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Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610
Washington D.C. 20580

Re: Solar Electricity Project No. P161200

Dear Secretary Clark:

As the former Public Counsel/Executive Director for the Texas Office of Public Utility Counsel, a former member of the National Association of State Utility Consumer Advocates (NASUCA) Executive Committee, a content contributor to a recent solar consumer guide, and both a speaker at conferences and author of articles and op-eds on solar consumer issues, I am submitting these comments in response to the Federal Trade Commission's (FTC's or Commission's) request for public comment on the topics being covered by the upcoming June 21 FTC workshop entitled, "Something New Under the Sun: Competition and Consumer Protection Issues in Solar Power."¹ Like many homeowners nationwide, I have received numerous emails, targeted advertising materials, and viewed television promotions of the benefits of residential solar which made me curious about purchasing or leasing panels for my home.

Specifically, my comments will focus on question two, compensating consumers (net metering), and question four, consumer protection issues. My comments are being filed in order to provide

¹ Content contributor: See LSU Ag Center, *Solar Power for Your Home: A Consumer's Guide* (2015), see acknowledgements at p. 2: <http://www.lsuagcenter.com/~media/system/e/4/8/8/e48836bdb7da5028f3116b6531b344d7/pub3366solarpowerforyourhome2.pdf>; speaker: U.S. Department of Energy *et al*, Industry Roundtable Discussion, Panel: Demand Response and Distributed Generation (Oct. 2014); Council of State Governments (June 2015); Women's Energy Summit (October 2015); and author: *Public Utilities Fortnightly*, Solar Consumer Education and Protection (Feb. 2016) at <http://www.fortnightly.com/fortnightly/2016/02/solar-consumer-education-and-protection>; *New York Times*, Letter to the Editor: Leasing Solar Roofs (Feb. 23, 2016) at http://www.nytimes.com/2016/02/24/opinion/leasing-solar-roofs.html?_r=0; *Council of State Governments E-Newsletter*, Consumer Protection for Third Party Leases (2015) at http://www.csg.org/pubs/capitolideas/enews/cs2_2.aspx; *Energy Central*, Consumer Guide to Rooftop solar (July 27, 2015) at <http://www.energycentral.com/generationstorage/solar/articles/3213/Consumer-Guide-to-Rooftop-Solar>; *Smart Grid News*, Leased Solar: A Losing Proposition? (Sept. 16, 2014) at <http://www.smartgridnews.com/story/leased-solar-losing-proposition/2014-09-16>.

the FTC with a record and overview of the vast amount of information publicly available relating to net metering and consumer protection issues, and following the conclusion of the workshop, I may provide additional comments and recommendations on how to address issues or problems discussed.

As acknowledged, the FTC has a unique dual mission to protect consumers and promote competition, and it collaborates with law enforcement partners both nationwide and worldwide in advancing its missions.² The findings of this Commission in this workshop and proceeding could have significant implications on consumers, solar companies, utilities, and other interested market participants. Net metering does not promote competition – it benefits one group of consumers, those with solar, at the expense of others, those without – as voiced by many consumer advocate groups discussed in these comments. Solar consumer protection laws and regulations are in their infancy, and consumers need clear, unbiased direction on where to file investigable, enforceable complaints against solar companies, seek redress on any perceived wrongs, and request penalties against any bad actors in the market place.

Compensating Consumers (Net Metering)

Net metering currently exists in 41 states, the District of Columbia, and three territories.³ However, it is uncertain as to how long net metering will endure in its current form and jurisdictions. As of the first quarter of 2016, twenty-two states have taken action on net metering policies.⁴ Consumers in net metering states are likely under the assumption that net metering will last forever, but it is clear that change is coming, and that change may drastically impact the homeowner's perspective as to whether they will go forward with putting solar arrays on their homes. Generally, net metering proves very confusing for most consumers, and they must be made aware of the potential for their state's policies, either being amended or eliminated entirely, as they relate to utility reimbursement of their surplus solar. Many solar companies project future electricity rates for interested consumers, but it is highly unlikely that they ever provide those consumers with advice or insight on scenarios of change in the regulatory landscape that might impact their solar purchase or lease decision.

