

# Memo

**To:** Publishers and editors of *The Tampa Tribune*, *Naples Daily News*, *Lakeland Ledger*, *Bradenton Herald* and *The Miami Herald*

**From:** Rob Gould, Vice President, Communications, Florida Power & Light Company

**CC:** Trevor Aaronson, Florida Center for Investigative Reporting; publishers and editors of the *Florida Times-Union*, *Scripps Treasure Coast Newspapers* and *Tampa Bay Times*;

**Date:** April 7, 2015

**RE:** Problems with April 3 story by the Florida Center for Investigative Reporting

I am writing to you with concerns about a recent story distributed by the Florida Center for Investigative Reporting (FCIR) that was published on your website and/or in your newspaper.

In brief, the story, "Big energy's campaign cash keeps solar down in Florida," is riddled with factual errors and misleading claims. In addition, it misrepresents editorial commentary and unsubstantiated speculation as fact.

In good faith, we contacted FCIR upon seeing the story post online on Friday, April 3, with concerns about the article's accuracy. FCIR's website claims that the organization is "*dedicated to ensuring that all material disseminated is accurate and reliable. If FCIR makes a mistake of fact or substance, we will quickly and transparently correct it and explain the correction. All corrections will be noted in the story.*"

Unfortunately, to our surprise and dismay, FCIR refused to make any changes. In an email to a member of my team, FCIR Executive Director Trevor Aaronson wrote, "*We are standing by the story, and I am not interested in participating in any further back-and-forth with you on this. We have responded to your claims quickly and diligently. In addition, I will take seriously any continued efforts by you to interfere with FCIR's relationships with client news organizations using these claims.*"

To be clear, communicating our concerns to you directly is not an attempt to "interfere with FCIR's relationships" with you. The following simply explains several of the FCIR story's errors and addresses some of the most egregious examples of misleading statements and misrepresented commentary.

We hope this conveys the seriousness of our concerns, and we respectfully request that you address this matter as soon as possible. Thank you for your time and consideration.

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**1. Factual errors – erroneous interpretation of existing Florida law and mischaracterizations of legislation and legislative activity**

*"State Sen. Jeff Brandes, R-St. Petersburg, submitted a bill last year that would have given a tax break to businesses and homeowners who installed solar. The law would have meant the property tax value of the home or business could not increase as a result of the value of the solar panels. [The] bill never received a hearing in Senate committees."*

This is erroneous for multiple reasons:

- a. The article incorrectly interprets or simple ignores existing Florida law. Residential solar installations are exempt from property taxes in Florida (meaning an appraiser cannot add the value of a solar installation to a home's taxable assessment). Commercial solar installations are not exempt.
- b. The article mischaracterizes Sen. Brandes' bills, SJR 916 and SB 922. SJR 916 aimed to extend the solar property tax exemption to commercial installations by proposing an amendment to the State Constitution that would have required the approval of 60% of Florida voters in the following election. SB 922 was implementing legislation in the event that SJR 916 passed the Legislature and the constitutional amendment approved by voters.
- c. Both of Sen. Brandes' bills were, in fact, heard in Senate committees. SJR 916 and SB 922 were each heard and voted on by 1) the Senate Communications, Energy & Public Utilities Committee and 2) the Senate Community Affairs Committee.

**Sources:**

- Florida Senate's webpage for 2014 Senate Joint Resolution 916, filed by Sen. Brandes: <http://www.flsenate.gov/Session/Bill/2014/0916>
  - Florida Senate's webpage for 2014 Senate Bill 922, filed by Sen. Brandes: <http://www.flsenate.gov/Session/Bill/2014/0922>
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**2. Factual errors – erroneous interpretation of existing Florida laws and rules and incorrect comparison of Florida policy with other states' policies**

*"The [Florida] Public Service Commission has set the rate that utilities buy excess rooftop solar at two to three cents per kilowatt hour. In 13 states, utilities must pay the rate at which they sell power, which in Florida is about 12 cents per kilowatt hour for homeowners... The Public Service Commission has also hampered the solar industry in Florida by setting the rate that utilities buy excess power produced by rooftop solar systems among the lowest in the country. Currently, utilities pay owners of solar systems that produce extra energy two to three cents per kilowatt hour in Florida. In 13 states, utilities must pay the rate at which they sell power, which in Florida is about 12 cents per kilowatt hour for homeowners."*

The above text is incorrect in numerous ways:

