a commissioner who has left office from working for a firm that serves a regulated utility as a client. News reports have documented several instances where this has occurred.<sup>174</sup> This loophole undermines the intent of the current statutory limitations and should be addressed by state lawmakers. A former PSC commissioner or staff member, leaving the commission, could currently work for a firm assisting a utility company in a rate case or with a bill in the Florida Legislature without “appearing” before the commission. See Integrity Florida’s report, *Power Play: Political Influence of Florida’s Top Energy Corporations* on the extent of the “revolving door” at the PSC.<sup>175</sup>

## **Regulation in Other States**

The structure of utility regulatory bodies, the selection of their membership, their location within state governments and the mission and staff level vary widely among the 50 states and the District of Columbia. The existence and resources of utility consumer advocates also vary among the states, although most have some type of independent advocacy office.

### **Utility Regulators: Selection, Number of Members, Length of Term and Partisanship**

States call their utility regulatory bodies a variety of names, most commonly Public Service Commission or Public Utilities Commission, or a few other designations such as Regulatory Commission, Corporation Commission and Commerce Commission. Seven states have utility regulatory bodies created in the state constitution.<sup>176</sup> In most states, members of regulatory bodies are appointed by the governor with consent of the state senate, as in Florida. In only one other state besides Florida – Ohio<sup>177</sup> – are members selected through a nominating council.

Members of the regulatory bodies are elected by voters in nine states. Members in South Carolina and Virginia are elected by the states’ general assemblies.

Five members constitute the regulatory body in 20 states, including Florida, while 28 states provide for three members. Two have seven-member entities. Rhode Island is unique in having two bodies that perform the duties of regulating utilities.<sup>178</sup>

Most states provide that members of their regulatory bodies serve six-year terms, but a substantial number use four-year terms, as does Florida. Terms in a few states are set at five years. In one state, Delaware, members of the regulatory body are part-time.<sup>179</sup>

### **Bipartisanship in Other States**

Eleven states require by law that their utility regulatory body be bipartisan: Connecticut, Idaho, Illinois, Indiana, Kansas, Massachusetts, Minnesota, Nevada, New York, West Virginia and Wyoming. Each of those states limits the number of members who can be of any political party; no more than two of the same party may be appointed on a three-member board, or no more than three on a five-member board.

### **Most States Have Some Form of Consumer Advocacy**

Forty-one states and the District of Columbia maintain some form of utility consumer advocacy office equivalent to Florida's Office of Public Counsel. They are called by such names as People's Counsel, Public Counsel, Consumer Advocate, and Consumer Counsel.<sup>180</sup> New York, the fourth-largest state, has no consumer advocate. A bill is pending in the 2017 legislature to create a utility consumer advocate office there. It is supported by the AARP, among others, who say utilities use more than \$10 million of money they collected from consumers each year to push for rate increases.<sup>181</sup>

In some states, the public advocate function is performed within the state attorney general's office, as in Alabama, Alaska, Arkansas, Kentucky, Massachusetts, Michigan, Nevada, Oklahoma, Rhode Island, Tennessee, Virginia and Washington. About a dozen states, however, have no process in place to advocate on behalf of customers in utility rate requests.

In a few states, nonprofit organizations perform the function of rate intervention and consumer advocacy. Idaho provides "intervenor funding" to encourage involvement by private groups.<sup>182</sup> A few states have membership supported Citizens Utility Boards funded by dues.

Independent consumer advocacy offices are housed in a variety of locations within state government. Some are independent bodies within the regulatory commission, as in California and Delaware. Several, such as Iowa, Ohio and Pennsylvania, are sited within the attorney general's office. Some, like Georgia and Maine, are in the governor's office, and others are in other executive departments, such as Commerce and Consumer Affairs in Hawaii, the

Department of Energy and Environmental Protection in Connecticut and the Department of Treasury in New Jersey. The Montana Consumer Counsel is a constitutionally created office<sup>183</sup> but is under the legislature.<sup>184</sup>

## **Conclusion**

The Florida Public Service Commission meets the criteria for a “captured” regulatory agency. Investor-owned utilities make significant campaign contributions in Florida legislative races and have a formidable lobbying presence. The legislature has a great deal of influence on the PSC through its power of nomination and confirmation of commissioners as well as their oversight role for the Office of the Public Counsel. This leads to decisions that are often not in the best economic interest of Florida’s families and businesses.

The Public Service Commission needs more independence from the Florida Legislature. The process for selection of PSC commissioners should be insulated from politics and lobbying.

The Office of the Public Counsel needs more independence, just as the PSC, and should likewise be insulated from political considerations.

Residential energy customers need more balanced prioritization. Groups representing the interests of residential energy customers in rate proceedings are often outweighed by larger interests such as industrial users, retailers and hospitals.

Utilities are gaming the settlement process. Utilities and those objecting to their requests routinely work out differences behind closed doors in settlement agreements. Utilities appear to approach the process of negotiation much like a used car dealer who marks up the initial asking price knowing that they will eventually agree to a lower amount.

The PSC is allowing utilities to shift risk from shareholders to customers. Investor-owned utilities commonly pass costs associated with the construction of reactors, natural gas fracking operations and other costs on to customers.

Policymakers should revisit the 1978 decision to move from an elected to an appointed PSC. They may well determine an appointed system still has the most merit, but additional steps should be taken to ensure the public is better represented in the nomination and appointment process.

## Policy Options to Consider

- **Return the Public Service Commission to an elected body or a mix of elected and appointed members.** This would give the public a voice in selecting commission members and make the commission more accountable to the public.
- **If all or part of the Commission is elected, consider prohibiting candidates for the commission from accepting campaign contributions from interests whose businesses are regulated by the PSC.** Mississippi, Alabama and Georgia currently prohibit those contributions.<sup>185</sup>
- **Broaden membership on the Public Service Commission Nominating Counsel to include, at minimum, consumer groups.** Ohio, for example, has a broad-based nominating counsel that includes representatives of consumer groups and organized labor, in addition to the state bar, state accountancy board and other professional organizations.<sup>186</sup>
- **Require that the Office of Public Counsel must agree to any PSC settlements for cases in which it participates.**
- **If the commission is to remain an appointed body, require that it be nonpartisan by allowing no more than three of the commissioners to be a member of the same political party.**
- **Make residential and small business customers the focus of the Office of Public Counsel.**
- **Provide more funding for public counsel.** Consider a dedicated source of funding for the office to further insulate the OPC from legislative control.
- **Explore making the Office of Public Counsel an independent entity like the Florida Commission on Ethics.**

## Appendix

### Comments from former PSC Commissioner

Former state legislator and PSC chair and Commissioner Nancy Argenziano has been outspoken in her criticism about the way commissioners are selected, the role of the legislature and undue influence by utilities. She provided further detail about her views in response to questions during the preparation of this report.

Utilities “have a tremendous amount of influence” on the appointment process, she said. They “are contributors to the nominating component of PSC applicants, the legislature, the Governor, spending “truly incredible sums – political contributions, lobbying efforts, third-party opposition ads, etc. The effort is most efficiently visited on those sitting on the PSC Nominating Council,” which does “the bidding of that body,” she said. “So, the utilities are asked, ‘Who do you like?’ In short, the nominating process “functions very well for the utilities,” she said.

“Florida residents should know that the PSC is an agency of the legislature – the only agency they have – the very legislature which takes millions in utility money, the very legislature responsible for nominating the commissioners,” Argenziano said. They should also know that “that the PSC is as corrupt as can be, in my opinion, doing exactly what the legislature wants them to do.

“The biggest joke perpetuated on the public is that the Public Service Commission works on behalf of the public.” She said “the legislature protected the operation of the PSC. I’ve seen the commissioners in ex parte communications, texting the utilities in hearings, engaging in back room discussions with each other, and know of out of state utility-sponsored soirees.”

“My view was that of a person coming from the legislature who had seen corruption all around, and recognized that it was even worse at the PSC,” Argenziano said.

Other criticisms Argenziano articulated:

- She felt pressure soon after she became a commissioner. “Influential legislators made demands or ‘suggestions’ regarding the votes and attitudes of the commissioners. They threatened the PSC budget, threatened re-appointment.”
- The Office of Public Counsel “works against a stacked deck. It is constantly under legislative threat” and is understaffed.

- A “revolving door” of employment involving commissioners, legislators and staff is a significant problem. “There were at one point 23 former PSC staff, commissioners, or pet legislators employed by the regulated utilities. Some – too many - commissioners serving on the PSC do so as part of an audition for future service with the utilities.”
- There are “no effective mechanisms” to deal with whistleblower complaints.

Argenziano recommended reforms that would reduce the role of the legislature. “The PSC needs to be out of the hands of the legislature, and overseen by somebody who does not take money from the utilities as the legislature does.” She also said the Office of Public Counsel should be “a constitutionally separated body or somehow under the judicial branch, at least taken far away from utility money and the legislature. Then it could operate more vigorously on behalf of the public.” She recommends a return to a broad-based nominating council that includes members of AARP and other consumer advocacy groups.

### **Why Utilities Are Regulated**

A long series of judicial decisions has determined that utilities can be regulated because they provide essential services “affected with the public interest,” – a phrase originated in England about 1760 and echoed repeatedly by American courts.<sup>187</sup> Those services can often be provided more efficiently by a single provider than by a number of smaller entities, and therefore competition ceases to exist and the surviving companies become monopolies. Monopolies have the power to set higher prices than would exist if the free market worked. Regulation by government therefore is necessary to protect the public interest by preventing unfair prices.<sup>188</sup>

For most businesses, prices are determined by what the market will bear – what consumers are willing to pay in a competitive marketplace. Since competition does not exist where one business entity monopolizes the market – as is the case with electricity and some other utilities – government regulation establishes a fair price, including a reasonable return on investment, for each class of service – residential, commercial and industrial.

