

Executive Summary



To: Jim Scholl, City Manager

From: Alison Higgins, Sustainability Coordinator

Date: September 9, 2016

RE: Florida Amendment 1 – Opposing “Rights of Electricity Consumers Regarding Solar Energy Choice”

Action: This is a request for the City of Key West to oppose Florida Amendment 1 on the November 8th general elections ballot, on the grounds that it is not needed, is confusing to voters, and would constitutionalize barriers against solar. The City’s Sustainability Advisory Board recommended this opposition in an unanimous vote on June 30, 2016.

Background:

Amendment 1 only came about because it was introduced as a counter to a ballot proposal that sought to allow businesses to generate and sell up to two megawatts of power to customers on the same or neighboring properties. Florida is one of only 4 states that explicitly forbid third-party solar financing and restrict direct electricity sales to utilities only. Nearly 75% of campaign contributions in support of Amendment 1 were provided by electric companies.

Amendment 1 almost didn’t happen. Challenged by solar supporters, the Florida Supreme Court ruled in a 4-3 split on how misleading the language was. In the dissenting opinion, Justice Barbara Pariente stated "Let the pro-solar energy consumers beware. Masquerading as a pro-solar energy initiative, this proposed constitutional amendment, supported by some of Florida's major investor-owned electric utility companies, actually seeks to constitutionalize the status quo."

At least 8 newspaper editorials and 4 political parties have announced their opposition to the amendment. No cities or editorials have announced their support.

Floridians already have the right to own solar equipment on their *own property* to generate electricity for their *own use*. The ability to create additional penalties for solar users in the name of reducing subsidies is a slippery slope with some very damaging potential misuses.

Under the guise of “protecting consumer rights,” Amendment 1 would elevate the existing rights of our lawmakers to further regulate solar energy use and establish that regulatory power as a constitutional right in Florida. There are existing best management practices to keep non-solar users from subsidizing solar users.

The Amendment is not needed, is confusing to voters, and would constitutionalize barriers against solar.

Advantages/Disadvantages:

Advantages:

1. The Amendment would constitutionalize already existing rights of Floridians to own or lease solar equipment on their own property to generate electricity for their own use.

Disadvantages:

1. The Amendment would elevate the existing rights of our lawmakers to further regulate solar energy use and establish that regulatory power as a constitutional right.

Options:

1. The Commission can vote in opposition to the Amendment as recommended by staff.
2. The Commission can support the Amendment
3. The Commission can take no stand on the issue.

Financial:

There will be no cost to the City for opposing this measure.

Recommendation:

Staff recommends the opposition of Amendment 1.

Attachments:

- Overview of Amendment 1
- Ballotpedia Summary of Amendment 1
- League of Women Voters – Coalition Press Release Sept 7, 2016