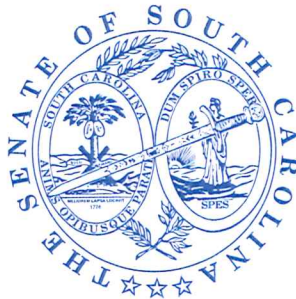


RICHARD A. HARPOOTLIAN  
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SENATORIAL DISTRICT NO. 20

COMMITTEES:  
JUDICIARY  
AGRICULTURE & NATURAL RESOURCES  
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December 10, 2020

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Honorable Luke A. Rankin, Chairman  
Senate Judiciary Committee  
101 Gressette Building  
Columbia, SC 29201

Dear Chairman Rankin:

As you will recall, you appointed me to serve with you and other Members of the Judiciary Committee on a subcommittee in February to delve into certain questions regarding the efforts of NextEra to acquire Santee Cooper. Specifically, our subcommittee was looking into questions surrounding the process authorized by Act 95 of 2019.

Since both the House and Senate effectively rejected the proposed purchase of Santee Cooper by NextEra, I had assumed that during the 2021 Session we would focus our attention on legislation to reform Santee Cooper. However, from published reports, it appears that NextEra will be continuing legislative efforts to purchase Santee Cooper despite there being no process in place for consideration of such a transaction.

Given this reality, there are several aspects regarding NextEra's efforts that I believe need to be investigated by the Judiciary Committee. There is one area that is of particular concern to me that I would ask you to have a subcommittee meet and inquire into immediately.

The last sentence in Section 2 (A) (14) of Act 95 of 2019 reads as follows:

The bidder must also submit its regulatory filings within the past seven years from each state where the bidder provides electric service that are related to the bidder's forecasts for electric generation, transmission, and distribution; requests for generation and/or transmission projects; electric rate requests made by the bidder; and requests to acquire, merge with, or manage another electric utility, and the final disposition of each request.  
(Emphasis added)

As the portion of the statute that I have underlined makes crystal clear, NextEra was required to inform DOA of all prior efforts to acquire other utilities and the outcome of those efforts.

On Page 86 of the DOA Report to General Assembly dated February 11, 2020, pursuant to Act 95, the DOA report provides a copy of the above referenced Section from Act 95 and then summarizes NextEra's response to this statutory requirement. In toto, this section of the DOA report reads as follows:

o. Submission of Historical Regulatory Filings (JR §2(A))

Section 2(A) of the Joint Resolution requires each Bidding Entity to submit “its regulatory filings within the past seven years from each state where the bidder provides electric service that are related to the bidder’s forecasts for electric generation, transmission, and distribution; requests for generation and/or transmission projects; electric rate requests made by the bidder; and requests to acquire, merge with, or manage another electric utility, and the final disposition of each request.” NextEra complied with this requirement.

Specifically, NextEra submitted materials relating to numerous dockets initiated by FP&L. These dockets related to forecasts of generation and transmission needs; construction and siting of new generation and transmission; increases in base rates; requests for recovery of costs relating to fuel and capacity purchases, environmental compliance, energy conservation investments, nuclear plant uprates; and FP&L’s acquisition of the electricity system owned and operated by City of Vero Beach. In addition, NextEra provided materials on its unsuccessful efforts to acquire Hawaiian Electric Industries and the Texas utility Oncor.

These regulatory filings revealed no reason for concern or to favor or disfavor NextEra. The regulatory filings, whether submitted by attorneys, company officials, or expert witnesses, were of a professional quality typical of such submissions. (Emphasis added)

The DOA statement that “NextEra complied with this requirement” is not true. NextEra obviously did not mention their unsuccessful effort to acquire the Jacksonville Electric Authority which – as NextEra knew - had terminated on December 24<sup>th</sup>, 2019. The failure of NextEra to inform DOA of this unsuccessful effort, which was clearly required by Act 95, was sufficient reason for DOA to render the NextEra proposal completely unresponsive and to reject it out of hand. Of even more significance is that the NextEra effort to acquire the Jacksonville Electric Authority was – at the time of the NextEra response to DOA – the subject of a Federal Grand Jury Investigation, a fact of which NextEra was clearly aware. This Federal investigation continues to be active at the present time as discussed below.

On December 18<sup>th</sup>, 2019, Melissa Watson, the States Attorney in Jacksonville, announced that her office has been “looking into matters involving JEA” regarding the JEA privatization effort.

On January 13<sup>th</sup>, 2020, Ms. Watson announced that “We have referred our investigation to our Federal partners who will take the lead moving forward and have the full support of this office.”