That rationale was at the heart of *Munn v. Illinois*, the U.S. Supreme Court decision in 1877 that established a legal basis for government regulation without setting a precedent for the regulation of all private property.<sup>189</sup> The case involved price-setting by a combine of grain elevators and warehouses in Chicago through which grain from a vast area of the Midwest had to pass. Subsequently that ruling justified regulation of railroads and eventually other monopoly utilities. Although the Munn decision was modified by subsequent rulings, it remains the foundation for the authority of government to regulate monopolies.

## **Number of Staff in Independent Consumer Advocacy Offices**

It is difficult to draw firm conclusions about the size of staffs in consumer advocacy offices in states with independent entities because of differences in their responsibilities. In some states, for example, the advocacy office is charged with investigating consumer complaints against utilities as well as representing consumers in rate-setting proceedings.

But the size of the Florida office is only somewhat larger than several states with much smaller populations and is much smaller than in some other states. Florida's Office of Public Counsel is composed of 15 staff members, six of whom are attorneys.<sup>190</sup> That is on par with smaller states such as Connecticut (13),<sup>191</sup> Maryland (19)<sup>192</sup> and Missouri (14)<sup>193</sup> and with the larger state of Texas (16).<sup>194</sup> Other smaller states have somewhat fewer: Alaska (8),<sup>195</sup> Colorado (7),<sup>196</sup> Iowa (6),<sup>197</sup> New Hampshire (6)<sup>198</sup> and Maine (9).<sup>199</sup>

California's Office of Ratepayer Advocacy dwarfs Florida's office in size, with 147 staff members.<sup>200</sup> Several other states also have utility consumer advocacy officers substantially larger than Florida's Office of Public Counsel. The District of Columbia advocacy office contains 40 staffers,<sup>201</sup> New Jersey's contains about 30,<sup>202</sup> Pennsylvania's 27<sup>203</sup> and Ohio's 35.<sup>204</sup>

## **Consumer Advocates Focus on Residential and Small Business Consumers in Many States**

One mark of an effective utility consumer advocacy office, some consumer groups say, is that it represents the residential consumer interest.<sup>205</sup> The mission of consumer advocacy offices in several states is confined to residential consumers, or sometimes residential and small business or small commercial interests. One rationale is expressed by the Delaware consumer advocate's office, which says that it "need not advocate on behalf of large commercial and industrial consumers where...these entities have the means to advocate on their own behalf."<sup>206</sup>

Other states with a focus on residential or small commercial consumers include Iowa,<sup>207</sup> Kansas,<sup>208</sup> Maryland,<sup>209</sup> Georgia,<sup>210</sup> Missouri,<sup>211</sup> New Hampshire,<sup>212</sup> Texas,<sup>213</sup> Utah<sup>214</sup> and West Virginia.<sup>215</sup>

Maine sets a priority order for representation by its consumer advocate. "A. Low-income consumers; B. Residential consumers; C. Small business consumers; and D. Other consumers whose interests the Public Advocate finds to be inadequately represented."<sup>216</sup>

## **Effectiveness of Utility Consumer Advocacy Offices**

Consumer groups and academics propose several criteria for an effective utility consumer advocate. Most involve how the office is set up, and not its effectiveness.

AARP says that effective advocate offices are independent, receive sufficient funding and have the right to appeal regulatory agency orders in the courts.<sup>217</sup> AARP and others also maintain that effective advocates should represent the interests of residential consumers, or residential consumers plus small businesses.<sup>218</sup>

Most consumer advocacy offices, including Florida's, make the case for their effectiveness in part by citing the amount of money saved by utility consumers – the difference between the utilities' requested rate and the actual rate. For example, the Florida Office of Public Counsel has reported these reductions after its intervention into a rate case: \$37 million, or 34 percent, in a Gulf Power case; more than \$1 billion, or 94 percent, in a Florida Power and Light Case; and \$367 million, or 74 percent, in a Progress Energy Florida case.<sup>219</sup>

Similarly, the Maine Office of the Public Advocate said it saved ratepayers \$11.2 million in 2015-16 and \$568 million over 35 years.<sup>220</sup>

Rate savings achieved in negotiated settlements are also touted by consumer advocates. In that kind of negotiated settlement, the consumer advocate does not intervene in a rate case but instead negotiates a new rate with the utility without a formal hearing.

“A rate reduction can serve as an observable signal for good job performance by the consumer advocate” in negotiated settlements, one study reported. “The advocate might negotiate more immediate rate decreases in settlements than is possible under a traditional proceeding in exchange for other benefits to the utility.... The firm can similarly claim a rate increase reached by settlement as beneficial to shareholders in terms of profit potential.”<sup>221</sup> However, the study said that negotiated settlements “transfer decision-making power from the regulator to the firms and large consumers and cause concerns that “all consumers may not be protected.”

The size of staff and budget of utility consumer advocate offices also affect their ability to advocate effectively for consumers. Florida's Office of Public Counsel is composed of 15 staff members, six of whom are attorneys.<sup>222</sup> That is on par with smaller states such as Connecticut (13),<sup>223</sup> Maryland (19)<sup>224</sup> and Missouri (14)<sup>225</sup> and with the larger state of Texas (16).<sup>226</sup> Other smaller states have somewhat fewer: Alaska (8),<sup>227</sup> Colorado (7),<sup>228</sup> Iowa (6),<sup>229</sup> New Hampshire (6)<sup>230</sup> and Maine (9).<sup>231</sup> Budgets of those offices reflect staff size; the greater number of staff, the higher the budget of the advocate's office.

## **Ex Parte Communications**

In 1992, a statewide grand jury produced a list of recommendations to address issues concerning communications between regulated utilities and the PSC.<sup>232</sup> The primary concern was that utility

representatives were meeting privately with commissioners and their aides about pending cases without any public record or knowledge or opportunity for input by the public or the public counsel.

In 1993, the Grand Jury recommendations led to the creation of rule 25-22.033 in the Florida Administrative Code.<sup>233</sup> The rule prohibits staff from relaying communications between utilities and commissioners in instances where the utility is limited in their communications by ex parte restrictions in state law.<sup>234</sup> The rule also requires that all interested parties be included in written communications between PSC staff and that all parties to proceedings receive meeting notices. The rule also gives all parties a right to respond in writing to any written communication between a commission employee and another party.

In 2009, commissioners and staff received significant public scrutiny for attending social functions as well as exchanging calls and text messages with FPL representatives while the company was actively pursuing a \$1.27 billion base rate hike. The appearance that commissioners and staff were too cozy with FPL received a great deal of attention in the press and the issue of ex parte communications became so heated that it eventually led to a key commissioner and two staffers resigning.<sup>235</sup>

The 2009 FPL controversies led to legislation aimed at tightening ethics laws relating to the PSC. The public counsel and others at that time called for lawmakers to extend the state law prohibiting ex parte communications with commissioners to staff as well.<sup>236</sup> This was included in legislation during the 2010 state legislative session that died in messages before last-minute changes received a final approval by both chambers.<sup>237</sup> In 2015, lawmakers extended restrictions on ex parte communications by commissioners to 180 days before filing and to certain public meetings and conferences.

While there have been no recent ex parte controversies, the legislature might reconsider extending the prohibition on ex parte communication involving direct staff. Lawmakers might also consider limiting communications between legislators and legislative staff with commissioners during certain cases before the PSC due to the sizeable campaign contributions investor-owned utilities make to state lawmakers.<sup>238</sup>

## **Gifts**

Restrictions on commissioners accepting gifts from utilities in state law are strong. Section 350.0411 of the statute states that “a commissioner may not accept anything from any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, from any public utility regulated by the commission, or from any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by

the commission. Lawmakers may consider expanding the scope of the gift ban to include key commission staff.

In a review of public gift disclosures by commissioners between 2012-17, Integrity Florida researchers discovered that Commissioner Julie Brown received \$311.36 dollars for a hotel room to attend a conference in 2015. During the same year Commissioner Art Graham was given NFL football tickets with a \$700 value by Kerri Stewart, chief of staff to Jacksonville's mayor, Lenny Curry.<sup>239</sup> Jacksonville's municipal utility, the JEA, is regulated by the commission.

While commissioners are prohibited from accepting any gifts, they can attend conferences and meetings hosted by utilities that are open to the public even if the commissioners are given a reduced or free entry.<sup>240</sup> However, commissioners are prohibited from "willfully and knowingly" discussing matters relating to pending cases with interested parties at conferences and public meetings.<sup>241</sup>

## **Transparency**

Generally, all records filed by utility companies in rate proceedings are made public. However, documents detailing "proprietary confidential business information" are commonly withheld from the public record.<sup>242</sup> Frequently, utilities will seek to withhold information from the record pertaining to costs, wholesale rates, data indicating a new target market, or plans dealing with the timing of a rate change that may compromise their market competitiveness.

Government reform advocates have criticized the PSC for agreeing to excessive confidentiality requests,<sup>243</sup> arguing that this becomes problematic when questions arise about whether a utility is ignoring opportunities to spare its customers unnecessary or excessive charges. Even though it is allowed, confidentiality requests are rarely challenged by the Public Counsel and other interested parties for a myriad of reasons. Lawmakers may consider requiring the PSC to apply stricter scrutiny when evaluating whether the public disclosure of information would compromise a company's ability to compete.

