

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company.

DOCKET NO. 160021-EI

In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company.

DOCKET NO. 160061-EI

In re: 2016 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 160062-EI

In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company.

DOCKET NO. 160088-EI

DATED: October 27, 2016

WRITTEN STATEMENT IN LIEU OF APPEARANCE

Pursuant to Order No. PSC-16-0483-PHO-EI, issued on October 24, 2016 (“Second Prehearing Order”), Mr. Daniel R. Larson and Mrs. Alexandria Larson (“Larson”), by and through undersigned counsel, hereby file a Written Statement in Lieu of Appearance in the above captioned docket and state as follows:

1. Due to exigent circumstances immediately prior to the scheduled settlement hearing, undersigned counsel will not be able to attend the settlement hearing as set forth in the Second Prehearing Order. Accordingly, this Written Statement in Lieu of Appearance is being filed as to not unduly prejudice the Larsons.
2. On October 6, 2016, Florida Power & Light Company (“FPL”), the Office of Public Counsel (“OPC”), the South Florida Hospital and Healthcare Association (“SFHHA”), and the Florida Retail Federation (“FRF”) (collectively referred to as the “Signatories”) filed a Joint Motion (“Joint Motion”) requesting the Florida Public Service Commission

(“Commission or “FPSC”) to review and approve on an expedited basis the Stipulation and Settlement (“Settlement Agreement”) filed by the Signatories.

3. On October 13, 2016, the Larsons, by and through undersigned counsel, timely filed their Response in Opposition to Joint Motion for Approval of Settlement Agreement (“Response in Opposition”) in the above captioned docket.
4. As a preliminary matter and as specifically set forth in the Response in Opposition the Larsons re-assert that the Joint Motion was defective as filed and fails to conform to the specific requirements of Rule 28-106.204, F.A.C. Specifically, Rule 28-106.204(3), F.A.C. requires that:

“All motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion. **Any statement that the movant was unable to contact the other party or parties before filing the motion must provide information regarding the date(s) and method(s) by which contact was attempted.**” [Emphasis Added]

The Joint Motion clearly fails to adhere to this requirement. The assertion within the Joint Motion that, “Due to the conditions surrounding Hurricane Matthew, the Signatories were unable to reach other parties to this proceeding to determine their positions at the time of this filing” is completely disingenuous in light of modern communication technologies such as e-mail and cell phones. The Signatories, including FPL, had more than adequate time and ability to confer with undersigned counsel prior to the filing of the Joint Motion but conveniently opted not to do so as required by Rule 28-106.204, F.A.C. Accordingly, the Joint Motion was defective as filed, fails to conform to

the requirements of Rule 28-106.204, F.A.C., and the Joint Motion should therefore be properly denied by the Commission.¹

5. The Larsons oppose the Joint Motion and the proposed Settlement Agreement for the following reasons:
 - a. The proposed Settlement Agreement represents a financial windfall to FPL to the detriment of residential customers. If the proposed settlement is approved by the Commission, residential customers will be forced to subsidize the costs of credits given to other rate classes resulting in higher bills and residential electric rates that are not fair, just, and reasonable.
 - b. The Commission should place additional conditions and safeguards on the other concessions within the proposed Settlement Agreement to protect all FPL ratepayers (e.g.; guaranteed savings for the pipeline transfer and solar cost recovery).
 - c. As a party to the proceedings, the Larsons were not included or afforded the opportunity to meaningfully participate in the settlement discussions.
6. The Larsons hereby provide an Opening Statement attached herein as Exhibit A. The Larsons respectfully request that the Larson Opening Statement be inserted into the record as though read and included in the Commission hearing transcript.
7. The Larsons join with AARP in opposing the Joint Settlement and join in all objections that may be made by AARP at hearing.
8. With respect to the Notice of Need of Commission Decision for Issues 7-23 pertaining to FPL's Storm Hardening Plan and Wooden Pole Inspection Program, the Larsons respectfully suggest that the Commission should stay a decision on Issues 7-23 pending a

¹ Efforts to cure this defect by subsequently filing a conferral certificate should be rejected by the Commission as inconsistent with the plain language of Rule 28-106.204, F.A.C.

