

**IN THE SUPREME COURT OF FLORIDA**

**Case No. SC15-2150; SC16-12**

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

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**CONSUMERS FOR SMART SOLAR INC'S  
MOTION FOR LEAVE TO FILE A SUPPLEMENTAL BRIEF**

Consumers for Smart Solar, Inc. ("Sponsor"), as Sponsor of the proposed amendment entitled, "Rights of Electricity Consumers Regarding Solar Energy Choice," respectfully moves for leave to file a four-page supplemental answer brief to respond to new arguments made by Florida Energy Freedom, Inc. ("FEF") in its late-filed brief. As grounds therefor, the Sponsor states as follows:

1. The Court ordered all interested parties to file initial briefs regarding the proposed Solar Rights Amendment by January 11, 2016, and to file answer briefs by February 1, 2016.

2. Unlike all other interested parties, FEF did not file an initial brief by the Court's deadline. Instead, it waited to January 21, 2016 to file a motion for leave to file an "amicus brief" and attached its proposed brief. The FEF brief both made new arguments against the Sponsor's proposed amendment and responded to the Sponsor's initial brief. The Court denied the motion, struck the proposed brief

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from the record, and directed FEF to “immediately file a motion to accept [its brief] as timely with the Court.” (Jan. 22, 2016 Order Denying Florida Energy Freedom’s Motion to Appear as Amicus Curiae).

3. FEF did not immediately file a motion asking the Court to accept the brief. Instead, it waited a week and did not file its motion and corrected brief until one business day before answer briefs were due. The Court did not grant the FEF’s motion until after the Sponsor had filed its answer brief. As a result, the Sponsor did not have an opportunity to respond to the new arguments made by FEF.

4. The Sponsor seeks to file a supplemental answer brief solely to respond to new arguments in the FEF brief that were not made in other parties’ briefs. This is so that all issues are briefed to the Court; currently, the late-filed FEF brief means that no party has answered certain new arguments made by FEF. The Sponsor’s proposed supplemental answer brief would not address arguments made by other interested parties.

5. The Sponsor’s proposed supplemental answer brief is limited to four pages. A copy is attached hereto as Exhibit A.

6. Counsel for the Sponsor has contacted counsel for other interested parties who have filed briefs in this matter to learn their positions on this motion.

- a. Non-Opposition: Counsel for Floridians for Solar Choice, Inc., 60 Plus Association, Inc., the Florida Electric Cooperatives Association, Inc., and the investor-owned utilities stated that they do not object to this motion.
- b. Conditional Non-Opposition: Counsel for Progress Florida, Inc., Environment Florida, Inc., and the Environmental Confederation of Southwest Florida, Inc. stated that “we’ll agree to the motion if we get a five-page supplemental brief to respond to your supplemental brief.” (The Sponsor does not agree to that condition, because the Sponsor’s proposed supplemental answer brief does not respond to arguments made by the Progress Florida parties.)
- c. FEF’s Position: Counsel for FEF indicated that it does not object to the Sponsor’s motion, but indicated that FEF may file a motion to submit a supplemental brief to reply to the Sponsor’s answer brief. (The Sponsor does not agree to an additional brief by FEF, because FEF already has responded to arguments made by the Sponsor. An additional brief would simply constitute a reply that no other party would receive.)

d. The position of the Florida Solar Energy Industries Association, Inc. is unknown.

WHEREFORE, Consumers for Smart Solar, Inc. respectfully requests that the Court grant it leave to file a supplemental answer brief.

Respectfully Submitted,

**WHITE & CASE LLP**

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## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on February 11, 2016, a copy of this Motion was served by e-mail upon the following:

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