

FOR IMMEDIATE RELEASE: July 13, 2021

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Challenge Against Alabama Regulators' Approval of Discriminatory Solar Charges Filed in Federal Court

MONTGOMERY, Ala. — Citizens and conservation groups [filed suit](#) in federal district court late yesterday against the Alabama Public Service Commission (PSC) for approving Alabama Power's punitive and discriminatory charges targeting customers with rooftop or on-site solar.

Filed by the Southern Environmental Law Center (SELC) and Ragsdale LLC on behalf of GASP and four Alabama Power customers who invested in solar installations on their properties, the lawsuit follows the Federal Energy Regulatory Commission's (FERC) decision not to take enforcement action against the PSC, allowing the groups to pursue their case in federal court. The suit was filed in the United States District Court for the Middle District of Alabama in Montgomery.

FERC's decision not to act is consistent with its customary practice in response to such enforcement petitions. However, in a [joint concurrence statement](#), FERC Chairman Glick and Commissioner Clements expressed concern that the PSC may be violating federal law by discouraging rooftop or customer-sited solar growth in Alabama, finding that "[p]etitioners have presented a strong case that the Alabama Commission failed to adhere to regulations set forth in [FERC's order establishing its PURPA regulations], violating the requirements of [federal law]."

"We're asking the Court to require the Commission to follow the law so that Alabama Power will stop unfairly taxing private solar investments," **said Keith Johnston, Director of SELC's Alabama office.** "Alabama is being left behind by other Southern states when it comes to solar generation, and the jobs, bill savings and other benefits that come with it. These charges are a significant roadblock to our state's success."

Since 2013, Alabama Power's unjust monthly fee has limited the rights of Alabama homeowners and businesses to use solar power on their properties to reduce their electric bills. One of the highest fees on solar customers of any regulated utility nationwide, the monthly fee is imposed on top of other fixed and variable charges and significantly reduces customers' expected savings, making it impractical to invest in solar power.

“One job of our Public Service Commission is to protect customers like me from unfair treatment by monopoly utilities, like Alabama Power,” **Mark Johnston, an Episcopal priest and retired executive director of Camp McDowell who is subject to the charges for his 6-kilowatt solar system.** “It’s time to put Alabamians before Alabama Power by removing these unwarranted solar fees.”

SELC on behalf of GASP, and Ragsdale LLC, on behalf of two private Alabama citizens, initially challenged Alabama Power’s discriminatory treatment of solar customers in April 2018 at the PSC. In October 2020, the PSC granted the utility’s motion to dismiss the groups’ complaint and approved its proposal to increase the existing monthly charge from \$5 per kilowatt, based on the size of the customer’s solar system, to \$5.41 per kilowatt.

“The Public Service Commission is more intent on protecting Alabama Power’s profits than helping customers lower their energy bills and reduce their pollution footprint,” **said GASP Executive Director, Michael Hansen.** “A utility monopoly should not be able to keep solar energy out of reach for Alabamians who could truly benefit from it.”

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About Southern Environmental Law Center: *For more than 30 years, the Southern Environmental Law Center has used the power of the law to champion the environment of the Southeast. With over 80 attorneys and nine offices across the region, SELC is widely recognized as the Southeast’s foremost environmental organization and regional leader. SELC works on a full range of environmental issues to protect our natural resources and the health and well-being of all the people in our region. southernenvironment.org*

About GASP: *GASP is a nonprofit health advocacy organization based in Birmingham, Ala. Our mission is to advance healthy air and environmental justice in the greater-Birmingham area through education, advocacy, and collaboration. We strive to reduce exposure to air pollution, educate the public on the health risks associated with poor air quality, and encourage community leaders to serve as role models by advocating for clean air and clean energy. GASPgroup.org*

About Ragsdale LLC: *Founded in 1991, Ragsdale LLC is a Birmingham law firm representing individuals and small businesses in civil lawsuits for over 30 years. Our areas of practice include environmental and pollution claims, personal injury and death, securities fraud and class actions, fraud and contract disputes, and whistleblower claims. www.ragsdalellc.com*