Lawmakers may also consider enhancing the transparency of rate proceeding cases where interested parties form a settlement out of the public view which the PSC must approve. While it may sometimes be necessary for parties to work through differences privately the PSC must fulfill its obligation of giving a full rationale about why commissioners agree with the parties that the settlement will sufficiently balance the interests of ratepayers and utilities.

## Endnotes

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<sup>1</sup> “PSC Chairman calls report misleading; other commissioners open to ban,” Baton Rouge Morning Advocate, June 2, 2015.

[http://www.theadvocate.com/baton\\_rouge/news/politics/legislature/article\\_2c1cf88a-5601-5f9d-92e0-e9f17ac8eb18.html](http://www.theadvocate.com/baton_rouge/news/politics/legislature/article_2c1cf88a-5601-5f9d-92e0-e9f17ac8eb18.html)

<sup>2</sup> Commissioner appointment process, Ohio Public Utilities Commission.

<http://www.puco.ohio.gov/puco/index.cfm/be-informed/consumer-topics/commissioner-appointment-process/#sthash.d7P4H43B.dpbs>

<sup>3</sup> Final Bill Analysis, CS/HB 7109, Florida House of Representatives.

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h7109z1.EUS.DOCX&DocumentType=Analysis&BillNumber=7109&Session=2015>

<sup>4</sup> Florida Statutes 350.001.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0350/Sections/0350.001.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0350/Sections/0350.001.html)

<sup>5</sup> Florida Statutes 350.031.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0350/Sections/0350.031.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0350/Sections/0350.031.html)

<sup>6</sup> FPSC Commissioner History, Florida Public Service Commission.

[http://www.psc.state.fl.us/Files/PDF/Publications/About/Commissioner\\_History.pdf](http://www.psc.state.fl.us/Files/PDF/Publications/About/Commissioner_History.pdf)

<sup>7</sup> Final Bill Analysis, CS/HB 7109, Florida House of Representatives.

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h7109z1.EUS.DOCX&DocumentType=Analysis&BillNumber=7109&Session=2015>

<sup>8</sup> “Florida PSC called corrupt by former chair,” WTSP 10News, Tampa.

<http://legacy.wtsp.com/story/news/investigations/2014/12/04/public-service-commission-called-corrupt-by-former-chair/19902015/>

<sup>9</sup> “Florida PSC called corrupt by former chair,” WTSP 10News, Tampa.

<http://legacy.wtsp.com/story/news/investigations/2014/12/04/public-service-commission-called-corrupt-by-former-chair/19902015/>

<sup>10</sup> “Money, Politics and the Business of Monopolies,” Alliance for Affordable Energy, May 29, 2015.

<http://www.all4energy.org/blog/money-politics-and-the-business-of-monopolies>

<sup>11</sup> “Inside the Florida PSC 2017,” Florida Public Service Commission.

<http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/InsidePSC.pdf>

<sup>12</sup> Dyckman, Martin A. *Reubin O’D. Askew and the Golden Age of Florida Politics*. Gainesville: University Press of Florida, 2011.

<sup>13</sup> “Rick Scott appoints longtime ally Jimmy Patronis as Florida CFO,” Tampa Bay Times, June 26, 2017.

<http://www.tampabay.com/news/politics/stateroundup/rick-scott-appoints-my-friend-jimmy-patronis-as-florida-cfo/2328493>

<sup>14</sup> “Scott picks Ritch Workman over Ron Brisé for PSC Post,” Miami Herald, September 15, 2017.

<http://miamiherald.typepad.com/nakedpolitics/2017/09/scott-picks-ritch-workman-over-ron-bris%C3%A9-for-psc-post.html>

<sup>15</sup> Government Program Summaries, Florida Office of Program Policy Analysis and Governmental Accountability. <http://www.oppaga.state.fl.us/profiles/4120/front.htm/>

- 
- <sup>16</sup> Chapter 350, Florida Statutes, Public Service Commission. [http://www.leg.state.fl.us/cgi-bin/View\\_Page.pl?File=statutes.cfm&Directory=committees/joint/pscnc/&Tab=welcome&Submenu=1](http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=statutes.cfm&Directory=committees/joint/pscnc/&Tab=welcome&Submenu=1)
- <sup>17</sup> Public Service Nominating Council, Online Sunshine. [http://www.leg.state.fl.us/cgi-bin/View\\_Page.pl?File=index.cfm&Directory=committees/joint/pscnc/&Tab=welcome&Submenu=1](http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=index.cfm&Directory=committees/joint/pscnc/&Tab=welcome&Submenu=1)
- <sup>18</sup> Florida Public Service Commission Nominating Council Rules of Procedure, Florida Legislature, July 31, 2012. [http://www.leg.state.fl.us/data/committees/joint/pscnc/Rules\\_of\\_Procedure.pdf](http://www.leg.state.fl.us/data/committees/joint/pscnc/Rules_of_Procedure.pdf)
- <sup>19</sup> Chapter 350.6011, Florida Statutes. [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0350/Sections/0350.0611.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0350/Sections/0350.0611.html)
- <sup>20</sup> Chapter 350 sections, Florida Statutes. <http://www.flsenate.gov/Laws/Statutes/2016?chapter=350.061>
- <sup>21</sup> “About the Office of Public Counsel,” Florida Office of Public Counsel. <http://www.floridaopc.gov/Pages/About.aspx>
- <sup>22</sup> “Frequently Asked Questions,” Florida Office of Public Counsel. <http://www.floridaopc.gov/Pages/FAQs.aspx>
- <sup>23</sup> House Bill 5001, Florida Legislature, 2016. <https://www.flsenate.gov/Session/Bill/2016/5001/BillText/er/PDF>
- <sup>24</sup> “Frequently Asked Questions,” Florida Office of Public Counsel. <http://www.floridaopc.gov/Pages/FAQs.aspx>
- <sup>25</sup> Rules and Manual, Florida Senate 2016-18, as Adopted November 22, 2016. <https://www.flsenate.gov/PublishedContent/ADMINISTRATIVEPUBLICATIONS/2016-2018SenateRules.pdf>
- <sup>26</sup> Joint Committee on Public Counsel Oversight, Online Sunshine. [http://www.leg.state.fl.us/cgi-bin/View\\_Page.pl?File=index\\_css.html&Directory=committees/joint/Jcpc/&Tab=committees](http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=index_css.html&Directory=committees/joint/Jcpc/&Tab=committees)
- <sup>27</sup> Meeting Agenda, Joint Committee of Public Counsel Oversight, Florida Legislature, February 18, 2013. <http://www.leg.state.fl.us/data/committees/Joint/JCPO/JCPO.pdf>
- <sup>28</sup> Part III, Florida Statutes. [http://www.flsenate.gov/Laws/Statutes/2016/Chapter112/PART\\_III/](http://www.flsenate.gov/Laws/Statutes/2016/Chapter112/PART_III/)
- <sup>29</sup> Chapter 350.051, Florida Statutes. <https://www.flsenate.gov/Laws/Statutes/2016/350.041>
- <sup>30</sup> Chapter 350.042, Florida Statutes. <https://www.flsenate.gov/Laws/Statutes/2016/350.042>
- <sup>31</sup> Florida Administrative Code and Administrative Register, Public Service Commission. <https://www.flrules.org/gateway/Division.asp?DivID=396>
- <sup>32</sup> “Inside the Florida PSC 2017,” Florida Public Service Commission. <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/InsidePSC.pdf>
- <sup>33</sup> “Inside the Florida PSC 2017,” Florida Public Service Commission. <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/InsidePSC.pdf>
- <sup>34</sup> Rate Case Overview, petition for increase in rates by Gulf Power Company, January 2017. [http://www.psc.state.fl.us/Files/PDF/Publications/SpecialReports/sr--2017-01-gulf\\_power\\_company.pdf](http://www.psc.state.fl.us/Files/PDF/Publications/SpecialReports/sr--2017-01-gulf_power_company.pdf)
- <sup>35</sup> “Inside the Florida PSC 2017,” Florida Public Service Commission. <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/InsidePSC.pdf>
- <sup>36</sup> Meeting Packet, Energy & Utilities Subcommittee, Florida House of Representatives, January 11, 2017. <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2903&Session=2017&DocumentType=Meeting%20Packets&FileName=eus%201-11-17.pdf>
- <sup>37</sup> “A Study of the Negotiated-Settlement Practice in Regulation: Some Evidence from Florida, Shourjo Chakravortya, Department of Economics, University of Florida. [http://warrington.ufl.edu/centers/purc/purcdocs/papers/1419\\_Chakravorty\\_A%20Study%20of%20the%20](http://warrington.ufl.edu/centers/purc/purcdocs/papers/1419_Chakravorty_A%20Study%20of%20the%20)

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Negotiated-

[Settlement%20Practice%20in%20Regulation%20Some%20Evidence%20from%20Florida.pdf](#)

<sup>38</sup> “Regulatory Capture’: Sources and Solutions,” Scott Hempling, Emory Corporate and Accountability Review, Emory Law. <http://www.econlib.org/library/Enc/ElectricityandItsRegulation.html>

<sup>39</sup> <http://www.leg.state.fl.us/data/committees/Joint/JCPO/JCPO.pdf>

<sup>40</sup> “Money, Politics and the Business of Monopolies,” Alliance for Affordable Energy, May 29, 2015. <http://www.all4energy.org/blog/money-politics-and-the-business-of-monopolies>

<sup>41</sup> <http://law.emory.edu/ecgar/content/volume-1/issue-1/essays/regulatory-capture.html#section-5941e2d435e9ecd245aca7c0dfd89886>

<sup>42</sup> “Inside the Florida PSC 2017,” Florida Public Service Commission.