While there is no statewide mandate for net metering in my home state, some Texas utilities have voluntarily offered net metering to their customers, and I have been actively following other states across the nation that have been developing rules for their utilities. According to a recent publication, fair compensation “is at the heart of ongoing state solar policy and rate design discussions,” and “the question of potential cost shifts resulting from net metering is becoming more important with increasing levels of distributed generation on the grid.”⁵ I look forward to the FTC hosting a panel of regulatory utility commissioners and consumer advocates, two groups who are actively working on and speaking up about the new metering issues, at its upcoming June 21 workshop.

² See FTC, What We Do at <https://www.ftc.gov/about-ftc/what-we-do>.

³ See DSIRE, NC Clean Energy Technology Center, Detailed Summary Map of Net Metering Policies (Feb. 2016) at http://ncsolarcen-prod.s3.amazonaws.com/wp-content/uploads/2016/02/Net_Metering_022016.pdf.

⁴ See NC Clean Energy Technology Center, Fifty States of Solar (April 2016) at https://nccleantech.ncsu.edu/wp-content/uploads/50-SoS-Q1-2016_Final.pdf.

⁵ Id. at 8.

Utility Commissioners. The ultimate authority to set electric utility rates lies with the states, specifically, the state regulatory utility commissions. The National Association of Regulatory Utility Commissioners (NARUC) is the non-profit organization dedicated to representing state public service commissions regulating utilities that provide essential services such as energy, telecommunications, power, water and transportation.⁶ Founded in 1889, its members include all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands – or, 69 state and federal regulatory agencies with 258 current commissioners and 8 vacancies.

In November 2015, NARUC passed a resolution creating a Staff Subcommittee on Rate Design to provide a “forum for regulatory staff to discuss many rate design approaches, experiences, ideas, and their connection to cost causation and the development of appropriate price signals.”⁷ One of the first issues the subcommittee requested comments on relates to distributed energy resource (DER) compensation. The FTC should invite either the leadership of NARUC or regulatory utility commissioners diligently working on these issues in their respective states to its workshop.⁸

On April 29, 2016, I submitted comments in response to the staff subcommittee’s survey to assist it in preparing its upcoming manual on DER compensation to be made available for discussion at the NARUC Summer Committee Meetings in July 2016 in Nashville, Tennessee. In summary, in states which pay the distributed generation (DG) customer the full retail rate for any over-production of energy not utilized by the household, the issue of whether the DG customer is paying certain fixed costs paid by all other utility customers arises. The retail rate may account for numerous costs, including: distribution; transmission; grid maintenance; ancillary and balancing services; voltage and frequency control services; information technology; cyber and physical security; metering; billing; administrative services; regulatory compliance; public benefit and low-income programs; energy efficiency programs; and advanced technologies.

The overwhelming majority of DG customers are still connected to the grid 24-7 and still very much depend on the grid to provide their electric service when their system does not provide enough for their needs. DG customers use meters to track their usage and credits and call utility customer service representatives (CSRs) when there is an issue with their bill. DG resources are intermittent, requiring utilities to purchase ancillary services to ensure reliable electricity.

I look forward to attending the upcoming NARUC meetings and hearing more from the subcommittee on the filed comments, the staff’s responses, and the commissioners’ thoughts. I encourage the FTC to follow this proceeding and its outcomes.

Consumer Advocates. There is a serious, growing concern among consumer representatives, including the National Association of State Utility Consumer Advocates (NASUCA), AARP, and the National Consumer Law Center (NCLC), that DG customers are not paying their “fair share” for use of the grid. I urge the FTC to invite the NASUCA Officers/Executive Committee,

⁶ See About NARUC: <http://naruc.org/about-naruc/about-naruc/>.

