

Antonia Hover

From: Office Of Commissioner Clark
Sent: Friday, December 06, 2019 10:36 AM
To: Commissioner Correspondence
Subject: FW: Memorandum in opposition to staff's recommendation to deny request for oral argument and motion for reconsideration.
Attachments: 11222-2019.pdf

Good morning,

Please place the attached in Docket No. 20190176-EI.

Best regards,

Hannah E. Barker
Executive Assistant to Commissioner Clark
Florida Public Service Commission
2540 Shumard Oak Blvd.
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(850) 413-6004

From: Achim Ginsberg-Klemmt [<mailto:achim@srqus.com>]
Sent: Friday, December 06, 2019 10:03 AM
To: Office Of Commissioner Clark; Office of Commissioner Brown; Office Of Commissioner Graham; Office of Commissioner Polmann; Office of Commissioner Fay
Cc: Chris Pierce; Darrell Prather; dorneygp@gmail.com; morse.stephanie@leg.state.fl.us
Subject: Memorandum in opposition to staff's recommendation to deny request for oral argument and motion for reconsideration.

Please find attached A. Ginsberg-Klemmt - Memorandum in opposition to staff's recommendation to deny request for oral argument and motion for reconsideration.

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint Petition for Approval of) DOCKET NO: 20190176-EI
Regulatory Improvements for decentralized)
Solar Net-Metering Systems in Florida) Filed: December 5th, 2019
_____)

**MEMORANDUM IN OPPOSITION TO FPSC STAFF’S RECOMMENDATION TO DENY
REQUEST FOR ORAL ARGUMENT AND MOTION FOR RECONSIDERATION**

Achim Ginsberg-Klemmt (“Petitioner”) hereby files this Response in Opposition to Ms. Duval’s and Ms. Cowdery’s (“FPSC Staff’s”) recommendation to deny the Request for Oral Argument and the recommendation to deny the Motion For Reconsideration, stating in support as follows:

**Recommendation 1: The Commission should deny Petitioner’s
Request for Oral Argument. (DuVal, Cowdery)**

1. FPSC Staff (DuVal, Cowdery, Vogel) has recommended the denial of this entire Petition on October 3rd 2019.
2. FPSC Staff (DuVal, Cowdery) has recommended the approval of **ZERO (0!)** Energy Conservation Goals for Florida’s Electric Power Monopolies during the next 5 years in Petition 20190015-EG on October 24th 2019.
3. It does not come as a surprise to Petitioner that FPSC Staff (DuVal, Cowdery) recommends to silence a dissenting voice by recommending to deny this oral argument request.
4. While Florida Power & Light’s Corporate attorney Mr Rubin was granted the privilege to intervene and speak first without officially appearing as an intervenor in these proceedings, Petitioner was put at a disadvantage by the Commission by not being able to make a fully conclusive oral argument on October 3rd 2019. Petitioner was not given the opportunity to prepare for the unofficial surprise appearance of FPL as an opposing party.
5. On October 3rd 2019 the same FPSC Staff members verbally assured Petitioner before the public hearing that there would be no time limitation to his oral presentation. Petitioner

was taken by surprise when the Chair cut off his speech twice at 4:31 and 7:06 minutes into the presentation to save approximately 10 minutes of time without any substantial necessity. Instead of allowing the unannounced FPL attorney to speak, the Commission could have offered Petitioner the opportunity to deliver his fully conclusive oral presentation.

Recommendation 2: Petitioner has failed to identify a point of fact or law that was overlooked or that the Commission failed to consider in rendering Order No. PSC-2019-0410-FOF-EI, (DuVal, Cowdery, Vogel)

6. Petitioner's Motion For Reconsideration closes with the following paragraph:
“The Public Service Commission currently allows the fox to guard the henhouse by encouraging utility companies like Florida Power & Light to enact and enforce their own arbitrary rules based on their biased corporate policies.

***This is akin to allowing Volkswagen compliance oversight of Diesel engine emissions, or allowing Boeing to regulate and oversee the safety of the Boeing 737MAX flight dynamics.*“**

7. Chapter 350 Florida Statutes grants the Public Service Commission jurisdiction to enact and interpret applicable administrative rules, but does not permit the Commission to delegate such authority to third parties.

8. According to Gonzales/Irwin's response to the PSC's document request filed on November 15th 2019, the petitioners in case 201900167-EI were able to increase their power bill from ~\$183 in June/July to ~\$494 in August/September 2019 in order to obtain final approval for the allegedly oversized solar system. It seems that these net-metering applicants have now obtained the desired permit approval due to this consumption increase during August/September 2019. (see <http://www.floridapsc.com/library/filings/2019/10945-2019/10945-2019.pdf> Pages 28-30)

9. In the case 201900176-EI, Petitioner offered to install several electric heaters on-site to increase the power consumption and asked Florida Power & Light in advance how long he would need to heat the outside air to sustain a specific power consumption at the site:

“Therefore, please define the exact amount of kilowatt hours which must show on our electric bill, and on how many billing cycles this usage must be reflected, to obtain FPL's official net-metering approval based on FPL's nonsensical but well established

usage history method.” (see <http://www.floridapsc.com/library/filings/2019/09101-2019/09101-2019.pdf> Exhibit E)

10. In the case 201900176-EI, Florida Power & Light specified neither the timespan nor the amount of energy in kWh for the consumption necessary to obtain FPL’s net-metering approval. Petitioner’s net-metering application for FPL Account 7779634307 was finally denied with the explicit approval of PSC Staff.

11. In both cases, Florida Power & Light relied on their own corporate guidelines and approval mechanism to arrive at their decisions, and in both cases the applicants fundamentally question Florida Power & Light’s legal authority to imposter as a regulatory governmental agency.

12. In both cases, the Public Service Commission acts as if the Commission has the jurisdiction to delegate the regulatory authority to deny or approve net-metering applications to a privately-held electric utility corporation.

13. The Florida Public Service Commission cannot exceed its jurisdiction granted in F.S. 350 and has failed to address its current practice to delegate the regulatory authority to privately owned electric power corporations. FPSC Staff’s conclusion under Recommendation #2 stating that *“Petitioner has failed to identify a point of fact or law that was overlooked“* is therefore not factual and unsupported by the record.

WHEREFORE, Petitioners respectfully request that the Request for Oral Argument as well as the Motion For Reconsideration be APPROVED.

Respectfully submitted this 5th of December 2019



Achim Ginsberg-Klemmt

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing *Response in Opposition to FPSC's Staff Recommendation to Deny* has been furnished via electronic service on Ms Margo DuVal. Esq., mduval@psc.state.fl.us, counsel for the FPSC, Mr JR Kelly, kelly.jr@leg.state.fl.us, Public Council, Ms Stephanie Morse Esq., morse.stephanie@leg.state.fl.us, Associate Public Council, Ms Maggie Clark Esq., at mclark@seia.org, SEIA State Affairs Senior Manager, Southeast and Ms Katie Chiles Ottenweller Esq., at katie@votesolar.org, Vote Solar Southeast Director on this 5th day of December 2019.

Respectfully submitted,

/s/ Achim Ginsberg-Klemmt
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Sarasota FL, 34239
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