

ORIGINAL



THE
ALLIANCE FOR
SOLAR CHOICE



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Arizona Corporation Commission
DOCKETED

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Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

**Re: Public Comment in Docket No. E-00000J-14-0415 in Response to
Chairman Bitter Smith's January 13, 2015 Letter**

To Whom It May Concern:

The Alliance for Solar Choice ("TASC") files this public comment letter in response to Chairman Bitter Smith's January 13, 2015 letter to the docket. TASC was founded by the nation's largest rooftop solar companies and its members include: Demeter Power, Silevo, SolarCity, Solar Universe, Sunrun, and Verengo. These companies are responsible for thousands of solar installations serving businesses, residents, schools, churches and government facilities in Arizona. TASC's member companies have brought hundreds of jobs to Arizona and invested tens of millions of dollars in Arizona's cities and towns. However, over the last two years, Arizona has quickly become, in the opinion of TASC members, the most hostile environment in the country for those in the otherwise blossoming distributed solar industry.

TASC believes that the environment has become so hostile because many of the leaders of Arizona have been influenced by utilities like Arizona Public Service ("APS") running dishonest campaigns that attempt to thwart all private business which would give consumers the ability to generate some of their own electricity. To date TASC has been presented nothing but unsupported claims of alleged malfeasance made by utilities that have declared their opposition to the growth of the private solar industry and their desire to get into the business of solar themselves.

For instance, the electrical utilities in Arizona, namely APS, have been running slanderous campaigns against the solar industry to attempt to paint the picture of the industry as an unbridled group of companies that don't care about the wellbeing of Arizona residents. This is the furthest thing from the truth.

The efforts that the solar industry has made on the issue of consumer protection are well documented. Major participants through the solar trade group the Solar Energy Finance Association ("SEFA") have spent years and hundreds of thousands of dollars to ensure that the industry has a standard lease document that is fully compliant with all the state

and federal consumer laws.¹ Additionally, SEFA has also published a guide to assist consumers to assist them in their solar purchase decision.²

Despite all the work that the solar industry has done on the issue of consumer protection, the utilities have been determined in their efforts to create a perception of severe consumer compliance issues and negligence of the solar companies to address issues of consumer protection. Over the past year, the solar industry has repeatedly reached out to the utilities and government agencies asking them to provide any consumer complaints so that the industry can work to address those concerns. But instead of working with the solar industry, APS decided to continue to perpetuate their unfounded claims of consumer complaints. To this date, while the utilities will openly discuss anecdotes about consumer complaints, they have failed to provide any specific legitimate complaints relating to solar companies. As further explained below, the solar industry has put forth multiple initiatives to ensure consumer protection. But despite our industry's efforts to engage the utilities on these important issues, they still refuse to come to the table to work with the solar industry or to provide any concrete concerns.

These unfounded, completely biased claims by the utilities have led to a host of recent actions taken by lawmakers against the solar industry. It appears this docket was initiated based upon misinformation perpetuated by the utilities. Additionally, in opening this docket the Commission referred to letters from the Arizona congressional delegation to the Consumer Financial Protection Bureau ("CFPB") and the Federal Trade Commission ("FTC"). As further explained below, those letters have been demonstrated to be sponsored by APS and are based on unsubstantiated allegations.

Now, third party organizations with reported links to APS are running legislation seeking to add burdensome regulations to the solar industry that are designed to frustrate this business. Many of the provisions of the proposed legislation already exist in federal or state law and the provisions that are newly proposed are not designed to bolster consumer protection, but instead to frustrate commerce and support APS's efforts to protect its revenue. In support of this effort, and to build a case for action before the Commission they have now taken to the Internet to solicit complaints against the solar industry.³

To be clear, the TASC supports consumer protection and welcomes the opportunity to work with all agencies to assist in the current regulatory system to identify bad actors and ensure that customers are protected. Chairman Bitter Smith's letter invites "all interested parties to submit comments concerning the Commission's inquiry and to include information they may have related to entities which may have conducted or still are conducting, similar studies and analyses." In response, TASC submits information from a variety of government regulatory bodies and other consumer protection organizations,

¹ That standard lease document can be found at <https://financere.nrel.gov/finance/content/terms-service-residential1>.

