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BEFORE THE
STATE OF FLORIDA
DEPARTMENT OF REVENUE

In Re: 12A-1.053 Electric
Power and Energy; 12A-1.087,
Exemption for Power Farm
Equipment; Suggested Exemption
Certificate for Items Used for
Agricultural Purposes.

_____ /

Rule Workshop

May 19, 2008

1:30 p.m.

The Carlton Building
Room 118
501 South Calhoun Street
Tallahassee, Florida

Reported by:

RAY D. CONVERY

Court Reporter

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

2 MR. GREEN: Good afternoon. My name is Larry
3 Green and I'm Tax Law Specialist with the Florida
4 Department of Revenue and I'll be the hearing
5 officer today. My role as hearing officer is to
6 preside in a neutral fashion at this hearing. It
7 does not include addressing substantive issues.

8 At this time I would like the other members of
9 the Department of Revenue to introduce themselves.
10 Starting with the staffperson on my far left, please
11 state your name and position with the Department.

12 MR. GRAY: Gary Gray, Program Administrator,
13 Technical Assistance and Dispute Resolution.

14 MR. STEPHENS: Hugh Stephens, General Tax
15 Administration, Sales and Use Tax Compliance
16 Coordinator.

17 MR. PARSONS: Richard Parsons, Tax Law
18 Specialist, Technical Assistance and Dispute
19 Resolution.

20 MR. GREEN: Thank you. This is a rule hearing
21 held pursuant to Florida Statutes Section 120.54(3),
22 Florida Statutes. It is held for the purpose of
23 informing and discussing with interested parties the
24 preliminary text of the following proposed rule
25 amendments which were noticed in the April 11th,

1 2008 Edition of the Florida Administrative Weekly.
2 Specifically, Volume 34, No. 15, pages 1983 through
3 1989.

4 Now, the format for today's hearing is informal
5 and the following procedure will be used for
6 receiving your verbal comments today: Okay. Just
7 to take a poll of what we might cover today, does
8 anyone here have an interest in Proposed Rule
9 12A-1.053?

10 UNIDENTIFIED SPEAKER: Yes.

11 MR. GREEN: Okay. Does anyone here have an
12 interest in Proposed Rule 12A-1.087? That was the
13 second one noticed of the two.

14 UNIDENTIFIED SPEAKER: Sure.

15 MR. ADAMS: Billy Adams with Southern Equipment
16 Dealers Association and Lee Gordon of the same
17 association. We may have something.

18 MR. GREEN: Okay. Perfect.

19 For those proposed rules in which interest has
20 been indicated, technical staff will present either
21 the entire rule or just those provisions for which
22 someone has indicated an interest. Then any
23 comments or discussions regarding the proposed rule
24 provision may be made following its presentation.

25 When you do comment, please state your name and

1 who you represent. In that regard, if you have not
2 already done so, please sign on the sign-in sheet
3 provided. I believe it's right there between the
4 two of you gentlemen.

5 If you don't have a copy of these proposed rule
6 amendments, we'd be happy to provide you with one.
7 Does everybody have a copy? Perfect.

8 Are there any questions concerning the
9 procedure we'll use today?

10 Before we begin, does anybody have written
11 comments they'd like to submit, and, of course,
12 we'll make those part of the record?

13 Did you receive any public comments --

14 MR. PARSONS: No.

15 MR. GREEN: -- or written comments beforehand?

16 Okay. All right. At this time I would like
17 Richard Parsons to present Proposed Rule 12A-1.053.

18 MR. PARSONS: Thank you, Larry.

19 If you'll turn to page one of your handout,
20 it's numbered at the bottom. The first rule is --
21 has to do with electricity that's exempt for use on
22 a farm, and Rule 12A-1.053 references the exemption
23 that's contained in Rule 12A-1.087. So this is just
24 put in here for reference purposes only.

25 The exemption for electricity is spelled out in

1 Paragraph (9) of Rule 12A-1.087, and we will be
2 discussing that in a few minutes. So I just want to
3 point out that that's the only change to 12A-1.053.
4 So unless anybody has any comments about this, we'll
5 move on to the 12A-1.087.