Commission workshop to assess the effectiveness and weaknesses of FPL's Storm Hardening Plan and Wooden Pole Inspection Program in the wake of Hurricane Matthew. Numerous inland and coastal FPL customers experienced extended, storm related outages which warrant review and implementation of lessons learned prior to Commission approval of Issues 7-23.

WHEREFORE, the Larsons hereby submit this Written Statement in Lieu of Appearance, respectfully request the Commission to deny the Joint Motion for Approval of Settlement Agreement in the above captioned docket, and further request the Commission to stay a decision on Issues 7-23 pending a Commission workshop to assess the effectiveness and weaknesses of FPL's Storm Hardening Plan and Wooden Pole Inspection Program in the wake of Hurricane Matthew.

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EXHIBIT A

LARSON'S OPENING STATEMENT

Good morning Madame Chair; Commissioners. Nathan A. Skop, Esq. appearing on behalf of the Larsons.

As a preliminary matter, and as specifically set forth in their Response in Opposition, the Larsons re-assert that the Joint Motion was defective as filed and failed to conform to the specific requirements of Rule 28-106.204, F.A.C. Specifically, Rule 28-106.204(3), F.A.C. requires that:

“All motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion. **Any statement that the movant was unable to contact the other party or parties before filing the motion must provide information regarding the date(s) and method(s) by which contact was attempted.**” [Emphasis Added]

The Joint Motion clearly failed to adhere to this requirement. The assertion within the Joint Motion that, “Due to the conditions surrounding Hurricane Matthew, the Signatories were unable to reach other parties to this proceeding to determine their positions at the time of this filing” is completely disingenuous in light of modern communication technologies such as e-mail and cell phones. The Signatories, including FPL, had more than adequate time and ability to confer with undersigned counsel prior to the filing of the Joint Motion but conveniently opted not to do so as required by Rule 28-106.204, F.A.C. Accordingly, the Joint Motion was defective as filed, fails to conform to the requirements of Rule 28-106.204, F.A.C., and the Joint Motion should therefore be properly denied by the Commission.

The Larsons oppose the Joint Motion and the proposed Settlement Agreement for the following reasons:

- a. The proposed Settlement Agreement represents a financial windfall to FPL to the detriment of residential customers. If the proposed settlement is approved by the Commission, residential customers will be forced to subsidize the costs of credits given to other rate classes resulting in higher bills and residential electric rates that are not fair, just, and reasonable. At hearing, the Larsons allege that FPL testified these credits should expire and not be reinstated because they increase the bills for residential customers.
- b. The Commission should place additional conditions and safeguards on the other concessions within the proposed Settlement Agreement to protect all FPL ratepayers (e.g.; guaranteed savings for the pipeline transfer and solar cost recovery). As the Commission learned from approval of the Woodford and AMI projects, millions of dollars of customer savings projected by FPL never came to fruition. FPL profits at the expense of its customers. The Larsons believe that the Commission should require guaranteed saving associated with the pipeline transfer and put additional restrictions on the SoBra giveaway.
- c. As a party to the proceedings, the Larsons were not included or afforded the opportunity to meaningfully participate in the settlement discussions.

The proposed settlement before the Commission is one of the largest settlements in decades and represents a financial windfall to FPL to the detriment of residential customers. The Larsons note that the position taken by OPC as a Signatory to the proposed settlement is completely inapposite to the testimony filed and the positions taken by OPC in this docket. The Larsons further note that OPC was not a signatory to the settlement in the last FPL rate case which was far more favorable to FPL customers than the proposed settlement that OPC inexplicably signed

contrary to everything that OPC argued in this docket. The core settlement coupled with the added giveaways represents a financial windfall to FPL to the detriment of residential customers who get stuck paying higher bills. Accordingly, the Larsons respectfully request the Commission to deny the Joint Motion for Approval of Settlement Agreement in the above captioned docket, and further request the Commission to stay a decision on Issues 7-23 pending a Commission workshop to assess the effectiveness and weaknesses of FPL's Storm Hardening Plan and Wooden Pole Inspection Program in the wake of Hurricane Matthew.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the parties of record and interested parties indicated below via electronic mail on October 27, 2016:

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