² That document can be found at <http://www.sefa-finance.org>.

³ <http://www.solarconsumercomplaints.com>.

which demonstrate that Arizona's regulated electric utilities, have grossly mischaracterized and misrepresented the service quality standards met by an overwhelming majority of rooftop solar companies that provide service in Arizona.

While TASC believes it is essential that all consumer complaints be addressed for the betterment of any industry including solar, TASC notes that there are many avenues already in place for customers to report complaints and get resolution. Finally, TASC reiterates its support for the Commission's ongoing efforts to ensure that Arizona's regulated utilities achieve minimum service quality requirements, particularly in response to customer requests to interconnect and net meter rooftop solar systems.

TASC's Member Companies Provide Superior Service Quality

In response to Commissioner Bitter Smith's request that parties present information they have related to other entities' analysis, TASC submits specific information with regard to the four TASC members that do business in Arizona, which are SolarCity, Sunrun, Verengo and Solar Universe. As demonstrated below, TASC members maintain excellent reputations both in Arizona and nationwide.

The Better Business Bureau is one of the most widely known and trusted sources for consumer information in the country. The BBB rates companies based on sales and advertising practices, among other metrics.⁴ All four of the TASC companies operating in Arizona receive top overall ratings from the BBB. SolarCity and Sunrun each receive "A+" ratings, while Verengo and Solar Universe each receive an "A." Attachment 1 contains the actual number of BBB closed customer complaints by category for each of these companies as of February 13, 2015. It should be noted that these are the numbers of BBB closed complaints *nationwide*, not just in Arizona. According to the BBB's rating explanation, the number of complaints for these companies is low when taking into account their overall size.

Arizona's Registrar of Contractors ("ROC") licenses and regulates residential and commercial contractors within the state. ROC staff also investigates and works to resolve complaints.⁵ Arizona Revised Statutes Section 44-1762 requires that all individuals who install solar panels in the state be licensed contractors and also comply with additional training and examinations administered by the ROC. Attachment 1 to this comment letter lists the number of complaints received by ROC for the four TASC member companies that operate in Arizona as of February 13, 2015. As can be seen, TASC member companies have received very few complaints over the last five to six years since beginning operations in the state.

TASC is unaware of whether or not the Commission itself has received any complaints specifically about its member companies. At the Commission's December 19, 2014 staff

⁴ See, <http://www.bbb.org/greater-san-francisco/get-to-know-us/about-us/>.

⁵ See, <http://www.azroc.gov/history.html>.

meeting, Commissioner Burns reported that "...since October 1, [the Commission] received 29 opinions regarding solar leases and 3 enquiries about solar." And "four complaints directed at APS regarding solar connection delays: 586 opinions regarding various rooftop solar issues. Most of these were writing to express being *in favor* of rooftop solar, or being happy with their rooftop solar."⁶ Commissioner Burns also noted that the Commission "hasn't been getting a lot of complaints."⁷ Any of TASC's member companies would welcome the opportunity to resolve any specific customer complaints. But as of this date, neither the Commission nor any of the state's regulated utilities have notified any of TASC's members of any specific complaints.

It is disingenuous for Arizona's electric utilities to continue making sweeping and inaccurate allegations about all solar leasing companies. TASC's members are demonstrated leaders in business practices throughout the industry. These baseless allegations are more about politics, publicity and profit, rather than genuine concern for consumers.

For example, on March 31, 2014, SolarCity filed a letter in Docket No. E-00000J-14-0023 responding to a letter from Chairman Bob Stump in which he expressed concerns about statements that he believed SolarCity and "other solar providers" might have made to potential customers, based on complaints that were relayed to him by TEP. However, despite SolarCity's request, TEP never provided any documentation to support its hearsay accusations.

Similarly, APS was recently discovered to have been the original author of at least one of the letters sent by six Arizona congressmen to the FTC and the CFPB.⁸ Whether or not APS drafted the other letter, APS certainly lobbied for its transmission.⁹ The letter alleged that rooftop solar companies are using deceptive marketing to push risky leases on consumers, and asked federal regulators to step in. However, only one of the members of Congress even alleged to have actually received any complaints regarding solar and has refused to provide any details (even in a redacted form) relating to the number or nature of such complaints. The same investigative journalist that uncovered this story also noted that APS is one of the largest campaign donors for the group of lawmakers. Despite the fact that no actual customer complaints were referenced, both the FTC and the CFPB promptly responded to the Congressmen's letter that they are following the industry and will step in if needed.¹⁰

The FTC stated that it works closely with state consumer protection agencies on issues such as these. The FTC also has a database, called Consumer Sentinel that lists

⁶ Staff Meeting 12/19/14, recording starting around 17:15 (emphasis added).