⁷ See NARUC Resolution to Create a NARUC Staff Subcommittee on Rate Design (Nov. 2015) at <http://pubs.naruc.org/pub/D2DDD7AC-E73C-B386-630C-B88491DD0608>.

⁸ See NARUC Executive Committee at <http://members.naruc.org/4DCGI/committees/executivecomm.html>; Board of Directors at <http://members.naruc.org/4DCGI/committees/boardofdirectors.html>; and Regulatory Commissions at <http://www.naruc.org/about-naruc/regulatory-commissions/>. For additional information on states addressing the issue of net metering, please see Footnote 3.

NASUCA Executive Director, its member agencies' leaders, and/or other relevant consumer groups to speak on the issue of net metering, along with consumer protection issues, at its workshop.⁹

NASUCA. NASUCA is the non-profit organization of 48 consumer advocates in 41 states and D.C., which originated in 1979, and has members typically representing residential and other consumers in proceedings before their respective state utility commissions, courts, legislatures, and federal agencies.¹⁰ It provides an avenue for ratepayer advocates nationwide to communicate with one another, share ideas, and file collective testimony, comments or pleadings at the federal level. As for its leadership, NASUCA, much like its sister organization NARUC, elects its officers and executive committee from its nationwide membership at its November annual meeting, held at the same time and location of NARUC's annual meeting.

As mentioned, I served as the Governor-appointed agency head of the Texas Office of Public Utility Counsel from 2009 to 2013, and I served as an elected member of the NASUCA Executive Committee from 2010 to 2013. At NASUCA annual meetings, the association adopts resolutions, which have been reviewed and are generally agreed to by the member offices, as policy positions on behalf of the membership. Below is an excerpt from an adopted 2014 resolution, relating to DG consumer protection:¹¹

“...NASUCA encourages state legislatures, state public utility commissions, consumer advocates, state attorneys general and other consumer protection agencies to coordinate their respective activities in regard to [the DG] market in order to: 1.) Ensure that the rights of DG customers are fully and fairly protected and enforced under existing, or if necessary, new statutes and regulations; 2.) Educate consumers regarding their rights and obligations under third-party DG contracts either from a utility or third party program; 3.) Establish and enforce standards for the DG marketplace which promote equitable treatment and safety of consumers...”

More recently, NASUCA filed a letter in opposition to a U.S. Senate energy bill (S. 2012) amendment, King-Reid #3120, arguing that states, and not federal legislation, should dictate the fair apportionment of DG costs and benefits among utility customers, voicing concerns about a move to federally institutionalize full net metering. Below is an excerpt from its letter:¹²

⁹ See NASUCA Officers and Executive Committee at <http://nasuca.org/about-us/committees/officers-executive-committee/>; NASUCA Executive Director at <http://nasuca.org/about-us/staff/>; and NASUCA membership at <http://nasuca.org/members/>.

¹⁰ See NASUCA Members at <http://nasuca.org/members/>. NASUCA also has a DER Committee (<http://nasuca.org/about-us/committees/der-committee/>) and Consumer Protection Committee (<http://nasuca.org/about-us/committees/consumer-protection-committee/>) whose members could provide valuable insights on solar consumer issues to the FTC.

¹¹ See NASUCA, *Protections for Distributed Generation Customers*, Resolution No. 2014-05 (Dec. 12, 2014) at <http://nasuca.org/protections-for-distributed-generation-customers-2014-05/>. Michigan was the only state identified as abstaining from the vote on the resolution.

¹² See NASUCA, *Opposition Letter to King-Reid Amendment #3120* (Feb. 9, 2016) at <http://nasuca.org/nwp/wp-content/uploads/2013/11/NASUCA-Opposition-to-the-King-Reid-Amendment-3120.pdf>.

“NASUCA members have a keen interest in making sure that the costs and benefits of distributed generation are fairly apportioned among utility customers. No customer should be unfairly burdened by having to pay additional costs to support another customer’s distributed generation facility. Likewise, no customer that owns distributed generation should be unfairly denied appropriate benefit of that facility.”