<http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/InsidePSC.pdf>

<sup>43</sup> Dyckman, Martin A. *Reubin O’D. Askew and the Golden Age of Florida Politics*. Gainesville: University Press of Florida, 2011.

<sup>44</sup> Dyckman, Martin A. *Reubin O’D. Askew and the Golden Age of Florida Politics*. Gainesville: University Press of Florida, 2011.

<sup>45</sup> “Florida Sen. Paula Hawkins, billed as the “housewife from Maitland,” dies at 82,” Tampa Bay Times, December 4, 2009. <http://www.tampabay.com/news/obituaries/florida-sen-paula-hawkins-billed-as-the-housewife-from-maitland-dies-at-82/1056631>

<sup>46</sup> Dyckman, Martin A. *Reubin O’D. Askew and the Golden Age of Florida Politics*. Gainesville: University Press of Florida, 2011.

<sup>47</sup> Dyckman, Martin A. *Reubin O’D. Askew and the Golden Age of Florida Politics*. Gainesville: University Press of Florida, 2011.

<sup>48</sup> Article, the Palm Beach Post, February 10, 1992, Newspapers.com <https://www.newspapers.com/newspage/131219235/>

<sup>49</sup> FPSC Commissioner History, Florida Public Service Commission.

[http://www.psc.state.fl.us/Files/PDF/Publications/About/Commissioner\\_History.pdf](http://www.psc.state.fl.us/Files/PDF/Publications/About/Commissioner_History.pdf)

<sup>50</sup> Message from Attorney General Charlie Crist, November 23, 2005, myfloridalegal.com

<http://www.myfloridalegal.com/NewsBrie.nsf/OnlineBriefs/0CFDEE24EE58EDCE852570C0003F6114>

<sup>51</sup> SB1222, Florida Senate – 2006. <http://www.integrityflorida.org/wp-content/uploads/2017/07/sb1222.pdf>

<sup>52</sup> “Gov. Crist Reshapes Utility Commission,” SunSentinel, October 1, 2009. [http://articles.sun-sentinel.com/2009-10-01/business/0910010104\\_1\\_four-psc-public-service-commission-crist](http://articles.sun-sentinel.com/2009-10-01/business/0910010104_1_four-psc-public-service-commission-crist)

<sup>53</sup> “Regulators Slash FPL’s Rate-Hike Request,” SunSentinel, January 13, 2010. [http://articles.sun-sentinel.com/2010-01-13/business/fl-psc-increase-vote-20100113\\_1\\_advocate-for-utility-customers-fpl-s-rate-hike-request-base-rates](http://articles.sun-sentinel.com/2010-01-13/business/fl-psc-increase-vote-20100113_1_advocate-for-utility-customers-fpl-s-rate-hike-request-base-rates)

<sup>54</sup> “Two Crist PSC appointees who said no to electric companies get legislative boot,” Tampa Bay Times, April 27, 2010. <http://www.tampabay.com/news/business/energy/two-crist-psc-appointees-who-said-no-to-electric-companies-get-legislative/1090899>

<sup>55</sup> “Nominating council rejects Argenziano and Skop, ousting them from PSC,” Miami Herald, June 30, 2010. <http://miamiherald.typepad.com/nakedpolitics/2010/06/nominating-council-rejects-argenziano-and-skop.html>

<sup>56</sup> “FPL Rates going up by \$811 million over 3 years,” Miami Herald, November 29, 2016. <http://www.miamiherald.com/news/local/article117673518.html>

- 
- <sup>57</sup> SJR 804, Florida Senate – 2011. <http://www.integrityflorida.org/wp-content/uploads/2017/07/2011-Fasano-jr-elected-PSC.pdf>
- <sup>58</sup> HJR 719, Florida House of Representatives, 2011. <http://www.integrityflorida.org/wp-content/uploads/2017/07/2011-Rehwinkle-Vasilinda-JR-elected-PSC.pdf>
- <sup>59</sup> SB1744, Florida Senate – 2013. <http://www.integrityflorida.org/wp-content/uploads/2017/07/2013-Bullard-elected-PSC.pdf>
- <sup>60</sup> HB447, Florida House of Representatives, 2013 <http://www.integrityflorida.org/wp-content/uploads/2017/07/2013-Dudley-elected-PSC.pdf>
- <sup>61</sup> “Lawmakers file bill to reform Florida Public Service Commission,” Tampa Bay Times, December 5, 2014. <http://www.tampabay.com/news/business/energy/lawmakers-file-bill-to-reform-florida-public-service-commission/2209155>
- <sup>62</sup> SB 170: Florida Public Service Commission, Florida Senate 2015. <http://www.flsenate.gov/Session/Bill/2015/0170>
- <sup>63</sup> HB 199: Florida Public Service Commission, Florida Senate 2015. <http://www.flsenate.gov/Session/Bill/2015/0199>
- <sup>64</sup> House of Representatives Staff Analysis, HB 7071 PCB EUS 17-01, Utility Regulation. <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h7071a.GOT.DOCX&DocumentType=Analysis&BillNumber=7071&Session=2017>
- <sup>65</sup> “Power Play: Political Influence of Florida’s Top Energy Corporations,” Integrity Florida, March 31, 2014. <http://www.integrityflorida.org/wp-content/uploads/2017/07/Power-Play-Political-Influence-of-Floridas-Top-Energy-Corporations-FINAL-FOR-MIAMI-HERALD.pdf>
- <sup>66</sup> “A Study of the Negotiated-Settlement Practice in Regulation: Some Evidence from Florida, Shourjo Chakravortya, Department of Economics, University of Florida. [http://warrington.ufl.edu/centers/purc/purcdocs/papers/1419\\_Chakravorty\\_A\\_Study\\_of\\_the\\_Negotiated-Settlement\\_Practice\\_in\\_Regulation\\_Some\\_Evidence\\_from\\_Florida.pdf](http://warrington.ufl.edu/centers/purc/purcdocs/papers/1419_Chakravorty_A_Study_of_the_Negotiated-Settlement_Practice_in_Regulation_Some_Evidence_from_Florida.pdf)
- <sup>67</sup> “Update: FPL asks state to approve 24 percent rate increase and higher profit margin,” Tampa Bay Times, January 15, 2016. <http://www.tampabay.com/blogs/the-buzz-florida-politics/fpl-asks-state-to-approve-13-percent-rate-increase-and-higher-profit-margin/2261529>
- <sup>68</sup> Energy & Utilities Subcommittee, Meeting Packet, January 11, 2017. [http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2903&Session=2017&DocumentType=Meeting\\_Packets&FileName=eus\\_1-11-17.pdf](http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2903&Session=2017&DocumentType=Meeting_Packets&FileName=eus_1-11-17.pdf)
- <sup>69</sup> Government Program Summaries, Office of Program Policy Analysis and Governmental Accountability. <http://www.oppaga.state.fl.us/profiles/4120>
- <sup>70</sup> “Power Play: Political Influence of Florida’s Top Energy Corporations,” Integrity Florida, March 31, 2014. <http://www.integrityflorida.org/powerplay/>
- <sup>71</sup> “Power Play: Political Influence of Florida’s Top Energy Corporations,” Integrity Florida, March 31, 2014. <http://www.integrityflorida.org/powerplay/>
- <sup>72</sup> “Progress Energy, FPL want rate hikes without disclosing executive pay,” Tampa Bay Times, August 10, 2009. <http://www.tampabay.com/news/business/energy/progress-energy-fpl-want-rate-hikes-without-disclosing-executive-pay/1026446>
- <sup>73</sup> “Senate rejects Crist’s appointees to utility regulation panel,” Sun-Sentinel, April 10, 2010. [http://articles.sun-sentinel.com/2010-04-27/business/fl-psc-appointees-0428-20100427\\_1\\_florida-senate-utility-and-commission-outsiders-charlie-crist](http://articles.sun-sentinel.com/2010-04-27/business/fl-psc-appointees-0428-20100427_1_florida-senate-utility-and-commission-outsiders-charlie-crist)

