### COMMITTEE MEETING EXPANDED AGENDA

**JOINT COMMITTEE ON PUBLIC COUNSEL OVERSIGHT**

**Senator Powell, Alternating Chair**

**Representative Mariano, Alternating Chair**

<table>
<thead>
<tr>
<th>MEETING DATE:</th>
<th>Thursday, February 7, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>TIME:</td>
<td>1:30—3:30 p.m.</td>
</tr>
<tr>
<td>PLACE:</td>
<td>301 Senate Building</td>
</tr>
</tbody>
</table>

**SENATE MEMBERS:** Senator Powell, Alternating Chair; Senators Broxson, Farmer, Gruters, and Harrell

**HOUSE MEMBERS:** Representative Mariano, Alternating Chair; Representatives Good, Robinson, Stone, and Thompson

<table>
<thead>
<tr>
<th>TAB</th>
<th>BILL NO. and INTRODUCER</th>
<th>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</th>
<th>COMMITTEE ACTION</th>
</tr>
</thead>
</table>
| 1   | Presentation - Discussion and testimony only on the following (no vote to be taken): | - Overview of Committee's Jurisdiction by Committee Staff  
- Overview of the Office of Public Counsel by J.R. Kelly, Public Counsel | Presented |

**Other Related Meeting Documents**
## JOINT COMMITTEE ATTENDANCE

**2019 Regular Session**

**COMMITTEE:** Joint Committee on Public Counsel Oversight

**MEETING DATE:** Thursday, February 7, 2019

**TIME:** 1:30—3:30 p.m.

**PLACE:** 301 Senate Building

<table>
<thead>
<tr>
<th>SENATE MEMBERS</th>
<th>Present</th>
<th>Absent</th>
<th>HOUSE MEMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Powell, Alt. Chair</td>
<td>X</td>
<td>X</td>
<td>Mariano, Alt. Chair</td>
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<tr>
<td>Broxson</td>
<td>X</td>
<td></td>
<td>Good</td>
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<td>Farmer</td>
<td>X</td>
<td>X</td>
<td>Robinson</td>
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<td>Gruters</td>
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<td>Stone</td>
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<td>Harrell</td>
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<td>Excused</td>
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<tr>
<td>Thompson</td>
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**TOTALS**

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<tr>
<th>Present</th>
<th>Absent</th>
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<td>5</td>
<td>4</td>
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**TOTALS**

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**REPORTING INSTRUCTION:** Publish 02072019.0339
Joint Rules Related to the Joint Committee on Public Counsel Oversight
Joint Rules related to the Joint Committee on Public Counsel Oversight
(2018-2020)

Joint Rule Four—Joint Committees

4.1—Standing Joint Committees
(1) The following standing joint committees are established:
   (a) Administrative Procedures Committee.
   (b) Committee on Public Counsel Oversight.
   (c) Legislative Auditing Committee.
(2) No other joint committee shall exist except as agreed to by the presiding officers or by concurrent resolution approved by the Senate and the House of Representatives.
(3) Appointments to each standing joint committee shall be made or altered and vacancies shall be filled by the Senate and the House of Representatives in accordance with their respective rules. There shall be appointed to each standing joint committee no fewer than five and no more than seven members from each house.
(4)(a) The President of the Senate shall appoint a member of the Senate to serve as the chair, and the Speaker of the House of Representatives shall appoint a member of the House of Representatives to serve as the vice chair, for:
   1. The Legislative Auditing Committee and the Committee on Public Counsel Oversight, for the period from the Organization Session until noon on August 1 of the calendar year following the general election.
   2. The Administrative Procedures Committee for the period from noon on August 1 of the calendar year following the general election until the next general election.
(b) The Speaker of the House of Representatives shall appoint a member of the House of Representatives to serve as the chair, and the President of the Senate shall appoint a member of the Senate to serve as the vice chair, for:
   1. The Legislative Auditing Committee and the Committee on Public Counsel Oversight, for the period from noon on August 1 of the calendar year following the general election until the next general election.
   2. The Administrative Procedures Committee for the period from the Organization Session until noon on August 1 of the calendar year following the general election.
   (c) A vacancy in an appointed chair or vice chair shall be filled in the same manner as the original appointment.

4.2—Procedures in Joint Committees
The following rules shall govern procedures in joint committees other than conference committees:
(1) A quorum for a joint committee shall be a majority of the appointees of each house. No business of any type may be conducted in the absence of a quorum.
(2)(a) Joint committees shall meet only within the dates, times, and locations authorized by both the President of the Senate and the Speaker of the House of Representatives.
(b) Joint committee meetings shall meet at the call of the chair. In the absence
of the chair, the vice chair shall assume the duty to convene and preside over meetings
and such other duties as provided by law or joint rule. During a meeting properly
convened, the presiding chair may temporarily assign the duty to preside at that
meeting to another joint committee member until the assignment is relinquished or
revoked.

