

**IN THE SUPREME COURT OF FLORIDA
CASE NOS. SC15-2150 & SC16-123D14-1513**

**ADVISORY OPINION TO THE ATTORNEY GENERAL
RE: RIGHTS OF ELECTRICITY CONSUMERS
REGARDING SOLAR ENERGY CHOICE**

**MOTION FOR RELIEF FROM JUDGMENT OR ORDER, OR
ALTERNATIVE MOTION TO REOPEN CASE DUE TO FRAUD OR
OTHER MISCONDUCT ON THE COURT ON THE PART OF
PROPOSERS OF CITIZEN INITIATIVE**

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**MOTION FOR RELIEF FROM JUDGMENT OR ORDER, OR
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Florida Solar Energy Industries Association (“FlaSEIA”) and Floridians for Solar Choice, Inc. (“Floridians for”) are both party-opponents to these proceedings involving the advisory opinion on the validity of the initiative petition entitled “Rights of Electricity Consumers Regarding Solar Energy Choice sponsored by Consumers for Smart Solar, Inc. This extraordinary motion is based on newly discovered and previously unforeseen information that undermines and imperils the validity of this Court’s March 31, 2016 advisory opinion in this matter. *Advisory Opinion to Attorney General re Rights of Electricity Consumers Regarding Solar Energy Choice*, 188 So. 3d 822 (Fla. 2016).¹

Recent events demonstrate conclusively that the ballot title and summary of the proposed constitutional amendment are in truth and in fact not compliant with

¹ This Court has two jurisdictional bases to reconsider its Advisory decision. First, this Court has common-law authority to hear “a specific fact or facts then existing but not shown by the record and not known by the court or by the party or counsel at the trial, and being of such a vital nature that if known to the court in time would have prevented the rendition and entry of the judgment assailed.” *Farrell v. Amica Mut. Ins. Co.*, 361 So. 2d 408, 410 (Fla. 1978) (discussing the writ of error Coram nobis). Second, assuming that Florida Rule of Civil Procedure 1.540(b) has abolished this writ, as it has in civil cases, *State v. Woods*, 400 So. 2d 456, 457 (Fla. 1981) (explaining that “writs of error coram nobis have now been abolished in civil cases by Florida Rule of Civil Procedure 1.540(b)”), this Court may hear this motion under Rule 1.540(b), because of the allegations of fraud, misrepresentation, and misconduct raised in the motion.

constitutional and statutory requirements because they are affirmatively misleading and do not clearly and unambiguously set forth the chief purpose of the amendment, as required by § 101.161(1), Fla. Stat. (2015). Contrary to these mandatory directives, the ballot title and summary do not “provide fair notice of the content of the amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot.” *Advisory Opinion to Attorney General re Fee on Everglades Sugar Production*, 681 So. 2d 1124, 1127 (Fla. 1996).

Consumers for Smart Solar, Inc., the amendment’s proponents, affirmatively withheld relevant and material information as to the objective and intended purpose of the amendment, and thereby misled this Court (and is now misleading the public) as to the adequacy of the ballot title and summary presented to the voters. This affirmative deception was first uncovered and publicized by the *Miami Herald* on October 18, 2016, in an article titled “Insider reveals deceptive strategy behind Florida’s solar amendment” (attached as Addendum 1-6). That publication disclosed that the sponsors of Amendment 1 “attempted to deceive voters into supporting restrictions on the expansion of solar by shrouding Amendment 1 as a pro-solar amendment.” (Addendum 1). The *Herald* article references an October 2, 2016 speech by Sal Nuzzo of the James Madison Institute at the State Energy/Environment Leadership Summit in Nashville, Tennessee. The James Madison Institute, according to Mr. Nuzzo, partnered with Consumers for Smart

Solar and the utilities industry to research and develop a constitutional ballot initiative that was intended to appear to be favorable for solar power, but was really designed to negate the pro-solar effort of the Coalition for Solar Choice. Transcript excerpts of Mr. Nuzzo's speech were published by the Center for Media and Democracy in October 18, 2016, and are attached at Addendum 7-11.