- 
- <sup>74</sup> “Consumer-oriented utility regulators ousted,” Sun-Sentinel, June 30, 2010. <http://www.sun-sentinel.com/business/fl-psc-commissioners-ousted-20100630-story.html>
- <sup>75</sup> “Eric Silagy named new Florida Power & Light president as Armando Olivera retires,” Miami Herald, December 19, 2011. <http://miamiherald.typepad.com/nakedpolitics/2011/12/eric-silagy-named-new-florida-power-light-president-as-armando-olivera-retires.html>
- <sup>76</sup> “FPL promotes official who helped defeat PSC commissioners,” Tampa Bay Times, May 12, 2010. <http://www.tampabay.com/blogs/the-buzz-florida-politics/content/fpl-promotes-official-who-helped-defeat-psc-commissioners>
- <sup>77</sup> PSC Memorandum, January 4, 2010. <http://www.integrityflorida.org/wp-content/uploads/2017/08/fplwhistleblower00006-10.pdf>
- <sup>78</sup> Whistleblower Letter 2, Miami Herald, January 20, 2010. <http://miamiherald.typepad.com/files/fplwhistleblower2.pdf>
- <sup>79</sup> Whistleblower Letter 1, Miami Herald, February 3, 2010. <http://miamiherald.typepad.com/files/fplwhistleblower1.pdf>
- <sup>80</sup> “Whistleblowers demand FPL execs come clean, cooperate with FDLE,” Miami Herald, June 17, 2010. <http://miamiherald.typepad.com/nakedpolitics/2010/06/whistleblowers-demand-fpl-execs-come-clean-cooperate-with-fdle.html>
- <sup>81</sup> Whistleblower Letter 1, Miami Herald, February 3, 2010. <http://miamiherald.typepad.com/files/fplwhistleblower1.pdf>
- <sup>82</sup> Whistleblower Letter, Miami Herald, June 15, 2010. <http://miamiherald.typepad.com/files/whistleblower-letter-6.16.10.pdf>
- <sup>83</sup> “FPL’s parent company sues former exec who sent critical letter,” Miami Herald, February 5, 2013. <http://www.miamiherald.com/news/article1947011.html>
- <sup>84</sup> Whistleblower Letter 1, Miami Herald, February 3, 2010. <http://miamiherald.typepad.com/files/fplwhistleblower1.pdf>
- <sup>85</sup> “Third “whistleblower” complaint alleges FPL inflated budget for rate hike request,” Sun-Sentinel, June 17, 2010. [http://www.sun-sentinel.com/sfl-mtblog-2010-06-third\\_whistle\\_blower\\_complaint-story.html](http://www.sun-sentinel.com/sfl-mtblog-2010-06-third_whistle_blower_complaint-story.html)
- <sup>86</sup> “PSC to look into whistleblower letter,” Tampa Bay Times, January 5, 2010. <http://www.tampabay.com/blogs/the-buzz-florida-politics/content/psc-look-whistleblower-letter>
- <sup>87</sup> “FPL’s Feud with Former Executive Costs Him Seat at Mayor’s Ball,” Miami New Times, June 7, 2013 <http://www.miaminewtimes.com/news/fpls-feud-with-former-executive-jeffrey-bartel-costs-him-seat-at-mayors-ball-6543553>
- <sup>88</sup> “FPL’s parent company sues former exec who sent critical letter,” Miami Herald, February 5, 2013. <http://www.miamiherald.com/news/article1947011.html>
- <sup>89</sup> “Schultz: How Florida Power and Light Turned up the political power,” Palm Beach Post, February 10, 2013. <http://www.palmbeachpost.com/news/opinion/schultz-how-florida-power-light-turned-the-political-power/64CcuACwpAfhbw2yBMKosO/>
- <sup>90</sup> “Peoples Gas former employee's complaint sparks audits, then she's ignored by state regulators,” Tampa Bay Times, March 3, 2017. <http://www.tampabay.com/news/business/energy/tampa-womans-complaint-sparks-audits-of-peoples-gas-then-shes-ignored-by/2315235>
- <sup>91</sup> “State consumer advocate rejects FPL rate case settlement offer,” St. Augustine Record, August 17, 2012. <http://staugustine.com/news/local-news/2012-08-17/state-consumer-advocate-rejects-fpl-rate-case-settlement-offer>

- 
- <sup>92</sup> “Update: FPL asks state to approve 24 percent rate increase and higher profit margin,” Tampa Bay Times, January 15, 2016. <http://www.tampabay.com/blogs/the-buzz-florida-politics/fpl-asks-state-to-approve-13-percent-rate-increase-and-higher-profit-margin/2261529>
- <sup>93</sup> “Regulators agree to give FPL four-year rate deal,” Miami Herald, December 13, 2012. <http://www.miamiherald.com/news/politics-government/article1945384.html>
- <sup>94</sup> Petition to Supreme Court of Florida, Miami Herald, October 17, 2002. [http://miamiherald.typepad.com/files/opc\\_petition\\_for\\_writ.pdf](http://miamiherald.typepad.com/files/opc_petition_for_writ.pdf)
- <sup>95</sup> “State utility advocate sues PSC over FPL's proposed settlement,” Miami Herald, October 17, 2012. <http://miamiherald.typepad.com/nakedpolitics/2012/10/state-utility-advocate-sues-psc-over-fpls-proposed-settlement.html>
- <sup>96</sup> “Advocate calls FPL Settlement a Bad Deal for Residential Customers,” CBS Miami, November 19, 2012. <http://miami.cbslocal.com/2012/11/19/advocate-calls-fpl-settlement-a-bad-deal-for-residential-customers/>
- <sup>97</sup> “Regulators agree to give FPL four-year rate deal,” Miami Herald, December 13, 2012. <http://www.miamiherald.com/news/politics-government/article1945384.html>
- <sup>98</sup> “Florida Supreme Court rules that PSC and FPL had right to cut out public counsel,” Miami Herald, August 28, 2014. <http://miamiherald.typepad.com/nakedpolitics/2014/08/florida-supreme-court-rules-that-psc-and-fpl-had-right-to-cut-out-public-counsel-.html>
- <sup>99</sup> “Florida Supreme Court rules that PSC and FPL had right to cut out public counsel,” Miami Herald, August 28, 2014. <http://miamiherald.typepad.com/nakedpolitics/2014/08/florida-supreme-court-rules-that-psc-and-fpl-had-right-to-cut-out-public-counsel-.html>
- <sup>100</sup> “Jack Latvala’s PSC bill passes first committee stop, but fate uncertain in House,” Florida Politics, February 17, 2015. <http://floridapolitics.com/archives/7617-jack-latvalas-psc-bill-passes-first-committee-stop-fate-uncertain-house>
- <sup>101</sup> Bill Analysis, CS/CS/CS/SB 228, Committee on Appropriations, Florida Senate, April 20, 2015. <http://www.flsenate.gov/Session/Bill/2015/288/Analyses/2015s0288.ap.PDF>
- <sup>102</sup> “FPL rates going up by \$811 million over 3 years,” Tampa Bay Times, November 29, 2016. <http://www.miamiherald.com/news/local/article117673518.html>
- <sup>103</sup> “FPL’s multi-year rate-increase request approved,” SunSentinel, November 29, 2016. <http://www.sun-sentinel.com/business/consumer/fl-fpl-rate-increase-vote-20161129-story.html>
- <sup>104</sup> “FPL rates going up by \$811 million over 3 years,” Tampa Bay Times, November 29, 2016. <http://www.miamiherald.com/news/local/article117673518.html>
- <sup>105</sup> “FPL: Rates increasing no matter what,” SunSentinel, November 22, 2016. <http://www.sun-sentinel.com/business/consumer/fl-fpl-rate-hike-vote-20161126-story.html>
- <sup>106</sup> “FPL, three groups reach deal for proposed \$811 million rate hike,” Palm Beach Post, October 11, 2016. <http://www.mypalmbeachpost.com/business/fpl-three-groups-reach-deal-for-proposed-811-million-rate-hike/jm8GdcGfARj738kG9zVy80/>
- <sup>107</sup> “FPL rates going up by \$811 million over 3 years,” Tampa Bay Times, November 29, 2016. <http://www.miamiherald.com/news/local/article117673518.html>
- <sup>108</sup> “PSC approves one-year halt to hedging of natural gas prices by utilities,” Florida Politics, November 2, 2016. <http://floridapolitics.com/archives/226165-pic-hedging>
- <sup>109</sup> “Sierra Club asks Supreme Court to overturn approval of FPL rate hike settlement, SunSentinel, June 29, 2017. <http://www.sun-sentinel.com/business/fl-bz-sierra-club-sues-over-fpl-expansion-20170629-story.html>

- 
- <sup>110</sup> “FPL postpones Turkey Point nuclear expansion – for at least four years,” Miami Herald, May 17, 2016. <http://www.miamiherald.com/news/local/community/miami-dade/article78187457.html>
- <sup>111</sup> Section 366.93, F.S. allows a utility to contemporaneously recover preconstruction costs from nuclear projects, and carrying costs – which includes shareholder profit, and allows the utility to abandon the project at any time and collect any investment, including carrying costs, from customers.
- <sup>112</sup> “FPL postpones Turkey Point nuclear expansion – for at least four years,” Miami Herald, May 17, 2016. <http://www.miamiherald.com/news/local/community/miami-dade/article78187457.html>
- <sup>113</sup> “SACE: FPL should end new nuclear reactors as Toshiba-Westinghouse falters,” Palm Beach Post, January 31, 2017. <http://protectingyourpocket.blog.palmbeachpost.com/2017/01/31/sace-fpl-should-end-new-nuclear-reactors-as-toshiba-westinghouse-falters/>
- <sup>114</sup> “Florida approves FPL plan for two more reactors, World Nuclear News, March 19, 2008. [http://www.world-nuclear-news.org/NN-Florida\\_approves\\_FPL\\_plan\\_for\\_two\\_more\\_reactors\\_190308.html](http://www.world-nuclear-news.org/NN-Florida_approves_FPL_plan_for_two_more_reactors_190308.html)
- <sup>115</sup> “Gov. Scott, Cabinet Approve New FPL Nuke Plants, Power Lines in South Dade, CBS Miami, May 13, 2014. <http://miami.cbslocal.com/2014/05/13/pinecrest-wants-gov-scott-cabinet-to-say-no-to-new-fpl-power-lines/>
- <sup>116</sup> Opinion, Third District Court of Appeal, April 20, 2016. <http://www.3dca.flcourts.org/Opinions/3D14-1467.pdf> - search=Florida Power & Light
- <sup>117</sup> “Supreme Court won’t hear FPL’s Turkey Point nuke project appeal,” Florida Politics, February 24, 2017. <http://floridapolitics.com/archives/232784-fsc-nuke>
- <sup>118</sup> Opinion, Supreme Court of Florida, Case No. SC16-2277. [https://www.eenews.net/assets/2017/01/03/document\\_ew\\_02.pdf](https://www.eenews.net/assets/2017/01/03/document_ew_02.pdf)
- <sup>119</sup> Supreme Court of Florida, Case No. SC16-2277, February 24, 2017. [https://efactssc-public.flcourts.org/casedocuments/2016/2277/2016-2277\\_disposition\\_137996.pdf](https://efactssc-public.flcourts.org/casedocuments/2016/2277/2016-2277_disposition_137996.pdf)
- <sup>120</sup> Senate Bill 1048, Florida Senate, 2017. [https://www.flsenate.gov/Session/Bill/2017/1048/BillText/\\_/\\_/PDF](https://www.flsenate.gov/Session/Bill/2017/1048/BillText/_/_/PDF)
- <sup>121</sup> “After FPL Loses Legal Fight Over New Power Lines in South Miami-Dade, Lawmakers Try to Change Rules,” Miami New Times, March 23, 2017. <http://www.miaminewtimes.com/news/state-bills-would-let-fpl-invalidate-power-line-court-ruling-it-didnt-like-9222997>
- <sup>122</sup> SB 1048, Florida Senate. <http://www.flsenate.gov/Session/Bill/2017/01048>
- <sup>123</sup> “City officials from Miami-Dade urge legislators to reject FPL transmission line bill,” Miami Herald, March 22, 2017. <http://www.miamiherald.com/news/local/community/miami-dade/article140197533.html>
- <sup>124</sup> HB 1055 – Linear Facilities, Florida House of Representatives. <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=58866&SessionId=83>
- <sup>125</sup> Santee Cooper suspends construction of Summer Units 2 & 3, July 31, 2017. <https://www.santeecooper.com/about-santee-cooper/news-releases/news-items/santee-cooper-suspends-construction-of-v.c.-summer-units-2-and-3.aspx>
- <sup>126</sup> “Florida Supreme Court says FPL can’t charge customers for gas drilling,” Palm Beach Post, May 19, 2016. <http://www.mypalmbeachpost.com/business/florida-supreme-court-says-fpl-can-charge-customers-for-gas-drilling/IZ2qcZDE8qogpxHXQru9vJ/>
- <sup>127</sup> “PSC rejects staff, sides with FPL, votes to have ratepayers finance fracking projects,” Miami Herald, June 18, 2015. <http://miamiherald.typepad.com/nakedpolitics/2015/06/psc-rejects-staff-sides-with-fpl-to-have-ratepayers-finance-fracking-projects-1.html>

