BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Increase in Rates by Florida Power & Light Company.	**Docket No. 120015-EI** **Filed: August 6, 2012**

LARRY NELSON'S PREHEARING STATEMENT

(including motion for declaratory relief re: informal issue identification process)

Pursuant to Order No. PSC-12-0143-PCO-EI, issued March 26, 2012, Larry Nelson hereby files with the Florida Public Service Commission ("PSC" or the "Commission") his Prehearing Statement in above captioned Docket regarding the rates and charges proposed to be changed by Florida Power & Light Company (FPL), and states:

I. WITNESSES

Larry Nelson may (or may not) call himself as a witness, on the issue of FPL's performance regarding energy efficiency and conservation which the Commission must consider under Florida Statutes §366.82(10), and on the issue of whether FPL's existing and proposed rates are fair, just, reasonable, and compensatory, as follows:

1) FPL treatment of electric power generated by residential co-generators such as himself.
2) FPL's customer service's lack of transparency regarding such treatment.
3) The effect of the current rate and regulatory structure to discourage residential co-generation and the need for a rate and regulatory structure that promotes residential co-generation.
4) The need for FPL transparency concerning capacity effects of co-generation.
5) The unfair, unreasonable, and unjust nature of the requested rate increases which are sought to increase or maintain 21% annual returns to shareholders of NextEra Energy, Inc. and maintain or increase excessive executive compensation.

COM
AFD 2
APA 1
ECO 1
ENG 1
GCL 1
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II. EXHIBITS

1) FPL answers to LARRY NELSON'S FIRST SET OF INTERROGATORIES (1-49) TO FLORIDA POWER & LIGHT COMPANY.
2) NextEra Energy Inc. SEC filing, Shedule 14A, filed 05/11/12
3) NextEra Energy Inc. 2011 Annual Report, page AR-1
4) NextEra Energy Inc. 2011 Proxy Statement
5) MFR Schedule E-7
6) MFR Schedule E-13b
7) MFR Schedule E-13c

III. STATEMENT OF LARRY NELSON'S BASIC POSITION

i.

It is the position of Larry Nelson that all rates charged by FPL must be fair, reasonable, just and compensatory, as stated in §366.03, §366.041, §366.05 and §366.06, of the Florida Statutes.

FPL actually objected to the following proposed issue in this case on the grounds it is "subsumed" into other issues:

Issue 1: OBJECTION: ***Are the proposed FPL rates fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

FPL would have this Commission be a "corporate court". To first determine the "appropriate" return on corporate equity (Issue 58), then apply this to the rate base to determine the "revenue requirement" (Issue 58) and then "allocate" the change in the "revenue requirement" among the customer classes. Presto! You have the fair, reasonable, just and compensatory rates.

This is a topsy-turvy world where the law is turned upside down. The return on equity doesn't determine what is just, reasonable and compensatory; what is just, reasonable and compensatory determines the return on equity. §366.041(1), Florida Statutes explicitly states this. After stating the just, reasonable and compensatory standard and enumerating certain factors that may be considered, including "the efficient use of alternative energy resources", it states, after that, as a qualifier, "provided that no public

utility shall be denied a reasonable rate of return upon its rate base". Clearly, return on equity is not intended to determine "fair, reasonable, just and compensatory".

ii.

It is the position of Larry Nelson that FPL has the burden of proof to show that the present rates are unreasonable and fail to produce a reasonable return on its investment and it has failed to do so.

The Florida Supreme Court stated in South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695: "We find that, under the commission's rate setting authority, a utility seeking a change must demonstrate that the present rates are unreasonable, *see* section 366.06(1), Florida Statutes (1985), and show by a preponderance of the evidence that the rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment."

In determining that the existing rates compensate the utility for its prudently incurred expenses and produce a reasonable return on its investment, the Commission needs only to look at the statements of FPL's parent, NextEra Energy Inc. (NEE) and apply common sense. The facts, as touted by NEE are:

- 21% Total Shareholder Return for 2011
- 209% Total Shareholder Return for last 10 years
- $15 million compensation for head of NextEra Energy, Inc. for 2011
- 633% Amount by which return on NextEra Energy, Inc. stock beat return of S&P 500 over last 10 years.

Where are the changed circumstances requiring another $690 million a year in revenue? Where is the evidence that the NEE profits came from someplace other than FPL? Where is the evidence that present rates are unreasonable and have to increase? Common sense says that when the 10 year Treasury Note is around 1.5%, its lowest rate in the history of the United States, inflation is low, unemployment is high, and the economy is bad, a government sanctioned monopoly producing a 21% rate of return to its shareholders year after year is not fair, just, reasonable and compensatory.

iii.

It is the position of Larry Nelson that the facts show that the existing current rates for FPL are excessive and the ROE should be lowered to an amount similar to the 6.95% ROE upheld for FPL in The City of Miami v. Florida Public Service Commission, and Florida Power and Light Company (1968), 208 So.2d

249. That case concerned a similar period of low interest rates and low inflation and FPL should have its return on equity lowered to a similar amount.

iv.

