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**Subject:** Talking Points - 072919 Draft.docx  
**Date:** Monday, July 29, 2019 6:54:41 PM  
**Attachments:** [imagecfba36.PNG](#)  
[image5ca628.PNG](#)  
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Herschel –

Thanks for the conversation this morning, which was very helpful. Attached please find the first of the two documents we promised – i.e., Talking Points for Chris Kise to consider using with the Commission and Commission staff. I'm starting to work on the roadmap now and will try to send it to you before the end of the day tomorrow. The roadmap will track the Talking Points closely. The Talking Points, therefore, provide a preview of what the roadmap will say.

Please let me know if you have questions.

Thanks.

Andy

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Proposed Talking Points

**Note: These Talking Points reflect additional thinking regarding how the Hypothetical Transaction might be structured. It supersedes prior discussions of this issue.**

Legal Framework

- Under the Home Rule provisions of the Florida Constitution and the Florida Statutes, municipalities have broad authority over municipal functions, such as the provision of electric service within their boundaries. Fla. Const. Article VIII, Section 2(b); Fla. Stat § 166.021; Jacksonville Electric Light Co. v. City of Jacksonville, 18 So. 677 (Fla. 1895) (holding provision of electric service is a municipal purpose).
- This authority includes the right to grant franchises to public utilities to provide electric service within their boundaries. See Florida Attorney General, Opinion No. AGO-078-43 (“[U]nder the broad grant of powers contained in Ch. 166 [of Florida Statutes], and in the absence of any express constitutional or statutory provisions to the contrary, it appears a municipality possesses the power to grant franchises.”).

Hypothetical Transaction

- Using this authority, the City of Jacksonville would grant a franchise to a company that acquires all or substantially all the assets of JEA (“Newco”) to provide electric service to all customers in the service territory currently served by JEA.
- With one limited exception, Newco will have exclusive authority to provide electric service to retail customers within the service territory. This exception relates to power JEA purchases from the Municipal Electric Authority of Georgia (“MEAG”). The contract between JEA and MEAG (the “MEAG PPA”), discussed further below, requires JEA to purchase a specific percentage share of the power generated by a nuclear plant in another state. For practical reasons, it is not likely to be transferred to Newco in any potential strategic alternative.
- Under the terms of the franchise the City of Jacksonville grants to Newco, Newco will be solely responsible for ensuring that the customers in the service territory are adequately served -- including, but not limited to, the responsibility to make up for any shortfall in the number of megawatt hours of electricity delivered under the MEAG PPA.

- To enable Newco to fulfill its service obligations to retail customers, Newco is expected to acquire all of JEA’s physical assets and all of its purchase power agreements, except for the MEAG PPA.
- JEA would remain the obligor under the MEAG PPA and will sell all of the power it receives under the MEAG PPA directly to retail customers in the service territory. This power would be delivered to retail customers using the T&D system Newco acquires from JEA. JEA will recover its purchase power costs through a separate line item that would be included in Newco’s bills to retail customers in the service territory. Newco would collect this charge and then remit it to JEA.

### Customer Perspective

- Functionally, from a customer standpoint, under the arrangement described above, the generating resources used to supply retail customers will generally be the same as occurs now, with the output from the nuclear plant used to serve retail customers on an available basis and the remainder of the power needed by retail customers obtained from generating resources currently owned by JEA or purchased from other generators.
- From a customer standpoint, the arrangement will be seamless, with the sole exception that bills will be sent by Newco, rather than JEA.

### Legal Status of Newco and JEA

- Once Newco is granted a franchise by the City of Jacksonville, under Florida law, it will automatically become a “public utility,” as defined under Section 366.02(1) of the Florida Statutes (Public Utilities):

“Public utility” means every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public . . . .

- As such, Newco will be subject to comprehensive regulation by the Florida Public Service Commission (the “Commission”) and Newco’s rates will be subject to Commission review.
- This will enable the Commission to regulate the provision of electricity in Jacksonville in a way it cannot do now, further protecting customers against excessive rates.
- JEA will continue to be a municipal electric utility under Section 366.02(2) of the Florida Statutes (Public Utilities).
- From a customer protection and resource adequacy standpoint, the proposed arrangement should be seen as a clearly favorable to the Commission and retail customers.

### Additional Details Regarding the Nuclear Plant Exception/MEAG PPA

- Under the MEAG PPA, JEA is required to purchase a percentage share of all of the power produced by the nuclear plant and to pay an identical percentage share of the fuel and operating costs of the plant (collectively, the “purchase power costs”).
- From JEA’s standpoint, these are strictly passthrough items. JEA has no control over the operation of the plant and no discretion over how much power JEA takes. The determination of the amount it must pay under the MEAG PPA is purely an accounting matter based upon the costs incurred by the plant owner, which JEA has no control over.
- JEA recovers its purchase power costs by passing these costs through to retail customers, as it will continue to do under the arrangement described above.

### Territorial boundary agreement

- Under the arrangement described above, it is not clear there will be a need for JEA and Newco to enter into a territorial boundary agreement subject to the Commission’s jurisdiction under Fla. Stat. § 366.04(2)(d). [**Note: This differs from the assumption made during previous discussions.**] The territorial boundaries of each utility’s service territory will be identical and the respective roles of each utility will be specified in the franchise agreement for Newco and revised charter for JEA, each enacted through the broad authority granted to the City of Jacksonville under the Home Rule provisions of the Florida Constitution and the Florida Statutes.
- If, however, the Commission believes a territorial boundary agreement is appropriate, it can still be considered.