

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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FPSC - COMMISSION CLERK

In the Matter of:

DOCKET NO. 20190176-EI

JOINT PETITION FOR APPROVAL
OF REGULATORY IMPROVEMENTS
FOR DECENTRALIZED SOLAR
NET-METERING SYSTEMS IN
FLORIDA.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 6

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY

DATE: Thursday , October 3, 2019

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: ANDREA KOMARIDIS
Court Reporter and
Notary Public in and for
the State of Florida at Large

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1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: We're skipping over Item
3 No. 3.

4 Item 4 has been handled.

5 Item No. 5 has been handled.

6 Item No. 6 is on deck.

7 And by the way, Mr. May, I like the tie.

8 MR. MAY: Thank you, Mr. Chair.

9 CHAIRMAN GRAHAM: Staff, I like your
10 pink-ness.

11 MS. DuVAL: Thank you very much. Good morning
12 Chairman and Commissioners. Margo DuVal with the
13 General Counsel's Office.

14 Item 6 addresses a joint petition for approval
15 of regulatory improvements for decentralized solar
16 net-metering systems in Florida. Staff recommends
17 that the petition be treated as a petition to
18 initiate rulemaking to amend the Commission's net-
19 metering rule because the Comm- -- the petitioners
20 are requesting the Commission to revise certain
21 terms and requirements contained in that rule.

22 Staff further recommends that the Commission
23 deny the petition for the reasons provided within
24 staff's recommendation and that this docket be
25 closed.

1 The petitioners have filed two responses in
2 the docket file. We have Mr. Ginsberg-Klemmt here
3 on behalf of the petitioners, and would like to
4 address the Commission on this item. And also
5 Mr. Ken Rubin on behalf of FPL and the other IOUs
6 is also here and would like to participate in the
7 discussion. Staff is available for questions.

8 CHAIRMAN GRAHAM: Okay. Mr. Rubin, I'll let
9 you go first, and then I'll go back to the
10 petitioner so he can address any of your concerns
11 or questions.

12 MR. RUBIN: Thank you, Mr. Chairman. Ken
13 Rubin for FPL.

14 I simply wanted to advise the Commission that
15 FPL supports the staff recommendation. I -- I'm
16 not sure what the petitioner intends to speak to
17 today in terms of issues, but there are a number of
18 unsupported assertions in the written filings.

19 We'd be happy to address each and every one of
20 those in the appropriate proceedings, but from
21 FPL's perspective, we don't see this as the
22 appropriate time, place, or docket in which to do
23 that. These are specific customer complaints.

24 So, we simply support the staff recommendation
25 and ask the Commission for approval of that staff

1 recommendation.

2 CHAIRMAN GRAHAM: Thank you, sir. Is it
3 Mr. Clement? Clem- -- Klemmt?

4 MR. GINSBERG-KLEMMT: Ginsberg-Klemmt.

5 CHAIRMAN GRAHAM: Thank you. I -- I didn't
6 mean to butcher your name.

7 MR. GINSBERG-KLEMMT: No problem.

8 CHAIRMAN GRAHAM: Please, sir.

9 MR. GINSBERG-KLEMMT: Dear Public Service
10 Commissioners, Ms. Julie Brown, Chairman Mr. Art
11 Graham, Dr. Donald Polmann, Mr. Gary Clark, and
12 Mr. Andrew Fay, dear PSC staff members, Ms. Margo
13 DuVal, Ms. Kathryn Cowdery, and Mr. Matthew Vogel,
14 thank you for allowing me to speak today.

15 I'm not sure if you believe in climate change
16 and scientific facts. I do. The day after our
17 current government administration exited the Paris
18 Climate Treaty, our family sat around the kitchen
19 table and we decided to order a few pallets of
20 solar panels from Sun Elec in Miami. We also
21 ordered solar inverters, electronic optimizers, and
22 fastening clamps over the internet. And on
23 July 11th, 2017, our own rooftop system went live
24 into production.

25 As homeowners, we acted as our own general

1 contractor, and we permitted our own solar system
2 by permitting signed and sealed engineering plans
3 to the county and assured the services of a
4 licensed electrician to oversee the code compliance
5 of our rooftop solar installation.

6 Standing-seam metal roofs allowed the usage of
7 hurricane-proof fastening clamps of solar panels so
8 we were able to lock the panels up the roof
9 ourselves and bolted them on with the Allen torque
10 wrench. We passed county and FPL spe- --
11 inspections and our first solar net-metering system
12 went live on July 11, 2017.

13 We were astounded how easy and cheap it was to
14 build a net-zero energy home in Florida using sweat
15 equity. And we can confirm that our strategy will
16 pay off our solar system in four to five years.