- a. The Florida Public Service Commission's net-metering rule requires utilities to pay rooftop-solar owners a full retail-rate credit (roughly 9-14 cents per kilowatt-hour, depending on the utility) for any net excess generation produced on a monthly basis. Once annually, at the end of each year, the rule calls for utilities to pay rooftop-solar owners for any remaining unused credit at the avoided-cost rate (known as the "COG-1" rate, approximately 2-3 cents per kilowatt-hour). This is the only time rooftop-solar owners receive this rate, which is similar to a wholesale payment.
- b. Contrary to the article's unsourced and unsubstantiated claim, the policy under which Florida utilities are required to pay rooftop-solar owners for excess generation is quite common and certainly not "among the lowest in the country." According to the U.S. Department of Energy's Database of State Incentives for Renewables and Efficiency, 18 states employ a payment structure similar to Florida's. The policies in at least 11 states require utilities to pay far less than they do in Florida, and seven other states have no standard mandatory policy on the issue.
- c. The article incorrectly claims that 13 states require utilities to pay retail for excess generation from customer-owned solar. This error appears based on a lack of understanding of state laws. In reality, the U.S. Department of Energy shows 32 states (including Florida) have net-metering policies that pay full retail-rate credits. Under the most common structure, unused

retail credits either expire or are reduced after a set period of time, such as once a year. As noted above, this structure is employed by 19 states including Florida. It's possible that FCIR confused the fact that the other 13 of the 32 retail-rate net-metering states maintain credits continuously without expiration or reduction over time; however, that is certainly not what the article says.

- d. In addition, the article completely ignores the fact that Florida has one of the highest, most generous caps on the size of solar systems that can qualify for retail-rate net metering. Florida law allows rooftop-solar owners to participate in net metering with systems up to 2,000 kilowatts in size – twice as high as California's cap. (Note: A typical home solar installation is about 5 kilowatts.) Florida's high cap enables far larger solar systems to receive retail-rate credits for their excess generation than in many other states.

**Sources:**

- Florida Public Service Commission Rule 25-6.065 Interconnection and Net Metering of Customer-Owned Renewable Generation:  
<https://www.flrules.org/gateway/readFile.asp?sid=0&tid=5455200&type=1&file=25-6.065.doc>
- U.S. Department of Energy's Database of State Incentives for Renewables and Efficiency Program Overview of Florida's Net Metering Policy:  
<http://programs.dsireusa.org/system/program/detail/2880>
- U.S. Department of Energy's Database of State Incentives for Renewables and Efficiency map of Customer Credits for Monthly Net Excess Generation (NEG) Under Net Metering:  
<http://ncsolarcen-prod.s3.amazonaws.com/wp-content/uploads/2015/03/Net-Metering-Policies-Treatment-of-Net-Excess-Generation.pdf>
- U.S. Department of Energy's Database of State Incentives for Renewables and Efficiency map of Net Metering policies: <http://ncsolarcen-prod.s3.amazonaws.com/wp-content/uploads/2015/04/Net-Metering-Policies.pdf>

**Note:** On April 7, 2015, some of the text quoted above appears to have been edited on the FCIR.org version of the story. However, this only eliminated repetitive language – it did not correct any errors. The edited version:

*"The [Florida] Public Service Commission has set the rate that utilities buy excess rooftop solar at two to three cents per kilowatt hour. In 13 states, utilities must pay the rate at which they sell power, which in Florida is about 12 cents per kilowatt hour for homeowners... The Public Service Commission has ~~also~~ hampered the solar industry in Florida by setting the rate that utilities buy excess power produced by rooftop solar systems among the lowest in the country. ~~Currently, utilities pay owners of solar systems that produce extra energy two to three cents per kilowatt hour in Florida. In 13 states, utilities must pay the rate at which they sell power, which in Florida is about 12 cents per kilowatt hour for homeowners.~~"*

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### 3. **Factual error and misrepresented commentary**

*"The law didn't affect the solar industry until the last several years, when the price of solar panels made it cost-efficient enough for rooftop solar to compete with utility companies."*

With respect to Florida, this is demonstrably false based on publicly available data. The article does not attempt to provide any evidence or sourcing for the claim; however, prior to publication, the reporter provided us a link to a Deutsche Bank report that he believed proved this claim, but in fact, the report proved the opposite was true.

According to the report, the unsubsidized levelized cost of solar in the U.S. is currently 19 cents per kilowatt-hour. This is far more than (i.e. not competitive with) Florida's typical residential price of 11-12 cents per kilowatt-hour – and substantially higher than FPL's price, which is less than 10

cents per kilowatt-hour for a typical residential customer. Even when solar is subsidized, the report shows its U.S. levelized cost is still 14 cents per kilowatt-hour, higher than rates for FPL or Florida as a whole.