6 MR. GRAY: Ben, did you want to make a comment
7 about --

8 MR. PARKS: No, that says referring --

9 MR. GRAY: Okay.

10 MR. PARKS: Ben Parks, Florida Farm Bureau.

11 MR. PARSONS: All right. So there's no
12 comments on that, so we'll get right into 12A-1.087
13 which provides an exemption for farm equipment and
14 other items for agricultural purposes, including
15 electricity. Again, we're still on page one.
16 Subparagraph (1) implements the exemption for the
17 power farm equipment. The exemption is going from
18 2.5 percent to zero, and it exempts power farm
19 equipment used exclusively on a farm or in a forest
20 for production of agricultural products or fire
21 prevention or suppression work. Paragraph (b)
22 states that "The exemption will not be allowed
23 unless the seller -- unless the purchaser furnishes
24 the seller a written certificate that the items
25 purchased qualify for the exemption."

1 Has anybody got a question about Paragraph (1)?

2 If not, we'll go to Paragraph (2) which
3 contains various definitions. I'll point out that
4 there hasn't been a lot of changes since our last
5 couple of workshops in Gainesville. So we're just
6 going to go over these sections kind of briefly, and
7 if anybody's got a question, just raise their hand
8 and we'll acknowledge you.

9 MR. PARKS: Richard, as you go along, if you
10 could tell us if there has been any change since the
11 last one, if you've added some words or comments
12 or --

13 MR. PARSONS: Okay. Let me make sure I have
14 those noted.

15 Okay. There hasn't been any changes so far,
16 but anyway, on Paragraph (2), it's definitions.
17 Like I said, there's various definitions:
18 Cultivating, harvesting, processing, the definition
19 of forest and a couple of others.

20 MR. GORDON: May I ask a question?

21 MR. PARSONS: Yes, Mr. Gordon.

22 MR. GORDON: I'm Lee Gordon from Gordon Tractor
23 in Madison.

24 In several areas there's words struck out. Did
25 you strike them out, Richard?

1 MR. PARSONS: What that is, if it's got an
2 underline, that means we're adding it, and if it's
3 stricken, we're taking it out. So yeah, those are
4 our changes since -- I mean, since the original rule
5 was drafted, the strikeout is taking out language
6 and the underline is adding language. So, if you
7 see that, that's what it means.

8 MR. ADAMS: Well, in places in here, I don't
9 know that I can quote it without looking, but did
10 you just simply move it?

11 MR. PARSONS: Yes, sir; yes, sir. Not every
12 time, but there are a few instances where it's been
13 moved to another subsection of the rule.

14 MR. GORDON: The thing I'm concerned about is
15 the exemption form that we as dealers get signed.
16 At two places you had struck that out, but later in
17 the -- later on you put it back.

18 MR. PARSONS: Right, yeah, it's just --

19 MR. GORDON: But are you also -- are you also
20 attempting to provide a list, a specific list of
21 exempt equipment? That's a very difficult thing to
22 do.

23 MR. PARSONS: Well, we can't provide a list of
24 all equipment. We have a -- and we're going to get
25 to this next in Paragraph (3). We've got a

1 non-exhaustive list which, you know, we tried to put
2 as many different types of equipment as we can, but
3 certainly we can't list --

4 MR. GORDON: There's always something that pops
5 up.

6 MR. PARSONS: Yeah.

7 MR. GORDON: I understand.

8 MR. PARSONS: Right. And so, leading into
9 that, on page three, Paragraph (3), see where we
10 have it underlined in the first sentence, "The
11 following is a non-exhaustive list of tax exempt
12 power equipment --"

13 MR. GORDON: Yes, I see that.

14 MR. PARSONS: That's a change, Ben. That's one
15 of the changes that we discussed at our last rule
16 hearing, and we just want to make it clear that this
17 isn't a conclusive list. It's just an example of
18 specific items.

19 MR. GORDON: I understand.

20 MR. PARKS: Richard, what -- on that, I'm glad
21 you put something in there because we were all
22 talking about what future equipment we might design
23 that may not, you know, fall under one of these. So
24 who knows what they'll come up with in the future.
25 So this non-exhaustive means that there will be

1 other -- there could possibly be some other
2 equipment. Then when it comes down to who will
3 determine if that qualifies or not, will they come
4 back to you to ask, this new equipment has come
5 out -- will they call you, Richard, or somebody at
6 the Department and say, "This is the equipment," and
7 you'll make that determination whether it falls
8 under it?