No part of this basic purpose was disclosed by the amendment's proponents in proceedings before this Court. Nor did any of the proponents inform the Court that the ballot title and summary were intended to affirmatively mislead voters and thus deny the electorate the ability to cast an intelligent and informed ballot. By withholding this now-revealed information and by persuading the Court to find that the title and summary clearly and unambiguously inform the voters as to the true purpose of the amendment, the proponents misled and defrauded this Court by affirmative misstatements and omissions of material fact. Not once did the proponents concede that Amendment 1 was intended to restrict pro-solar choices through political "jiu-jitsu" by severely restricting consumer rights to solar energy through the expansion of regulatory powers. Had the avowed purpose of this amendment been identified in proceedings before this Court, the lack of clarity and the incompleteness of the ballot title and summary would have been evident.

The advisory opinion issued by this Court was the result of the exercise of original jurisdiction in matters involving opinions to the Attorney General pursuant

to Rule 9.510 of the Florida Rules of Appellate Procedure. In rendering its advisory opinion, this Court was affirmatively misled by the proponents' deception, misrepresentation, and misconduct through material omissions of crucial information, the effect of which was to work a fraud on this Court. By analogy to Rule 1.540(b) of the Florida Rules of Civil Procedure, when a "final judgment, decree, order, or proceeding" is procured through "fraud ... misrepresentation, or other misconduct of an adverse party[,]" the court may order relief. Such relief in this case is necessary in order that this Court can reopen this case to determine whether, as declared by Justice Pariente in dissent, "the ballot initiative is the proverbial 'wolf in sheep's clothing.'"*Advisory Opinion to Attorney General re Rights of Electricity Consumers Regarding Solar Energy Choice*, 188 So. 3d at 835. The ballot title and summary are devoid of any mention of the intended consequences of Amendment 1, contrary to constitutional requirements of accuracy and clarity. *Advisory Opinion to the Attorney General re Tax Limitation*, 644 So. 2d 486, 495 (Fla. 1994). As explained in *Kainen v. Harris*, 769 So. 2d 1029, 1031 (Fla. 2000), a ballot title and summary are deficient when they fail to fairly inform voters of a major consequence of the amendment – in this case, the restrictions on consumer's rights in favor of government regulatory power.

As Justice Pariente noted, "the biggest problem with the proposed amendment "lies . . . with what it does not say." *Solar Energy Choice*, 188 So. 3d at 835

(dissenting). The ballot summary does not disclose that citizens already have “a right to use solar equipment for individual use afforded by the Florida Constitution and existing Florida statutes and regulations.” *Id.* at 835. Nor does it disclose that by making the right to generate solar power for one’s personal use the sole constitutional right, the amendment impliedly excludes the constitutional right to share excess power generated with one’s neighbor or otherwise transmit the excess power.² It certainly does not disclose that, as Mr. Nuzzo touted, the purpose of the amendment is to curtail the expansion of solar power in Florida.

Furthermore, Mr. Nuzzo’s stunning admission illuminates Justice Pariente’s conclusion that the amendment does not give electricity consumers any choices or any rights:

The language of the amendment does not appear to provide any “choice” or provide for the “rights” of electricity consumers who make the “choice” to install solar. For those electricity consumers, the amendment provides only *one* narrow right: to own or lease solar equipment for their own use. The only “choice” is whether to accept

² “Under the principle of statutory construction, *expressio unius est exclusio alterius*, the mention of one thing implies the exclusion of another.” *Young v. Progressive Se. Ins. Co.*, 753 So. 2d 80, 85 (Fla. 2000); *Pro-Art Dental Lab, Inc. v. V-Strategic Group, LLC*, 986 So. 2d 1244, 1258 (Fla. 2008); *Le Scampi Condo. Ass’n, Inc. v. Hall*, 41 Fla. L. Weekly D1582 (Fla. 2d DCA July 8, 2016). The proposed amendment gives Floridians the right to generate solar energy for their own use but not the right to generate solar energy for the use of someone else. By granting a right of personal use, the amendment impliedly excludes the right to share excess power with one’s neighbor, a policy advanced by Floridians for Solar Choice. This important consequence is absent from the initiative’s summary and title.

this narrow right or reject it.

