

May 3, 2016

TO: FECA General Managers and Member Services

FROM: Bill Willingham

SUBJECT: Vote.coop and solar constitutional amendment campaigns

As you know, there will be two constitutional amendments on the ballot this year that deal with solar. Amendment 1, The Smart Solar initiative¹, will be on the November ballot, and Amendment 4, the ad valorem tax exemption for renewable devices on commercial property, will be on the August ballot. In addition, co-ops across the country are working on a campaign to motivate co-op members to vote.

The purpose of this memo is to remind you that there are rules that we all must obey as we deal with any of these issues. Below is an explanation of the rules. We also want to share our thoughts about communicating with members on the Smart Solar amendment, and to request your ideas on other options that we can consider.

Campaign Rules

There are restrictions in section 106, F.S., on how co-ops can communicate with members and non-members on constitutional amendments and other ballot initiatives. In addition, any expenditure made by the co-op on a balloted issue could require the co-op to register as a political committee and to acknowledge political activity on its 990 form. Violations of these laws also can trigger fines. In general, the regulations are triggered by “advocating” for a balloted issue, but there are 2 exemptions from the advocacy regulations - oral statements and making a statement that is available *only* to co-op members. Also, education messages that do not advocate are not restricted and expenditures for educational messages are unregulated as long as they do not advocate.

¹Rights of Electricity Consumers Regarding Solar Energy Choice, (a.k.a. the Smart Solar Amendment).

The good news is that we have a fairly wide berth to educate members and the public about the amendments so long as the message does not advocate for a balloted issue. Messages that are educational in nature, such as comparing the issues coming before the voters, are permissible as long as they do not advocate. Also, recommending that someone click a link to the Smart Solar website is not advocacy if you say “for more information on Amendment 1 click here,” even though the Smart Solar website clearly advocates for Amendment 1. The challenge is to inform members and the public without crossing into expressly advocating a position. A message crosses the line into advocacy when it includes phrases like *vote for, elect, support, cast your ballot for, Smith for Congress, vote against, defeat, oppose, and reject*. Therefore, any messages and expenditures on the vote.coop campaign would not be subject to restrictions as long as the messaging does not address an issue that is on the ballot. It is important to make sure that you do not mention solar, renewables, or any other balloted issues in your vote.coop promotions.

As noted above, we can advocate without triggering reporting requirements when speaking. Speeches at Rotary, Kiwanis, Chamber of Commerce, talk radio, and annual meetings can include advocacy, and you can tell them the co-op supports Amendment 1. Note that even though the original statement was oral, the co-op cannot print that quote in your magazine or newsletter or use it in a message unless the use is otherwise exempt by being in a member-only media. However, this does not prevent someone else from republishing the statement, but the co-op personnel cannot be involved in the republishing of the message.

The second exemption is advocating in media that is only made available to the co-op’s active members. For example, an advocacy message cannot be in public areas of your web site but can be in a password protected area. Mailings and emails are trickier because you will have to make sure that the mailing list only includes active members. Obviously, the stronger the message, the more likely the chance of the messenger being criticized and challenged, so common sense also dictates that you should be cautious and deliberate with all messages. If any written or recorded communication (this can mean print, radio, social media, etc.) can be reasonably interpreted to expressly advocate a position regarding an issue then don’t use it unless it will only be sent to members or will be in a password protected member-only area of a website.

Interaction between the Amendments and Vote.coop

The timing of the votes on the amendments makes our job of promoting the Smart Solar a little more difficult. Smart Solar will be on the November general election ballot, but the ad valorem exemption will be on the August 30 primary election ballot. Statewide has not taken a position on the ad valorem exemption, but we will aggressively promote Smart Solar. In an attempt to prevent confusing the two amendments, we recommend that there should not be any written mention of Amendment 1 to co-op members until after August 30. However, we need to begin a general solar education campaign prior to August 30. In addition, there is no reason to delay promotion of vote.coop. In case you are wondering, we support Amendment 1 because it will add a framework to Florida's Constitution that allows solar, both large scale and customer-owned rooftop, to become a much bigger part of Florida's electric generation mix, in a way that is both safe and fair.

Communication Plan/Timeline

Statewide is working on talking points, videos and articles for you to use. Our game plan is to have a steady drumbeat of media and PSA's that touch on important solar issues. If you already have media that we can "borrow" from please share it with us. Our goal is to provide co-op members with educational media so they can have a general understanding of solar issues before we tell them why Smart Solar is a good amendment. Here is the timeline:

As soon as possible - Create a white paper that defines the issues and includes directions for co-op communicators to deal with questions from the members and the media.

June 1 – August 30 - Solar 101/Solar Education

- Begin educating members with positive, solar media and talking points.
- Depending on the publication date, we hope you will reserve space in your June, July, and/or August newsletters/magazines, for solar education articles.
- These education pieces will focus on topics such as safety, consumer protections, things to think about before you install solar, and the costs and efficiencies gained through large-scale solar arrays versus rooftop solar.

- These pieces will not mention either ballot amendment and **will not advocate**, and therefore can be in print, posted on unprotected areas of the website, and on social media without regard to co-op membership or campaign restrictions.
- We also will have talking points for live audience events that will include advocacy.

September 1 – November 8 - Amendment 1 Advocacy

- Beginning Sept. 1, the Solar 101 program will switch gears to begin educating and advocating for Amendment 1.
- Depending on the publication date, we hope you will reserve space in your September and/or October newsletters/magazines.
- These pieces will build on the same issues brought up in the education pieces, and will explain Amendment 1 and should ask the members to vote on Amendment 1.
 - Advocacy pieces in print can only be available to co-op members. This would mean sending out the co-op newsletter/magazine only to co-op members.
 - Advocacy pieces can be emailed to co-op members and can be posted on the co-op website if it is a password protected area that is only available to co-op members.
- Statewide will provide other content for use in op-eds to local papers, speeches to local civic groups, and for TV/radio opportunities that may become available. These pieces can include advocacy without any restrictions.