9 MR. PARSONS: Yes. I may not personally make
10 it myself, but the Department will.

11 MR. PARKS: Okay.

12 MR. ADAMS: The long list -- if this is the
13 short list, the long list that you have already, is
14 that something that we need to be aware of, or is
15 that something that we don't need to be aware of
16 simply because, when we sign the form -- when the
17 consumer signs the form, we're relieved of
18 responsibility, so therefore do we need the long
19 list?

20 MR. PARSONS: Well, I'm not certain what long
21 list you're talking about. I mean, this is the only
22 list --

23 MR. ADAMS: The one that I understood that you
24 had. You said you had an all-encompassing list of
25 equipment, and this is just an example here.

1 MR. PARSONS: No. I think I said we didn't
2 have an all-encompassing list.

3 MR. ADAMS: I'm sorry.

4 MR. PARSONS: We have a -- and this is the only
5 list that I know of, and it's non-exhaustive. I
6 think I said we can't have an all-encompassing list
7 because we don't know of every type of equipment out
8 there.

9 MR. STEPHENS: When we were going through the
10 last time, we tried to pick up as many items as we
11 could from whatever publications we could get our
12 hands on, but certainly there's something being new
13 developed out there today, but I think there's a
14 valid point to be made: If the purchaser extends to
15 you, the seller, the certificate saying that it is
16 power farm equipment, I mean, that does relieve you,
17 but then, if you have an item that you're in doubt
18 about, then certainly we would look at it and make a
19 determination as to whether we agree that it's power
20 farm equipment or not.

21 MR. PARKS: What I think, Billy, what they're
22 trying to do is say, under page 5, tractors, that
23 would cover both large tractors, small tractors, or
24 No. 32, motorized pumps. It could be all types of
25 pumps. So that's a general category that they're

1 trying to fit in. So --

2 MR. PARSONS: Okay. Again, back to Paragraph
3 (3) is a list of I believe 47 types of equipment.
4 I'm not going to read every one of them. There's
5 only been one or two changes since the last one.
6 Specifically No. 24, we had comment at the last
7 hearing about goats that are required to be licensed
8 under Chapter 320, and we've added those to the
9 list.

10 Has anybody got a comment about these items?

11 No? Okay. Paragraph (b) on page six talks
12 about the purchase of power farm equipment invoiced
13 as a single working unit that is used exclusively on
14 a farm qualifies for the exemption, but when the
15 component parts are invoiced separately, only those
16 components that qualify for the exemption may be
17 purchased, leased or rented tax exempt, and then
18 there's a couple examples. Example 1, an irrigation
19 supply system that is purchased for use on a farm to
20 provide water to an agricultural crop. The
21 irrigation supply system consisting of pumps, pipes,
22 tubing, hoses, generator motors and other items that
23 is purchased and invoiced as a single item at a
24 single price, the purchase of the irrigation supply
25 system is exempt. Example No. 2, if a farmer owns

1 an irrigation supply system and wants to replace or
2 update various components of the system, the farmer
3 purchases an additional pump, a generator and
4 various hoses, pipes and connectors in order to
5 replace or update the system, the pump and generator
6 qualify for -- as power farm equipment and may be
7 purchased tax exempt. The purchase of the various
8 hoses, pipe and connectors do not qualify as a
9 purchase of power farm equipment and is subject to
10 tax at the time of purchase. Ben?

11 MR. PARKS: One question we had -- Ben Parks.
12 A question we had was where you can't -- and I'm not
13 sure still if this answers the question, but where
14 you can't buy the whole irrigation system with one
15 person, you know, if you go to the store, you can
16 get everything, the power equipment, whatever, but,
17 like I say, the sprinkler heads or whatever it might
18 be, microjets that are attached to the pipes, that
19 guy just doesn't do it. He does pipes except for
20 that, but to complete the system you have to go to
21 another store in order to complete that system.
22 Does this mean that you have to buy it all at one
23 store, or if you're buying one complete system, say
24 it takes you a month to get that whole system
25 together, it can be the component parts from one

1 system from different people?