AARP. AARP, formerly the American Association of Retired Persons, is the nonprofit, nonpartisan organization, with a membership of over 38 million, that helps people 50 and older improve the quality of their lives.¹³ AARP recently published its new *AARP Policy Book*, which includes the public policies that have been approved by AARP’s all-volunteer Board of Directors, reflecting its mission to enhance quality of life for all as we age.¹⁴ AARP supports policymakers in establishing and sufficiently funding independent federal and state utility consumer advocate offices to represent the interests of residential utility customers before regulatory agencies and in the courts.¹⁵ In fact, AARP is an affiliate member of NASUCA.¹⁶ Of particular interest to the FTC, as it relates to this proceeding, is its energy chapter which contains a section entitled “Distributed Generation and Net Metering.”¹⁷

“...Proponents [of net metering] assert that net metering is essential to extend the many benefits of renewable energy more widely. But others have concerns that net metering rules are driving up costs for all electricity customers while only benefitting a few. In fact, many states require utilities to purchase power back at the same price – the full retail rate – that they charge other customers. That is a problem because the full retail price includes not just the cost of electricity, but also the fixed costs associated with maintaining the electric grid and infrastructure. As a result, net metering customers avoid having to pay for some of the grid services they use, and other ratepayers, those without rooftop solar panels, end up paying their share.

Distributed Generation and Net Metering: Policy

Consumer Protections: State. Policy makers should ensure:

- **Optimal use of distributed generation systems at minimal cost to integrate these resources into the electric system;**
- **Everyone who uses and benefits from electric grid pays their fair share to maintain it;**

¹³ See AARP at www.aarp.org.

¹⁴ See *AARP Policy Book* (2015-2016) (Approved by AARP Board of Directors on March 12, 2015) at <http://policybook.aarp.org/>.

¹⁵ See *AARP Policy Book* (2015-2016), Chapter 10, Utilities: Telecommunications, Energy and Other Services – Consumer Advocate Offices at <http://policybook.aarp.org/the-policy-book/chapter-10/subsub048-1.2034730>.

¹⁶ See NASUCA, Affiliate Members at <http://nasuca.org/members/>.

¹⁷ See *AARP Policy Book* (2015-2016), Chapter 10, Utilities: Telecommunications, Energy and Other Services – Distributed Generation and Net Metering at <http://policybook.aarp.org/the-policy-book/chapter-10/subsub066-1.2034759>.

- **Strong consumer protections for participants in distributed generation, including standards and licensing requirements for solar installers and marketers;**
- **Any cost-benefit study of distributed generation policies assess whether the policies fairly allocate costs among ratepayers.**

Policymakers should calculate and publicly report the total value of all taxpayer- and ratepayer-funded subsidies and support for renewable and distributed generation programs.”

NCLC. The National Consumer Law Center (NCLC) is a nonprofit that uses its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S.¹⁸ NCLC is, likewise, an affiliate member of NASUCA.¹⁹ At a conference late last year, and of interest to the FTC, NCLC provided a presentation with a relating the following points of information:²⁰

- **“Subsidies and Cross-Subsidies: Net metering advocates argue no subsidy at all, value exceeds credit to customer... DG skews towards higher income [households] – low-income cross-subsidize upper income.”²¹**
- **Equity Issues: Low income disproportionately renters who can’t participate (except via “community” solar/virtual net metering). Low-income have limited access to capital. Evidence to date is that upper-income households get the net metering and tax credits. “Grandfathering” exacerbates the equity problems.”²²**
- **Overall Rate Design Impacts: Net metering leads utilities to seek recovery of revenues from fixed charges... Minimum bills/straight fixed variable/higher customer charges – all impact low-income, elderly, [and] minorities.”²³**
- **Concluding Observations: Net metering/SRECs meant to launch nascent industry... Subsidies should be scaled back. Consider competitive procurement. Low-income customers bearing cross-subsidy burden. Grandfathering compounds the problem.”²⁴**

Consumer advocates are clearly on the record in opposing any net metering policies that result in unfair, inequitable costs passing from solar consumers to non-solar consumers. Cost shifting between DG and non-DG customers tends to impact most those vulnerable populations (e.g., low-

¹⁸ See NCLC at <https://www.nclc.org/about-us/about-us.html>.