It is the position of Larry Nelson that the requested increase in customer late fees and returned payment fees provides evidence that the requested rate hike is not a good faith attempt to set fair rates that serve the public, rather it is a bad faith attempt at profiteering and price gouging captive customers. FPL's requested increase in the late payment charge would generate an additional $33 million and take advantage of small clerical errors by customers and would disproportionately impact lower income customers. In Schedule E-7, page 8 of 8, of the MFRs ("Development of Service Charges"), the requirement for support for the requested charge is stated right on the Schedule as follows:

> Provide the calculation of the current cost of providing the services listed in E-13b. At a minimum, the schedule must include an estimate of all labor, transportation, customer accounting and overhead costs incurred in providing the service, and a short narrative describing the tasks performed.

FPL provided none of that in regard to its costs of processing late payments. Instead, it simply states

> "The Florida Public Service Commission has approved the same charge for Tampa Electric, Progress Energy Florida, and Florida Public Utilities Company".

The situation is much the same with regard to the requested increase in the returned payment charge, which would generate an additional $2 million, in Schedule E-7, page 7 of 8. There is no account of the costs of processing return payments. Only the statement:

> In accordance to section 68.065, Florida Statutes, FPL proposes the following return payment charge:

That statement of FPL is a masterpiece of misdirection. Note it says in accordance "to", not in accordance "with". §68.065, Florida Statutes, not only has nothing to do with regulated companies, it also doesn't authorize a returned payment charge. What it does do, is authorize a service charge only when making a written demand for payment, if notice is served in the following specified format:

Before recovery under this section may be claimed, a written demand must be delivered by certified or registered mail, evidenced by return receipt, or by first-class mail, evidenced by an affidavit of service of mail, to the maker or drawer of the check, draft, or order of payment to the address on the check or other instrument, to the address given by the drawer at the time the instrument was issued, or to the drawer's last known address. The form of such notice shall be substantially as follows:

"You are hereby notified that a check numbered in the face amount of $ issued by you on (date), drawn upon (name of bank), and payable to , has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check plus a service charge of $25, if the face value does not exceed $50, $30, if the face value exceeds $50 but does not exceed $300, $40, if the face value exceeds $300, or 5 percent of the face amount of the check, whichever is greater, the total amount due being $ and cents. Unless this amount is paid in full within the 30-day period, the holder of the check or instrument may file a civil action against you for three times the amount of the check, but in no case less than $50, in addition to the payment of the check plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action."

So FPL is asking for service charges in the same amounts as a completely inapplicable statute would authorize, if FPL served a written 30 day notice of demand for payment. Except that FPL isn't going to serve any 30 day notice and FPL would collect the returned payment charge even if the customer found out about the return payment before FPL, and electronically paid the returned amount the same day it was returned. Hence, "In accordance to". The sneaky actual meaning of that phrase is meant to be "analogous to". "Accordance" however, is still misused because it means "conformity" and the proposed FPL return payment fee schedule is in no way in conformity to §68.065, Florida Statutes.

These two fees would generate an additional $35 million for FPL. In combination with the increased RS-1 customer charge below, that's $89 million that has nothing to do with electricity, but everything to do with "gotcha" fees, just like the credit card industry. FPL has made no showing that the requested increase in these fees has any relationship to the cost of the service, or that the public accepts these increased fees, which are rates. These are fees applied regardless of how much electricity you use or don't use. They are fees that snare clerical errors and low income customers. With these fees it becomes pretty apparent that FPL is not your friend. Reddy Kilowatt, servant of the (last) century, is probably rolling over in his grave.

V.

It is the position of Larry Nelson that the requested increase in the monthly customer charge is not fair, just, reasonable and compensatory.

The increase in the monthly RS-1 customer charge would generate an additional $54 million. The existing customer charge of $5.90 was challenged in a proceeding just a year ago (docket 05554) as being excessive in relation to the costs of the service. FPL responded by claiming that the cost

underlying the $5.90 charge was $5.89 and the proceeding was dismissed. However, the breakdown of the $5.90 attributed $3.69 to "Miscellaneous Customer Accounts" which was unchallenged. FPL at that time said the customer charge has stayed at the $5.15 to $5.90 level for the past 30 years. But now, in this requested rate increase, somehow a percentage increase greater than the last 30 years is sought in just two years. $54 million a year is a huge increase. Inquiry into the requested rate, as well as the existing rate, should be made to determine what the actual costs are, if the claimed costs are used and useful to the ratepayers, if the claimed costs are reasonable and prudent and useful to the ratepayers, and if the requested and existing monthly RS-1 customer fee is fair just and reasonable. §366.06, Florida Statutes, indicates that all rates, not just the overall rate, have to be fair, just and reasonable.

vi.

