

**IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA**

COMMUNITY POWER NETWORK CORPORATION
(d/b/a Solar United Neighbors) and
the LEAGUE OF WOMEN VOTERS OF FLORIDA,
INC.,

Plaintiffs,

Case No.:

v.

JEA, a Florida municipal electric utility,

Defendant.

**COMPLAINT FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

This is an action for declaratory judgment and injunctive relief challenging the legality of JEA's Distributed Energy Policy, effective April 1, 2018, ("JEA's Energy Policy"), attached hereto as Exhibit A, which fails to provide a net metering program as required by Florida law. Plaintiffs Community Power Network Corporation (d/b/a Solar United Neighbors) and the League of Women Voters of Florida, Inc., sue Defendant JEA, a Florida municipal electric utility, to enforce state law and to prevent the destruction of rooftop solar expansion in the Jacksonville area. Plaintiffs seek a declaration from the Court that JEA's Energy Policy violates Florida law and an injunction directing JEA to provide a net metering program. As grounds for this action Plaintiffs allege the following:

JURISDICTION AND VENUE

1. This is an action for a declaratory judgment and injunctive relief.

2. This Court has subject matter jurisdiction over this action pursuant to sections 26.012(2)(a) and 86.011, Florida Statutes, because Plaintiffs seek declaratory relief and the rights and interests at issue are not quantifiable in monetary terms.

3. This Court also has subject matter jurisdiction over this action pursuant to section 26.012, Florida Statutes, because Plaintiffs seek supplemental injunctive relief.

4. Venue is proper under section 47.011, Florida Statutes, because Defendant is located in Duval County and the events or omissions at issue occurred in Duval County.

PARTIES

5. Plaintiff Community Power Network Corporation (d/b/a Solar United Neighbors) (“SUN”) is the nation’s only non-profit organization dedicated to representing the needs and interests of solar owners and clean energy supporters by helping individuals, communities, and organizations go solar. SUN is a non-profit corporation incorporated in the District of Columbia with nine state programs across the country and a national membership offering. In addition to advocating for clean energy rights, SUN helps members “go solar” by helping its members navigate the process of installing solar panels. In return, SUN receives a fee from the contractor selected to install the rooftop solar for SUN’s cooperative members. SUN has helped 879 individual home owners and 31 cooperatives (groups of homeowners) go solar in Florida alone.

6. Prior to the final adoption of JEA’s Energy Policy in December 2017, SUN had been preparing to launch a rooftop solar cooperative in Jacksonville, Florida. Because JEA’s Energy Policy ended net metering for new solar customers, the financial incentive to go solar was severely limited and SUN had to cancel the Jacksonville cooperative. As a result, SUN lost profits that it would have otherwise received from the installation of rooftop solar for the cooperative. Due to JEA’s failure to comply with Florida law, SUN continues to lose economic

benefits from establishment of cooperatives in the Jacksonville area and is prevented from executing its core mission of expanding rooftop solar.

7. Plaintiff League of Women Voters of Florida, Inc. (“LWVFL”) is a nonpartisan political organization encouraging informed and active participation of citizens in government since 1939 in Florida. LWVFL is a non-profit corporation incorporated in the state of Florida with over 25,000 members and supporters throughout Florida and over 300 in the Jacksonville area. LWVFL has long supported natural resources and environmental sustainability in Florida through education, advocacy and litigation. Since 2016, LWVFL’s volunteers have focused on bringing affordable solar to Florida with its “Making Florida Number One in Solar” campaign, solar co-op efforts, and by advocating for rooftop solar expansion and solar-friendly energy policies throughout Florida, including Jacksonville.

8. Prior to the adoption of JEA’s Energy Policy, LWVFL and its members had been advocating for the expansion of solar in the Jacksonville area and across Florida, including the establishment of solar cooperatives. Due to JEA’s failure to comply with Florida law, the Jacksonville area LWVFL and its members have been, are being, and will continue to be adversely affected and prevented from executing one of its primary campaigns to expand rooftop solar. LWVFL’s Jacksonville members who want to install rooftop solar are now forced into either not installing solar, or not receiving fair compensation for the solar energy they produce and send to the grid, in violation of state law net metering requirements.

9. LWVFL files this suit on behalf of themselves and their members who have been and will continue to be injured by JEA’s unlawful acts alleged herein. LWVFL’s members on whose behalf this lawsuit was filed would otherwise have standing to sue JEA in their own right for the unlawful acts alleged herein. The purpose of this lawsuit is germane to LWVFL’s

mission and purpose. Neither the claims asserted herein nor the relief requested requires the participation of LWVFL's members who have been injured by JEA's actions.

10. Plaintiffs' injuries will not be redressed except by an order from this Court declaring that JEA's Energy Policy is unlawful for failing to provide a net metering program and requiring JEA to take immediate action to provide net metering to its customers.

