



0000154800

E-00000 J-14-0023



RECEIVED

ORIGINAL

July 16, 2014

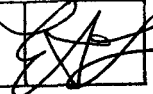
2014 JUL 21 P 2:56

Bob Stump, Chairman  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
DOCKETED

JUL 21 2014

DOCKETED BY 

*Re: Consumer Protections*

Chairman Stump,

This letter responds to your informal request to Court Rich, outside counsel to SolarCity, that we provide you with certain information about the customer protections that are available to SolarCity customers, as well as other matters. As your office was informed in late June, we have been in the process of preparing this response. In the interests of providing a prompt response, however, we provide answers to some of your questions below, and will provide responses to your additional questions, including those posed by your July 14 letter, as quickly as possible.

As a full service installer and financier of solar energy systems, SolarCity has grown to become America's largest residential solar power provider. This success is due in large part to SolarCity's focus on the customer and being a trusted business partner. Below we summarize the extensive consumer protections that are built into SolarCity's business model and that demonstrate the lengths SolarCity goes to be certain it is fully complying with applicable consumer protection laws.

**1. Overview**

SolarCity operates in Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, Nevada, New Jersey, New York, Oregon, Pennsylvania, Texas, Washington, and Washington, D.C. SolarCity is a licensed contractor in good standing in every state where it does business.

SolarCity currently offers Arizona residents its SolarLease product. In a SolarLease, the customer leases the solar system from SolarCity, makes regular scheduled payments for the lease of the equipment, and in turn gets the use of the solar system, including ongoing maintenance and monitoring, and the benefit of the electricity the system generates for the term of the lease. Each lease also has a separate consumer warranty. Before offering this financed solar product, SolarCity obtained expert counsel and advice to ensure that it would be compliant with applicable consumer protection laws. Other companies that do business with SolarCity conduct their own compliance reviews of SolarCity's business. As a result, SolarCity has been subject to diligence over 24 times by leading law firms in the United States, in addition to retaining its own counsel to do a comprehensive federal and state compliance review of its leases.

SolarCity is building decades-long relationships with its customers. The success of that relationship depends on customers knowing what they are getting, and what they are committing to do, before they enter into a contract. Accordingly, SolarCity puts significant effort into ensuring that its contracts are clear and straightforward, while still including the various clauses and disclaimers that are required by law.

SolarCity's forms and practices are the template for the industry today, and SolarCity's General Counsel is assisting the federal government (the National Renewable Energy Laboratory, or NREL) in creating standardized consumer solar forms based on SolarCity's existing forms.

SolarCity's lease agreements include substantial protections for consumers. For example,

- Every SolarLease states, in a clear, prominent chart on the very first page of the document, the system's estimated annual production for the first year; the exact amounts due from the customer at contract signing, installation, and following inspection; the annual increase in the lease payment, if any; the first year monthly SolarCity bill; and the length of the lease term.
- Additional key, material terms are summarized on that first page for the customer's convenience.
- SolarCity's lease contracts with customers also state the exact amount of every monthly payment that the customer will make to SolarCity over the term of the lease, as well as the exact total dollar amount of all lease payments over that entire term.
- In addition, SolarCity, not the customer, bears the risk of damage, theft, or destruction of the system, unless the customer is grossly negligent or intentionally damages the system.
- Every SolarLease includes a substantial warranty that covers the entire system for the entire term of the lease; SolarCity also provides a warranty that covers damage or leaks that result from penetrating the roof to install the system.
- In the unlikely event of a legal dispute between SolarCity and a customer, the agreement provides for a speedy and convenient arbitration process; SolarCity pays all of the arbitration fees and costs other than a \$125 filing fee, and SolarCity pays the customer's legal fees if the customer ultimately wins more than SolarCity offered that customer.
- Every customer who signs a SolarLease has the right to cancel the contract for fourteen days, for any reason or for no reason at all.

In short, SolarCity's consumer leases have been extensively reviewed and scrutinized to ensure that they are clear, understandable, fair, comply with applicable law, and provide customers with

substantial protections. For all of these reasons, SolarCity's consumer leases have become the model for the industry.

