Via Email

January 22, 2016

Technical Director,
File Reference No. 2015-330,
Financial Accounting Standards Board
401 Merrit 7
PO Box 5116
Norwalk, CT 06856-5116

Dear Ms. Cosper:

Re: Proposed Accounting Standards Update—Business Combinations (Topic 805): Clarifying the Definition of a Business

NextEra Energy, Inc. (“NextEra Energy”) is a public company with 2014 revenues of more than $15 billion. Its rate-regulated subsidiary, Florida Power & Light Company, serves approximately 4.7 million customer accounts in Florida. Additionally, NextEra Energy Resources, LLC, NextEra Energy’s competitive energy business, is a leader in producing electricity from clean and renewable fuels.

NextEra Energy supports the proposed accounting standards update—Business Combinations (Topic 805): Clarifying the Definition of a Business (the “Proposed ASU”) and the Board’s efforts to provide a stronger framework for determining whether a set of assets and activities meet the definition of a business. We believe the proposed guidance would improve consistency in differentiating between the acquisition of an asset or a business and result in conclusions that better reflect the substance of those transactions. However, as noted in our comments below, we have significant concerns around certain aspects of Phase 2 of the Definition of a Business Project, Clarifying the Scope of Subtopic 610-20 and Accounting for Partial Sales of Nonfinancial Assets, which we want to highlight early for the Board’s consideration during their deliberation process.

The guidance for partial sales of entities that are businesses, but which hold substantial real estate, is of primary importance to our company. The current real estate accounting guidance requires entities that sell a non-controlling interest in a subsidiary that contains substantial real estate to account for these transactions as in-substance real estate regardless of form and whether or not the entity is a business. Further, the guidance permits entities to record a deferred gain on these types of transactions which is amortized over the useful life of the property transferred. This accounting accurately reflects the economic substance of the transaction because the economic benefits of the business are significantly tied to the underlying asset and decline as the life of the asset declines through operations.

As per the published minutes of the Board’s January 6th meeting, it was tentatively agreed that a group of assets or a subsidiary would be considered an in-substance nonfinancial asset when “substantially all of the fair value is concentrated in nonfinancial assets” and that businesses would not be in-substance nonfinancial assets. Based on this tentative decision, we are very concerned that transactions which are considered to be in-substance real estate under today’s guidance would not meet the definition of an in-
substance nonfinancial asset under the proposed guidance. Further, the Board also tentatively agreed that in evaluating whether control of a nonfinancial asset has transferred to the buyer, a seller should consider if they are still required to consolidate the legal entity (i.e., the seller would evaluate control using the guidance in Topic 810, Consolidation). The Board tentatively concluded that, if an entity is still required to consolidate, the transaction would be recorded as an equity transaction consistent with the guidance in Topic 810 (i.e., no gain or loss would be recognized on the sale). Both of these tentative decisions would significantly impact the real estate industry, as well as other companies who sell partial interests in businesses whose performance is inextricably linked to the nonfinancial assets at their core.

We realize that the Board has not concluded their deliberations on Phase 2, and we will likely provide additional comments when an exposure draft is issued. However, based on the significance of this change, we ask that the Board reconsider their tentative decision on the definition of in-substance nonfinancial assets taking into account how best to reflect the economic substance of such transactions in the financial statements. Further, we ask that the Board re-evaluate the control principle for partial sales or transfers of in-substance nonfinancial assets within the scope of Subtopic 610-20 that are still required to be consolidated under ASC 810 as, based on the rationale detailed above, we believe that this evaluation should be consistent with the guidance in paragraph 606-10-25-30.

NextEra Energy appreciates the opportunity to comment on the FASB’s Proposed ASU and we would be happy to respond to any questions or to participate in any discussions regarding this matter.

Sincerely,

[Signature]

Chris N. Froggatt

Vice President, Controller and Chief Accounting Officer