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October 22, 2009

SENT VIA ELECTRONIC MAIL
Original sent via regular U.S. mail

Chairman Kristin K. Mayes
Commissioner Sandra D. Kennedy
Commissioner Paul Newman
Commissioner Gary Pierce
Commissioner Bob Stump
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

RECEIVED
2009 OCT 22 P 2:04
AZ CORP COMMISSION
DOCKET CONTROL

RE: SolarCity Adjudication - Docket No. E-20690A-09-0346
Request for Amendment to Tract One Order to Approve Price Decrease

Dear Chairman Mayes and Commissioners:

As you are aware, our office represents SolarCity in Docket No. E-20690A-09-0346. The purpose of this letter is to request that the Commission use the provisions of A.R.S. 40-252 to amend its Order issued in Tract One of this Docket where the Commission approved special contract rates between SolarCity and the Scottsdale Unified School District (the "District") for installation of solar facilities on Coronado and Desert Mountain High Schools (the "Tract One Order"). We ask that the Commission consider taking this action for the sole purpose of amending the Tract One Order to lower the bottom range of the approved rate from \$0.11 per kWh to \$0.09 per kWh. Both the provider (SolarCity) and the customer (the District) support this request and have waived their rights to hearing on this issue therefore, SolarCity is asking that the Commission approve this slight modification without a public hearing with all due haste. A letter from the District indicating its support of this request is attached hereto as Exhibit "A".

We must note that SolarCity continues to contest the ultimate jurisdiction over these agreements and in no way intends to have this request prejudice the Tract Two proceedings in this matter or to be viewed as an admission of Commission jurisdiction. It is important that any amendment to the Tract One Order retain all the provisions which clearly stated that these proceedings can not be used against the Applicant in Tract Two.

Arizona Corporation Commission
DOCKETED

OCT 22 2009

DOCKETED BY

Background

The Commission's approved special contract rate allowed for a minimum price of \$0.11 per kWh. This amount represented the agreed upon contractual rate between SolarCity and the District. After the Commission's issuance of the Tract One Order the District issued a Request for Proposals for additional solar installations on some of the District's properties.

SolarCity was one of eight companies that responded to this RFP in an effort to win an award for the new properties. In determining how best to respond in a competitive manner SolarCity determined it was in the company's interests to not only respond to the RFP for the new properties with a lower rate but to also reduce the rate it would be charging for the already approved agreements. As a result, SolarCity and the District have recently executed an Amendment to the Solar Services Agreements relating to Coronado and Desert Mountain High Schools that changes the agreed upon rate to \$0.09 per kWh. These Amendments are attached hereto as Exhibit "B."

The reduced rate will benefit both SolarCity and the Scottsdale Unified School District, and will require only a slight amendment to the Tract One Order

This new rate is a win for the District and will allow even greater savings both now and over time that can be reinvested in the classroom for the good of the students. If the same agreements made sense at \$0.11 per kWh when the Tract One Order was issued then these same agreements certainly make even more sense at \$0.09 per kWh. SolarCity and the District believe this is a perfect example of why the competitive market works in this service oriented business. There should be no change to the analysis of fair value that the Commission has already performed and the cost-benefit analysis that supported the \$0.11 per kWh amount will undoubtedly support the \$0.09 per kWh rate.

In fact, the analysis provided in the Tract One Order does not need to be modified in any way to justify this change. It would be completely consistent with the Tract One Order to simply modify the ordering paragraph to acknowledge the new minimum rate, requiring only one change in the document. The amendment would only require an Order amending the Tract One Order at page 13, line 12 removing "\$0.11 per kWh" and replacing it with "\$0.09 per kWh."

The Commission can amend its Order without another hearing

Under A.R.S. § 40-252 the Commission has the ability on its own accord to modify and amend Orders after notice to the impacted parties and a chance to be heard. Attached to this filing as Exhibit A is a letter from the District indicating that it has been notified of this request, that it supports this request, and that it waives its right to a hearing on this request. Further, to the extent that the amendment to the Tract One Order only deals with the changing of the lowest possible rate to be charged from \$0.11 per kWh to \$0.09 per kWh SolarCity hereby waives its right to a hearing on this issue to allow for a quick approval of this proposed amendment.

The reasons why this approval must happen quickly have been previously and fully explored in the record of the Docket. In brief, such approval must happen expeditiously so that

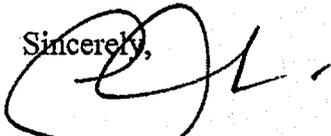
October 22, 2009

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the District can maximize the savings it can receive if the project is in service prior to the end of 2009. At that time the ability to claim Federal bonus depreciation will expire, which will change the economics of the project.

SolarCity, with the support of its customer, the District, hereby requests that the Commission utilize its powers under A.R.S. 40-252 and enter an Order amending the Tract One Order at page 13, line 12 removing "\$0.11 per kWh" and replacing it with "\$0.09 per kWh."