Id. at 836. The amendment protect the status-quo for the utilities companies by stymieing the growth and proliferation of solar power usage in Florida.

This Court should revisit its ruling, because the misconduct here arose directly in the course of this proceeding and had the intended effect of blunting issues that were or could have been tried. *See Parker v. Parker*, 950 So. 2d 388, 391 (Fla. 2007) (intrinsic fraud is “fraudulent conduct that arises within a proceeding and pertains to issues in a case that have been tried or could have been tried.”). Movants brought this newly obtained material information to this Court’s attention as readily and as quickly as circumstances would permit. The clear proof of the proponents’ deception and misrepresentation concerning the purpose and intent of Amendment 1 warrants relief in the form of vacating the advisory opinion and ordering new briefing on the issues raised by the previously undisclosed revelations as to the true purpose and intent of Amendment 1. Upon further consideration, this Court should strike the proposed constitutional amendment for failing to inform the electorate of the “true meaning, and ramifications” of the amendment.

CONCLUSION

The advisory opinion should be withdrawn and the interested parties directed to re-brief the issues raised by the newly obtained information. Following that briefing, this Court should conclude that the proposed constitutional amendment

should be stricken and any votes cast in favor of the amendment not counted.

CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies that the type used in this brief is 14-point proportionately spaced Times New Roman.

Respectfully submitted,

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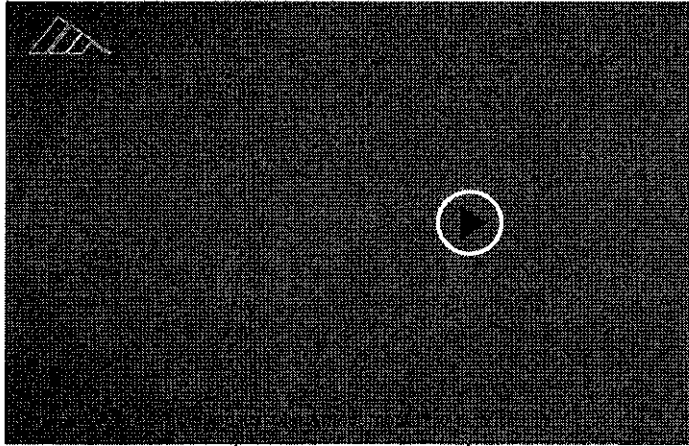
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ADDENDUM

ELECTIONS 2016 OCTOBER 18, 2016 5:25 PM

Insider reveals deceptive strategy behind Florida's solar amendment



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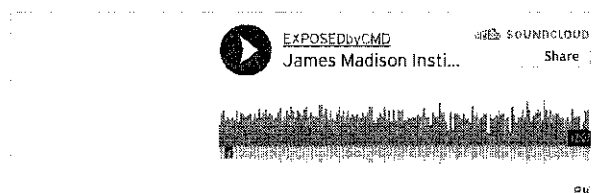
Amendment 1 will be voted on during the November 8 election. McClatchy

BY MARY ELLEN KLAS
Herald/Times Tallahassee Bureau

TALLAHASSEE — The policy director of a think tank supported by Florida's largest electric utilities admitted at a conference this month what opponents have claimed for months: The industry attempted to deceive voters into supporting restrictions on the expansion of solar by shrouding Amendment 1 as a pro-solar amendment.

Sal Nuzzo, a vice president at the James Madison Institute in Tallahassee, detailed the strategy used by the state's largest utilities to create and finance Amendment 1 at the State Energy/Environment Leadership Summit in Nashville on Oct. 2.

Nuzzo called the amendment, which has received more than \$21 million in utility industry financing, "an incredibly savvy maneuver" that "would completely negate anything they (pro-solar interests) would try to do either legislatively or constitutionally down the road," according to an audio recording of the event supplied to the Herald/Times.



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He offered others a recommendation: "As you guys look at policy in your state, or constitutional ballot initiatives in your state, remember this: Solar polls very well," he said.