From my experience as a former Solicitor, I know that when a local prosecutor calls on the U.S. Attorney and the FBI to take the lead in an investigation, and the Federal authorities accepts that request, matters have reached a very serious level.

The subjects of this ongoing investigation by the U.S. Attorney in Jacksonville have been widely reported in the Jacksonville newspapers and television stations since the fall of 2019. NextEra has most assuredly been aware of this investigation as, according to published reports,



the lobbying and other activities of NextEra are a part of the ongoing Federal investigation. The Grand Jury investigation of the JEA procurement process involves more than NextEra's lobbying activities. What is known from published reports regarding NextEra's activities that appear to be the subject of the investigation by the U.S. Attorney's office includes, among other things the following:

- Whether lobbyists for NextEra's Florida Power and Light subsidiary were representing the City of Jacksonville (and/or the Mayor) and representing Florida Power and Light simultaneously during the JEA procurement process.
- Whether a change in the timing of the procurement process by the JEA was to the disadvantage of all bidders other than Florida Power and Light.
- Whether Florida Power and Light lobbyists and officials violated a "cone of silence" requirement during the procurement process.
- Whether JEA provided NextEra information that was not provided to other bidders.

From my limited inquiry to date, I understand that the Grand Jury for the Middle District of Florida will be convening to consider matters related to JEA and NextEra in January of 2021.

In addition to the federal investigation, the City Council of Jacksonville is conducting its own inquiry as the JEA is owned by the City. The outside counsel's report to the Jacksonville City Council is expected by the first week in January of 2021. Recently, Tim Baker, one of the lobbyists for Florida Power and Light, the subsidiary of NextEra, refused to honor a subpoena of the City Council. The subpoena was for Baker's contract with Florida Power and Light among other documents requested. Outside counsel has advised the City Council that it has already been determined that Baker's advising JEA while working for a company trying to purchase the city-owned utility was inappropriate.

The information relayed above is almost entirely from published news reports. I am attaching to this letter a list of eight news reports that detail the information summarized above. There are literally dozens of news reports about these investigations that are readily available.

My request of you as Chairman is the following:

1. That you reconvene the subcommittee that you appointed earlier this year to inquire into these issues.
2. That you assign appropriate staff to work with me and other Members to gather additional information. I of course will be happy to provide the staff with all the information that I have gathered to date in addition to that summarized here.
3. That the subcommittee meet at the earliest possible date to begin our inquiry.

I think it is imperative that we look very seriously at NextEra's failure to comply with specific provision of Act 95. It is even more important that we learn all we can about the Federal investigation in the Middle District of Florida relating to NextEra's activities in their aborted privatization efforts with JEA as well as the investigation by the Jacksonville City Council.

I would welcome the opportunity to discuss this with you.

With warmest personal regards, I am

Sincerely,

A handwritten signature in blue ink, appearing to be 'Richard A. Harpootlian', written in a cursive style.

Richard A. Harpootlian

RAH:hm  
Enclosures

News Articles Which Report on Matters Summarized  
in Letter of December 8, 2020 to Chairman Rankin

1. Jacksonville.com article of January 9, 2020 titled DESPITE ‘CONE-OF SILENCE’  
OVER JEA SALE, TOP MAYORAL OFFICIAL SPOKE TO FLORIDA POWER AND  
LIGHT CEO DURING PRIVANTE PARTY AT JAGUARS GAME
2. Jacksonville.com article of January 13, 2020 titled FEDS TO INVESTIGATE JEA  
PRIVATIZATION
3. Firstcoastnews.com article of May 15, 2020 titled MAYORS TOP 3 ADVISORS  
LOBBIED ON BEHALF OF COMPANY THAT TRIED TO BUY JEA
4. News4jax.com article of May 15, 2020 article titled DID CURRY’S ALLIES HELP  
EFFORT TO SELL JEA?
5. Jacksonville.com article of May 15, 2020 titled CURRY’S FORMER CHIEF  
ADMINISTRATOR, POLITICAL STRATEGIST WORKED FOR JEA BIDDER,  
ACCORDING TO DOCUMENTS
6. Jacksonville.com article of August 11, 2020 titled COURT RULES NEXTERA’S BID  
FOR JEA IS PUBLIC RECORD
7. Jacksonville.com article of September 1, 2020 titled ATTORNEY FOR SAM MOUSA  
SAYS ‘OUTRAGEOUS’ TO CONTEND THE HAD ‘CRAZY FEES’ I FPL  
CONTRACT
8. Jacksonville.com article of December 1, 2020 titled JACKSONVILLE CITY COUNCIL  
ADVISED NOT TO ENFORCE SUBPOENA GIVEN TO TIM BAKER FOR JEA  
RECORDS