⁷ *Id.*

⁸ Wyloge, Evan. "APS Employee Drafted Anti-Solar Letter Signed by AZ Congressmen." *Arizona Center for Investigative Reporting* 16 January 2015. <<http://azcir.org/2015/01/16/aps-employee-drafted-anti-solar-letter-signed-by-az-congressmen/>>.

⁹ A Yellow Sheets article on 12/5/14 stated APS lobbied for both letters.

¹⁰ *Id.*

complaints that consumers file with state agencies. To date, the database includes about 30 complaints that “relate to potentially fraudulent claims made for solar leases.”¹¹ This is a staggeringly low number when one considers that this is a national database.¹²

There are many Federal, State and Industry Bodies that Oversee Solar Leasing Companies

In addition to the work of the FTC and CFPB, solar leasing companies are subject to a variety of federal regulations and subject to the authority of over a dozen state and federal agencies. Below is a list of all the major government agencies, laws and regulations that govern the solar industry as well as a few of the regulations that govern solar leasing companies in particular.

Equal Credit Opportunity Act	Federal Trade Commission Act
Fair Debt Collection Practices	Consumer Financial Protection Bureau
CAN-SPAM Act	Securities Exchange Commission
OSHA Law and Regulations	Federal Trade Commission
Federal Magnuson-Moss Warranty Act	United States Department of the Treasury
Consumer Leasing Act	Financial Crimes Enforcement Network
Fair Credit Reporting Act	Occupational Safety and Health Administration
Right to Financial Privacy Act	State Contracting License Boards
Uniform Commercial Code	State Engineering License Boards
Telephone Solicitations Rules	State Consumer Protection Agencies
Unfair Deceptive Practices Act (UDAAP)	Local Municipalities/Permitting Agencies
Electronic Funds Transfer Act	State Attorney General Office
Truth in Lending Act	Electronic Signatures Act

The Arizona Attorney General (“AG”) has the specific authority to bring actions alleging violations of the Consumer Fraud Act and other state and federal consumer protection laws. The AG’s office recently exercised its authority when it prosecuted a rogue solar leasing company, Stealth Solar, for business practices in violation of existing state law. Similarly, in November 2014, Curtis Development and Legacy Luxury Homes agreed to a settlement with the AG’s office to stop making misleading claims to homeowners about solar installations.¹³ These efforts have been effective in stopping bad actors from misleading customers.

The solar leasing industry also has substantial self-governance practices. TASC’s largest

¹¹ Anderson, Jeannine. “Consumers Bureau and FTC Say they Understand Concerns about Solar Leasing Practices.” *Public Power Daily* 29 January 2015.

<<http://www.publicpower.org/media/daily/ArticleDetail.cfm?ItemNumber=43069>>.

¹² Note that CFPB also has a database. As of last month there are NO relevant complaints in their database <http://www.consumerfinance.gov/complaintdatabase/>; <https://data.consumerfinance.gov/dataset/Consumer-Complaints/x94z-ydhh?>.

¹³ Wyloge, Evan. “APS Employee Drafted Anti-Solar Letter Signed by AZ Congressmen.” *Arizona Center for Investigative Reporting* 16 January 2015.

members are also founding members of SEFA.¹⁴ SEFA members have a firm commitment to ensure the safety and quality of our members' solar installations. SEFA, in conjunction with the National Renewable Energy Lab ("NREL"), major banks, and law firms, has released a standard solar contract to inform all industry contracts.¹⁵ In addition, SEFA is currently implementing a Consumer Protection Initiative through which it has already developed a consumer solar checklist and a buying guide to assist consumers in understanding the risks that should be considered prior to signing a solar contract.¹⁶ This group is now working toward standardizing its members' policies and procedures in key areas such as: Fair Credit Reporting, Telemarketing, Equal Credit Opportunity Act and the Truth in Lending Act. The solar industry has also made a formal presentation to NARUC back in November to discuss the issue of consumer protection and to have a dialog with the heads of all the utilities to discuss their concerns about consumer protection.