"To the degree that we can use a little bit of political *jiu-jitsu* and take what they're kind of pinning us on and use it to our benefit either in policy, in legislation or in constitutional referendums — if that's the direction you want to take — use the language of promoting solar, and kind of, kind of put in these protections for consumers that choose not to install rooftop."

The comments underscore the claims made by opponents to Amendment 1 on the November ballot that the utility-backed political committee, Consumers for Smart Solar, was formed to undercut attempts to allow third-party sales of rooftop solar by leaving voters with the impression that their rival amendment will expand solar generation in Florida.

Spokesperson for Consumers for Smart Solar, Sarah Bascom, however, contradicted Nuzzo's claims and told the Herald/Times late Tuesday that "Consumers for Smart Solar did not engage or hire or ask JMI to do research regarding the effort."

On Wednesday, Robert McClure, executive director of the Tallahassee-based James Madison Institute, responded to this report and said Nuzzo "misspoke" when he characterized the effort as a strategy to deceive voters into thinking the plan was a pro-solar amendment.

"At an event with an unfamiliar, national audience, Mr. Nuzzo generalized his commentary and misspoke in reference to JMI partnering with Consumers for Smart Solar in any capacity," McClure said in a statement. "JMI has never worked with or received funding from Consumers for Smart Solar," McClure said in a statement. "We have released policy positions on both solar amendments and have publicly spoken on the pros and cons of each."

The solar industry-backed group, Floridians for Solar Choice, wants to encourage a broad-scale solar market in the Sunshine State by using the state Constitution to remove the ban on third-party sales and require lawmakers to allow customers to lease their solar generation to neighbors or building tenants. But the effort failed to get enough signatures to appear on the November ballot. It is expected to return in 2018.

Threat to utilities

Utility investors, like Warren Buffett, and the industry's trade group have warned that distributed energy from solar and wind are long-term threats to the monopoly economics model of the investor-owned utilities. Floridians for Solar Choice claim that the

amendment attempts to convince voters that it is pro-solar when it “paves the way for barriers that would penalize solar customers” and adds to the state Constitution “the false assumption that solar customers are ‘subsidized’ by non-solar customers.”

Nuzzo confirmed Tuesday that he made the comments while on a panel for the conference. He disagreed that the strategy was deceptive and instead claimed that the opponents of Amendment 1 “have been rather deceptive about the degree to which solar is already incentivized and already propped up and subject to more crony carve-outs than anything else.”

In mailers and television ads for Amendment 1, the utility industry says it will allow customers to “strengthen your right to generate your own solar energy ... protect consumers, particularly our seniors, from scam artists ... and protect consumers who don’t choose solar from having to pay higher monthly electric bills.”

The Florida Supreme Court approved the amendment language in a 4-3 vote, concluding the proposal was not misleading but did enshrine into the Constitution protections consumers already had.

Justice Barbara Pariente, in her dissenting opinion, called the language “a wolf in sheep’s clothing” because it would allow utilities to raise fees on solar customers and was “masquerading as a pro-solar energy initiative.”

In the hourlong audio recording acquired by the left-leaning Center for Media and Democracy and the Energy and Policy Institute, Nuzzo told the group that the utility-backed amendment was motivated in part by the popularity of the solar industry’s proposal and their ability to win the support of free-market advocates.

“They actually leveraged some of the less savvy, less informed, tea party groups and formed what is now called the Green Tea Movement — God help us, we’re dead and destroyed,” Nuzzo said.

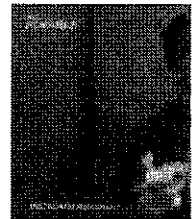
“So they come in and they merge and they start a constitutional ballot initiative,” he said. “...They go out and sell a ballot initiative saying if you put solar on our rooftop, shouldn’t you have ability to sell to your neighbor? Yes, that’s free-market ... that’s exactly what they were marketing as a free market principle and the tea party got behind this.”

Who pays for grid?