(c) Before any joint committee may hold a meeting, a notice of such meeting
shall be provided to the Secretary of the Senate and the Clerk of the House of
Representatives no later than 4:30 p.m. of the 7th day before the meeting. For purposes
of effecting notice to members of the house to which the chair does not belong, notice
to the Secretary of the Senate shall be deemed notice to members of the Senate and
notice to the Clerk of the House shall be deemed notice to members of the House of
Representatives. Noticed meetings may be canceled by the chair with the approval of
at least one presiding officer.

(d) If a majority of its members from each house agree, a joint committee may
continue a properly noticed meeting after the expiration of the time called for the
meeting. However, a joint committee may not meet beyond the time authorized by the
presiding officers without special leave granted by both presiding officers.

(3) The presiding officers shall interpret, apply, and enforce rules governing joint
committees by agreement when the rule at issue is a joint rule. Unless otherwise
determined or overruled by an agreement of the presiding officers, the chair shall
determine all questions of order arising in joint committee meetings, but such
determinations may be appealed to the committee during the meeting.

(4) Each question, including any appeal of a ruling of the chair, shall be decided
by a majority vote of the members of the joint committee of each house present and
voting.

4.3—Powers of Joint Committees

(1) A joint committee may exercise the subpoena powers vested by law in a
standing committee of the Legislature. A subpoena issued under this rule must be
approved and signed by the President of the Senate and the Speaker of the House of
Representatives and attested by the Secretary of the Senate and the Clerk of the House.

(2) A joint committee may adopt rules of procedure that do not conflict with the
Florida Constitution or any law or joint rule, subject to the joint approval of the
President of the Senate and the Speaker of the House of Representatives.

(3) A joint committee may not create subcommittees or workgroups unless
authorized by both presiding officers.

4.4—Administration of Joint Committees

(1) Within the monetary limitations of the approved operating budget, the
expenses of the members and the salaries and expenses of the staff of each joint
committee shall be governed by joint policies adopted under Joint Rule 3.2.

(2) Subject to joint policies adopted under Joint Rule 3.2, the presiding officers
shall appoint and remove the staff director and, if needed, a general counsel and any
other staff necessary to assist each joint committee. All joint committee staff shall
serve at the pleasure of the presiding officers. Upon the initial adoption of these joint
rules in a biennium, each joint committee staff director position shall be deemed
vacant until an appointment is made.

4.7—Special Powers and Duties of the Committee on Public Counsel Oversight

   (1) The Committee on Public Counsel Oversight shall appoint a Public Counsel.
   (2) The Committee on Public Counsel Oversight may file a complaint with the
Commission on Ethics alleging a violation of chapter 350, Florida Statutes, by a current
or former public service commissioner, an employee of the Public Service Commission,
or a member of the Public Service Commission Nominating Council.
   (3) Notwithstanding Joint Rule 4.4(2), the Committee on Public Counsel
Oversight shall not have any permanent staff but shall be served as needed by other
legislative staff selected by the President of the Senate and the Speaker of the House
of Representatives.
Statutory Provisions related to the Public Counsel
350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his or her employees.—

(1) The committee designated by joint rule of the Legislature or by agreement between the President of the Senate and the Speaker of the House of Representatives as the Committee on Public Counsel Oversight shall appoint a Public Counsel to represent the general public of Florida before the Florida Public Service Commission. The Public Counsel shall be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Committee on Public Counsel Oversight, subject to biennial reconfirmation by the committee. The Public Counsel shall perform his or her duties independently. Vacancies in the office shall be filled in the same manner as the original appointment.

(2) The Public Counsel shall take and subscribe to the oath of office required of state officers by the State Constitution.

(3) No officer or full-time employee of the Public Counsel shall actively engage in any other business or profession; serve as the representative of any political party or on any executive committee or other governing body thereof; serve as an executive, officer, or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; or engage on behalf of any candidate for public office in the solicitation of votes or other activities in behalf of such candidacy. Neither the Public Counsel nor any employee of the Public Counsel shall become a candidate for election to public office unless he or she shall first resign from his or her office or employment.

History.—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 535, ch. 95-148; s. 6, ch. 2005-132; s. 35, ch. 2008-227; s. 29, ch. 2011-34.

350.0611 Public Counsel; duties and powers.—It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;
(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; and

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens.

History.—s. 1, ch. 74-195; s. 1, ch. 77-174; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 536, ch. 95-148; s. 12, ch. 2000-350; s. 2, ch. 2001-145.

