

Florida Electricity Deregulation Amendment Overview

Agenda



- **Overview**
- **Sponsors of Amendment**
- **Petition Process**

An initiative petition proposing a constitutional amendment to deregulate Florida's electricity market is currently gathering signatures

Florida Electricity Deregulation Amendment

- **An organization based in Gainesville has proposed a constitutional amendment to deregulate the electricity market in Florida**
 - Citizens for Energy Choices (CEC) is connected to Infinite Energy, a retail provider of natural gas and electricity, based in Gainesville
- **This group has previously attempted to propose a similar amendment through the legislature and the CRC but has failed**
 - Now pursuing through the Initiative Petition process
- **Summary language which would appear on the ballot:**
 - “Grants customers of investor-owned utilities the right to choose their electricity provider and to generate and sell electricity. Requires the Legislature to adopt laws providing for competitive wholesale and retail markets for electricity generation and supply, and consumer protections, by June 1, 2025, and repeals inconsistent statutes, regulations, and orders. Limits investor-owned utilities to construction, operation, and repair of electrical transmission and distribution systems. Municipal and cooperative utilities may opt into competitive markets.”

The petition calls for the creation of a fully competitive wholesale and retail electricity market

Petition Language

- **Create fully competitive wholesale and retail electricity market that provides customer with a “wide array of meaningful choices” from a “wide variety of competing” providers**
- **Customers are allowed to:**
 - Choose from competitive retail market
 - Generate electricity themselves
 - Buy, sell and trade electricity
- **Allows co-ops and municipal utilities to opt into the deregulated market**

As stated by the sponsors, the Amendment was authored with the intent of patterning the Texas electricity market

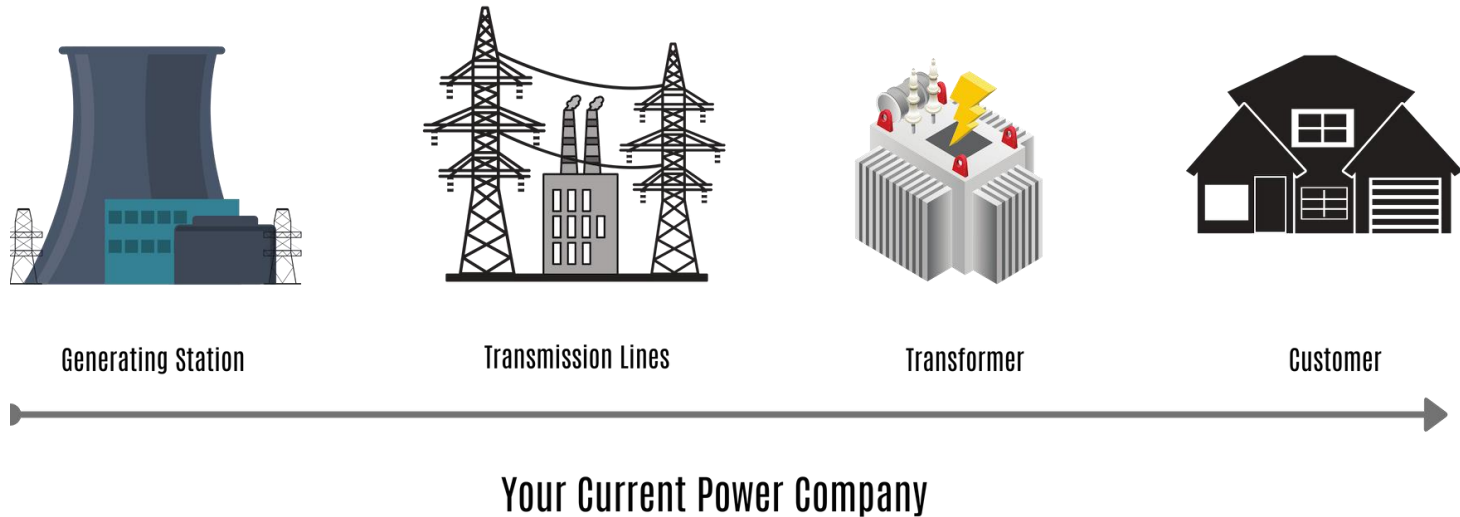
The petition requires adopting legislation by 2023 and market implementation by 2025

Petition Language (continued)

- **Directs legislature to adopt implementing legislation by June 1, 2023 which:**
 - Limits IOUs to construction, operation and repair of electrical transmission and distribution
 - Promotes competition in electricity market
 - Protects against deceptive practices or unwarranted service disconnections
 - Prohibits granting of monopolies for generation and sale of electricity
 - Establishes “independent market monitor” to ensure competitiveness of the market
- **Provides legal standing for citizens to sue the state if laws is not adopted in timely fashion**
- **Competitive market to be online by June 1, 2025**