- 
- <sup>128</sup> “Public Service Commission to decide whether FPL can charge more for fracking,” Miami Herald, June 17, 2015. <http://www.miamiherald.com/news/state/florida/article24808012.html>
- <sup>129</sup> “Florida Supreme Court rejects FPL attempt to have customers pay for risky investment,” Tampa Bay Times, May 19, 2016. <http://www.tampabay.com/blogs/the-buzz-florida-politics/florida-supreme-court-rejects-fpl-attempt-to-have-customers-pay-for-risky/2278080>
- <sup>130</sup> “PSC rejects staff, sides with FPL, votes to have ratepayers finance fracking projects,” Miami Herald, June 18, 2015. <http://miamiherald.typepad.com/nakedpolitics/2015/06/psc-rejects-staff-sides-with-fpl-to-have-ratepayers-finance-fracking-projects-1.html>
- <sup>131</sup> “FPL’s fracking investment is a money loser so far,” Tampa Bay Times, August 23, 2015. <http://www.tampabay.com/news/business/energy/fpls-fracking-investment-is-a-money-loser-so-far/2242478>
- <sup>132</sup> Supreme Court of Florida, Case Nos. SC15-95, SC15-113, SC15-115, Miami Herald, <http://miamiherald.typepad.com/files/scofla-woodford-case.pdf>
- <sup>133</sup> “Florida Supreme Court rejects attempt to have customers pay for risky investment,” Tampa Bay Times, March 19, 2016. <http://www.tampabay.com/blogs/the-buzz-florida-politics/florida-supreme-court-rejects-fpl-attempt-to-have-customers-pay-for-risky/2278080>
- <sup>134</sup> CS/SB 1238: Utility Investments in Gas Reserves, Florida Senate 2017. <https://www.flsenate.gov/Session/Bill/2017/1238/ByVersion>
- <sup>135</sup> CS/HB 1043 – Prudent Utility Investments in Natural Gas Reserves, Florida House of Representatives, 2017. <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=58845&SessionId=83>
- <sup>136</sup> “Lawmakers could short-circuit FPL court rulings,” Palm Beach Post, March 14, 2017. <http://www.palmbeachpost.com/news/state--regional-govt--politics/lawmakers-could-short-circuit-fpl-court-rulings/iwbBzOZswDmyAgzWnBHE3N/>
- <sup>137</sup> State Senator Frank Artiles drops green flag, accelerates two bills favorable to FPL,” Miami Herald, March 10, 2017 <http://www.miamiherald.com/news/politics-government/state-politics/article137829733.html>
- <sup>138</sup> “Florida state Sen. Frank Artiles resigns over fury of barroom insults,” Naples Daily News, April 21, 2017. <https://www.usatoday.com/story/news/politics/2017/04/21/frank-artiles-florida-state-senator-resigns/100744404/>
- <sup>139</sup> “Senate advances bill to let FPL customers pay fracking costs,” Miami Herald, April 25, 2017 <http://www.miamiherald.com/news/politics-government/state-politics/article146750094.html>
- <sup>140</sup> “Senate advances bill to let FPL customers pay fracking costs,” Miami Herald, April 25, 2017 <http://www.miamiherald.com/news/politics-government/state-politics/article146750094.html>
- <sup>141</sup> “Florida PSC approves Duke Energy agreement with customers on hook for \$3.2 billion,” Tampa Bay Times, October 17, 2013. <http://www.tampabay.com/news/business/energy/florida-psc-approves-duke-energy-agreement-with-customers-on-hook-for-32/2147708>
- <sup>142</sup> “Florida PSC approves Duke Energy agreement with customers on hook for \$3.2 billion,” Tampa Bay Times, October 17, 2013. <http://www.tampabay.com/news/business/energy/florida-psc-approves-duke-energy-agreement-with-customers-on-hook-for-32/2147708>
- <sup>143</sup> “Duke Energy seeks state permission to hike rates by average of \$2.47 per month,” Tampa Bay Times, May 3, 2017. <http://www.tampabay.com/news/business/energy/duke-energy-seeks-state-permission-to-hike-rates-by-average-of-247-per/2322626>

- 
- <sup>144</sup> “Duke Energy seeks higher summer rate,” News Service of Florida/Orlando Sentinel, June 1, 2017. <http://www.orlandosentinel.com/news/politics/political-pulse/os-duke-power-higher-rate-20170601-story.html>
- <sup>145</sup> “Florida Public Service Commission votes on hiking Duke Energy Bills,” Tampa Bay Times, June 5, 2017. <http://www.tampabay.com/news/business/energy/florida-public-service-commission-votes-on-hiking-duke-energy-bills-today/2326036>
- <sup>146</sup> Duke Energy Florida files settlement agreement for building a smarter energy future, August 29, 2017. <https://news.duke-energy.com/releases/duke-energy-florida-files-settlement-agreement-for-building-a-smarter-energy-future>
- <sup>147</sup> “Tampa Electric seeks rate hike topping an average of \$10 a month,” Tampa Bay Times, April 5, 2013. <http://www.tampabay.com/news/business/energy/tampa-electric-seeks-rate-hike-topping-an-average-10-a-month/2113355>
- <sup>148</sup> “TECO reaches deal, drops request for 10 percent rate increase,” Tampa Tribune, September 6, 2013. <http://www.orlandosentinel.com/news/politics/political-pulse/os-duke-power-higher-rate-20170601-story.html>
- <sup>149</sup> “Tampa Electric Rate Hike Approved by Regulators,” Tampa Patch, September 11, 2013. [https://patch.com/florida/southtampa/tampa-electric-rate-hike-approved-by-state-regulators\\_3b540faf](https://patch.com/florida/southtampa/tampa-electric-rate-hike-approved-by-state-regulators_3b540faf)
- <sup>150</sup> “PSC Approves Rate Hike for Tampa Electric,” Lakeland Ledger, November 4, 2013. <http://www.theledger.com/news/20131104/psc-approves-rate-hike-for-tampa-electric>
- <sup>151</sup> “PSC approves rate hikes for Gulf Power, FPL customers,” Florida Municipal Electric Association, December 4, 2013. <http://publicpower.com/2013/psc-approves-rate-hikes-gulf-power-fpl-customers/>
- <sup>152</sup> “PSC approves rate hikes for Gulf Power, FPL customers,” Florida Municipal Electric Association, December 4, 2013. <http://publicpower.com/2013/psc-approves-rate-hikes-gulf-power-fpl-customers/>
- <sup>153</sup> “Regulators approve Gulf Power rate settlement,” News Service of Florida/Pensacola News Journal, April 4, 2017. <http://www.pnj.com/story/money/business/2017/04/04/gulf-power-rate-settlement-approved/100020582/>
- <sup>154</sup> “Regulators approve Gulf Power rate settlement,” News Service of Florida/Pensacola News Journal, April 4, 2017. <http://www.pnj.com/story/money/business/2017/04/04/gulf-power-rate-settlement-approved/100020582/>
- <sup>155</sup> “Potential for Energy Efficiency and Growing Renewable Energy to Meet Florida’s Growing Energy Demands,” American Council for an Energy-Efficient Economy, June 1, 2007. <http://aceee.org/research-report/e072>
- <sup>156</sup> “Jeb Bush says energy savings should start with government,” Times-Union, August 20, 2001. <http://jacksonville.com/tu-online/apnews/stories/082001/D7E0IJR81.html>
- <sup>157</sup> Section 366.082, Railroads and Other Public Utilities, Florida Statutes. [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0366/Sections/0366.82.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0366/Sections/0366.82.html)
- <sup>158</sup> Chapter 366, Florida Statutes, Public Utilities. <https://www.flsenate.gov/Laws/Statutes/2012/Chapter366/All>
- <sup>159</sup> “State of Florida to JEA: Save Money,” Florida Times-Union, November 30, 2009. <http://jacksonville.com/2016-03-05/stub-84>
- <sup>160</sup> “PSC staff recommends utilities be allowed to drop conservation initiatives,” Tampa Bay Times, October 15, 2009. <http://www.tampabay.com/news/politics/stateroundup/psc-staff-recommends-utilities-be-allowed-to-drop-conservation-incentives/1044376>