He said JMI, a free-market research and policy organization that has ties to the Florida utility industry, saw it differently. Nuzzo explained that they believe that solar users are being subsidized by non-solar users because they don’t pay for the fixed costs of maintaining the electricity grid.

“So here’s the James Madison Institute, this right-wing think tank, the Koch Brothers-funded group, part of the vast right-wing conspiracy going ‘please stop!’ ” he said. “They wouldn’t stop, so the idea was that they were completely and vehemently opposed to any grid maintenance cost being spread out.”

Nuzzo said Tuesday that his reference to the Koch brothers was “in jest” but that they had given money to JMI. Nuzzo would not say how much.



According to federal tax documents, JMI has received more than \$120,000 from the Charles Koch Institute and Charles Koch Foundation, and Stan Connally, the CEO of Gulf Power, sits on JMI's board of directors. Gulf Power and its affiliates have contributed more than \$2.3 million to the utility-backed amendment, which also has received funding from Florida Power & Light, Duke Energy, Tampa Electric Co., and non-profit groups primarily funded by Exxon and the Koch brothers.

Adding to the utility industry's dilemma, Nuzzo told the panel, was the fact that the solar-industry-backed amendment "was actually polling in the 70s."

"Why? Because the tea party was behind it," he said. "We even saw some folks that we would normally play pretty well with — the chambers of commerce locally, the business community — was kind of galvanizing behind it. Why? Because if you're not a utility generating organization, this kind of helps you because it makes it a little bit easier for you to go that route and sell it."

He said the other problem with the pro-solar amendment was that "the language of the ballot initiative is mandating in the Florida Constitution that solar is the preferred energy source in the state of Florida. It directed in the Constitution that the Legislature create policy to advance solar interests in the state."

So the utility industry "came to JMI and said you guys are the adults in the room, you're the ones that have access to the research, to the scholarship ... to a lot of the national organizations. We need some help," he said.

'Savvy maneuver'

Nuzzo said that the utilities also created a political committee, Consumers for Smart Solar, that not only funded the JMI research but then "also, in what I would consider an incredibly savvy maneuver, they put forth their own constitutional ballot initiative.

"That ballot initiative also gathered the 700,000 signatures, but what it said was individuals have the right to own solar equipment, they have the right to install solar equipment and lease it, they have the right to generate as much electricity as they can."

Nuzzo said JMI partnered with the conservative Heartland Institute and a free-market researcher from Florida State University's Devoe Moore Center to conduct the research requested by the utility industry. Consumers for Smart Solar said did not clarify whether or not the organization reached out to these groups for the research assistance.

Together they "built a model" and, in a report released in December, concluded that over 10 years if the solar industry-backed amendment was approved, the cost of maintaining the electricity grid would be shifted from solar customers to non-solar customers — a \$1 billion cost shift "from wealthy solar consumers on to the folks who were not able to install and to the rest of the ratepayers."

It's an argument solar promoters vigorously disagree with. They argue that instead of costing non-solar customers more, solar energy brings more value to the electricity distribution system than it takes away.

Floridians for Solar Choice argues that instead of protecting customers, Amendment 1 imposes barriers to solar expansion in Florida that will cost customers more money in utility bills.

They point to a Brookings Institution study in May that concluded that when solar customers sell their power back to the electric utility through a billing system known as net metering, it helps non-solar customers by reducing the need to build new power plants to meet peak demand, reduces the need for costly grid maintenance, reduces reliance on oil and gas power generation, lowers utility rates, increases energy security and saves customers money.

"The economic benefits of net metering actually outweigh the costs and impose no significant cost increase for non-solar customers," the Brookings report concluded. "Far from a net cost, net metering is in most cases a net benefit — for the utility and for non-solar rate-payers." The report also cited several state-based studies that offered similar conclusions.

Nuzzo acknowledged Tuesday that the JMI research looked only at the hypothetical impact of the solar industry-backed proposal and did not take into consideration the net metering studies done by governments in many other states, including those that allow third-party leasing. He said he considers Florida's current net metering law, which pays customers retail rates for the excess energy they sell back to utilities "absolutely the subsidization of solar."

