



# MEMORANDUM

Office of the City Attorney

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**TO:** Tony L. Cunningham, Interim General Manager

**DATE:** June 27, 2022

**FROM:** Lisa C. Bennett, Senior Assistant City Attorney

**SUBJECT:** Solar Circuit Limitation - Opinion

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This office has been requested to provide an opinion on the legality of the City's photovoltaic guidelines set forth in Section 8 of the Energy Delivery Service Guide.

In my opinion, the City has complied with the statutory requirements of Section 366.91, F.S., in adopting its net-metering ordinance, and Section 8 of the Energy Delivery Service Guide.

Some individuals have suggested that Section 8 of the Energy Delivery Guide is unlawful because the City has placed restrictions on interconnection of customer-owned solar generation, if an interconnection will negatively impact the city's electric distribution system or a city transformer. Section 8 is lawful based upon the following:

Section 366.91(6), F.S., requires a municipal utility to:

develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. Each governing authority shall establish requirements relating to the expedited interconnection and net metering of customer-owned generation.

Section 366.91(2)(d) 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.*"

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In response to the legislative requirement, the city adopted Section 27-37, Gainesville Code of Ordinances establishing the net metering program. The intent of the net metering ordinance is expressed in subsection (a), which states:

[i]t is the intent of this section to promote the use of customer-owned renewable generation *to offset part or all of the customer's electric consumption.*" (Emphasis added.)

The city expressed its intent that the costs of the net-metering program not be at the expense of other utility customers in subsection (b):

The net-metering program is only available to the city's electric customers who have constructed or are willing to construct customer-owned renewable generation, *at no cost to the city*, and are willing to execute an interconnection agreement in form and substance as provided by the city. (Emphasis added.)

The Energy Delivery Service Guide establishes the process and requirements for solar interconnection. The Energy Delivery Service Guide was adopted by Section 27-36, Codes of Ordinances, which states in part:

All electrical facilities and related civil infrastructure shall be installed, replaced or maintained in accordance with the Energy Delivery Service Guide promulgated by the Energy Delivery Department of GRU dated November 1, 1998, or the latest revision thereof.

In addition to the limitation of 2 MW of rooftop solar found in both the statute and the ordinance, subparagraph 8.1(4) has additional limitations on interconnection of solar photovoltaic. These limitations are designed to protect the city's electric distribution system and to transfer any costs associated with the interconnection to the customer who is interconnecting its customer-owned generation system. Protection of the distribution system is consistent with the ordinances, the statutes and the Public Service Commission's interpretation of similar administrative code requirements for investor-owned utilities.

As emphasized in each of the above statutes and ordinances, net-metering is only to off-set a customer-owned generation unit. It may have a secondary purpose, such as providing energy into the distribution system. But that secondary purpose can be limited by the utility to protect its distribution system. The Florida Public Service Commission (PSC) was asked by customers to review Florida Power & Light's (FPL) limitations on interconnecting to FPL's distribution system. While FPL's interconnection requirements are different than the City's, the concept is still the same.

Thus, while "customer-owned renewable generation" *might have* a secondary purpose other than to offset part or all of a customer's electricity requirements, "net metering" is only allowed to offset the customer's electricity consumption onsite. FPL does permit net metering of 115% of consumption because each unique system is assessed on a range of values using photovoltaic watts resulting in some fluctuation.

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The PSC stated that there are limits on interconnection as expressed in Rule 25-6.065, F.A.C. The reason for those PSC rules are the same as the reasons for Section 8.1(4) of the Energy Service Delivery Guide. In approving FPL's limitations on interconnection with solar the PSC stated:

Rule 25-6.065(4)(a)1, F.A.C. is intended to provide a safety buffer for the utility distribution system, ensuring that the capacity of utility facilities interconnected to customer-owned renewable generation will not be over-loaded.

While the current ordinances and guides are legally supported, the Energy Delivery Service Guide is a living document, meaning as the solar industry changes, the Guide can be updated, as appropriate.