¹⁹ See NASUCA, Affiliate Members at <http://nasuca.org/members/>.

²⁰ See NCLC Presentation, Charlie Harak, *A Low-Income Perspective on Net Metering, Cross-Subsidies and Protecting Customers* (July 29, 2015) at http://www.nga.org/files/live/sites/NGA/files/pdf/2015/1507LearningLabALowIncomePerspective_Harak.pdf.

²¹ Id. at 3.

²² Id. at 4.

²³ Id. at 6.

²⁴ Id. at 11.

income, senior citizens) that can afford it least, and any proposed state rate designs needs to ensure fair cost allocation and affordable rates for everyone.

Consumer Protection

In the “supplementary information” section following the public comment request, the FTC has included questions it deems relevant to solar consumer protection issues and highlighted several topics. As mentioned, both NASUCA and AARP have touched on the importance of “enforceable standards” as it relates to consumer protections in the DG marketplace.

For over two years, I have been researching, writing, and speaking on consumer protection and education issues as they relate to residential solar. I have selected the following five areas for comment: (1) how consumers obtain information about installing solar photovoltaic (PV) panels (consumer education); (2) retail rate information; (3) consumer understanding of PV payments; (4) implications of having rooftop solar if consumers sell their home (home sale challenges); and (5) structural damage risks and disclosures (warranties, disclosures & homeowner requirements).

Other information that the FTC should take into consideration is proposed and/or passed state legislation aimed at addressing solar consumer protection issues along, solar association consumer protection measures, and consumer complaint filings and trends nationwide. These areas are further discussed in my comments below.

Consumer Education. State and federal agencies, consumer publications, educational institutions, industry organizations, non-profit organizations, and utilities have provided researched solar PV guides, articles, websites, and checklists for residential consumers contemplating installation of a solar system for their home. Below are a few of the current resources available:

- **State Agencies:** Attorney general’s offices, public utility commissions, consumer advocates, energy agencies and other statutorily-created organizations offer publications; however, not every state offers such information.²⁵

²⁵ See Arizona: State Attorney General, Consumer Alert on Rooftop Solar Consumer Protection Issues (June 2014) and Arizona’s Residential Utility Consumer Office (RUCO), Consumer Guide for Rooftop Solar (January 2015); see <https://ruco.az.gov/rucos-consumer-guide-rooftop-solar>; California Energy Commission, Buying a Photovoltaic Solar Electric System: A Consumer Guide (2003); see http://www.energy.ca.gov/reports/2003-03-11_500-03-014F.PDF; Colorado - Governor’s Office of Energy Management & Conservation, Consumer’s Guide to Buying a Solar Electric System (2007), see http://hermes.cde.state.co.us/drupal/islandora/object/co%3A2046/datastream/OBJ/download/Colorado_consumer_s_guide_to_buying_a_solar_electric_system_including_information_on_the_COSEIA_Solar_Rebate_Program.pdf; Indiana Office of Energy Development, Solar Energy Guide, see <http://www.in.gov/oed/2412.htm>; Iowa Utilities Board, Informational Guide for On-Site Generation (Distributed Generation) (2015); see https://iub.iowa.gov/sites/default/files/files/misc/IUB_Informational_Guide_Distributed_Generation.pdf; Legislatively Created: Massachusetts Clean Energy Center, Massachusetts Residential Guide to Solar Power, see http://images.masscec.com/uploads/attachments/MassCEC_SolarGuide_Apr12_Web.pdf; Mississippi Attorney General Consumer Protection Press Release: AG Advises Consumers to Know the Facts Before Investing in Solar Energy Systems (Oct. 20, 2015), see <http://www.ago.state.ms.us/releases/attorney-general-jim-hood-advises-consumers-to-know-the-facts-before-investing-in-solar-energy-systems/>; Statewide Program: New Jersey’s Clean Energy Program, Why Solar: A Basic Guide to Solar Electric Systems: <http://www.njcleanenergy.com/whysolar>;