Also at the Oct. 2 meeting, Todd Wynn, director of external affairs at Edison Electric Institute, the trade association for investor-owned utilities, detailed the threat net metering poses to the industry. None of the presenters made any mention of the Brookings report or the reports from several states that have studied the impact of net metering on customer bills.

"If a homeowner had a large enough solar power system, they could essentially zero out their bill," Wynn said, arguing that the cost of maintaining the electrical grid would then be borne by the non-solar customers.

He suggested two solutions are to charge all customers to access the grid, and the other is to reduce the net metering rate so that the utility will not have to pay retail rates for the excess energy.

When asked about what impact Amendment 1 would have to any pro-solar amendment in the future, Nuzzo told the Energy Summit that it is likely to severely limit the Solar Choice amendment in 2018.

"If Amendment 1 passes, in my opinion and the opinion of people far smarter than me, it would completely negate the ability of the Green Tea movement folks to make a ballot initiative that would include subsidization and a cost shift on it," he said. "It would cancel — it would attempt to cancel — that one out."

David Pomerantz, executive director of the Energy and Policy Institute, one of the groups that obtained the tape, said the audio reveals that the groups behind Amendment 1 "were very clear about the utilities' plan when they thought the public wasn't listening: They're trying to confuse voters into believing their utility-backed ballot initiative is pro-solar.

"It's a dirty trick, and Floridians should show them that they're too smart to let them get away with it."

This report was updated Oct. 19 to include comments from Robert McClure of the James Madison Institute.

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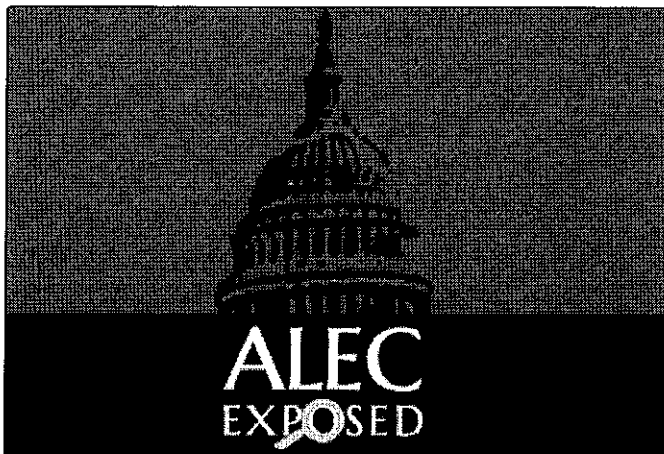
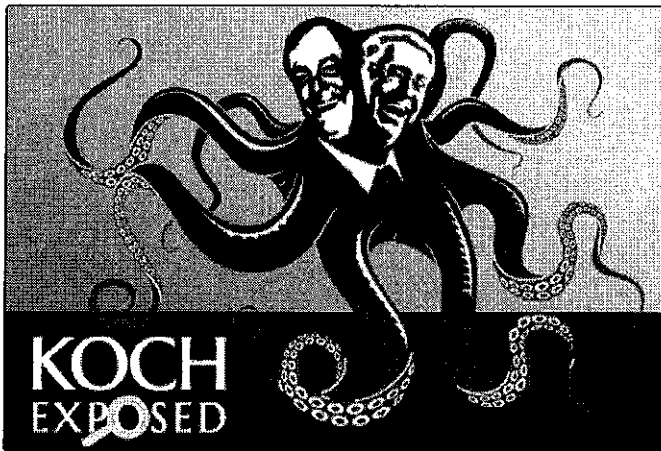
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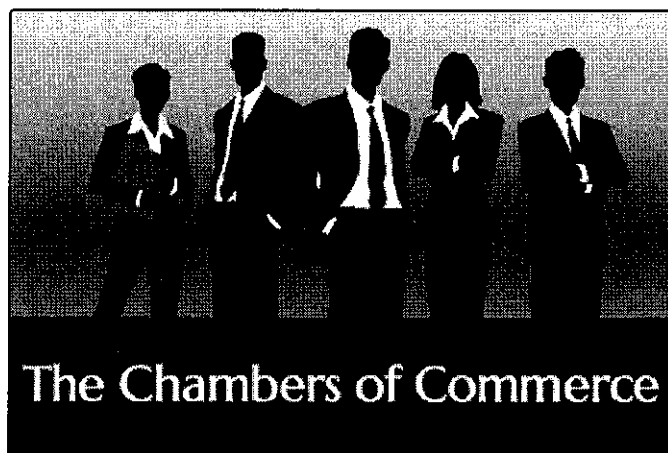
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News › Environment › *Leaked Audio Shows How Florida Utilities Sought to Deceive Public Into Believing Amendment 1 is Pro-Solar*



