

**Eric Fryson**

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**From:** Greg Nelson [seahorseshores1@gmail.com]  
**Sent:** Friday, October 19, 2012 4:25 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Petition to Intervene of Larry Nelson  
**Attachments:** Petition to Intervene - settlement.docx

A. Person responsible for this electronic filing:

Larry Nelson  
312 Roberts Road  
Nokomis, FL 34275  
seahorseshores1@gmail.com  
941-412-3767

B. Docket No.: 120015-EI

Evidentiary hearing re: settlement agreement  
set by ORDER NO. PSC-12-0529-PCO-EI

C. Document is being filed on behalf of Larry Nelson

10/19/2012

DOCUMENT NUMBER-DATE  
07146 OCT 19 2012  
FPSC-COMMISSION CLERK

D. There are a total of 7 pages in the attached document.

E. The document attached for electronic filing is: Petition to Intervene of Larry Nelson

Larry Nelson

312 Roberts Road

Nokomis, FL 34275

[seahorse shores1@gmail.com](mailto:seahorse shores1@gmail.com)

941-412-3767

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition for Increase in Rates by )  
Florida Power & Light Company )  
\_\_\_\_\_  
)

DOCKET NO. 120015-EI

Evidentiary hearing re: settlement agreement  
set by ORDER NO. PSC-12-0529-PCO-EI  
FILED: OCTOBER 19, 2012

**PETITION TO INTERVENE OF LARRY NELSON**

Pursuant to sections 120.569, 120.57, 366.041, and 366.06, Florida Statutes; and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code, Petitioner files this Petition to Intervene. In support thereof, Petitioner states the following:

1. Name and address of the affected agency:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

2. Name and address of the Petitioner:

Larry Nelson  
312 Roberts Road  
Nokomis, FL 34275

3. Service: All pleadings, motions, orders and other documents directed to Petitioner should be served on :

Larry Nelson  
312 Roberts Road  
Nokomis, FL 34275  
Phone: (941) 412-3767  
[seahorseshores1@gmail.com](mailto:seahorseshores1@gmail.com)

4. Notice of Docket: Petitioner received notice of this proceeding by reviewing the above captioned docket on the Florida Public Service Commission (FPSC) website.

DOCUMENT NUMBER-DATE

07146 OCT 19 2012

FPSC-COMMISSION CLERK

5. Statement of Substantial Interests: Petitioner is a residential customer of Florida Power & Light Company (FPL) and served at the above listed address. Petitioner and Petitioner's wife also own and operate a residential duplex as a seasonal rental property and have three additional FPL accounts at that property (one is for the well pump and garage). Petitioner and his wife therefore pay four FPL bills a month. Petitioner also owns one additional rental property, a single family house, in which the FPL bill is typically paid by the tenant. However, the FPL electric bill at this property has a direct effect on the rental rate that the property can be rented for, and the ease with which the property can be rented when vacant. There are also times when the property is vacant during which Petitioner does pay the electric bill, and during those times Petitioner is paying five monthly FPL electric bills. These four (or five) monthly FPL electric bills that Petitioner pays are a significant expense to Petitioner.

6. Right to Intervene: Florida Administrative Code, Rule 25-22.039 states:

**25-22.039 Intervention.**

Persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding, and who desire to become parties may petition the presiding officer for leave to intervene. Petitions for leave to intervene must be filed at least five (5) days before the final hearing, must conform with Uniform subsection 28-106.201(2), F.A.C., and must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. Intervenors take the case as they find it.

Petitioner formerly participated in that portion of FPSC docket 120015 regarding the rate case application by Florida Power & Light Company. After participating in discovery and arguing issues at the Prehearing conference, Petitioner was dismissed from the rate case due at the beginning of the evidentiary hearing on the rate case, pursuant to the original Order Establishing Procedure, due to Petitioners inability to attend the evidentiary hearing on the rate case.

However, the Florida Public Service Commission has now created an entirely new proceeding herein by its ORDER NO. PSC-12-0529-PCO-EI establishing a discovery schedule, pre-hearing conference, and evidentiary hearing, on issues stated to be completely beyond the issues of the rate case (the very premise of the hearing is to hear ONLY issues beyond the rate case) in regards to an alleged "Settlement Agreement" propounded by Florida Power and Light Company and three minor parties representing less than 1% of FPL customers. The purported settlement agreement purports to "settle" the FPL rate case on terms far beyond the scope of the original rate case and further shifts "revenue requirements" from the three minor parties who wish to settle with FPL to other FPL customers, including all residential customers, which includes Petitioner. The FPSC has established this supplemental proceeding to hear evidence concerning these additional terms, not covered in the original rate case, which include but are not limited to base rate increases due to power plants to be brought online which were not even mentioned in the original rate case.

Therefore, Petitioner is entitled to intervene to protect his substantial interests affected by hearing on the purported "settlement agreement" which has the same effect as an entirely new rate case. Additionally, although Petitioner was dismissed from the original rate case, he was not dismissed "with prejudice". Therefore, even under the strained interpretation that this additional proceeding, on the "settlement agreement" issues which are by definition beyond the scope of the rate case, is still the same proceeding as the rate case, it is still more than five days before the "final hearing" and Petitioner therefore can intervene, as of right, under the statute. To find that this additional hearing, with its additional discovery, additional prehearing conference, and completely separate subject matter, is the "same hearing", would defy credulity.

7. Disputed Issues of Material Fact and Law: Disputed issues of material fact include, but are not limited to the following:

- a. Does the FPSC have the power to approve the proposed "settlement agreement"?

b. Does the FPSC have the power to approve the proposed "settlement agreement" without the participation of, and over the objection of, the Office of Public Counsel?

c. Is the FPL proposed "settlement agreement" fair, just and reasonable?

d. Is the standard by which to judge the proposed settlement agreement, if it may be lawfully considered at all, the statutory standard of "fair just and reasonable" or is it the standard now stated by the FPSC of whether the settlement is in the "public interest"?

e. Can a settlement ever be "in the public interest" if the advocate established by the Florida Legislature to represent the public interest, the Office of Public Counsel, maintains opposition to the settlement agreement on the grounds it is not in the public interest?

8. Statement of Ultimate Facts Alleged: The FPSC does not have the power to approve the purported "settlement agreement". The purported "settlement agreement" is not fair, just and reasonable and is not in the public interest.

9. Rules and Statutes Justifying Relief: The rules and statutes that entitle Larry Nelson to intervene and participate in this case include, but are not limited to:

- a. Section 120.569, Florida Statutes
- b. Section 120.57, Florida Statutes
- c. Section 366.04(1), Florida Statutes
- d. Section 366.06, Florida Statutes
- e. Rule 25-22.039 Florida Administrative Code
- f. Rule 28-106.201 Florida Administrative Code
- g. Rule 28-106.205 Florida Administrative Code

10. Relief: Petitioner requests that he be permitted to intervene in the proceeding regarding the settlement agreement.

WHEREFORE, Petitioner requests that the Commission enter an order allowing Petitioner to intervene.

s/ Larry Nelson

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Larry Nelson  
Petitioner  
312 Roberts Road  
Nokomis, FL 34275  
Phone: (941) 412-3767  
E-mail: seahorse shores1@gmail.com

**CERTIFICATE OF SERVICE**  
**Docket No. 120015-EI**

I HEREBY CERTIFY that a true and correct copy of PETITION TO INTERVENE OF LARRY NELSON

has been furnished by electronic mail this 19th day of October 2012, to the following:

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**Keino Young, Esquire**  
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s/ Larry Nelson

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