The current combination of existing regulation and self-policing ensures that Arizonans are protected from anti-consumer practices, despite the cries of the monopolist utilities.

The Commission Should Continue to Play A Role In Ensuring That Arizona's Regulated Utilities Meet Minimum Service Standards

TASC has reviewed the Commission's consumer complaint process and believes it is an important tool that should be promoted and utilized. It is important to note that the existing complaint process contemplates informing individual Companies wherever individuals raise complaints and allowing those companies to formally respond and resolve the issue.¹⁷ The Commission clearly has a vital role to play as the regulator of the state's monopoly utilities to ensure that all customers have access to options to reduce their energy consumption from fossil fueled sources and to interconnect rooftop solar facilities under federal and state requirements. The Commission should continue to ensure that interconnection procedures are non-discriminatory, that rates are just and reasonable, and that reliability is maintained as more customers of the state's regulated utilities install distributed generation and other emerging technologies.

If the Commission feels that it is necessary to continue forward with an investigation of the solar industry, despite the lack of evidence of widespread complaints or lack of evidence of insufficient regulation, then TASC recommends that it also investigate the lobbying and legal resources that APS has spent in deceiving state and federal politicians, particularly to determine the extent to which these are ratepayer funds on which the utilities receive a return.

¹⁴ See, <http://www.sefa-finance.org>.

¹⁵ That standard lease document can be found at <https://financere.nrel.gov/finance/content/terms-service-residential1>.

¹⁶ See, <http://www.sefa-finance.org/standard-documents/>.

¹⁷ See, <http://www.azcc.gov/divisions/utilities/consumerservices.asp>.

TASC looks forward to continuing to work with relevant state agencies, industry groups and others to promote best practices and to ensure that consumers are protected from bad actors. However, TASC objects to unspecified and unsupported allegations of the state's regulated monopolies that falsely implicate the entire industry as a whole, or its particular members. TASC appreciates the opportunity to share these comments with the Commission and will continue to monitor this docket to determine if further participation, including formal intervention, is necessary.

Sincerely,

The Alliance for Solar Choice
595 Market Street; 29th Floor
San Francisco, CA 94105

Attachment

cc: *(via email only)*
Janice Alward
Steve Olea
Lyn Farmer

Better Business Bureau Ratings:

SolarCity (A+)

134 complaints closed with BBB in last 3 years | 74 closed in last 12 months

Complaint Type	Total Closed Complaints
Advertising / Sales Issues	28
Billing / Collection Issues	10
Delivery Issues	3
Guarantee / Warranty Issues	5
Problems with Product / Service	88
Total Closed Complaints	134

Sunrun (A+)

78 complaints closed with BBB in last 3 years | 28 closed in last 12 months

Complaint Type	Total Closed Complaints
Advertising / Sales Issues	17
Billing / Collection Issues	10
Delivery Issues	1
Guarantee / Warranty Issues	5
Problems with Product / Service	45
Total Closed Complaints	78

Verengo (A)

24 complaints closed with BBB in last 3 years | 15 closed in last 12 months

Complaint Type	Total Closed Complaints
Advertising / Sales Issues	6
Billing / Collection Issues	1
Delivery Issues	1
Guarantee / Warranty Issues	1
Problems with Product / Service	15
Total Closed Complaints	24

Solar Universe (A)

0 complaints closed with BBB in last 3 years | 0 closed in last 12 months

Complaint Type	Total Closed Complaints
Advertising / Sales Issues	0
Billing / Collection Issues	0
Problems with Product / Service	0
Delivery Issues	0
Guarantee / Warranty Issues	0
Total Closed Complaints	0

Arizona Registrar of Contractors:

SOLARCITY:

- 4 Total
 - 2 Current
 - 2 Inactive

SUNRUN:

- 6 Total
 - 2 Current
 - 2 Voluntary Cancellation
 - 2 Suspended

VERENGO

- 0 Listed

SOLAR UNIVERSE

- 4 Total
 - 3 Current
 - 1 Voluntary Cancellation