A group called Floridians for Solar Choice is leading a petition drive to amend Florida’s Constitution to allow third party solar sales. It would allow those who generate solar electricity to sell solar power directly to other consumers, potentially including customers of other utilities, and would prevent electric utilities from disconnecting or imposing any special charges on those customers that buy solar power from third parties.

1. The meat of the petition is in subsection 2, which states:

(2) No electric utility shall impair any customer’s purchase or consumption of solar electricity from a local solar electricity supplier through any special rate, charge, tariff, classification, term or condition of service, or utility rule or regulation, that is not also imposed on other customers of the same type or class that do not consume electricity from a local solar electricity supplier.

We read this to mean that utilities would not be able to impose a charge to recover any additional costs that are caused exclusively by those ratepayers that purchase power from third party solar generators. Interestingly, it would not preclude special charges on those that self-generate and elect not to sell to their neighbor. It also is silent on wheeling charges and the requirement of the utility to wheel the power to the customer from the generator or another customer. One aspect that is particularly concerning is the use of the word “impair.” This could be construed to mean that those that purchase from third parties are forever entitled to the subsidies that exist in the rates that are in effect when the amendment is adopted.

1. Another significant section is (3), which states that we cannot disconnect a customer solely on the basis that they also purchase from a solar provider.
2. Section (4) also is an issue as it may limit safety regulations that can be imposed on these facilities:

Notwithstanding paragraph (1), nothing in this section shall prohibit reasonable health, safety and welfare regulations, including, but not limited to, building codes, electrical codes, safety codes and pollution control regulations, which do not prohibit or have the effect of prohibiting the supply of solar-generated electricity by a local solar electricity supplier as defined in this section.

**THE SPONSORS**

1. The proponents include the: Christian Coalition, Tea Party, Republican Liberty Caucus of Florida (Libertarian republicans), the Libertarian Party, liberals, environmentalist, FL Retail Federation featuring Walmart and Publix (with $8-10 million).
2. Their talking points are:
   1. Free market/capitalism/choice - We want solar and other clean power but our utility won’t provide it, so let someone else provide it to us
   2. We are not your existing utility
   3. Creates clean jobs
   4. No one is harmed (even though non-solar customers will see rate increases due to the solar users)
   5. Prevents construction of new power plants (even though it will require more peaking generation and will not offset any base load generation)
3. What do we think they really want?
   1. Deregulation!
   2. Game our rates/subsidies
   3. Avoid some of the taxes and fees that utilities have to collect and pay

**PROCESS**

1. The process for placing an amendment on the ballot is fairly difficult and expensive, but this group apparently has the resources and we anticipate they will get the necessary signatures in a relatively short time and can pay to have the signatures verified:
   1. They must get signatures from eight percent of the number of voters that voted in the last presidential election, which is 683,149, and the signatures must come from at least 14 of the 27 congressional districts.
   2. The petitioners must submit the necessary signatures to the Supervisors of Elections, who will verify the signatures and forward the petitions to the Department of State. It can cost up to $.10 per signature.
   3. When they have collected and verified ten percent (68,314) of the required signatures, the proposed amendment is automatically forwarded to the Attorney General’s office and the Financial Impact Estimating Conference (“FIEC”). The Attorney General has 30 days to petition the Supreme Court for an advisory opinion regarding the compliance of the text of the proposed amendment with s. 3, Art. XI of the State Constitution and with F.S. 101.161 (single subject, clear ballot title, not misleading, review of fiscal impact statement, etc.). The FIEC will evaluate the impact on state and local government revenues, which in this case should include franchise and PSC assessment fees and public service taxes, and may include gross receipts and other taxes.
   4. There must be a determination of constitutionality by February 1, 2016 in order for the Secretary of State to place the amendment on the ballot for the November 2016 elections.