2 MR. PARSONS: No, you have to buy it as one
3 system together as a working unit.

4 MR. PARKS: But if the one system isn't
5 complete at that store -- say they have everything
6 from the pumps to the pipes, but to make the system
7 complete, whether it's sprinklers or whatever it
8 might be, they have to go to another store to
9 complete that system -- the system cannot run
10 without say the final whatever it might be, and
11 that's what some of our farmers have problems with,
12 that a store or a dealer doesn't have everything to
13 complete that system, they have to go to another
14 store to complete that system, that as long as it
15 completes the system, I thought we had talked that,
16 if we could write it down on a piece of paper, "This
17 is the system, these are all the component parts
18 that I'm buying for that system," whether it be at
19 one store or another store, this is -- finally this
20 is the whole system. It might come from different
21 places, but to put that whole system together, we
22 could have it all on like one sheet of paper, where
23 you bought it.

24 MR. PARSONS: No. The exemption is for power
25 farm equipment. So it doesn't allow anyone to go

1 and buy hoses or pipes or something that doesn't
2 qualify for the exemption. I mean, there's not an
3 exemption for anything except for power farm
4 equipment.

5 MR. PARKS: Right, I understand that from the
6 power farm equipment, but we were talking about a
7 system, not just the equipment itself. That's under
8 Example 1, it says, "An irrigation supply system is
9 purchased for use on a farm to provide water to an
10 agricultural crop. The irrigation supply system,
11 consisting of the pumps, tubing, hoses and other
12 items, is purchased and invoiced as a single item at
13 a single price." So if you can't complete the
14 system at where you're buying it, can there be a
15 caveat or something to say, to complete that system,
16 you have to go one other place and keep it under
17 that same invoice?

18 MR. PARSONS: Not that I'm aware of. If you
19 look at 28 on page five, Irrigation Equipment, it
20 talks about a travelling gun or a center-pivot
21 irrigation system, excluding replacement hoses and
22 pipes. It's just like if you wanted to build a
23 tractor, you can't go buy tires somewhere exempt.
24 There's no exemption for tractor tires, the
25 exemption is for a tractor. And that's the same

1 here. If you're -- if you want to go and buy hoses
2 somewhere, there's no remedy for that. There's
3 no --

4 MR. STEPHENS: Are you concerned about the
5 potential exemption on the irrigation system minus
6 the nozzles, or are you just concerned about the
7 nozzles?

8 MR. GORDON: I'm going to see if I can -- I
9 know what he's trying to say. What if you go to the
10 guy, the irrigation place and the pipe's on back
11 order. This pipe that he sells is on back order.
12 Now, the pipe he sells might be made by John Doe,
13 but you can't get -- you ain't got no system. Now
14 you've got to have pipe to finish it. So Billy
15 Adams over here has got some different pipe that you
16 can go over there and buy this pipe from Billy Adams
17 to make this system work. So now you've got two
18 invoices, you've got an invoice over here for some
19 pipe, and you've got an invoice for the rest of the
20 system, and that's what he's trying to say. It's
21 still a system, but it just so happens that the one
22 man can't provide it all, and that happens, that
23 happens. I mean, you're back ordered four elbows,
24 and the man don't have them and he's not going to
25 have them for a month, but I can go over here to

1 this other guy and buy them four elbows and get it
2 going. So that's what he's referring to.

3 MR. PARKS: I'm talking about the system. I'm
4 not talking about the power equipment, I'm talking
5 the system as a whole. And we've had a lot of
6 discussion on this, and that's what I was concerned
7 about, and we some strawberry growers that talked
8 about the irrigation where they can't go to one
9 person to get the whole complete irrigation system.
10 It's just impossible when you have miles of piping
11 that this person might do this, this might happen,
12 but to complete the system, it might take two or
13 three different stores in order to complete the
14 system, and that's what we're talking about, a
15 system. I'm not arguing with you on the power farm
16 equipment. I understand about that, but it's the
17 system that we gave examples of where you can't
18 complete the system at one place.

19 MR. PARSONS: Well, the only remedy I would
20 know is if, where you're buying the system, the
21 dealer who you're buying it from could issue a
22 resale certificate from whoever is selling the
23 elbows, and then they could buy it and sell it to
24 you as one complete system, but there's no remedy
25 for you to go and buy elbows tax exempt from

1 somebody. That is just the way the law is written.

2 MR. PARKS: So you're looking at that -- if
3 they want to complete the system, the dealer --
4 dealer A must go -- the consumer can't go and buy
5 different parts of the system. Dealer A must go
6 call dealer B and order them through the dealer and
7 therefore it could become a complete system, but a
8 consumer couldn't do that.