- **Federal Agencies:** The FTC has an online resource for consumers, and the U.S. Department of Energy (DOE) released several guides (until 2009) for consumers considering solar.²⁶ Since that time, DOE has funded research for additional solar consumer guides.²⁷
- **Consumer Reports:** The publication’s website offers articles with consumer protection information.²⁸
- **Better Business Bureau (BBB):** In addition to maintaining consumer complaints on solar leasing and sales companies which can be searched by states, cities and solar companies (see “Consumer Complaints,” below and Attachment A for more information), the BBB offers articles on consumer issues.²⁹
- **Universities:** The Louisiana State University AgCenter published a twenty-page guide addressing basic consumer questions on solar, providing an overview of purchasing versus leasing a system, offering additional resources for review, providing an “ownership

New York: Public-Private Partnership: New York State Energy Research and Development Authority, Long Island Power Authority, PSEG Long Island, and New York Power Authority, NY-Sun Incentive Program, Customer Guide to Solar in New York (September 2015), see file:///C:/Users/ssand_000/Downloads/NY-Sun-Customer-Guide.pdf; Ohio: Office of the Ohio Consumer’s Counsel, Solar Makes Cents: A Residential Consumer’s Guide to Harnessing the Sun’s Energy (2011); see

http://www.occ.ohio.gov/publications/renewable_energy/Handbook_Solar_Makes_Cents.pdf and Ohio Department of Development Office of Energy Efficiency and Green Energy Ohio, Ohio Consumer’s Guide to Buying a Solar Electric System; see <http://www.greenenergyohio.org/page.cfm?pageID=625>; Oregon Department of Energy, Oregon Solar Electric Guide (2013); see <http://www.oregon.gov/energy/renew/solar/docs/pvguide.pdf>; South Carolina Office of Regulatory Staff – Energy Office, A Consumer Guide to Solar for the South Carolina Homeowner (2015), see <http://www.energy.sc.gov/files/view/SolarGuideHomeowners.pdf>; Vermont Attorney General, Press Release: State Advises Solar Companies About Deceptive Advertising (December 2015), see <http://ago.vermont.gov/focus/news/state-advises-solar-companies-about-deceptive-advertising1.php>.

²⁶ See FTC, Solar Power for Your Home (June 2015) at <https://www.consumer.ftc.gov/articles/0532-solar-power-your-home>; see also DOE, Office of Energy Efficiency and Renewable Energy (EERE), Homeowners Guide to Financing a Grid-Connected Solar Electric System at <http://energy.gov/eere/wipo/downloads/homeowners-guide-financing-grid-connected-solar-electric-system-brochure-solar>; EERE, A Consumer’s Guide: Get Your Power from the Sun (December 2003); see <http://www.nrel.gov/docs/fy04osti/35297.pdf>; Solar Leasing for Residential Photovoltaic Systems; see <http://energy.gov/eere/sunshot/downloads/solar-leasing-residential-photovoltaic-systems> Own Your Power: A Consumer Guide to Solar Electricity for the Home (January 2009); see <https://www1.eere.energy.gov/solar/pdfs/43844.pdf>.

²⁷ See NC Clean Energy Technology Center, Going Solar in America: A Guide for Homeowners Considering Solar PV in America’s 50 Largest Cities (2015, funded in part by DOE) at https://nccleantech.ncsu.edu/wp-content/uploads/Going-Solar-in-America-A-Customer-Guide-FINAL_V2.pdf; Clean Energy States Alliance, A Homeowners Guide to Solar Financing: Leases, Loans and PPAs (May 2015) at <http://www.cesa.org/assets/2015-Files/Homeowners-Guide-to-Solar-Financing.pdf>.