## 2. Regulatory Oversight

SolarCity is distinctly different from all of its competitors in the solar installation space. As a fully integrated solar company that is publicly traded and operates nationally, SolarCity is subject to considerable regulatory oversight. A host of federal, state, and local regulatory agencies oversee aspects of SolarCity's operations, including the following:

• Consumer Financial Protection Bureau	• State Contracting Licensing Boards
• Securities Exchange Commission	• State Engineering Licensing Boards
• Federal Trade Commission	• State Consumer Protection Agencies
• United States Department of the Treasury	• Local Municipalities/Permitting Agencies
• Financial Crimes Enforcement Network	• State Attorney General Offices
• Occupational Safety and Health Administration	

## 3. Laws and Regulations

As a national lessor, SolarCity and its affiliates are also subject to comprehensive federal and state consumer regulations as well as a host of other industry specific regulations (including local utility's permission to operate requirements). Below are just a few of the federal regulations with which SolarCity complies, ensuring extensive protections for its customers:

• Equal Credit Opportunity Act	• Consumer Leasing Act	• Electronic Funds Transfers Act
• Fair Debt Collection Practices Act	• Fair Credit Reporting	• Truth in Lending Act
• Servicemembers Civil Relief Act	• Electronic Signatures Act	• Right to Financial Privacy Act
• CAN-SPAM ACT	• Uniform Commercial Code	• Federal Trade Commission Act
• OSHA Law and Regulations	• Telephone Solicitations Rules	
• Federal Magnuson-Moss Warranty Act		

## 4. Compliance

Consumer protection and employee safety are of paramount importance to SolarCity. SolarCity is subject to exhaustive regulations that protect the public. Moreover, customers have numerous outlets, both within SolarCity and through various external agencies, to provide SolarCity with comments about the service they have received from SolarCity. Additionally, regulatory oversight of workplace safety protects both consumers and SolarCity employees. Finally, SolarCity engages in extensive quality control of the products and services provided to our customers.

Given the extensive regulatory oversight, SolarCity has established a very strong compliance culture. In addition to rigorous review of its consumer contracts, SolarCity has adopted

numerous consumer law policies, each of which has been reviewed and approved by an outside law firm. SolarCity has developed these policies and procedures to ensure that it maintains compliance with all applicable regulations. SolarCity's office of the General Counsel ensures compliance with these policies by reviewing the systems connected to the implementation of these policies as well as through training and instruction of the operational group leaders who administer these policies day to day.

SolarCity also retains local counsel in every state where it conducts business to ensure its compliance with applicable state statutes and regulations. For instance, its agreements have been reviewed by reputable firms in Arizona including Snell & Wilmer and the Rose Law Group. Below is a summary of the key regulatory requirements that SolarCity follows and the efforts SolarCity makes to ensure compliance and protect its customers.

**Leasing Laws:** Chief among the laws governing SolarCity's operations in Arizona is Regulation M, promulgated under the Truth in Lending Act, which provides for certain disclosures and the content of consumer leases. Consumer warranty law and state consumer laws also apply to leases such as those offered in Arizona. Generally, the protections afforded consumers by Regulation M are focused on disclosure of all obligations and payments required of the consumer upon entering into a lease of goods. SolarCity has policies in place to ensure that the Office of the General Counsel performs reviews of all the disclosures provided to our customers prior to publication to ensure compliance with these requirements. These documents are generated by a secure sales operating system that does not allow any deviation in the form from that prescribed by law.

**Customer Privacy:** SolarCity's customer privacy policies and procedures are guided by Gramm-Leach-Bliley, the Fair Credit Reporting Act, as well as all relevant states' consumer privacy laws. SolarCity has a formally defined privacy policy that includes monitoring, incident response, and employee training.

**Licensing:** SolarCity is licensed and in good standing in every state where it does business, and, as we have previously discussed with your office, the Arizona Registrar of Contractors imposes its own extensive requirements upon aspects of SolarCity's operations. The Registrar of Contractors requires that SolarCity, as a solar installer, hold two company licenses, a Commercial/Residential Electrical Contractor license and a Commercial/Residential Builder License, each of which are held on behalf of the company in the name of our Regional Vice President in compliance with the Registrar's requirements. Additionally, various states and local municipalities have their own regulations governing sales of solar installations or home improvements. SolarCity's compliance department has dedicated resources to oversee and monitor compliance with these requirements.