9 MR. PARSONS: No.

10 Are there any other questions about that? If
11 not, we'll go to paragraph (4) on page six. There's
12 no changes there, and it talks about aquaculture,
13 and there's an example about a clam farmer.

14 And then paragraph (5) on page eight excludes
15 vehicles, "including vehicles without power, such as
16 cattle trailers and log trailers that are required
17 to be licensed as a motor vehicle under Chapter 320.
18 However, a motor vehicle that is licensed as a goat
19 under Section 320.08(3)(d) is exempt." So that's
20 knew there about the goat.

21 And then paragraph (6) on page eight exempts
22 generators and similar types of equipment used
23 exclusively on a farm as a power source, and there's
24 an example of a power generator used to supply power
25 to an irrigation pump. And then if you look at

1 paragraph (7) on page nine, the exemption for power
2 farm equipment does not apply to charges for repairs
3 to farm equipment or to purchases of replacement
4 parts for such equipment.

5 If nobody has a question about that, we'll go
6 to number (8), and it talks about the sale of
7 liquified gas, diesel and gasoline. There's several
8 exemptions there.

9 And on page ten, paragraph (9), it talks about
10 electricity used, and since this is new, I'll go
11 ahead and read this one. As I said earlier, it's
12 exempt in 12A-1.053, which is referenced here. So
13 I'll read it. "Electricity used for the production
14 or processing of agricultural farm products on a
15 farm is exempt. The exemption only applies if the
16 electricity is separately metered from the
17 electricity used for non-production or
18 non-processing purposes. If the electricity is
19 centrally metered and is used for both tax exempt
20 and taxable purposes, the purchase of the
21 electricity is subject to tax. The indirect use of
22 electricity, such as an employee break room or rest
23 rooms, repair sheds where farm equipment is
24 repaired, or administrative offices located on a
25 farm qualify for the exemption; however, when a

1 retail establishment is located on a farm and the
2 electricity is not separately metered from the
3 electricity used elsewhere on the farm, the
4 electricity is subject to tax." Does anybody have a
5 question about that?

6 MR. PARKS: That's good, excellent.

7 MR. PARSONS: Mark?

8 MR. ZYCH: Mark Zych, Department of Revenue.
9 Is that clear in there as far as -- we were having
10 some second-guesses as far as some of the language
11 that we had there, specifically the indirect uses.

12 MR. PARKS: I thought that was good.

13 MR. ZYCH: Can we be a little clearer or do you
14 still like it?

15 MR. PARKS: I think you -- by putting indirect
16 use and giving examples, you're not saying these are
17 the only examples, such as employee break rooms.
18 That's a big deal. Repair sheds are a big deal, and
19 administrative offices, I think that's the number
20 one one where many farms have just a little office
21 there, they might have a little computer in there
22 monitoring water or whatever it might be. That was
23 good.

24 MR. PARSONS: Any other comments?

25 And there's a -- excuse me. In separate

1 paragraph (b), "For purposes of this subsection, a
2 farm means the land, buildings, support facilities,
3 machinery and other appurtenances used in the
4 production of farm or agricultural products." And
5 I'll read (c). "The exemption will not be allowed
6 unless the purchaser furnishes its utility a written
7 certificate stating that the electricity is used on
8 a farm for the production or processing of
9 agricultural farm products and qualifies for the
10 exemption under Section 212.08(5)(e)2 of the Florida
11 Statutes.

12 And then there's an example of a suggested
13 affidavit. And one of the requests we had at the
14 last workshop was that we put a place here for more
15 than one meter number, and so a purchaser can add as
16 many as they want to, we've got a couple of lines
17 there.

18 And then paragraph (10) on page 12 is the
19 suggested affidavit for other items used on -- for
20 agricultural purposes, and, Mr. Gordon, if you look
21 on page 12, on paragraph (d) --

22 MR. GORDON: Yes, I see it.

23 MR. PARSONS: -- the last couple of sentences
24 there on page 12, "Dealers who accept in good faith
25 the required certificate from the purchaser or

1 lessee will not be assessed sales tax of power farm
2 equipment or items for agricultural use or for
3 agricultural purposes. In such instances, the
4 Department will look solely to the purchaser or
5 lessee for any additional sales or use tax due."