It is the position of Larry Nelson that the Commission does not have the power to grant a 25 basis point performance incentive to FPL without specific statutory authority, that even if the Commission had such authority that the granting of such incentive by comparison to other utilities would be impermissible as arbitrary and unreasonable, and that it would be against public policy as creating innumerable equal protection issues for other utilities and because it would be anti-competitive and create incentives for price fixing.

vii.

It is the position of Larry Nelson that the failure of FPL to promote demand side renewable energy systems, solar energy and cogeneration merits a decreased ROE or other punishment under §366.82(10) and that there is an inherent conflict between cogeneration, which generates no ROE because the assets are owned by the co-generator, and also deprives FPL of electricity sales, and shareholder profits which are based on ROE and which must be acknowledged and addressed in rates.

viii.

It is the position of Larry Nelson that the proposed advertising expense for the test year in not a reasonable and prudent expense of service to the ratepayer. The proposed advertising expense for the test year of 2013 is $516,478. That is a 332% increase over 2011's advertising expense of $155,397. The proposed advertising expense would raise the per customer cost 367% from $.03 per customer to $.11 a customer.

IV. ISSUES AND POSITIONS

QUESTIONS OF LAW

Issue 136: OBJECTION: ***Are the proposed FPL rates fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No. They are unfair, unreasonable, unjust and non-compensatory. FPL has not met its burdens under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show that the present rates are unreasonable and to show by a preponderance of the evidence that the existing rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment.

Issue 137: OBJECTION: ***Are the proposed FPL rates unjust, unreasonable, excessive or unjustly discriminatory or preferential? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes. They are unjust, unreasonable and excessive. FPL has not met its burden under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show that the present rates are unreasonable and to show by a preponderance of the evidence that the existing rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment.

Issue 138: OBJECTION: ***Are existing FPL rates fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Existing FPL rates are either fair, just, reasonable and compensatory such that no increase is needed, or existing rates are excessive and should be lowered. FPL has not met its burden under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show the present rates are unreasonable and to show by a preponderance of the evidence that the existing rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment.

NEW ISSUE A: (alternative language to issues 136, 137, and 138) ***Are existing FPL rates unjust, unfair , unreasonable or non-compensatory such that an increase or decrease in existing rates is warranted?***

Larry Nelson: FPL has not met its burden under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show the present rates are unreasonable and to show by a preponderance of the evidence that the existing rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment. Therefore rates should remain as they currently are. In the

alternative, existing rates should be held to be excessive and lowered.

Issue 57: OBJECTION: ***Is the existing FPL rate structure, which resulted in a 21% total return to shareholders of NextEra Energy, Inc. in 2011, and a total 10 year shareholder return of 209%, beating the S&P 500 by over 600%, on its face unjust, unreasonable or excessive such that the Commission should dismiss the instant rate case and, on its own motion under §366.06 and/or §366.07, lower FPL Return on Equity to a figure more appropriate to the current economic conditions and the current cost of borrowing? (Mr. Nelson's Issue Objected to by FPL***

Larry Nelson: Yes. Existing rates are excessive and should be lowered.

Issue 5: OBJECTION: ***Does the Commission possess legal authority to grant increased profit as a performance based reward over and above fair, reasonable, just and compensatory rates, without specific legislative authority such as that granted to the Commission by the legislature in §366.82 Fla. Stat.? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No. The legislative language "The Commission is authorized to allow an investor-owned electric utility an additional return of equity up to 50 basis points" in §366.82(9), which authorizes a performance incentive for energy efficiency and conservation, implicitly means that the Commission is not authorized to allow such type of additional returns without legislative authority. Any other interpretation would render the sentence meaningless.

NEW ISSUE B: (alternative language to issue 5) ***Does the Commission possess the power to grant a 25 basis point performance incentive to FPL without specific statutory authority?***

Larry Nelson: No. The legislative language "The Commission is authorized to allow an investor-owned electric utility an additional return of equity up to 50 basis points" in §366.82(9), which authorizes a performance incentive for energy efficiency and conservation, implicitly means that the Commission is not authorized to allow such type of additional returns without legislative authority. Any other interpretation would render the sentence meaningless.

Issue 6: OBJECTION: ***If the answer to Issue 5 is yes, does the Commission possess the legal authority to reward FPL based on performance relative to other businesses, many of which are FPL counterparties, and none of which are comparable to FPL in size, location, resources, customer base, etc., rather than on absolute measurements of performance? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No. Performance incentives relative to other utilities would be arbitrary and unreasonable, preferential to FPL, and deny equal treatment and due process to other

utilities. No other utility is exactly comparable to FPL in terms of size, scope, capacity, number of customers, resources, customer base and geographic considerations. FPL sells power to many of the utilities it wants to be compared to, and comparison to its own customers is unreasonable. Additionally, should FPL fail to have the "lowest bill", other utilities can reasonably assert that they should be paid a "performance incentive" relative to FPL creating equal protection and due process issues. Furthermore, other utilities may claim the right to "performance incentives" relative to each other.