11. JEA is the largest municipal electric utility in Florida, serving the City of Jacksonville (which is also the largest city in Florida) and surrounding areas with approximately 458,000 electric customers. JEA, formerly known as Jacksonville Electric Authority, was created by the City of Jacksonville as a not-for-profit, community-owned utility to provide residents with reliable electric services at the best value while protecting the areas' precious natural resources.

NATURE OF THE CASE

12. In 2005, the Florida Legislature found that it was in the public interest to enact legislation encouraging the development of renewable energy, because renewable energy resources have the potential to diversify energy, increase energy reliability, stabilize and reduce fuel costs, and improve environmental conditions.

13. In 2008, to further promote renewable energy, section 366.91, Florida Statutes, was amended and required all electric utilities to "develop a . . . net metering program for customer-owned renewable generation."

14. Net metering is a well established policy used by electric utilities in Florida and across the United States to encourage and expand customer-owned renewable generation by providing customers with fair compensation for energy sold to the grid.

15. As evident from the term itself, *net* metering allows utility customers with renewable energy systems to pay their utility for only the *net* energy used in a billing period, thereby saving the customer money. This means that customers are allowed to offset their electricity consumption from the grid with the unused electricity they generated and sent to the grid.

16. For example, during the day, rooftop solar customers will typically produce more energy than they consume which is sent to the grid. At night, on the other hand, solar customers will consume energy from the grid as the solar panels are not producing energy themselves. Therefore, when rooftop solar customers are able to offset their energy consumption from the grid with the extra energy they generate by selling it back to the grid on a one-for-one basis, they save on their utility bills. In Florida, this means that a customer who invests in rooftop solar can recoup the money invested in about 10 years when utilizing net metering. Being able to recoup the investment in solar in a reasonable amount of time is a strong incentive for people to pursue rooftop solar, as the upfront investment costs are significant.

17. Florida law defines net metering as “a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer’s electricity consumption on site.” § 366.91(2)(c), Fla. Stat.

18. Therefore, under Florida law, customers with solar panels pay only for the electricity beyond what their own panels produced or the *net* difference between their solar panel’s total production and the customers’ total consumption in a billing period.

19. Prior to April 1, 2018, JEA provided a net metering program as intended by Florida law that allowed rooftop solar customers to offset their energy consumption from the grid with the extra energy they generate by selling it back to the grid on a one-for-one basis. For

example, if a customer uses 1,000 kWh from the grid, but sends to the grid an excess of 600 kWh from their solar panels, they are only billed for 400 kWh of energy use under the old policy.

20. As of April 1, 2018, JEA no longer offers a net metering program to new customers. Under JEA's Energy Policy, the net metering program was terminated and only qualifying past participants were grandfathered for 20 years. New rooftop solar customers can no longer net or offset the energy they consume with the energy they generate. There is no netting at the customer's meter, as any energy sent to the grid by a rooftop solar customer is credited at the fuel rate (currently 3.25 cents/kWh) on an instantaneous basis, and any energy received from the grid is purchased at the retail rate (currently 10.3 cents/kWh) on an instantaneous basis.

21. The statutory definition of *net* metering requires the inclusion of a metering methodology that offsets energy consumed with energy produced—the netting.

22. The statutory language also patently requires an offset, not a partial offset. However, under JEA's current Distributed Energy Policy there is no one-for-one offset of energy usage against energy generated. Tellingly, the current policy does not even refer to itself as including net metering, but only refers to the old policy as including net metering, and on their website, https://www.jea.com/emerging_technologies/net_metering/program_details.aspx (accessed April 13, 2018), admit that “JEA’s Net Metering Policy for solar systems has been replaced,” and refer to the net metering policy as “retired.”

23. Florida law requires electric utilities to develop and maintain a net metering program.

24. This construction is further confirmed by section 366.91(6), Florida Statutes, which mandates that municipal electric utilities, like JEA, file an annual report with the Florida

Public Service Commission detailing customer participation in the net metering program and the total energy net metered in the previous year. § 366.91(6), Fla. Stat.

25. An annual reporting requirement on customer participation would be meaningless if a municipal electric utility could simply end their net metering program.

COUNT I

DECLARATORY RELIEF AGAINST JEA

26. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. JEA is an “electric utility” as defined by section 366.02, Florida Statutes, and a “municipal electric utility” as used in chapter 366, Florida Statutes.

28. Section 366.91, Florida Statutes, requires all electric utilities to “develop a . . . net metering program for customer-owned renewable generation” and annually report on customer participation.

29. JEA ended its net metering program and no longer offers a net metering program as defined by Florida law to new customers.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against JEA:

- (1) a declaration that JEA’s Energy Policy violates Florida law by failing to provide a net metering program;
- (2) an injunction requiring JEA to provide net metering as defined by Florida law; and
- (3) Pursuant to section 86.061, Florida Statutes, such further supplemental relief as the Court may deem necessary and proper.

Respectfully submitted this 19 day of April, 2018.



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