Vertically integrated utilities in Florida own all parts of the system that delivers electricity to end-use customers

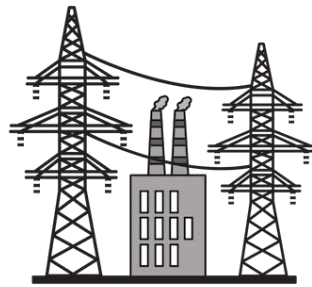
CURRENT ELECTRIC GRID SYSTEM



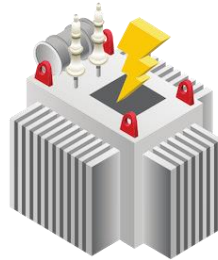
Under the proposed Amendment, utilities are forced to sell their generation assets and customers purchase electricity from new third party marketing companies

DEREGULATED ELECTRIC GRID SYSTEM

Structural Separation

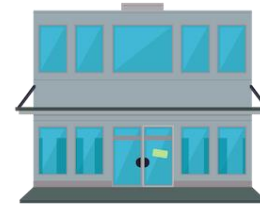


Transmission Lines
Utility Company



Transformer
Servicer Company

Retail Choice



Seller
Marketing Company



Customer
You

IOUs forced to sell generation assets

Customers buy electricity from new third party marketing companies

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The deregulation ballot initiative is led by Citizens for Energy Choices Political Committee (CEC)

Amendment Sponsors

- **CEC is affiliated with Florida Energy Freedom (FEF)**
 - FEF also filed a deregulation proposition at the Florida Constitutional Review Commission in 2018 (Proposition 51)
 - FEF Board includes:
 - Richard, Blaser CEO of Infinite Energy
 - Director of Compliance of Walmart
 - General Counsel of the Florida Restaurant & Lodging Association (FRLA)
 - General Counsel of Infinite Energy
- **Citizens for Energy Choices Political Committee (CEC)**
 - CEC was formed on September 28, 2018 and approved by the Secretary of State on October 5, 2018
 - Officers include:
 - Alex Patton, Chair
 - Jamie Jodoin, Treasurer (a Gainesville accountant)
 - Steve Bunch, Deputy Treasurer (a Gainesville accountant)

Infinite Energy is based in Gainesville and transacts in the Texas electricity market and multiple natural gas markets

Infinite Energy

- **Gainesville based energy wholesaler with more than 360 employees and ~\$600 MM of revenue in 2015**
 - Sells electricity in Texas
 - Sells natural gas in Florida, Georgia, New Jersey, New York
- **Led by Co-CEOs, Richard Blaser and Darin Cook**
 - Blaser is also President of Florida Energy Freedom (FEF) and led the Proposition 51 campaign
 - Cook was recently announced as a member of Agriculture Commissioner-elect Nikki Fried's transition team



Richard Blaser
Co-CEO Infinite Energy
President of FEF



Darin Cook
Co-CEO Infinite Energy

Citizens for Energy Choices (CEC) has 214,950 verified signed petitions

Initiative Petition Status

- **Citizens for Energy Choices (CEC) currently has 214,950 verified signatures at the state level**
- **CEC continues to collect signatures through a single gatherer whose contract was extended at the end of March**
 - Intel suggests that they have increased the amount they are paying per signature to try and compete with the market
- **Latest campaign finance filing reflects a significant reduction in the amounts paid to both the signature gatherer and districts**
 - Amount paid to signature gatherer reflects only 36,000-40,000 signatures
 - CEC needs to collect ~90,000 signatures per month through the end of the year to meet the total requirement