NEW ISSUE C: (Alternative language to issue 6) ***If the Commission possesses the power to grant ROE performance incentives without specific statutory authority, can the Commission grant an incentive to FPL based on FPL's average bill relative to other Florida utilities, rather than on absolute measurements of performance?***

Larry Nelson: No. Performance incentives relative to other utilities would be arbitrary and unreasonable, preferential to FPL, and deny equal treatment and due process to other utilities. No other utility is exactly comparable to FPL in terms of size, scope, capacity, number of customers, resources, customer base and geographic considerations. FPL sells power to many of the utilities it wants to be compared to and comparison to its own customers is unreasonable. Additionally, should FPL fail to have the "lowest bill", other utilities can reasonably assert that they should be paid a "performance incentive" relative to FPL creating equal protection and due process issues. Furthermore, other utilities may claim the right to "performance incentives" relative to each other.

Issue 148: Should FPL's proposed change to the late payment charge be approved?

Larry Nelson: **OBJECTION. Larry Nelson objects to the form of the question.** The late payment charge is a rate or charge and the issue of law is whether the rate is fair, just, reasonable and compensatory. Moreover, FPL has the burden of proof to show the existing rate is unfair, unjust, unreasonable and non-compensatory.

Issue 149: OBJECTION: ***Is the proposed new minimum late charge of $5.00 or 1.5% per month unjust, unreasonable or excessive? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes. Raising the minimum late charge to $5.00 as FPL proposes is unfair, unjust, unreasonable and non-compensatory. It is gross profiteering, serves only the purpose of doubling the revenue from late fees, raising an additional $53 million for FPL. It unfairly penalizes small underpayments which result from clerical errors and low income customers. FPL has the burden of showing the existing charge is unreasonable.

FPL has provided none of the required cost data behind the charge.

Issue 150: OBJECTION: ***Is the existing late charge of 1.5% per month fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes. The existing late charge is just, fair, reasonable and compensatory. Raising the minimum late charge to $5.00 as FPL proposes is unfair, unjust, unreasonable and non-compensatory. It is gross profiteering, serves only the purpose of doubling the revenue from late fees, raising an additional $53 million for FPL, and unfairly penalizes small underpayments which result from clerical errors and low income customers. FPL has the burden of showing the existing charge is unreasonable. FPL has provided none of the required cost data behind the charge.

Issue 156: OBJECTION: ***Is it appropriate to raise the minimum late payment charge to $5.00 resulting in a 103% increase to FPL of revenue from late fees, an additional $33 million? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No. The existing late charge is just, fair, reasonable and compensatory. Raising the minimum late charge to $5.00 as FPL proposes is unfair, unjust, unreasonable and non-compensatory. It is gross profiteering, serves only the purpose of doubling the revenue from late fees, raising an additional $53 million for FPL, and unfairly penalizes small underpayments which result from clerical errors and low income customers. FPL has the burden of showing the existing charge is unreasonable. FPL has provided none of the required cost data behind the charge.

NEW ISSUE D: (alternative language to issues 149, 150 and 156) Is the existing late charge of 1.5% per month unjust, unfair , unreasonable or non-compensatory such that an increase is warranted?

Larry Nelson: The existing late charge is just, fair, reasonable and compensatory. Raising the minimum late charge to $5.00, as FPL proposes is unfair, unjust, unreasonable and non-compensatory. It is gross profiteering, serves only the purpose of doubling the revenue from late fees, raising an additional $33 million in profit for FPL, and unfairly penalizes small underpayments which result from clerical errors. FPL should be judged to have not met its burden under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show that the existing rate is insufficient.

Issue 158: Should FPL's proposed change to the Returned Payment Charge be approved?

Larry Nelson: **OBJECTION: Larry Nelson objects to the form of the question.** The returned payment charge is a rate or charge and the issue of law is whether the rate is fair, just, reasonable and compensatory. Moreover FPL has the burden of proof to show the existing rate is unfair, unjust, unreasonable and non-compensatory and the stated

rationale for the charge in the MFR's is essentially a fraud on the Commission: "In accordance to" a completely inapplicable statute.

Issue 159: OBJECTION: ***Is the proposed increase in the minimum returned check fee from $23.24 to up to $40 unjust, unreasonable or excessive? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes, it is unjust, unreasonable and excessive. FPL has the burden of proof to show the existing rate is unfair, unjust, unreasonable and non-compensatory and has not done so. FPL has provided none of the required cost data behind the charge, and the stated rationale for the charge in the MFR's is essentially a fraud on the Commission: "In accordance to" a completely inapplicable statute.