It's simply a fact that rooftop solar is more expensive than utility rates in Florida. The price of electricity is a significant driver in solar adoption. In general, rooftop solar makes more economic sense in areas where rates are higher versus locations with comparatively lower rates such as Florida.

**Source:**

- Deutsche Bank's Feb. 27, 2015 report on the global solar industry: [https://www.db.com/cr/en/docs/solar\\_report\\_full\\_length.pdf](https://www.db.com/cr/en/docs/solar_report_full_length.pdf)
  - p. 9: shows U.S. is only at grid parity in areas of high electricity prices
  - p. 60: lists Florida as one of several states in which solar is "poised to reach grid parity" (i.e. not currently at grid parity)
  - p. 82: shows the unsubsidized and unsubsidized levelized costs of solar in the U.S., which are higher than Florida utility prices

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#### **4. Misleading by omission / lack of clarity**

*"[Utilities' political giving] comes from the bills paid by customers of the state's four largest utilities — Duke Energy, Gulf Power, Florida Power & Light, and Tampa Electric, or TECO."*

Utilities' political contributions, as well as lobbying costs and charitable donations, come from shareholder dollars. They are not included in the regulated costs approved by the Public Service Commission that determine customer rates and bills. Any journalist knowledgeable about energy issues would either make this important clarification or simply refrain from implying, as the article does, that political contributions are part of a utilities' regulated costs.

**Source:**

- Various Public Service Commission orders available at: <http://www.psc.state.fl.us/>

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#### **5. Misleading statements, misrepresented commentary and unsubstantiated claims**

*"...Florida's four largest power companies may see their influence grow. There's proposed legislation circulating in Tallahassee that would stop homeowners from selling extra energy created from solar back to utility companies... This year, the Legislature may consider new regulations that could cripple rooftop solar power in Florida. The new proposal would end net metering, which allows businesses and homeowners who have installed solar panels to sell excess electricity back to utility companies... the loss of net metering would limit the growth of rooftop solar by removing the incentive of selling excess energy. The American Legislative Exchange Council, or ALEC, a conservative interest group, has drafted the legislation that would end net metering, increasing the cost of solar power and likely limiting the industry's growth. [Mike] Antheil, the lobbyist for the solar industry, said the proposed legislation will likely get passed after getting tacked on to another bill during this year's legislative session."*

The lack of sourcing for this speculation is troubling. We are not a member of ALEC nor are we aware of any plans it might have for legislation in Florida. As a company, we follow all energy-related legislation closely, and we are not aware of any proposed legislation in Florida that would even come close to resulting in what the article suggests.

We requested FCIR to provide evidence of this claim, but FCIR provided none, responding only that the article refers to a bill that has “passed in other states, and will likely be made a rider to a bill this year.” This is highly speculative and certainly does not qualify as “proposed legislation.”

Also of note: the article’s only on-the-record source related to this claim appears to be Mike Antheil, who FCIR says is a “lobbyist for the solar industry.” Although Mr. Antheil has previously lobbied for various interests, state records show he is not currently a registered lobbyist.

**Sources:**

- Florida Legislature’s website: <http://www.leg.state.fl.us/>
  - Florida Lobbyist Directory: <https://www.floridalobbyist.gov>
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**6. Misleading by failing to properly inform readers about a source’s reliability**

*“The average home solar array now costs \$15,000 to \$30,000 and can pay for itself in 10 to 20 years,” said Ray Johnson, president and founder of the U.S. Solar Institute, an Oakland Park, Fla., school that teaches technicians how to install the panels.”*

This is highly misleading. The article implies that Mr. Johnson is an academic, listing his affiliation as a “school” and omitting the fact that he is also the president of a for-profit solar installation business – a financial interest clearly relevant to the source’s reliability.

**Source:**

- Florida Solar One website: [http://www.floridasolarone.com/florida\\_solar\\_one\\_staff](http://www.floridasolarone.com/florida_solar_one_staff)
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**7. Factual error**

*“...state Rep. Dwight Dudley, R-St. Petersburg...”*

In two places – both in the text of the article and in an accompanying photo caption that appears on the FCIR’s web version of the article – state Rep. Dwight Dudley is denoted as a Republican; however, Rep. Dudley is a Democrat.

**Source:**

- Florida House of Representatives website: <http://www.myfloridahouse.gov>

**Note:** This is the only error that FCIR has corrected, although the correction was not made until April 7, 2015 – four days after the story was published.