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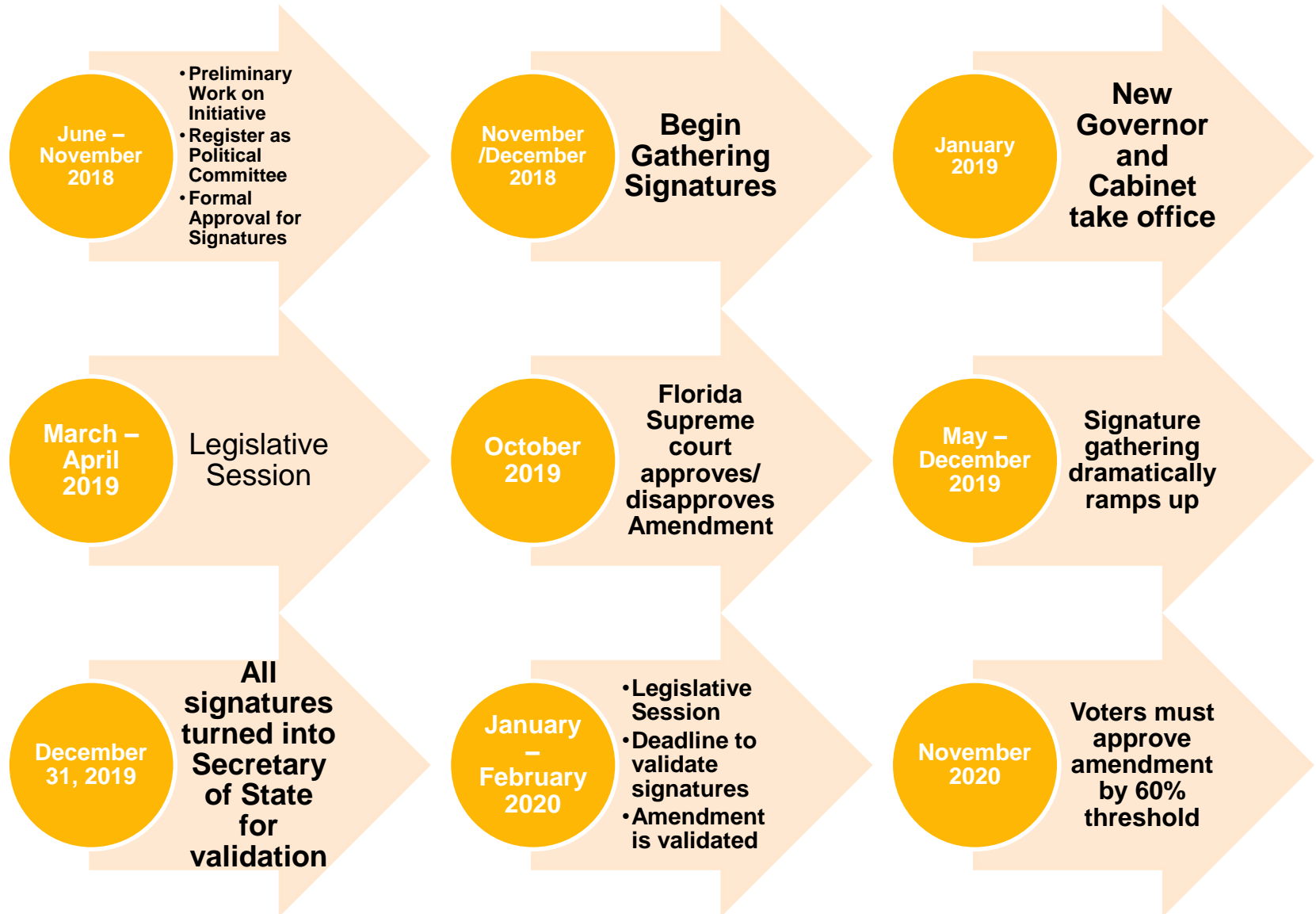


Amendments to Florida's constitution can be proposed in a number of ways and require 60% of the vote to pass

Florida Constitutional Amendment Process

- **Amendments to Florida's Constitution can be proposed in a number of ways, including:**
 - Legislative proposal
 - Constitutional Revision Committee (CRC)
 - Convenes every 20 years
 - 10 of the 12 amendments on the 2018 ballot came from the CRC
 - Initiative Petition (process used for this amendment)
 - Must gather required signatures from the public
 - Amendment is required to cover a single subject
- **Once on the ballot, amendments require 60% approval to pass**
 - In 2018, 11 of the 12 proposed amendments passed
 - Extremely high rate of passage in 2018 has resulted in discussion of increasing the approval threshold and/or revise the overall process in other ways

The Florida Constitution allows for a citizen initiative petition process that is very prescribed



There are four required steps per the State Constitution and Florida Statutes in order for a proposed ballot initiative to be officially placed on the general election ballot

Petition Certification Timeframe & Process

- **Step 1: Applying to Petition - *complete***
 - A Political Committee (PC) must first be registered with the Division of Elections (a Division of the Department of State) to track campaign finances
 - Citizens for Energy Choices Political Committee (CEC PC) filed its application on September 28, 2018
- **Step 2: Summary Language Approval - *complete***
 - Following PC registration and approval by the Division of Elections, the Secretary of State must preliminarily approve the ballot title, summary text and full text
 - Completed on October 5, 2018
 - Once this is complete, signature gathering may begin
 - CEC PC began signature gathering on October 22, 2018