Issue 160: OBJECTION***: Is the existing minimum returned check fee of $23.24 fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes. FPL has the burden of proof to show the existing rate is unfair, unjust, unreasonable and non-compensatory and has not done so. FPL has provided none of the required cost data behind the charge, and the stated rationale for the charge in the MFR's is essentially a fraud on the Commission: "In accordance to" a completely inapplicable statute.

Issue 164: OBJECTION: ***Is it appropriate to raise the minimum returned check fee with a resulting 41% increase in returned check fee revenue to FPL, an additional $2 million? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No. The existing charge is fair, just, reasonable and compensatory. FPL has provided none of the required cost data behind the increased charge, and the stated rationale for the charge in the MFR's is essentially a fraud on the Commission: "In accordance to" a completely inapplicable statute. FPL should be judged to have not met its burden under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show that the existing charge is insufficient.

NEW ISSUE E: (alternative language to issues 159, 160 and 164) ***Is the existing return payment charge unjust, unfair, unreasonable or non-compensatory such that an increase is warranted?***

Larry Nelson: No. The existing charge is fair, just, reasonable and compensatory. FPL has provided none of the required cost data behind the increased charge, and the stated rationale

for the charge in the MFR's is essentially a fraud on the Commission: "In accordance to" a completely inapplicable statute. FPL should be judged to have not met its burden under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show that the existing charge is insufficient.

Issue 174: What are the appropriate customer charges for January 1, 2013?

Larry Nelson: **OBJECTION: Larry Nelson objects to the form of the question.** "[A}ppropriate" does not state a legal or factual issue with regard to a rate or charge. The legal standard for a rate or charge is fair, just, reasonable and compensatory and the burden is on FPL, under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695, to show that the existing charge is unreasonable and insufficient.

Issue 175: OBJECTION: ***Is the proposed residential RS-1 monthly customer charge of $7.00 unjust, unreasonable or excessive? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes, the existing charge is sufficient or excessive. Just a year ago FPL claimed the underlying cost was $5.89, and $3.69 of that was "miscellaneous". It is unclear what the underlying costs are. Now the claim includes "sales". The requested increase is a greater percent than the increase over the last 30 years and FPL has not met its burden of showing the existing rate is insufficient and unreasonable under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695.

Issue 176: OBJECTION: ***Is the existing residential RS-1 monthly customer charge of $5.90 fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes, the existing charge is sufficient or excessive. Just a year ago FPL claimed the underlying cost was $5.89, and $3.69 of that was "miscellaneous". It is unclear what the underlying costs of the existing rate are. The requested increase is a greater percent than the increase over the last 30 years and FPL has not met its burden of showing the existing rate is insufficient and unreasonable under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695.

Issue 177: OBJECTION: ***Is the existing residential RS-1 monthly customer charge of $5.90 unjust, unreasonable, or excessive? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes, the existing charge is excessive. FPL claimed a year ago in Docket 05554 that the underlying cost is $5.89, and $3.69 of that is "miscellaneous". It is unclear what the underlying costs are. FPL should provide a full and accurate accounting of the "miscellaneous" part of the charge.

Issue 182: OBJECTION: ***Is it appropriate to raise the RS-1 monthly customer charge 19% with a resulting increase in revenue to FPL of $54 million? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No, the existing charge is sufficient or excessive. Just a year ago FPL claimed the underlying cost was $5.89, and $3.69 of that was "miscellaneous". It is unclear what the underlying costs are. Now the claim includes "sales". The requested increase is a greater percent than the increase over the last 30 years and FPL has not met its burden of showing the existing rate is insufficient and unreasonable under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695.

NEW ISSUE F: (alternative language to issues 176, 177 and 182) ***Is the existing $5.90 RS-1 monthly customer charge unjust, unfair, unreasonable or non-compensatory such that an increase or decrease is warranted?***

Larry Nelson: The existing charge is either sufficient or excessive. Just a year ago FPL claimed the underlying cost was $5.89, and $3.69 of that was "miscellaneous". It is unclear what the underlying costs are. Now the claim includes "sales". The requested increase is a greater percent than the increase over the last 30 years and FPL has not met its burden of showing the existing rate is insufficient and unreasonable. This 19% increase serves only to generate an additional $54 million for FPL.

Issue 188: OBJECTION: ***Whether FPL's investment in energy conservation; advertisements; consumer energy efficient appliances; and consumer electric generating systems is prudent, appropriate, and/or reasonable? (Mr. Saporito's Issue Objected to by FPL)***

Larry Nelson: The Commission must consider FPL's actions to encourage energy efficiency and conservation under §366.82(10) in establishing the rates in this case.

QUESTIONS OF FACT

Issue 19: OBJECTION: ***Whether FPL's allegation that a base rate increase is needed to construct the poles, wires, and transformers needed to serve an anticipated 100,000 new customer accounts from the end of 2010 through the end of 2013 is accurate and true? (Mr. Saporito's Issue Objected to by FPL)***

Larry Nelson: Inquiry should be made as to the factual basis of 1) the forecast, and 2) the anticipated expense.