**Unfair, Deceptive, Abusive Acts or Practices (UDAAP):** UDAAP, as established by the Dodd-Frank Act and similar state provisions, prohibits companies from engaging in the unfair, deceptive or abusive acts or practices. SolarCity values transparency with its customers and focuses closely on the development and marketing of products to ensure that customers clearly understand the products they are purchasing. SolarCity has adopted a broad policy against

unfair, deceptive, or abusive acts or practices and applies this policy in every state where it conducts business.

**Equal Credit Opportunity Act (ECOA):** SolarCity has adopted an ECOA policy to promote the availability of credit to all creditworthy applicants with fairness and impartiality, and without discrimination based on any grounds prohibited by applicable law.

**Servicing and Billing:** SolarCity's servicing and billing practices are guided by the Fair Credit Billing Act and the Fair Debt Collections Practices Act. SolarCity administers the collection of consumer debts through a third party billing and collection agency with extensive expertise on delinquent accounts and applicable laws and compliance.

**Servicemembers Civil Relief Act:** The Servicemembers Civil Relief Act ("SCRA"), was established to protect military Servicemembers from civil actions while they are on active duty. It is SolarCity's policy to comply with all applicable provisions of the SCRA and other laws applicable to Servicemembers. SolarCity also requires all vendors, including those servicing obligations on SolarCity's behalf, to comply with this policy as well as all applicable provisions of the SCRA and any other laws applicable to Servicemembers.

**OFAC:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) administers and oversees a series of laws, regulations, and executive orders that impose economic sanctions against hostile targets to further U.S. foreign policy and national security objectives. SolarCity remains vigilant in exercising the necessary transactional due diligence before finalizing, executing, and performing any agreement with a customer.

**Telephone Solicitations Protection Act (TCPA):** The TCPA restricts the use of an automated or prerecorded telephone equipment to make telephone calls, either from within the United States or to a recipient in the United States. SolarCity has policies and procedures in place that limit when and how phone calls are initiated. It also has specific requirements on when the use of artificial or prerecorded voice telephone messages shall be used.

## **5. Workplace Safety and Quality Control**

Due to the complexity of solar installations and the resulting risk profiles, SolarCity draws on multiple programs to create the foundation for a safe workplace. At the core of our program is a culture of ownership and accountability within every department and employee in the company. SolarCity addresses these risks by first instilling in its employees a clear understanding of the company's values. The company trains and instructs its employees to manage their worksites to ensure their own safety and that of everyone around them. The front line leaders are trained to identify hazards and correct, eliminate, or protect against them. Every Crew Lead is trained and authorized as a Fall Protection Competent Person, Qualified Electrical Person and a first-aid and CPR first responder.

SolarCity has a firm commitment to the solar industry and it readily shares safety program data, processes, training and newly developed tools with industry associations. Safety tools for the solar industry are being rapidly developed to stay ahead of the installation designs and safety

challenges of multiple roof heights and walking working surface types. In addition to product design and development, SolarCity is working with Cal-OSHA to refine current standards to more appropriately address solar installation risks.

In addition, an independent engineering review has confirmed that SolarCity's quality is easily best-in-class. This is due in no small part to the fact that SolarCity staff supports its installers with training, a real time support phone hotline, smartphone resources, job site coaching / audits, and proprietary job checkout software. Finally, there are exhaustive reviews and follow-through activities that highlight excellent work, and drive corrective actions and feedback where improvement or remediation is needed. SolarCity's goal is to extend its leadership position in terms of system safety, performance, aesthetics, and reliability.

As we have outlined above, SolarCity goes to great lengths and effort to protect our customers, both in Arizona and in every other state in which we operate.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Lyndon Rive', enclosed within a large, hand-drawn oval.

Lyndon Rive  
CEO  
SolarCity Corporation