- 
- <sup>161</sup> “State of Florida to JEA: Conserve Energy,” Times-Union, November 30, 2009. <http://jacksonville.com/2016-03-05/stub-84>
- <sup>162</sup> “Florida regulators approve plan to gut energy efficiency goals, end solar power rebates,” Tampa Bay Times, November 25, 2014. <http://www.tampabay.com/news/business/energy/florida-regulators-meet-to-decide-future-of-energy-efficiency-and-solar/2207845>
- <sup>163</sup> “Florida regulators approve plan to gut energy efficiency goals, end solar power rebates,” Tampa Bay Times, November 25, 2014. <http://www.tampabay.com/news/business/energy/florida-regulators-meet-to-decide-future-of-energy-efficiency-and-solar/2207845>
- <sup>164</sup> “Editorial: In Florida, utilities call the shots,” Tampa Bay Times, July 22, 2014. <http://www.tampabay.com/opinion/editorials/editorial-in-florida-utilities-call-the-shots/2189552>
- <sup>165</sup> “NEW: Hedging costs Florida consumers \$7 billion – why start again,” Palm Beach Post, April 4, 2017. <http://www.palmbeachpost.com/business/new-hedging-costs-florida-consumers-billion-why-start-again/igxM10aeNUYncH3hr5ilLJ/>
- <sup>166</sup> “PSC approves one-year halt to hedging of natural gas prices by utilities,” Saintpetersblog. <http://saintpetersblog.com/psc-approves-one-year-halt-hedging-natural-gas-prices-utilities/>
- <sup>167</sup> “PSC approves one-year halt to hedging of natural gas prices by utilities,” Saintpetersblog. <http://saintpetersblog.com/psc-approves-one-year-halt-hedging-natural-gas-prices-utilities/>
- <sup>168</sup> “NEW: Hedging costs Florida consumers \$7 billion – why start again,” Palm Beach Post, April 4, 2017. <http://www.palmbeachpost.com/business/new-hedging-costs-florida-consumers-billion-why-start-again/igxM10aeNUYncH3hr5ilLJ/>
- <sup>169</sup> “FPL rates going up by \$811 million over 3 years,” Miami Herald, November 29, 2016. <http://www.miamiherald.com/news/local/article117673518.html>
- <sup>170</sup> “NEW: Hedging costs Florida consumers \$7 billion – why start again,” Palm Beach Post, April 4, 2017. <http://www.palmbeachpost.com/business/new-hedging-costs-florida-consumers-billion-why-start-again/igxM10aeNUYncH3hr5ilLJ/>
- <sup>171</sup> “Staff for Florida regulators recommend continued gas hedging despite nearly \$7 billion in losses,” Tampa Bay Times, April 4, 2017. <http://www.tampabay.com/news/business/energy/staff-for-florida-regulators-recommend-continued-gas-hedging-despite/2319147>
- <sup>172</sup> “FPL hires former state regulators,” SunSentinel, September 19, 2009. <http://www.sun-sentinel.com/business/sfl-psc-fpl-ties-091809-story.html>
- <sup>173</sup> Section 350.0605, Florida Statutes, Public Service Commission, Former commissioners and employees; representation of clients before commission. [http://www.leg.state.fl.us/STATUTES/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0350/Sections/0350.0605.html](http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0350/Sections/0350.0605.html)
- <sup>174</sup> “‘Revolving door’ keeps spinning,” SunSentinel, November 19, 2010. [http://www.sun-sentinel.com/sfl-mtblog-2010-11-revolving\\_door\\_between\\_governm\\_1-story.html](http://www.sun-sentinel.com/sfl-mtblog-2010-11-revolving_door_between_governm_1-story.html)
- <sup>175</sup> Integrity Florida, “Power Play” Political Influence of Florida’s Top Energy Corporations, March 2014. <http://www.integrityflorida.org/powerplay/>
- <sup>176</sup> Background and Organization, Arizona Corporation Commission. <http://www.azcc.gov/Divisions/Administration/about.asp>
- <sup>177</sup> Commissioner appointment process, Ohio Public Utilities Commission. <http://www.puco.ohio.gov/puco/index.cfm/be-informed/consumer-topics/commissioner-appointment-process/#sthash.d7P4H43B.dpbs>

- 
- <sup>178</sup> State of Rhode Island Public Utilities Commission and Division of Public Utilities and Carriers. <http://www.ripuc.org/>
- <sup>179</sup> About the Public Service Commission, Delaware Public Service Commission. <http://depssc.delaware.gov/public-service-commission/>
- <sup>180</sup> Members, National Association of State Utility Consumer Advocates. <https://nasuca.org/members/>
- <sup>181</sup> “PULP, AARP Praise Assembly for Proposing Utility Consumer Advocate, \$1.5 M for Other Efforts,” AARP New York, March 16, 2017. <http://states.aarp.org/pulp-aarp-praise-assembly-for-proposing-utility-consumer-advocate-1-5-m-for-other-efforts/>
- <sup>182</sup> Intervenor Funding in Public-Utility Rate Cases, National Consumer Law Center. [http://www.povertylaw.org/files/docs/article/chr\\_1995\\_june\\_brockway.pdf](http://www.povertylaw.org/files/docs/article/chr_1995_june_brockway.pdf)
- <sup>183</sup> “Rate payers have constant, effective advocate in Montana Consumer Council, Roger Koopman, Montana Public Service Commission commissioner. <http://psc.mt.gov/commissioners/District3/pdf/MCC%20Guest%20Column1.pdf>
- <sup>184</sup> Agency Profile, Montana Consumer Council. [http://leg.mt.gov/content/Publications/fiscal/ba-2015/section\\_a/Consumer.pdf](http://leg.mt.gov/content/Publications/fiscal/ba-2015/section_a/Consumer.pdf)
- <sup>185</sup> “PSC Chairman calls report misleading; other commissioners open to ban,” Baton Rouge Morning Advocate, June 2, 2015. [http://www.theadvocate.com/baton\\_rouge/news/politics/legislature/article\\_2c1cf88a-5601-5f9d-92e0-e9f17ac8eb18.html](http://www.theadvocate.com/baton_rouge/news/politics/legislature/article_2c1cf88a-5601-5f9d-92e0-e9f17ac8eb18.html)
- <sup>186</sup> Commissioner appointment process, Ohio Public Utilities Commission. <http://www.puco.ohio.gov/puco/index.cfm/be-informed/consumer-topics/commissioner-appointment-process/#sthash.d7P4H43B.dpbs>
- <sup>187</sup> “Electricity Regulation in the United States: A Guide,” The Regulatory Assistance Project, March 2011. <http://www.raponline.org/wp-content/uploads/2016/05/rap-lazar-electricityregulationintheus-guide-2011-03.pdf>
- <sup>188</sup> “Electric Utilities, Deregulation and Restructuring of U.S. Electricity Markets,” Purdue University Discovery Park Energy Center. <https://www.purdue.edu/discoverypark/energy/assets/pdfs/History.pdf>
- <sup>189</sup> Supreme Court Case, Munn vs. Illinois 1877, American History From Revolution to Reconstruction and beyond. <http://www.let.rug.nl/usa/documents/1876-1900/supreme-court-case-munn-v-illinois-1877.php>
- <sup>190</sup> Frequently Asked Questions, Office of Public Counsel, Florida. <http://www.floridaopc.gov/Pages/FAQs.aspx#opc>
- <sup>191</sup> Mission and Statutory Responsibility, Office of Consumer Counsel, Connecticut. [http://www.ct.gov/occ/lib/occ/occ\\_fy2013\\_annual\\_report.pdf](http://www.ct.gov/occ/lib/occ/occ_fy2013_annual_report.pdf)
- <sup>192</sup> Maryland Office of People’s Counsel. <http://www.opc.state.md.us/Portals/0/Containers/OPC/Organizational%20chart%20August%202016.pdf>
- <sup>193</sup> Who We Are, Missouri Office of Public Counsel. <http://opc.mo.gov/who-we-are.html>
- <sup>194</sup> “Office of Public Utility Counsel, Annual Report for Fiscal Year 2016. <http://www.opc.state.tx.us/Documents/Annual%20Report%20-%20FY%202016.pdf>
- <sup>195</sup> Residential Utility Consumer Office Organization Chart, State of Arizona. <https://ruco.az.gov/sites/default/files/RUCO%20ORG%20Chart.pdf>
- <sup>196</sup> Office of Consumer Counsel, Colorado Department of Regulatory Agencies, FY 2015/2016 Annual Report. [https://drive.google.com/file/d/0B6RhHT-h2\\_edjRFNUhvMXc2RU0/view](https://drive.google.com/file/d/0B6RhHT-h2_edjRFNUhvMXc2RU0/view)