Issue 77: Are the amounts of the NextEra Energy, Inc. corporate costs and/or expenses (including executive compensation and benefits) allocated to FPL fair, just, and reasonable?

Larry Nelson: **OBJECTION: Larry Nelson objects to the form of the question**. The question misstates the legal standard for expenses and costs. Rates are required to be fair, just and reasonable. Costs and expenses must be reasonable and prudent and useful to ratepayers. It is the position of Larry Nelson that some NextEra Energy, Inc. corporate costs and/or expenses allocated to FPL are not reasonable and prudent and useful to ratepayers.

Issue 92: OBJECTION: ***Is the proposed advertising expense of $516,478 for the test year of 2013, which is a 332% increase over 2011's advertising expense of $155,397 and which would raise the per customer cost 367% from $.03 to $.11, a legitimate cost, used and useful in serving the public? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No.

Issue 93: OBJECTION***: Is an advertising expense of $155,397 for the test year of 2013 inadequate to serve the needs of the public? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: No. It is adequate.

NEW ISSUE G: (alternative language to Issue 92 and 93) Is the proposed FPL advertising expense for the test year a reasonable and proper expense serving the ratepayers?

Larry Nelson: No. The proposed advertising expense of $516,478 for the test year of 2013 is a 332% increase over 2011's advertising expense of $155,397. It would raise the per customer cost 367% from $.03 to $.11, and is not a reasonable and prudent expense useful to the ratepayers.

Issue 94: What is the appropriate amount of advertising expenses for the 2013 projected test year?

Larry Nelson: **OBJECTION: Larry Nelson objects to the form of the question.** "[A]ppropriate" is not in this situation an issue of law or fact. The issue is whether the requested expenses are reasonable and prudent and useful to the ratepayers.

Issue 97: OBJECTION: ***What portion of NextEra Energy, Inc. executive compensation expenses borne by FPL customers are not useful in serving the FPL ratepaying public but rather benefit NextEra Energy, Inc. shareholders? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: A significant portion.

NEW ISSUE H: (alternative language to Issue 97) ***Are all NextEra Energy Inc. expenses charged to FPL ratepayers in the test year reasonable and prudent expenses serving the ratepayers?***

Larry Nelson: No. Some NextEra Energy Inc. expenses charged to FPL ratepayers in the test year, including executive compensation, are unreasonable, imprudent, and do not serve the interests of the ratepayers. Those expenses which benefit NextEra Energy Inc. shareholders, or that benefit NextEra Energy Resources, and do not benefit FPL ratepayers, must not be charged to FPL.

Issue 151: OBJECTION: ***What is the actual legitimate cost to FPL of late payments? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.041 authorizes the Commission to inquire into the costs behind all rates and charges. The actual MFR cost of service pages require it, but it was not provided by FPL.

Issue 152: OBJECTION: ***Is there evidence of public acceptance of a new $5.00 minimum late charge? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.06 authorizes the commission to consider public acceptance of rates.

Issue 153: OBJECTION: ***What is the historic distribution of the amounts of late payments? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: In determining whether the requested charge is fair and just, it is relevant to know what types of late payments will generate the additional $33 million sought by this 103% requested rate increase.

Issue 154: OBJECTION: ***What percentage of late payments are under $5.00? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: In determining whether the requested charge is fair and just, it is relevant to know what types of late payments will generate the additional $33 million sought by this 103% requested rate increase.

Issue 155: OBJECTION: ***What percentage of late payments are caused by apparent clerical errors, such as being a penny off, transposing cents and ten cents, etc.? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: In determining whether the requested charge is fair and just, it is relevant to know what types of late payments will generate the additional $33 million sought by this 103% requested rate increase.

Issue 162: OBJECTION: ***What is the actual legitimate cost to FPL of a returned check? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.041 authorizes the Commission to inquire into the costs behind all rates and charges. FPL has provided none of the required cost data behind the increased charge as required by the MFR cost of service form itself. Moreover, the stated rationale for the charge on the MFR form is essentially a fraud on the Commission: "In accordance to" a completely inapplicable statute.

Issue 163: OBJECTION: ***Is there evidence of public acceptance of a new minimum returned check fee of up to $40? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.06 authorizes the commission to consider public acceptance of rates.

Issue 178: OBJECTION: ***Was the cost of monthly RS-1 customer service $5.89 per month in 2010 and/or 2011 as stated by S.E. Romig, FPL Director, Rates and Tariffs, in his letter of August 5, 2011 to Mr. Thomas Saporito filed on August 8, 2011 in Docket 05554? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.041 authorizes the Commission to inquire into the costs behind all rates and charges. FPL has the burden of showing the existing charge is unreasonable and insufficient under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695.

