

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 13, 2016

**LARSON RESPONSE IN OPPOSITION TO JOINT MOTION
FOR APPROVAL OF SETTLEMENT AGREEMENT**

Pursuant to Rule 28-106.204, Florida Administrative Code (“F.A.C.”), Mr. Daniel R. Larson and Mrs. Alexandria Larson (“Larson”), by and through undersigned counsel, hereby file their Response in Opposition to Joint Motion for Approval of Settlement Agreement in the above captioned docket and state as follows:

1. 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.

2. Paragraph 5 of the Joint Motion asserted in relevant part 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.”
3. On October 6, 2016, the Signatories separately filed a Notice of Need of Commission Decision (“Notice”) with the Commission in the above captioned dockets (“Consolidated Proceedings”). The Notice addressed the need for a Commission decision on Issues 7-23 in the Consolidated Proceedings which pertained to FPL’s Storm Hardening Plan and Wooden Pole Inspection Program which were the subject of Docket No. 160061-EI. The Signatories alleged that Issues 7-23 were not addressed by the Settlement Agreement, but require Commission approval pursuant to Commission rules and orders. The Signatories further supported approval of the FPL’s Storm Hardening Plan and Wooden Pole Inspection Program.
4. On October 10, 2016, the Signatories separately filed their Joint Notice of Clarification of Stipulation and Settlement with the Commission affirming their support for Commission approval of Issues 7-23 in the Consolidated Proceedings pertaining to FPL’s Storm Hardening Plan and Wooden Pole Inspection Program.
5. As a preliminary matter, the Larsons 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

6. 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.
 - 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.

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.

7. 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 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.
8. Pursuant to Order No. PSC-16-0125-PCO-EI, issued on March 25, 2016, as modified by Order Nos. PSC-16-0182-PCO-EI, PSC-16-0182-PCO-EI, PSC-16-0300-PCO-EI, and PSC-16-0456-PCO-EI issued on May 4, May 27, July 27, and October 12 2016, respectively, the Larsons reserve the right to conduct discovery and file supplemental testimony or a brief in opposition to the Settlement Agreement consistent with the Controlling Dates set forth in Section VIII of the Forth Order Establishing Procedure and Setting Procedural Schedule for Commission Consideration of Settlement Agreement.

WHEREFORE, Petitioners respectfully request the Commission to deny the Joint Motion for Approval of Settlement Agreement in the above captioned docket.

/s/ Nathan A. Skop
Nathan A. Skop, Esq.
Florida Bar No. 36540
420 NW 50th Blvd.
Gainesville, FL 32607
Phone: (561) 222-7455
E-mail: n_skop@hotmail.com

Attorney for Petitioners

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 13, 2016:

/s/ Nathan A. Skop
Nathan A. Skop, Esq.
Florida Bar No. 36540
420 NW 50th Blvd.
Gainesville, FL 32607
Phone: (561) 222-7455
E-mail: n_skop@hotmail.com

Attorney for Petitioners

<p>Florida Power & Light Company Mr. Ken Hoffman 215 South Monroe Street, Suite 810 Tallahassee, FL 32301-1858 Phone: (850) 521-3900 Fax: (850) 521-3939 E-mail: ken.hoffman@fpl.com</p>	<p>Office of Public Counsel J.R. Kelly/C. Rehwinkel/P. Christensen/J. Truitt c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 Phone: (850) 488-9330 E-mail: kelly.jr@leg.state.fl.us E-mail: rehwinkel.charles@leg.state.fl.us E-mail: christensen.patty@leg.state.fl.us E-mail: truitt.john@leg.state.fl.us</p>
<p>Florida Power & Light Company Eric E. Silagy/John T. Butler/R. Wade Litchfield 700 Universe Boulevard Juno Beach, FL 33408-0420 Phone: (561) 691-2512 Fax: (561) 691-7135 E-mail: eric.silagy@fpl.com E-mail: john.butler@fpl.com E-mail: wade.litchfield@fpl.com</p>	<p>Florida Public Service Commission Office of the General Counsel Martha Barrera/Suzanne Brownless 2540 Shumard Oak Boulevard Tallahassee, FL 32399 Phone: (850) 413-6199 E-mail: sbrownle@psc.state.fl.us E-mail: mbarrera@psc.state.fl.us</p>
<p>Florida Industrial Power Users Group Jon C. Moyle, Jr./ Karen A. Putnal Moyle Law Firm, PA 118 North Gadsden Street Tallahassee, FL 32301 Phone: (850) 681-3828 Fax: (850) 681-8788 Email: jmoyle@moylelaw.com E-mail: kputnal@moylelaw.com</p>	<p>Wal-Mart Stores East, LP and Sam's East, Inc. Stephanie U. Roberts Spilman Law Firm 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 E-mail: sroberts@spilmanlaw.com</p> <p>Derrick Price Williamson Spilman Law Firm 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 Phone: (717) 795-2741 Fax: (717) 795-2743 E-mail: dwilliamson@spilmanlaw.com</p>

<p>Federal Executive Agencies Thomas A. Jernigan c/o AFCEC/JA-ULFSC 139 Barnes Drive, Suite 1 Tyndall Air Force Base, FL 32403 E-mail: thomas.jernigan.3@us.af.mil</p>	<p>Florida Retail Federation Robert Scheffel Wright/John T. LaVia, III Gardner, Bist, Bowden, Bush, Dee, LaVia & Wright, PA 1300 Thomaswood Drive Tallahassee, FL 32308 E-mail: schef@gbwlegal.com E-mail: jlaviala@gbwlegal.com</p>
<p>AARP Florida John B. Coffman 871 Tuxedo Blvd. St. Louis, MO 63119-2044 (573) 424-6779 E-mail: john@johncoffman.net</p> <p>Jack McRay Advocacy Manager 200 W. College Ave., #304 Tallahassee, FL 32301 E-mail: jmcray@aarp.org</p>	<p>South Florida Hospital and Healthcare Association Kenneth L. Wiseman/Mark F. Sundback William M. Rappolt/Kevin C. Siqveland Andrews Kurth LLP 1350 I Street NW, Suite 1100 Washington, DC 20005 E-mail: kwiseman@andrewskurth.com E-mail: msundback@andrewskurth.com E-mail: wrappolt@andrewskurth.com E-mail: ksiqveland@andrewskurth.com</p>
<p>Bank of America Merrill Lynch Power and Utilities Research Stuart A. Allen One Bryant Park New York, NY 10036 (646) 855-3753 E-mail: stuart.allan@baml.com</p>	<p>Sierra Club Diana Csank, Associate Attorney 50 F St. NW, 8th Floor Washington, DC 20001 (202) 548-4595 E-mail: diana.csank@sierraclub.org</p>
<p>Robert H. Smith 11340 Heron Bay Blvd. #2523 Coral Springs, FL 33076 E-mail: rpjrb@yahoo.com</p>	<p>Stephen Ludwick sludwick@zimmerpartners.com</p>