²⁸ See *Consumer Reports*: (1) When Going Solar, Should You Lease or Buy? (Feb. 27, 2015); see <http://www.consumerreports.org/cro/news/2015/02/when-going-solar-should-you-lease-or-buy/index.htm>; How to Protect Yourself from the Latest Scam: Solar (October 2012); see <http://www.consumerreports.org/cro/magazine/2012/10/protect-yourself-from-the-latest-scams/index.htm>; and (3) BBB Exposes Solar Energy Scams (April 13, 2011); see <http://www.consumerreports.org/cro/news/2011/04/bbb-exposes-solar-energy-scams/index.htm>.

²⁹ See BBB: (1) Don’t Be Swindled by a Solar Energy Scam this Summer (June 9, 2014); see <http://www.bbb.org/boston/news-events/news-releases/2014/06/dont-be-swindled-by-a-solar-energy-scam-this-summer/>; and (2) Don’t Fall for a Solar Paneling Scam this Summer (June 25, 2012); see <http://www.bbb.org/blog/2012/06/dont-fall-for-a-solar-paneling-scam-this-summer/>.

calculator,” and supplying a consumer checklist for consumers to review and ask when considering solar.³⁰

- **Solar Energy Industries Association (SEIA):** The six-page guide rightly recommends those considering the purchase or lease of a solar system to “Do Your Homework” seeking multiple bids; researching and seeking references/license information regarding a solar company before entering an agreement; and understanding tax credits, potential tax implications, and renewable energy credits (RECs). However, relating to understanding potential tax and other financial implications, it provides “only a CPA can give tax advice and only an attorney can give legal advice – remember when consulting such professionals, choose ones who are experienced with solar.” Likewise, regarding RECs, the guide provides “it’s a complicated topic and solar companies should explain RECs and REC ownership to you if they apply in your state.”³¹ The guide compares leasing solar panels to leasing a car; however, this is an apples-to-oranges comparison and likely more confusing to consumers as I am personally unaware of any twenty-year car leases.
- **Utilities:** Some vertically integrated, investor-owned utilities, electric cooperatives, municipally-owned utilities, and transmission companies offer customers solar resources in their respective jurisdictions.³²

Though seemingly there are numerous resources available, there is no single repository or website that provides these resources. To compile the above list took an exorbitant amount of time to research on my part which, in my prior experience as the Texas Public Counsel outreaching to homeowners and small businesses, I do not think they have that luxury of such time to find the relevant materials for their particular situation prior to making their decision to go solar.

In addition, there are countless websites offering solar consumer guidance, but it is not always clear who the sponsoring organization is, or who might benefit most from the information being provided, which may lead to additional consumer confusion about the legitimacy of the advice or source. It is incumbent upon federal and state agencies to provide annually updated, unbiased, researched publications for all consumers considering solar to help guide their decision making and ease the burden of intensive research being currently placed upon them. The FTC can certainly play an important role in this educational process going forward.

³⁰ See LSU AgCenter, Solar Power for Your Home: A Consumer’s Guide (Feb. 10, 2015):

http://www.lsuagcenter.com/portals/communications/publications/publications_catalog/home%20improvement/energy/solar-power-for-your-home--a-consumers-guide.

³¹ See SEIA’s Residential Consumer Guide to Solar Power (February 2016):

<http://www.seia.org/sites/default/files/resources/SEIA%20Consumer%20Guide%20to%20Solar%20Power%20-%20v2%20-%20Jan%202016.pdf>.

³² See NorthWestern Energy, The Montana Consumer Guide to Grid-Interactive Solar PV Systems (Sept. 2015) at

<http://www.northwesternenergy.com/save-energy-money/business-services/efficiency-plus-rebates-and-programs/montana/renewable-energy/mt-consumer-guide-to-grid-interactive-solar-pv-systems>; MidAmerican Energy Company, Thinking About Rooftop Solar Checklist at https://www.midamericanenergy.com/content/pdf/rooftop_solar_checklist.pdf; Austin Energy (Texas), Solar for Your Home or Business at <http://austinenenergy.com/wps/portal/ae/programs/solar-solutions/solar-for-your-home-or-business/>; Adams Electric Cooperative (Pennsylvania), Renewable/Alternative Energy for Your Home at <https://www.adamsec.coop/content/renewablealternative-energy>; CenterPoint Energy (Texas transmission and distribution utility), Solar Energy at <http://www.centerpointenergy.com/en-us/Services/Pages/Solar-Energy.aspx?sa=ho&au=bus>.