LEAKED AUDIO SHOWS HOW FLORIDA UTILITIES SOUGHT TO DECEIVE PUBLIC INTO BELIEVING AMENDMENT 1 IS PRO-SOLAR



By Nick Surgey and David Pomerantz

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5 Comments



Leaked audio offers new evidence that Florida utilities and their allies have sought to deceive the public into believing that the utility-funded Amendment 1 ballot initiative is pro-solar.

Two energy industry watchdog organizations, the Center for Media and Democracy and the Energy and Policy Institute, obtained the audio recording, which captures the James Madison Institute (JMI), a Florida-based think tank and member of the national State Policy Network (SPN), boasting that it and other Amendment 1 backers successfully misled the public into believing it is pro-solar.

Full clip of Sal Nuzzo:



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James Madison Institute's Sal Nuzzo Speaking At 2016 State Energy/Environment Leader...

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Speaking to other State Policy Network groups around the country, JMI's Vice President of Policy and Director of the Center for Prosperity, Sal Nuzzo said:

"The point I would make, maybe the takeaway, is as you guys look at policy in your state or constitutional ballot initiatives in your state, remember this: solar polls very well. To the degree that we can use a little bit of political jiu-jitsu and take what they're kind of pinning us on and use it to our benefit either in policy, in legislation or in constitutional referendums if that's the direction you want to take, use the language of promoting solar, and kind of, kind of put in these protections for consumers that choose not to install rooftop."



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Use A Little Bit Of Political Jiu - Jitsu

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JMI has ties to Gulf Power, which has spent \$2.1 million backing Amendment 1. Alan Bense serves as the chairman of JMI's board of directors and is also a member of Gulf Power's board. Stan Connally, the CEO of Gulf Power, also serves on JMI's board. JMI additionally has ties to the Koch Brothers. It received a total of \$120,000 between 2012 and 2014 from the Charles Koch Institute and the Charles Koch Foundation. (See CKF IRS 990 forms from 2012, 2013, 2014; CKI 990 from 2014.)

"The people pushing Amendment 1 were very clear about the utilities' plan when they thought the public wasn't listening: they're trying to confuse voters into believing their utility-backed ballot initiative is pro-solar. It's a dirty trick, and Floridians should show them that they're too smart to let them get away with it," said David Pomerantz, Executive Director of the Energy and Policy Institute.

"State Policy Network groups across the country consistently put the interests of their fossil fuel funders ahead of protecting consumers and the environment. The James Madison Institute claims to be a free-market group, so why doesn't it allow the informed collective wisdom of consumers in Florida decide this issue? Its pretty clear they know the only way they can help the utilities win this battle is by misleading voters," said Nick Surgey, Director of Research at the Center for Media and Democracy.

Nuzzo was speaking at the "Energy/Environment Leadership Summit," on October 2 in Nashville, TN. The Summit is an annual event organized by the Thomas Jefferson Institute for Public Policy that takes place alongside the State Policy Network annual meeting. The State Policy Network is a web of right-wing, state-based think tanks around the country which claim to push for "market-oriented solutions" but whose agenda often reflects the interests of its donors. The Thomas Jefferson Institute is the SPN think-tank in Virginia.

Another panelist alongside Nuzzo at the dinnertime event came from the Edison Electric Institute (EEI), the trade group for investor-owned electric utilities including Florida Power & Light, Duke Energy, TECO and Gulf Power. That speaker, EEI Director of External Affairs Todd Wynn, encouraged SPN groups to work with utilities to attack solar-friendly policies. EEI is a donor to the State Policy Network.