Issue 179: OBJECTION: ***In reference to the letter in Issue 178, what are the specific customer accounts and amounts making up the $3.69 of the $5.89 which is designated as "Miscellaneous Customer Accounts" in the attachment to Mr. Romig's letter? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.041 authorizes the Commission to inquire into the costs behind all rates and charges. FPL has the burden of showing the existing charge is unreasonable and insufficient under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695.

Issue 180: OBJECTION: ***What is the actual legitimate cost of providing monthly RS-1 service? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.041 authorizes the Commission to inquire into the costs behind all rates and charges. FPL has the burden of showing the existing charge is unreasonable and insufficient under South Florida Natural Gas Company v. Public Service Commission (1988), 534 So.2d 695.

Issue 181: OBJECTION: ***Is there evidence of public acceptance of a $7.00 RS-1 monthly customer charge? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: §366.06 authorizes the commission to consider public acceptance of rates.

Issue 189: OBJECTION: ***Whether FPL's incentive to expand its capital base in order to increase or maintain NextEra Energy, Inc. total shareholder return is in conflict with the mandate of the Florida Legislature to promote co-generation and demand side renewable energy which does not increase FPL's capital base? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: The Commission must consider FPL's actions to encourage energy efficiency and conservation under §366.82(10) in establishing the rates in this case. If FPL's duty to its shareholders or its incentives to expand its capital base are in direct conflict with its mandate to encourage co-generation, this is an important fact in determining the appropriate rewards or punishments under §366.82(10).

Issue 190: OBJECTION: ***What actions has FPL taken to promote or discourage utilization of demand side renewable energy systems, solar energy, and cogeneration that the Commission is mandated by §§366.80 - 366.85 to consider in establishing the appropriate rates in the instant rate case? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: The Commission must consider FPL's actions to encourage energy efficiency and conservation under §366.82(10) in establishing the rates in this case.

NEW ISSUE I : (alternative language to Issue 190) ***What actions of FPL to promote or discourage utilization of demand side renewable energy systems, solar energy, and cogeneration, if any, must the Commission consider under §366.82(10) in establishing the rates in this case?***

Larry Nelson: The Commission must consider FPL's actions to encourage energy efficiency and conservation under §366.82(10) in establishing the rates in this case.

QUESTIONS OF POLICY

Issue 7: OBJECTION: ***If the answer to Issue 6 is yes, must the Commission consider the negative policy implications of rewarding FPL for performance relative to its counterparties in giving FPL an incentive to use its market power and legislative lobbying power to keep other Florida electric utility rates higher than its own in order to reap the incentive reward for performance measured relative to such entities? (Mr. Nelson's Issue Objected to by FPL)***

Larry Nelson: Yes. In addition to being arbitrary and unreasonable, incentivizing FPL relative to other utilities would incentivize FPL to keep the bills of the other utilities up, both by keeping prices high for those utilities that buy power from FPL, and by assisting other utilities with FPL lobbying power. In other words, it incentivizes price fixing.

NEW ISSUE J: (alternative language for issue 7) ***If the commission has the power to grant ROE performance incentives to FPL based on its performance relative to other utilities, and not on its absolute performance, should it do so?***

Larry Nelson: No. In addition to being arbitrary and unreasonable, incentivizing FPL relative to other utilities would incentivize FPL to keep the bills of the other utilities up, both by keeping prices high for those utilities that buy power from FPL, and by assisting other utilities with FPL lobbying power. In other words, it incentivizes price fixing.

Issue 54: Should FPL's request for a 25 basis point performance adder to the authorized return on equity and proposed annual review mechanism be approved?

Larry Nelson: **OBJECTION: Larry Nelson objects to the form of the question.** The question does not identify the legal and policy issues contained therein (see legal issues 5, 6, E and F, and policy issues 7 and G, above.

Issue 58: What is the appropriate authorized return on equity (ROE) to use in establishing FPL's revenue requirement?

Larry Nelson: In the range of 6% to 7%.

V. STIPULATIONS

Larry Nelson has entered into no stipulations.

VI. STATEMENT OF PENDING MOTIONS

Larry Nelson hereby makes a motion for declaratory relief regarding the informal issue identification process in this Docket. Larry Nelson hereby requests a determination that his participation or lack of participation in such process is of no effect whatsoever in terms of word limits on positions on issues, or in terms of limiting the issues set forth in this Prehearing Statement.

Larry Nelson hereby declares:

My Petition to Intervene was granted by Order on July 12, 2012. At that time there had already been an informal issue identification meeting held on July 9. Two Memos had already been sent out by General Counsel Young on July 2 and July 10 regarding the meetings on July 9 and July 13 and both of these said:

> The purpose of the meeting is to identify and discuss the issues in the above-captioned docket. Attendance is not required; however, all interested persons are encouraged to attend.