17 Encouraged by the economic results of our
18 first system we decided to proceed with our second
19 solar installation one year later, in 2018. To our
20 dismay, Sarasota County had just abolished the
21 instantaneous over-the-counter building permit for
22 photovoltaic systems.

23 To make matters worse, the Florida Power &
24 Light internet website was modified to
25 automatically demand that we reduce our system size

1 from 28 solar panels to 19 solar panels.

2 The automated denial of our second net-
3 metering application by the FPL website in 2018 was
4 the beginning of this altercation which brought us
5 here to speak before you today.

6 The detailed documents of this altercation are
7 publicly available under the Docket 20190176-EI on
8 the FPSC server.

9 Our personal experience with FPL's
10 questionable online approval process during our
11 net-metering applications demonstrates that FPL
12 consistently imposters as a pseudo-official
13 regulatory agency using unenforceable rules based
14 on NextEra Energy's corporate guidelines.

15 In substance, FPL intimidates net-metering
16 applicants into reducing their solar system sizes
17 without offering any substantial justification.
18 This process clearly aims to cripple the solar-
19 power production capabilities of net-metering
20 installations in order to protect FPL's commercial
21 interests.

22 After submitting an official complaint with
23 this Commission, one of our net-metering
24 applications was denied by FPL, and FPL's denial
25 was later confirmed by this honorable Commission.

1 For better or for worse, we are not alone in
2 this situation. A few days ago, Mr. Floyd Gonzalez
3 and Mr. Robert Irving filed their petition to
4 compel Florida Power & Light with Section 366.91
5 and Rule 25-60.065 on the PSC docket. And you all
6 will be tasked to rule on this petition to compel
7 in a few days.

8 Since I am speaking to you as an engineer
9 without much legal background, I would like to laud
10 Mr. Gonzalez and Mr. Irving's brilliant attorney,
11 Mr. Kyle Egger, for his legal analysis. Mr. Egger
12 put it where it's at, so to speak, and his original
13 pleadings can be found under the FPSC Docket
14 No. 20190167-EI on the PSC website.

15 Of course, the struggle between public and
16 private interests neither began nor ended with
17 Mr. Gonzalez, Mr. Irving, or with us. We all
18 understand that the generation and distribution of
19 electricity enabled the industrialization of our
20 modern society during past two centuries.

21 During those early years, electric power
22 lines --

23 CHAIRMAN GRAHAM: Mr. --

24 MR. GINSBERG-KLEMMT: -- and power stations
25 were mostly owned by public entities --

1 CHAIRMAN GRAHAM: Mr. Klemmt, I'm going to cut
2 you off here. I don't want for you to get into a
3 long speech. I just want to speak specifically
4 about this docket that's before us.

5 Do you have anything else about your current
6 situation?

7 MR. GINSBERG-KLEMMT: Yes, but I was assured I
8 wouldn't be cut off, before I started this.

9 CHAIRMAN GRAHAM: I don't know who assured you
10 of that.

11 MR. GINSBERG-KLEMMT: The staff.

12 CHAIRMAN GRAHAM: I just -- let's just get to
13 the facts here. I don't want to talk about the
14 history of electricity.

15 MR. GINSBERG-KLEMMT: Okay. I will cut out a
16 couple of things.

17 Today, the electricity needed to power an
18 average Florida family home, including two electric
19 cars, or a small business can easily be generated
20 by a decentralized 20- to 30-kilowatt rooftop solar
21 installation.

22 Before you start rolling your eyes and
23 dismissing our arguments as leftist, new green deal
24 chatter, please study the recent survey conducted
25 by the Clean Energy Conservatives, a group of

1 forward-thinking Republicans.

2 This conservative activist group concluded a
3 renewable-energy survey with the following bottom
4 line: Minimizing red tape and regulations for
5 renewable-energy companies, net-metering policies,
6 protecting property owners' ability to produce
7 energy on their land, protecting property owners'
8 rights to lease their land for renewable-energy
9 production. The goals stated in our petition,
10 match the first three goals of the Clean Energy
11 Conservatives pretty well.

12 You, as the Public Service condition -- Public
13 Service Commission in Florida have not only the
14 sole jurisdiction to address and help with these
15 three goals; you are actually obligated by your own
16 PSC mission statement and goals to address these
17 matters:

18 To facilitate the efficient provision of safe
19 and reliable utility service at fair prices;
20 provide a regulatory process that results in fair
21 and reasonable rates, while offering rate-based
22 regulatory utilities an opportunity to earn a fair
23 return on their investments; encourage efficiency
24 and innovation among regulated utilities; encourage
25 and facilitate responsible use of resources and

1 technology and the provision and consumption of
2 utility service; provide appropriate regulatory
3 oversight to protect consumers; ensure that all
4 entities providing utility service to consumers
5 comply with all appropriate requirements subject to
6 the Commission's jurisdiction.