6 MR. GORDON: Thank you. That's what I was
7 looking for.

8 MR. PARSONS: Okay. And then there's paragraph
9 (f) is the suggested affidavit for a purchaser to
10 sign.

11 MR. GORDON: That has not been changed; has it,
12 Richard?

13 MR. PARSONS: Well, we added generators on page
14 14. The way the -- the way it was previously, only
15 generators used on a poultry farm were exempt, but
16 now generators used on any farm is exempt, so
17 generators have been added to the list, and we've --
18 we have struck a few items that you don't need a
19 list, you don't need to provide an affidavit for,
20 like seeds. Seeds are specifically exempt,
21 flowers -- including flower seed. So that's been
22 taken out. But those are the only two really
23 significant changes, and that's it unless anybody
24 else has got some comments.

25 MR. PARKS: I guess maybe just one last thing,

1 back on the system. So, if I -- so I'm kind of
2 clear that, if a dealer has a system they're going
3 to sell, say an irrigation system they're going to
4 sell, in order to complete the whole system, if the
5 dealer goes and makes a deal with another dealer in
6 order to complete the system, that would come under
7 the umbrella of one complete system if the dealer
8 puts the system together. If the consumer decides
9 to go and complete the system by going to another
10 dealer, that is not covered in here. So if they're
11 going to buy it, they have to buy it from one dealer
12 and it doesn't matter how the dealer puts this whole
13 system together, just as long as it's under one
14 receipt and one system, if I'm -- I just want to
15 make it clear on that.

16 MR. PARSONS: Yes. I mean, there are certain
17 items that will be exempt, for instance, motors and
18 pumps, but the purchase of bolts, for example, from
19 a hardware store, there's no exemption for that.
20 Even though they're going to be part of a working
21 unit, there's no remedy for that to be exempt from
22 tax.

23 MR. PARKS: But as a -- when we were talking
24 about a system, which could include all those
25 things, it might be -- as long as it's a system,

1 then everything's kind of covered under that system.

2 MR. PARSONS: If they buy it as a complete
3 package system --

4 MR. PARKS: From one dealer.

5 MR. PARSONS: -- from one dealer, yes.

6 Is there anymore comments? Are there anymore
7 comments?

8 MR. GREEN: One last time, anymore comments?

9 Do you have any questions you'd like to ask?
10 We're here to help you and answer any issues you may
11 want to raise with us. This is the hearing, so
12 unless another hearing is scheduled, we will go
13 forward with this rule and present it to the
14 Governor and Cabinet sometime in the next couple of
15 months, okay, but no further out than probably 60 to
16 90 days at the most because of some scheduling
17 deadlines that are in the law regarding rule
18 promulgation.

19 I just want to make sure that we give you an
20 adequate forum today for covering all your issues.

21 MR. PARKS: Maybe one last question. When the
22 Cabinet goes ahead and blesses this and votes in
23 favor of it, then it's in effect, isn't this kind of
24 temporarily in effect right now, what we see, or --

25 MR. GREEN: No. These proposals, any

1 underlying language or struck-through language is
2 not currently in effect, okay. These are proposed
3 rules, proposed rule changes, and we don't know what
4 the Governor and Cabinet would do, but the next step
5 in the process is put it on an agenda before the
6 Governor and Cabinet and ask for their
7 consideration.

8 MR. GRAY: Well, there is -- I will point out
9 one thing, that there was, in the old rule or the
10 current rule there is now a partial exemption on
11 farm equipment, which is two and a half percent.
12 Now, you know today that there is a full exemption,
13 so --

14 MR. ZYCH: And Mark Zych again. And the
15 definition of power farm equipment is in the statute
16 and it's pretty clear as far as the statute, so the
17 interpretation being that that's the law. This is
18 just how we are promulgating our rule, but the
19 definition of power farm equipment is specifically
20 in the statute now.

21 MR. PARKS: Right, but the full details about
22 systems and things like that that --

23 MR. KIELBASA: This is Jeff Kielbasa with the
24 Department of Revenue. I mean, I think the bottom
25 line is the statute always controls. The rule that

1 we're developing, when it becomes in effect, will
2 become law like a statute, but that doesn't mean
3 that we would -- I think, to the extent that we've
4 had a position similar to this, we've said so and
5 conducted ourselves that way. This is just to make
6 it the law, and what we would say, if we are
7 interpreting that statute this way would be, yes,
8 this is how we interpret the statute, and we're
9 putting it in a rule. That doesn't mean that prior
10 to this, nothing that we're doing here is -- we
11 would have to rely on the statute, not the rule. Do
12 you see what I'm saying?