350.0612 Public Counsel; location. —The Public Counsel shall maintain his or her office in Leon County on the premises of the commission or, if suitable space there cannot be provided, at such other place convenient to the offices of the commissioners as will enable him or her to carry out expeditiously the duties and functions of his or her office.

History.—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 537, ch. 95-148.

350.0613 Public Counsel; employees; receipt of pleadings.—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the commission. The commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission, and if the Public Counsel intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

History.—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 538, ch. 95-148.
350.0614 Public Counsel; compensation and expenses.—
(1) The salaries and expenses of the Public Counsel and his or her employees shall be allocated by the committee only from moneys appropriated to the Public Counsel by the Legislature.
(2) The Legislature declares and determines that the Public Counsel is under the legislative branch of government within the intention of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law.
(3) Neither the Executive Office of the Governor nor the Department of Management Services or its successor shall have power to determine the number, or fix the compensation, of the employees of the Public Counsel or to exercise any manner of control over them.

History.—s. 1, ch. 74-195; s. 120, ch. 79-190; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 121, ch. 92-279; s. 55, ch. 92-326; s. 539, ch. 95-148; s. 7, ch. 2005-132; s. 36, ch. 2008-227; s. 30, ch. 2011-34.
Office of Public Counsel

Advocates for Fair Utility Rates
Created by ss. 350.061 - 350.0614

Part of the Legislature

Independent of the Florida Public Service Commission (PSC)
Provide legal representation for Florida citizens on issues:
- Before the PSC
- Before counties that opt out of PSC jurisdiction on water/wastewater cases

Represent ratepayers collectively, not individually
Implement Lifeline program
- Call Center
- Verify income eligibility
Located in Tallahassee

16.5 FTE’s

Budget -- $2,315 million
Case Activity

- Electric rate cases
- Water/Wastewater rate cases
- Gas rate cases
- Nuclear cost recovery
- Annual cost recovery or pass-through dockets – Fuel, Environmental and Conservation
Questions?
Office of Public Counsel
J. R. Kelly
(850) 488-9330
kelly.jr@leg.state.fl.us
www.floridaopc.gov
Call to order
Quorum present
Senator Thompson is excused
Chair Powell for opening comments
Representative Mariano for comments, Alternating Chair
Chair Powell for additional comments
Kevin Wiehle, staff, for brief overview of committee’s jurisdiction
Questions?
Senator Powell for a question
Staff for a response
Staff for a response
Further questions?
Discussion?
Appearance cards?
J.R. Kelly for a presentation, Office of General Counsel
Questions?
Senator Gruters
Follow up
Additional follow up question
Vice Chair Mariano for a question
Follow up question
Additional follow up question
Senator Harrell for a question
Follow up question
A series of follow up questions
Senator Powell for a question
Senator Gruters for a question
Senator Gruters for follow up question
Representative Good for a question
JR Kelly for response
Representative Robinson for a question
Recognized for a series of follow up questions
Representative Stone for a question
Senator Farmer for a question
Recognized for a series of questions
JR Kelly for response
Chair Powell for a couple of questions
Chair Powell for a reconfirmation question
Chair Powell for a series of questions of JR Kelly
Chair Powell is their discussion?
Chair Mariano for comments
Chair Powell for comments
Senator Harrell for comments on reconfirmation hearing
Comments from JR Kelly
Chair Powell recognizes persons wishing to speak
Ann Marie Ryan, Summertree Water Alliance & Community
Chair Powell for comments
Mr. Marino, Pasco County Commissioner
Chair Mariano moves we adjourn
The Florida Senate
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic OPC

Name ANN MARIE RYAN

Job Title LEADER, SUMMITREE WATER ALLIANCE

Address 11436 WENDICIAL CT
          NEW PORT RICHEY, FL 34054

Phone 727-267-7162

Email Ann328@hotmail.com

City

State FL

Zip 34054

Speaking: [ ] For [ ] Against [X] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing SUMMITREE WATER ALLIANCE & COMMUNITY

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: 2-7-19

Bill Number (if applicable): 

Amendment Barcode (if applicable): 

Topic: OPC

Name: Jack Mariano

Job Title: County Commissioner

Address: 8116 Greenside Lane

Street: Hudson FL

City: State: Zip: 34667

Phone: 727-534-8846

Email: Jack.Mariano@ao1.com

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: Pasco County

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

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S-001 (10/14/14)
The Florida Senate

APPEARANCE RECORD

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Meeting Date

Topic

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Bill Number (if applicable)

Amendment Barcode (if applicable)

Speaking: □ For □ Against □ Information

Waive Speaking: □ In Support □ Against

(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: □ Yes □ No

Lobbyist registered with Legislature: □ Yes □ No

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