7 NextEra Energy's stock chart demonstrates that
8 the official FPSC goal to assure --

9 CHAIRMAN GRAHAM: Mr. Klemmt --

10 MR. GINSBERG-KLEMMT: -- NextEra --

11 CHAIRMAN GRAHAM: -- I'm going to cut you off
12 there.

13 Mr. Rubin, do you have any response to the
14 specifics of this case?

15 MR. RUBIN: Not to the specifics of this case,
16 no, sir.

17 CHAIRMAN GRAHAM: Okay. All right.
18 Commissioners.

19 Commissioner Brown.

20 COMMISSIONER BROWN: Thank you.

21 While I appreciate the effort and the work
22 that has gone by the petitioner, and the passion
23 that you have for the decentralized solar net
24 metering, I think that the current rule and the
25 purpose of the rule is being met.

1 And with that, I would move approval of the
2 staff recommendation.

3 COMMISSIONER POLMANN: Second.

4 CHAIRMAN GRAHAM: It's been moved and second,
5 approval of the staff recommendation.

6 Commissioner Polmann.

7 COMMISSIONER POLMANN: Thank you,
8 Mr. Chairman.

9 Sir, we appreciate, as Commissioner Brown
10 indicated, the efforts that you've gone through for
11 your own purposes to install the solar energy
12 system for -- for your needs.

13 And my only question to you is: What is your
14 purpose for seeking to install additional
15 generation capacity beyond meeting your own needs?

16 MR. GINSBERG-KLEMMT: Dr. Polmann,
17 unfortunately, I was not able to address this
18 matter. I have --

19 COMMISSIONER POLMANN: That's why I'm -- I'm
20 asking you that -- that singular question, sir.
21 What is your purpose to install additional
22 capacity? Are you currently meeting your own
23 needs?

24 MR. GINSBERG-KLEMMT: Yes. Yeah.

25 COMMISSIONER POLMANN: What is it that is your

1 intention --

2 MR. GINSBERG-KLEMMT: Just --

3 COMMISSIONER POLMANN: -- for seeking
4 additional --

5 MR. GINSBERG-KLEMMT: -- a misconstrued
6 statement by the staff that this is our intention
7 to generate surplus as a primary goal -- and I have
8 addressed this in my speech, but I wasn't able to
9 finish.

10 COMMISSIONER POLMANN: I heard that.

11 MR. GINSBERG-KLEMMT: Yes.

12 COMMISSIONER POLMANN: I would like you to
13 answer for me, to what purpose would you seek to
14 generate electricity beyond your own need.

15 MR. GINSBERG-KLEMMT: It's very difficult,
16 sir, to estimate precisely how much electricity you
17 will use if you have an electric vehicle, for
18 example.

19 Mr. Andrew Fay drives a Tesla. I stand next
20 to him in the parking lot. If he would have a
21 solar system, his generating need would vary
22 greatly with the miles that he drives.

23 And FPL's own company policy allows
24 115 percent based on historical usage. This is
25 nonsense. This is unscientific. We need to allow

1 applicants to focus on future usage. And we
2 would -- we would -- we absolutely oppose Florida
3 Power & Light imposter-ing as a regulatory agency.

4 You, as the Florida power service commission,
5 have the authority to regulate systems. And you
6 cannot delegate this authority to a publicly-traded
7 company like Florida Power & Light.

8 Does that answer your question?

9 COMMISSIONER POLMANN: No, sir. I would like
10 to give you one more opportunity to answer my
11 question. You're an engineer and I'm an engineer.

12 And Mr. Chairman, I'm going to make one more
13 attempt. I understand there's a motion and a
14 second.

15 And sir, the Chairman is about to call for our
16 vote, and I would like to give you one more
17 opportunity. I have a simple question for you.

18 MR. GINSBERG-KLEMMT: Uh-huh.

19 COMMISSIONER POLMANN: You have installed the
20 system, and you've told us --

21 MR. GINSBERG-KLEMMT: Yes.

22 COMMISSIONER POLMANN: -- that you're meeting
23 your needs and --

24 MR. GINSBERG-KLEMMT: Yes. Uh-huh.

25 COMMISSIONER POLMANN: We're about to make a

1 decision.

2 MR. GINSBERG-KLEMMT: Uh-huh. Uh-huh.

3 COMMISSIONER POLMANN: You have, apparently,
4 requested of your utility an opportunity to
5 generate additional electricity.

6 What is your purpose for generating additional
7 electricity beyond what you are currently
8 generating? Is it your intent to generate that
9 power, that electricity, in excess of your own
10 demand?