We appreciate your consideration on this matter and ask that you please contact us if you have any questions at all.

Sincerely,

Court S. Rich

Attachment

cc: All Parties of Record in Docket No.: E-20690A-09-0346

EXHIBIT A



Scottsdale *Unified* School District

Arizona's Most *Excelling* School District

Education Center
3811 North 44th Street
Phoenix, Arizona 85018-5420

Telephone: 480-484-6128
FAX: 480-484-6294
Web site: www.susd.org

October 21, 2009

Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007-2996

Re: Amendment lowering SSA rate from \$0.11 per kWh to \$0.09 per kWh

Dear Chairman Mayes and Commissioners;

This letter will confirm that Scottsdale Unified School District supports SolarCity's application asking the Commission to amend the approved rate for the Coronado and Desert Mountain High School Solar Services Agreements from a minimum of \$0.11 per kWh to a minimum of \$0.09 per kWh. To the extent that such amendment only deals with lowering the minimum rate charged under the SSAs and does not modify any other substantive provisions in the approved Order, Scottsdale Unified School District hereby waives whatever right it may have to a hearing on this proposed amendment under A.R.S. 40-252. We appreciate your swift support on this matter and continue to urge you to side with SolarCity and the solar industry in adjudicating SolarCity not a public service corporation under the facts of this matter.

Very Truly Yours,

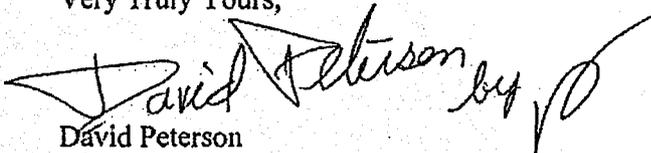

David Peterson
Assistant Superintendent for Operations

EXHIBIT B



Second Amendment to Solar Services Agreement

Purchaser:		Seller:	
Name and Address	Scottsdale Unified School District #48 Coronado High School 2501 North 74 th Street Scottsdale, AZ 85257 Attention: David Peterson	Name and Address	SolarCity Corporation 393 Vintage Park Drive, Suite 140 Foster City, CA 94404 Attention: Lease/License Administrator
Phone	(480)484-6139	Phone	(650) 638-1028
Fax	(480)484-6294	Fax	(650) 638-1029
E-mail	dipeterson@susd.org	E-mail	contractadministrator@solarcity.com
Purchaser (check one)	<input checked="" type="checkbox"/> owns the Facility <input type="checkbox"/> leases the Facility		

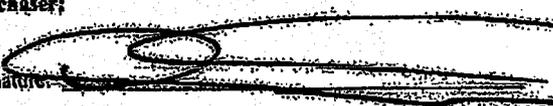
The Solar Services Agreement dated June 25, 2009 and the First Amendment to Solar Services Agreement dated July 31, 2009 between Purchaser and Seller is hereby amended effective when executed by the Parties below, as follows:

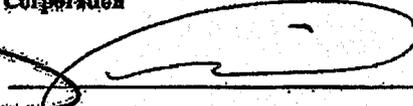
1. Exhibit 1 to the Solar Services Agreement is replaced by the attached Exhibit 1.
2. Exhibit 2 to the Solar Services Agreement is replaced by the attached Exhibit 2.

If a conflict or inconsistency arises between the provisions of this Second Amendment and the Solar Services Agreement, the provisions of this Second Amendment shall prevail.

Purchaser:

SolarCity Corporation

Signature: 

Signature: 

Printed Name: David Peterson

Printed Name:

Title: Assistant Superintendent

Title:

Date: 10/20/09

Date: 10/20/09

LEGAL APPROVED

INITIAL 

DATE 10/19/09



Exhibit 1
Finance Attachment

1. Term: Fifteen (15) years, beginning on the Commercial Operation Date.

2. Additional Terms: Up to Two (2) Additional Terms of Five (5) years each.

3. Environmental Incentives and Environment Attributes Accrue to Seller

4. Contract Price:

Contract Year	\$/kWh
1	\$0.0900
2	\$0.0900
3	\$0.0900
4	\$0.0900
5	\$0.0900
6	\$0.0900
7	\$0.0900
8	\$0.0900
9	\$0.0900
10	\$0.0900
11	\$0.0900
12	\$0.0900
13	\$0.0900
14	\$0.0900
15	\$0.0900

5. Condition Satisfaction Date: December 15, 2009

6. Anticipated Commercial Operation Date: December 31, 2009

7. Outside Commercial Operation Date: December 31, 2009

8. Purchase Option Price:

End of Contract Year	Option Price*
6	\$1,608,665.48
10	\$1,384,529.75
15	\$1,056,243.85

* Higher of Fair Market Value of System or amount specified

9. Termination Value:

Contract Year	Termination Value
1	\$3,333,634.76
2	\$2,781,271.38

3	\$2,299,202.69
4	\$1,906,129.71
5	\$1,561,371.74
6	\$1,199,649.55
7	\$1,089,673.77
8	\$1,025,240.38
9	\$957,854.86
10	\$887,366.35
11	\$813,624.36
12	\$736,458.77
13	\$656,699.12
14	\$571,164.41
15	\$482,664.55

10. Rebate Variance

All prices in this Agreement are calculated based on a rebate of \$2.50/W. If the actual rebate is lower than calculated, prices will be adjusted pro-rata to reflect the actual rebate received.