- 
- <sup>197</sup> About Us, Citizens Utility Ratepayer Board. <http://curb.kansas.gov/about.htm>
- <sup>198</sup> Office of Consumer Advocate, State of New Hampshire. <http://www.oca.nh.gov/index.htm>
- <sup>199</sup> Introductory Presentation, Office of the Public Advocate, State of Maine, January 17, 2017. <http://www.maine.gov/meopa/reports/128th/2017-01-17%20OPA%20Introductory%20Presentation.pdf>
- <sup>200</sup> 2016 ORA Annual Report, Office of Ratepayer Advocates, State of California. <http://www.ora.ca.gov/AR2016.aspx>
- <sup>201</sup> Statement of Sandra Mattavous-Frye, People’s Council for the District of Columbia. <http://www.opc-dc.gov/images/pdf/testimony/FY15smf42914-645pm.pdf>
- <sup>202</sup> Other Rate Counsel Staff, Division of the Rate Counsel, State of New Jersey. <http://www.state.nj.us/rpa/about/staff/>
- <sup>203</sup> “Annual Report of the Pennsylvania Office of Consumer Advocate, Fiscal Year 2015-2016.” <http://www.oca.state.pa.us/new/Annual%20Report%202015-2016.pdf>
- <sup>204</sup> What is the OCC? Office of the Ohio Consumer Counsel. <http://www.occ.ohio.gov/about/index.shtml>
- <sup>205</sup> Additional Comments of AARP Idaho to the Interim Committee on Energy, Environment and Technology on the Draft 2012 Idaho Energy Plan, November 18, 2011. [https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2011/interim/energy\\_public\\_aarp2.pdf](https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2011/interim/energy_public_aarp2.pdf)
- <sup>206</sup> About the Division of the Public Advocate, Delaware Division of Public Advocate. <http://publicadvocate.delaware.gov/division-public-advocate/>
- <sup>207</sup> About Us, Citizens Utility Ratepayer Board, State of Kansas. <http://curb.kansas.gov/about.htm>
- <sup>208</sup> About Us, Citizens Utility Ratepayer Board, State of Kansas. <http://curb.kansas.gov/about.htm>
- <sup>209</sup> About Us, Maryland Office of People’s Counsel. <http://www.opc.state.md.us/Home/AboutUs.aspx>
- <sup>210</sup> An Introduction to Your Georgia Public Service Commission, Georgia Public Service Commission. <http://www.psc.state.ga.us/pscinfo/pscintro.asp>
- <sup>211</sup> Who We Are, Missouri Office of the Public Counsel. <http://opc.mo.gov/who-we-are.html>
- <sup>212</sup> Office of the Consumer Advocate, New Hampshire. <http://www.oca.nh.gov/index.htm>
- <sup>213</sup> “Office of Public Utility Counsel, Annual Report for Fiscal Year 2016,” State of Texas. <http://www.opc.state.tx.us/Documents/Annual%20Report%20-%20FY%202016.pdf>
- <sup>214</sup> Utah Department of Commerce Office of Consumer Services. <https://ocs.utah.gov/regulation.html>
- <sup>215</sup> Consumer Advocate Division of the Public Service Commission of West Virginia. <http://www.cad.state.wv.us/>
- <sup>216</sup> Introductory Presentation, Office of the Public Advocate, State of Maine, January 17, 2017. <http://www.maine.gov/meopa/reports/128th/2017-01-17%20OPA%20Introductory%20Presentation.pdf>
- <sup>217</sup> “State of Maine Office of the Public Advocate Annual Report, July 1, 2015-June 30, 2016.” <http://www.maine.gov/meopa/about/reports/2016%20Annual%20Report.pdf>
- <sup>218</sup> “AARP Florida Disappointed in Public Service Commission’s Side Deal with Florida Power & Light,” AARP Florida, November 29, 2016. <http://states.aarp.org/aarp-florida-disappointed-in-public-service-commissions-side-deal-florida-power-light/>
- <sup>219</sup> Office of Public Counsel presentation to Joint Committee on Public Counsel Oversight, Florida Legislature. <http://www.leg.state.fl.us/data/committees/Joint/JCPO/JCPO.pdf>
- <sup>220</sup> “State of Maine Office of the Public Advocate Annual Report, July 1, 2015-June 30, 2016.” <http://www.maine.gov/meopa/about/reports/2016%20Annual%20Report.pdf>
- <sup>221</sup> “A Study of the Negotiated-Settlement Practice in Regulation: Some Evidence from Florida, Shourjo Chakravortya, Department of Economics, University of Florida.

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[http://warrington.ufl.edu/centers/purc/purcdocs/papers/1419\\_Chakravorty\\_A%20Study%20of%20the%20Negotiated-ettlement%20Practice%20in%20Regulation%20Some%20Evidence%20from%20Florida.pdf](http://warrington.ufl.edu/centers/purc/purcdocs/papers/1419_Chakravorty_A%20Study%20of%20the%20Negotiated-ettlement%20Practice%20in%20Regulation%20Some%20Evidence%20from%20Florida.pdf)

<sup>222</sup> Frequently Asked Questions, Office of Public Counsel, Florida.

<http://www.floridaopc.gov/Pages/FAQs.aspx#opc>

<sup>223</sup> Mission and Statutory Responsibility, Office of Consumer Counsel, Connecticut.

[http://www.ct.gov/occ/lib/occ/occ\\_fy2013\\_annual\\_report.pdf](http://www.ct.gov/occ/lib/occ/occ_fy2013_annual_report.pdf)

<sup>224</sup> State of Maryland Office of People's Counsel Organization Chart.

<http://www.opc.state.md.us/Portals/0/Containers/OPC/Organizational%20chart%20August%202016.pdf>

<sup>225</sup> Who We Are, Missouri Office of the Public Counsel. <http://opc.mo.gov/who-we-are.html>

<sup>226</sup> "Office of Public Utility Counsel, Annual Report for Fiscal Year 2016," State of Texas.

<http://www.opc.state.tx.us/Documents/Annual%20Report%20-%20FY%202016.pdf>

<sup>227</sup> Residential Utility Consumer Office Organization Chart, State of Arizona.

<https://ruco.az.gov/sites/default/files/RUCO%20ORG%20Chart.pdf>

<sup>228</sup> Office of Consumer Counsel, Colorado Department of Regulatory Agencies, FY 2015/2016 Annual Report. [https://drive.google.com/file/d/0B6RhHT-h2\\_edjRFNUhvMXc2RU0/view](https://drive.google.com/file/d/0B6RhHT-h2_edjRFNUhvMXc2RU0/view)

<sup>229</sup> Citizens' Utility Ratepayer Board, Citizens Regulator Review Board, State of Kansas.

<http://curb.kansas.gov/about.htm>

<sup>230</sup> The Office of the Consumer Advocate, State of New Hampshire. <http://www.oca.nh.gov/index.htm>

<sup>231</sup> Introductory Presentation, Office of the Public Advocate, State of Maine, January 17, 2017.

<http://www.maine.gov/meopa/reports/128th/2017-01-17%20OPA%20Introductory%20Presentation.pdf>

<sup>232</sup> Notice of Staff Workshop, in re: January 1992 Grand Jury Report and Rule 25-22.033, Florida Administrative Code, Communications between Commission Members and Parties, November 13, 2009. (Attachment A)

[http://www.psc.state.fl.us/Files/PDF/Agendas/workshopnotices/Notice\\_10914\\_09.pdf](http://www.psc.state.fl.us/Files/PDF/Agendas/workshopnotices/Notice_10914_09.pdf)

<sup>233</sup> Rule 25-22.033, Florida Administrative Code & Florida Administrative Register.

<https://www.flrules.org/gateway/ruleno.asp?id=25-22.033>

<sup>234</sup> Section 350.043, Florida Statutes, Public Service Commission, Ex parte communications.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0350/Sections/0350.042.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0350/Sections/0350.042.html)

<sup>235</sup> "Legislators consider tightening PSC ethics rules," SunSentinel, November 5, 2009. <http://www.sun-sentinel.com/business/fl-psc-proposals-20091104-story.html>

<sup>236</sup> Legislators consider tightening PSC ethics rules," SunSentinel, November 5, 2009. <http://www.sun-sentinel.com/business/fl-psc-proposals-20091104-story.html>

<sup>237</sup> S1034, General Bill/CS/1<sup>st</sup> ENG, Relating to Public Service Commission.

[http://archive.flsenate.gov/session/index.cfm?BI\\_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2010&billnum=1034](http://archive.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2010&billnum=1034)

<sup>238</sup> "Power Play: Political Influence of Florida's Top Energy Corporations," Integrity Florida, March 31, 2014. <http://www.integrityflorida.org/powerplay/>

<sup>239</sup> Bio, Kerri Stewart, Chief of Staff, Office of Mayor, Jacksonville. <http://uat-www.coj.net/mayor-curry/staff-bios/kerri-stewart.aspx>

<sup>240</sup> Section 350.041, Florida Statutes, Public Service Commission, Commissioners; standards of conduct. [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0350/Sections/0350.041.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0350/Sections/0350.041.html)

---

<sup>241</sup> Section 350.042, Florida Statutes, Public Service Commission, Commissioners; standards of conduct.  
[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0350/Sections/0350.042.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0350/Sections/0350.042.html)

<sup>242</sup> Section 366.093, Florida Statutes, Railroads and Other Regulated Utilities, Public utility records; confidentiality.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=trade+secrets+Public+service+commission&URL=0300-0399/0366/Sections/0366.093.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=trade+secrets+Public+service+commission&URL=0300-0399/0366/Sections/0366.093.html)

<sup>243</sup> “Confidential: A State Agency in Need of Reform: Florida’s Public Service Commission.

<http://www.integrityflorida.org/wp-content/uploads/2017/08/PSC-Report-1.pdf>