11 MR. GINSBERG-KLEMMT: This --

12 COMMISSIONER POLMANN: That is a yes-or-no
13 question.

14 MR. GINSBERG-KLEMMT: That is not a yes-or-no
15 question, Dr. Polmann. I -- I apologize. It is
16 not. You cannot design a system precisely to --

17 COMMISSIONER POLMANN: There is --

18 MR. GINSBERG-KLEMMT: -- whatever a usage is
19 going to be. And the current regulation allows --
20 even Florida Power & Light's guidelines allow a
21 system to be slightly bigger. There is even a
22 surplus regulation for that in place today that
23 pays for that surplus generation.

24 So, I do not understand why you criminalize
25 people who make a little more than they actually

1 use. It's just unreasonable to do so. And the
2 primary -- use -- the use of the words "usage" --
3 "primary use," in the rule, implies that a
4 secondary use is permissible, sir. The -- a rule
5 would have said exclusively or sole if a secondary
6 use would be illegal.

7 And you make it sound like it has to be a
8 hundred percent and this is kind of what it has to
9 be. That is incorrect. We should not moralize
10 against surplus power production on a decentralized
11 world.

12 The remuneration or the payback that you get,
13 actually, for your surplus power is 2.5 cents per
14 kilowatt hour. That is less than one-fifth of the
15 net-metering rate. And you are moralizing against
16 doing this? It's make- -- makes no sense to me,
17 Mr. Polmann.

18 COMMISSIONER POLMANN: Well, I appreciate
19 that -- that you have attempted to answer my
20 question and --

21 MR. GINSBERG-KLEMMT: Yeah. Uh-huh.

22 COMMISSIONER POLMANN: And I'm inferring from
23 your answer, with your simple use of the word
24 "surplus," that you want to generate surplus
25 energy. And that answers my question, even though

1 you have not done an adequate job to inform me.

2 I stand down, Mr. Chairman. That's all I
3 have. And hopefully, we can close this matter.

4 Thank you, sir.

5 CHAIRMAN GRAHAM: Thank you, Commissioner.
6 Commissioner Clark.

7 COMMISSIONER CLARK: Thank you, Mr. Chairman,
8 I debated getting into the -- thought, in my own
9 mind, about getting into this debate. I -- I don't
10 think we want to. This is -- I don't think we want
11 to -- I don't think anybody here wants to open the
12 net-metering issue because I don't think a lot of
13 folks are going to like where I stand on that
14 issue.

15 But I do have one primary question. So, if
16 you're generating your power needs and your
17 interest -- I -- I think you were trying to imply
18 that your interest was not in selling power back to
19 the utility company. Your petition, I believe,
20 mentioned you needed 8 cents a kilowatt hour.

21 If you're generating your own power, why don't
22 you just disconnect from the utility and remove
23 yourself, if you have all of your own capabilities?
24 Why do you need an interconnect?

25 MR. GINSBERG-KLEMMT: That is at the

1 perfect -- the moment, a perfect time and a
2 technical advantage to have the electric grid,
3 actually. If you have solar overproduction, for
4 example, in -- in the prairies, in Texas, out west,
5 and you have more electricity in Texas than you can
6 use, you can actually power our homes in Florida
7 with solar energy at its peak in Texas.

8 It is very smart to use the grid. Of course,
9 I can put a battery up and then could disconnect
10 myself. I -- I can do that, but I am advocating
11 for a smart grid.

12 And you, as the Public Service Commission,
13 needs to get involved to enable a smart grid to
14 operate. You need to move away from historical
15 centralized thoughts about power production. You
16 need to have a mo- -- allow modern, innovative
17 concepts of decentralized regenerative power
18 production. You should not criminalize or moralize
19 against small surplus production.

20 And Mr. Clark, very much it is the primary
21 intent to cover my own power supply. If I generate
22 a couple of kilowatt hours, it's -- it's very small
23 what I -- what I have in surplus. It's a couple of
24 kilowatt hours.

25 Why not? Why is it such a big deal? Why does

1 a multi-million -- billion company like NextEra
2 Energy need to be afraid of a couple of kilowatt
3 hours that my rooftop solar system generates, more
4 than I actually used?

5 COMMISSIONER CLARK: Well, in my opinion,
6 Mr. Klemmt, it's obviously not your intent --
7 you're trying to put a production system in place
8 and you're wanting eight cent a kilowatt hour.
9 It's pretty obvious to me what the intent is here.

10 Mr. Chairman, I move the previous question.

11 CHAIRMAN GRAHAM: All right. We've got a
12 motion and a second to move the staff
13 recommendation.

14 If there's no further discussion, all in
15 favor, say aye.

16 (Chorus of ayes.)

17 CHAIRMAN GRAHAM: Any opposed?

18 By your action, you have approved the staff
19 rec.

20 Thank you, staff.

21 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
stenographically reported the said proceedings; that the
same has been transcribed under my direct supervision;
and that this transcript constitutes a true
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I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED THIS 14th day of October, 2019.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #GG060963
EXPIRES February 9, 2021