Upon the granting of my Petition to Intervene, my efforts were to read the MFR's and the applicable statutes, review the documents in the case, and deal with mundane tasks like obtaining physical copies of the massive documents in the case. Fully aware of the ORDER ESTABLISHING PROCEDURE, I was oriented towards identifying issues by the date required therein, and more importantly, towards the discovery deadline and the preparation of Interrogatories to be served before the last possible deadline of July 19.

When General Counsel Young sent out additional Memos, on July 13 and 20 concerning issue identification meetings on July 20 and 27, I read these and they also said:

> The purpose of the meeting is to identify and discuss the issues in the above-captioned docket. Attendance is not required; however, all interested persons are encouraged to attend.

I have never been a practicing attorney in Florida, and I was completely unfamiliar with utilities regulation, administrative law, and complex multi-party litigation. I have not been a practicing attorney of any kind since 1994, when my status became inactive. More importantly, I do not have convenient access to Westlaw or case law. My decision was that, due to my short time in the case, I would choose to not participate in the two remaining issue identification meetings but rather comply with the ORDER ESTABLISHING PROCEDURE.

So when General Counsel Young called me up on July 23 at 10:14am and spoke to me for a half hour, I was both surprised and nervous. General Counsel Young told me that if I didn't bring forth my issues at the meeting on July 27, he would tell the hearing officer that my issues should be barred because I didn't raise them at the meeting.

I explained to General Counsel Young that I thought the meetings were not mandatory, that I had not intended to participate in them, and that I was afraid of embarrassing myself. However, I felt I had no choice but to give General Counsel Young my word that I would bring forth my issues and participate. I spent what time I could devote over the next few days trying to define issues of law and fact from the statutes, without reference to case law, because I did not have time to travel to the Sarasota Library to access case law materials.

I brought forth my issues, some of which were in artful, or redundant, or irrelevant due to the haste and lack of case law research. However, in my opinion, many of them were valid issues going to the heart of this case.

Once again, an hour before the issue identification meeting , General Counsel Young called me up and told me that "staff thinks all of your issues are subsumed to other issues". He asked me to change them. I told him there was no way I could change them in the next hour but that I would try to change them later.

An hour later, at the issue identification meeting, when my issues eventually came up, FPL Counsel Butler stated that he thought all my issues were "subsumed to other issues". And he then objected to all of them and there was no issue by issue discussion.

Following the meeting I became extremely concerned that my failure to vociferously object to all of other parties issues agreed to previously might somehow be attempted to be used against me even though I had not reviewed all of those issues. I sent out an email the next day to all parties concerning my position.

Subsequently parties started talking in emails about word limits on positions. Myself, as well as other Intervenors, had no idea what they were talking about. First it was 75 words, then 150 words on 5 positions, them 180 words on 5 positions, then 180 words on 7 positions and I asked two other Intervenors if they knew what this was about. They did not. Eventually I sent yet another email to all parties asking where the authority for all this was and OPC answered to all parties about "informal agreements". I was unaware of these informal agreements and I am not a party to them so I sent another email to all parties explaining my position.

All I am asking is that I be protected from the arguments of any party that I have agreed to issues, or waived issues, or bound myself to issues, or waived objections to issues, or bound myself to word limits or any other matter arising from "informal agreements", or the informal issue identification meetings. Because General Counsel Young included all of my objected to issues in the issues list, and other parties will state their positions on them, I am setting them forth in the Prehearing Statement as my issues, along with new issues which are refined or reformulated versions of some of the issues objected to, as I told General Counsel Young I would do. In line with the ORDER ESTABLISHING PROCEDURE, any issue that I submitted to the informal issue identification phone call that is not identified by me in this Preheating Statement, I waive. Any other issue not identified herein, I waive.

I was not a willing participant in the informal issue identification process and the resulting issues list does not reflect my views. I only participated in one meeting under duress, and in that meeting all of my issues were summarily rejected by Mr. Young and Mr. Butler who were eerily of the same mind when it came to the idea that all of my issues were "subsumed" to other issues.

I *therefore* pray for a declaration that the informal issue identification process is not binding on me in any way.

I hereby declare under penalty of perjury that the foregoing is true and correct.

/s/ Larry Nelson

August 6, 2012

Larry Nelson

VII. PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

None.

VIII. OBJECTIONS TO WITNESS QUALIFICATIONS

None.

IX. REQUIREMENTS OF THE ORDER ESTABLISHING PROCEDURE THAN CANNOT BE MET

None.

Respectfully submitted this 6th day of August, 2012.

/s/ Larry Nelson

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CERTIFICATE OF SERVICE
Docket No. 120015-EI

I HEREBY CERTIFY that a true and correct copy of LARRY NELSON'S PREHEARING STATEMENT (including motion for declaratory relief re: informal issue identification process) has been furnished by electronic mail this 6th day of August 2012, to the following:

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8/6/2012

s/ Larry Nelson

Larry Nelson