There are four required steps per the State Constitution and Florida Statutes in order for a proposed ballot initiative to be officially placed on the general election ballot

Petition Certification Timeframe & Process (continued)

- **Step 3: Judicial and Fiscal Impact Review**
 - 76,632 signatures (10% of the total required)(1) must be obtained in at least 7 of the 27 Florida Congressional Districts and filed with the Secretary of State – **completed January 30, 2019**
 - The Secretary of State then submitted the proposal to the following:
 - The Financial Impact Estimating Conference (FIEC) for review of impact on state revenues and expenditures – **completed March 15, 2019**
 - The FIEC created the Financial Impact Statement that will accompany the initiative on the ballot
 - The Supreme Court for judicial review to ensure compliance with the single subject rule and appropriateness of the title and summary text – **in progress**

16 1) A total of 766,620 signatures are required (8% of statewide total votes cast in the 2016 presidential election); 10% for initial threshold is calculated by district which results in slight rounding difference

There are four required steps per the State Constitution and Florida Statutes in order for a proposed ballot initiative to be officially placed on the general election ballot

Petition Certification Timeframe & Process (continued)

- **Step 4: Certification of Ballot Position - *pending***
 - The Secretary of State must determine whether the required number of verified signatures (766,200) have been collected from 14 (half) of the 27 FL Congressional districts
 - Must be completed by February 1, 2020
 - The Secretary of State will then issue a certificate to the sponsor of the ballot initiative
 - The Division of Elections must then assign and post the designating number for the amendment as it will appear on the ballot within 24 hours
- **Once on the November 2020 ballot, the proposed amendment requires a 60% supermajority of Florida voters to be approved**

A number of parties submitted analysis to support the conclusion that the amendment will result in significant costs and revenue losses for state and local government

Financial Impact Estimation Conference (FIEC)

- **A number of opposing parties attended the meetings of the FIEC and submitted reports and analysis of estimated costs and lost government revenues**
 - Costs include setting up and maintaining the new market, stranded costs resulting from forced divestiture of utility assets and other costs, such as litigation
 - Government revenues at risk include franchise fees and other taxes collected on utility bills
- **The FIEC issued the following 75-word statement on March 15th**
 - “The final design of the new market system for electricity is unknowable until the Legislature acts. There will be significant costs to state and local governments to transition to a fully operational system. The cost of purchasing electricity by governments may be higher or lower, depending on changes in charges for electricity resulting from the amendment. As currently administered, several government revenues would be reduced, but the legislative response to these effects is unknown.”

Pre-election Supreme Court review is limited to ensuring the language is unambiguous and covers a single subject

Supreme Court Review

- **Pre-election Supreme Court review is limited to two issues:**
 - Whether the petition satisfies the single-subject requirement
 - Whether the ballot title and summary are printed in clear and unambiguous language
- **The Court does not review the merits of the proposal or decide if the Legislature should more appropriately address the subject matter**
 - Even if the proposal clearly violates the federal constitution, the Court will not rule on that issue until after the proposal is adopted
- **The Court received the electricity deregulation petition on March 1st and recently issued the following schedule:**

Supreme Court Schedule	Due Date
Initial Briefs from Opponents	April 18 (complete)
Answer Briefs from Supporters	May 8 (likely delayed until May 23) ⁽¹⁾
Reply Briefs from Opponents	May 28 (likely delayed until June 12)
Oral Arguments	August 28

A broad and diverse array of organizations filed briefs with the Florida Supreme Court in opposition to the amendment

Supreme Court – Opponent Briefs

Briefs Filed in Opposition to the Proposed Amendment:
FPL and Gulf
Duke and TECO
Florida Chamber of Commerce, Florida Economic Development Council
Associated Industries of Florida, Florida Healthcare Association, Florida Hospital Association
Energy Fairness
Florida Electric Cooperatives Association
JEA
Florida League of Cities, Florida Association of Counties, Florida Sheriff's Association, Florida Police Benevolent Association
American Senior Alliance
Floridians for Affordable and Reliable Energy (FARE), Urban Leagues of Palm Beach, Jacksonville & Central FL
Florida Audubon Society, The Nature Conservatory
Florida Public Service Commission
Municipal Governments - Fort Lauderdale, Hollywood, Pompano Beach, Davie
Small Local Governments - Belle Glade, Indiantown, Chipley, Vernon, Lake Okeechobee Regional Economic Alliance (LORE)
Florida Association of Realtors
Florida Attorney General, Ashley Moody
The Florida Senate
The Florida House of Representatives
Orlando Utilities Commission, Florida Municipal Electrics Association, Florida Municipal Power Agency