13 MR. PARKS: Right.

14 MR. KIELBASA: And we think it's kind of one
15 and the same because we interpret the statute by
16 doing the rule, and I think what we've done is maybe
17 a little bit more accommodating in the development
18 of this rule based on these hearings, but it's still
19 all based on the statute which has been in effect
20 since it was adopted.

21 MR. GREEN: All right. Do we have any further
22 comments?

23 MR. GORDON: Richard, I want to ask one
24 question, and this doesn't apply to me, the electric
25 part. The fact that I'm here and if someone asks if

1 a farmer, his home has to be a separate meter, isn't
2 that correct? In other words, if a farm wants to
3 take advantage of this, his home and other
4 operations have to be metered separately --

5 MR. PARSONS: Yes.

6 MR. GORDON: -- specifically his home.

7 MR. PARSONS: Yes. A residence is going to be
8 exempt anyway, but if you want the exemption for the
9 farm, it has to be separately metered for production
10 or processing.

11 MR. PARKS: The statute says that it covers
12 non-residential farm buildings.

13 MR. GORDON: Right, okay. Okay. Okay.

14 MR. KIELBASA: Excuse me. This is Jeff
15 Kielbasa again. You're saying that residences are
16 separately exempt somewhere else?

17 MR. PARSONS: They're exempt, residential use,
18 yes. So, if you have -- if you have your
19 residential electricity in one meter, it's going to
20 be exempt anyway, so --

21 MR. PARKS: But it's just the Department of
22 Revenue felt we needed to keep things separate,
23 whether it be residential, farming operation, they
24 have to be separate, even that they're both going to
25 be exempt.

1 MR. GREEN: Do we have any further comments,
2 questions?

3 Seeing none, we'll conclude.

4 We anticipate proceeding with the formal
5 rulemaking process immediately. If anyone would
6 like to submit written comments, bearing in mind
7 they become part of the public record of these
8 proceedings, please do so by the close of business
9 Monday, June 9th, 2008. Written comments may be
10 either mailed or faxed. Written comments can be
11 addressed to -- Richard, do you want them addressed
12 to you or to Janet Young?

13 MR. PARSONS: How about both?

14 MR. GREEN: Okay. To both Richard Parsons and
15 Janet Young. I have their mailing address up here
16 if you'd like to see me after the meeting. You may
17 also fax comments to either party, Richard or Janet
18 Young, and I have fax numbers up here, too, if you'd
19 like to see me after the proceeding.

20 On behalf of the Department, I want to thank
21 each of you for taking the time to be here and
22 making your comments and concerns known. We think
23 it's invaluable for the Department to have this kind
24 of participation both from members of the private
25 sector who engage in this type of business and

1 representatives from the affected interest groups.
2 It's always easier for the Department to reach a
3 good set of rules if we have this kind of input, and
4 we'll assure you that we'll do the best that we can
5 to address your concerns based upon the statutory
6 requirements that we work with.

7 Thank you again for coming.

8 This concludes the hearing.

9 (Whereupon, the proceedings were concluded at
10 2:16 p.m.)

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1 C E R T I F I C A T E

2 STATE OF FLORIDA)

3 COUNTY OF LEON)

4 I, RAY D. CONVERY, Court Reporter at Tallahassee,
5 Florida, do hereby certify as follows:

6 THAT I correctly reported in shorthand the
7 foregoing proceedings at the time and place stated in the
8 caption hereof;

9 THAT I later reduced the shorthand notes to
10 typewriting, or under my supervision, and that the
11 foregoing pages 2 through 28 represent a true, correct,
12 and complete transcript of said proceedings;

13 And I further certify that I am not of kin or
14 counsel to the parties in the case; am not in the regular
15 employ of counsel for any of said parties; nor am I in
16 anywise interested in the result of said case.

17 Dated this 4th day of June, 2008.

18

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20

RAY D. CONVERY

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Court Reporter and Notary Public

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State of Florida at Large

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