

**IN THE SUPREME COURT OF FLORIDA**

Case No: SC15-2150: Advisory Opinion to the Attorney General  
Re: Rights of Electricity Consumers Regarding Solar Energy Choice

**FLORIDA ENERGY FREEDOM INC'S MOTION**  
**FOR LEAVE TO FILE A SUPPLEMENTAL BRIEF**

Florida Energy Freedom, Inc. respectfully requests this Court grant it leave to file a supplemental brief (the “Brief”) to address arguments raised by Consumers for Smart Solar, Inc. (“CSS”) in its Supplemental Answer Brief (the “CSS Supplement”). In their brevity, the arguments made in the CSS Supplement are somewhat incomplete and partly unsourced. Florida Energy Freedom seeks leave to file this Brief because it believes the Brief will be helpful to this Court in its consideration of the issues in this case. The Brief uses relevant articles, cases, and examples to address the arguments the CSS Supplement makes and references.

Before preparing the Brief, counsel for Florida Energy Freedom (“Counsel”) spoke with counsel for both CSS and Floridians for Solar Choice (“FSC”) about their positions on the Brief. CSS contacted Counsel first, by e-mail on February 10th at 2:30 p.m., asking about Florida Energy Freedom’s position on a CSS Motion for Leave to File a Supplemental Brief (the “Motion”). Counsel responded by e-mail at 4:45 p.m. stating that Florida Energy Freedom had no objection to the Motion. In this same e-mail, Counsel proposed filing the Brief in response to CSS:

Thank you for reaching out to us about your planned filing. Florida Energy Freedom has no opposition to such a motion from Consumers for Smart Solar.

RECEIVED, 02/23/2016 12:03:30 AM, Clerk, Supreme Court

We may, however, file a supplemental brief in response to any points you raise, and we would appreciate if you would similarly not oppose such a reply.

CSS never replied, but it objected to this motion in its own February 11th Motion:

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.)

The Brief responds only to arguments the CSS Supplement makes and references.

In its initial brief, Florida Energy Freedom referenced the initial brief of CSS so as to describe the proposed amendment using the words of its sponsor. Apart from a reference to the Legislature, citing the ballot summary of the proposed amendment would have accomplished the same goal. The Brief addresses the CSS Supplement alone, so there is no risk of prejudice to other parties in accepting it. Oral argument is on March 7th, so accepting the Brief entails no delay. For these reasons, there is no risk of prejudice to CSS in accepting the Brief.<sup>1</sup> FSC replied with no objections.

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<sup>1</sup>. After this Court's opinion in [Strand v. Escambia Cty. \(2007\)](#) ([index](#))([docket](#)), an Amicus filed its first brief in support of a rehearing.

After Strand's reply brief, Amicus requested this Court grant leave to file a second brief clarifying issues from its first brief. Strand objected to this supplemental brief, claiming the brief was repeating points already made, and was prejudicially filed at a "late juncture" ([Strand's objection - 9.24.2007](#)).

The Amicus said that its supplemental brief "would be helpful to the Court in its consideration of the issues involved" ([Amicus motion - 9.24.2007](#)). This Court ultimately denied Strand's objection and accepted the supplemental Amicus brief ([link to this Court's 9.25.2007 Order](#)).

Because Florida Energy Freedom's proposed Brief responds only to the arguments made and referenced by the CSS Supplement, there is neither prejudice to the parties nor delay to this case if this Court accepts the Brief. Rather, Florida Energy Freedom believes the Brief will help this Court in its consideration of the issues in this case. For all these reasons, Florida Energy Freedom respectfully requests this Court grant its motion for leave to file the Brief.

Respectfully submitted,  
this Monday, February 22, 2016,

/s/ Warren Rhea

Warren Rhea  
Fla. Bar No. 115579

**Counsel for Florida Energy Freedom, Inc.  
Filing in Opposition to the Initiative Petition**

## **CERTIFICATE OF SERVICE**

I hereby certify that on Monday, February 22, 2016, a true and correct copy of the foregoing was electronically filed with the Florida Courts E-Filing Portal, as authorized by Fla. R. Jud. Admin. 2.516, with notice furnished as indicated below:

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## **CERTIFICATE OF COMPLIANCE**

Pursuant to Florida Rules of Appellate Procedure 9.210(a), I certify that the foregoing was generated using Times New Roman, a proportionately spaced font, and has a typeface of 14 points.

/s/ Warren Rhea

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