Exhibit 2

System Description

1. **System Location:** Coronado High School: 7501 East Virginia Avenue, Scottsdale, AZ 85257
2. **System Size (DC kW):** 390 kW
3. **Expected First Year Energy Production:** 617,370 kWh
4. **Scope:** This is a 390 kW, producing approx 1583 kWh per kW for a total of 617,370 kWh in the first year. The installation is a roof mount on a flat roof.
5. **Expected Module(s):** 1,950 Suntech STP200 modules
6. **Expected Inverter(s):** SolCon PowerGate Plus 250 kW (2)
7. **Expected Structure:** Roof mount using a ballasted racking system, subject to adjustment based on engineering site visits and recommendation from roofers. SolarCity shall be solely responsible for verifying the structural integrity of the Roof.
8. **Excludes:** For avoidance of doubt, SRP's meter is not part of the System.



**First Amendment to
Solar Installation Agreement (Commercial)**

Customer		SolarCity	
Name and Address	Scottsdale Unified School District Desert Mountain High School 12575 East Via Linda Scottsdale, AZ 85259	Name and Address	SolarCity Corporation 393 Vintage Park Drive, Suite 140 Foster City, CA 94404 Attention: Contract Administrator
Phone	(480) 484-6139	Phone	(650) 638-1028
Fax	(480) 484-6294	Fax	(650) 638-1029
E-mail	djpeterson@susd.org	E-mail	contractadministrator@solarcity.com
		Licenses	AZ: ROC245450 AZ: ROC243771 CA: CSLB 888104 OR: CCB 180498

This First Amendment (the "First Amendment") is to that certain a Solar Services Agreement between SolarCity and Customer entered into on June 25, 2009 (the "Agreement") and is dated October 13, 2009 (the "First Amendment Date").

The parties agree to modify the Agreement as follows:

1. Exhibit 1 to the Solar Services Agreement is amended and replaced by the attached Exhibit 1.

Purchaser: [Signature] SolarCity Corporation

Signature: [Signature] Signature: [Signature]

Printed Name: David Peterson Printed Name: Lyndon Rive

Title: Asst. Superintendent Title: CEO

Date: 13 Oct 09

Date: 10/16/2009

LEGAL APPROVED	
INITIAL	<u>SR</u>
DATE	<u>10/15/09</u>

**Exhibit 1
Pricing
Attachment**

- 1. Term:** Fifteen (15) years, beginning on the Commercial Operation Date.
- 2. Additional Terms:** Up to Three (3) Additional Terms of Five (5) years each.
- 3. Environmental Incentives and Environment Attributes Accrue to** Seller
- 4. Contract Price:**

Contract Year	\$/kWh
1	\$0.0900
2	\$0.0900
3	\$0.0900
4	\$0.0900
5	\$0.0900
6	\$0.0900
7	\$0.0900
8	\$0.0900
9	\$0.0900
10	\$0.0900
11	\$0.0900
12	\$0.0900
13	\$0.0900
14	\$0.0900
15	\$0.0900

- 5. Condition Satisfaction Date:** June 1, 2010
- 6. Anticipated Commercial Operation Date:** November 15, 2010
- 7. Outside Commercial Operation Date:** December 31, 2010
- 8. Purchase Option Price:**

End of Contract Year	Option Price*
6	\$3,943,419.34

10	\$3,403,461.32
15	\$2,621,651.41

* Higher of Fair Market Value of System or amount specified

9. Termination Value:

Contract Year	Termination Value
1	\$8,209,432.93
2	\$8,841,138.03
3	\$5,647,504.07
4	\$4,674,956.98
5	\$3,822,534.73
6	\$2,928,220.82
7	\$2,658,979.34
8	\$2,503,012.25
9	\$2,339,965.39
10	\$2,169,481.18
11	\$1,991,184.17
12	\$1,804,680.16
13	\$1,609,655.27
14	\$1,405,374.93
15	\$1,191,682.87

10. Rebate Variance

All prices in this Agreement are calculated based on a rebate of \$2.25/W. If the actual rebate is lower than calculated, prices will be adjusted pro-rata to reflect the actual rebate received.