In the recording, Nuzzo acknowledged that a competing ballot effort which aimed to remove Florida's ban on third-party sales of solar power enjoyed popular support, including from the political right:

"This amendment was actually polling in the 70s. Why? Because the Tea Party was behind it. We even saw some folks that we would normally play pretty well with, the Chambers of Commerce locally, the business community was kind of galvanizing behind it. Why? Because if you're not a utility generating organization, this kind of helps you because it makes it a little bit easier for you to go that route and sell it [solar electricity]."

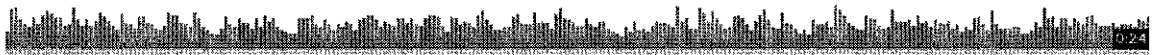


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This Amendment Was Actually Polling In The 70s

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That *legitimately* pro-solar ballot initiative was backed by a coalition of environmentalists, solar advocates and conservative groups called the "Coalition for Solar Choice" in 2014 and 2015.

In response to the threat to their monopoly control of electric sales, utilities set up their own group in 2015, called "Consumers for Smart Solar." Nuzzo described how the utilities, via Consumers for Smart Solar, responded to the threat to their monopoly by asking JMI to publish a study attacking the amendment, which it did in December of 2015.

"So Consumers for Smart Solar came to JMI and said you guys are, you know, the adults in the room. You're the ones that have access to the research, to the scholars, to the State Policy Network, to a lot of the national organizations. We need some help because not only are they going to get the 700,000 signatures to get it on the ballot, it's actually polling in the 70% range."



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Consumers For Smart Solar Came To JMI

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The Coalition for Solar Choice ballot initiative did not qualify for the 2016 ballot, thanks in part to deceptive ballot collection tactics employed by the utility-backed Consumers for Smart Solar group.

Nuzzo went on to describe how Consumers for Smart Solar ensured that its ballot initiative would appear to be favorable for solar power, and how it was designed expressly to submarine the pro-solar effort from the Coalition for Solar Choice:

"So Consumers for Smart Solar not only conducted the research but then also in what I would consider an incredibly savvy maneuver, they put forth their own constitutional ballot initiative. That ballot initiative also gathered the 700,000 signatures, but what it said was,

individuals have the right to own solar equipment, they have the right to install solar equipment and lease it, they have the right to generate as much electricity as they can. It acknowledges net metering policies in the state.

"What they don't have the right to do is generate their utilities for their - when the sun is out, and receive utilities from traditional utilities while shifting costs on to other ratepayers. So it essentially negated exactly what the challenge was and what Southern Alliance for Clean Energy and Tom Steyer and all these other folks were after."



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An Incredibly Savvy Maneuver

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Amendment 1 did qualify for the ballot; it has received over \$21 million of funding, primarily from the state's monopoly utilities. According to Florida Department of State records, Florida Power & Light has spent \$5.5 million supporting Amendment 1, Duke Energy has spent \$5.7 million, Tampa Electric Co. has spent \$3 million, in addition to Gulf Power's \$2.1 million. The remaining funds have come primarily from front groups which are also funded by utilities and fossil fuel interests.

The solar industry, environmental advocates, and editorial boards around the state have all argued that Amendment 1, if it passes, would be incredibly harmful to Florida's solar prospects.

Florida Power & Light has said that it is not trying to deceive voters into thinking that Amendment 1 is pro-solar, contrary to Nunn's remarks. FP&L President and CEO Eric Silagy defended Amendment 1 and denied assertions that it aims to confuse voters in a News Service of Florida article 6 days after Nuzzo made his remarks at the SPN Conference:

"It's pretty clear," Silagy said about the amendment on Oct. 8. "I don't think there is anything sinister or nefarious..."



ABOUT NICK SURGEY

Nick Surgey is CMD's Director of Research and an investigative reporter.

[All articles by Nick Surgey](#)



ABOUT DAVID POMERANTZ

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