Retail Rate Information. Typically, information utilized by solar companies about retail electricity rates is based on U.S. Energy Information Administration (EIA) data; however, this may not be the best source for all states. Currently, the EIA expects U.S. retail electricity prices for the residential sector to average 12.9 cents per kilowatt hour (kWh), with 18.5 cents/kWh in New England as the highest price and 11.1 cents/kWh in the East South Central region as the lowest price.³³ Specifically, it provides that Texas' retail residential rates for March 2016 were 11.25 cents/kWh.³⁴ However, in the competitive retail choice areas of the state (approximately 85% of the state), rates start as low as 1 cent/kWh and increase to as much as 13.5 cents/kWh with an allowance for consumers to shop for new providers and rates for durations starting from one month up to every five years,³⁵ and in vertically integrated parts of the state, rates are as low as 6 cents/kWh.³⁶ Thus, solar companies using EIA data may not be relying upon the best source for current and future residential retail electricity rates.

A better methodology for solar sales and leasing companies to determine current and future electricity rates might be providing specific data taken from the local service area utility's tariff (if in a vertically integrated state) while reviewing rate increases (if any) of the utility the preceding ten to twenty years (to provide a cost comparison for a long-term solar lease), or utilizing the state's retail electricity shopping website if located in a competitive choice state. At least one state, Arizona, already requires the solar company's documents or sales presentations include historical utility rates, immediately preceding the period of time for the same class of utility customer in the same utility service territory as the prospective buyer or lessee, in any comparative estimates.³⁷

PV Payments. Based on numerous complaints (mainly Better Business Bureau or BBB as discussed further below and detailed in examples found in Attachment A to these comments), media reports, and news investigations, many consumers do not understand the finance or lease payments they will need to make for their solar PV panels. The first few pages of solar financing and leasing contracts may contain the amount due at contract signing (if any), amount due when installation begins, amount due following building inspection, annual increases (or escalators), the monthly payments for the solar system, and the lease term. SEIA provides guidance to its member companies in its Solar Leasing Disclosure Statement; however, there is nothing mandating solar companies to use such forms or language.³⁸ Some states are starting to enact legislation requiring solar companies to put this information transparently in the consumer contracts (see "State Solar Consumer Legislation" below).

³³ See EIA, Short-Term Energy Outlook, Electricity Retail Prices (Released May 10, 2016) at <http://www.eia.gov/forecasts/steo/report/electricity.cfm>.

³⁴ See EIA, Electric Power Monthly, Table 5.6.A. Average Price of Electricity to Ultimate Customers by End-Use Sector (By State, March 2016 and 2015, Cents per Kilowatt-hour), Texas at http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_5_6_a.

³⁵ See Public Utility Commission of Texas' Power to Choose Website: <http://www.powertochoose.org/>. These prices are based on a search of the 78664 zip code in Oncor Electric's service territory on May 26, 2016.

³⁶ See, for example, Entergy Texas residential tariff: http://www.entergy-texas.com/content/price/tariffs/eti_rs.pdf Entergy Texas charges residential customers 6 cents per kWh, except in November through April if a customer uses more than 1,000 kWh and charges are billed at 4.6 cents per kWh, plus a monthly customer charge of \$7.

³⁷ See Arizona legislation, SB 1417: <http://www.azleg.gov/legtext/52leg/2r/bills/sb1417s.pdf>.

³⁸ See SEIA Solar Leasing Disclosure Statement at <http://www.seia.org/sites/default/files/SEIA%20Solar%20Lease%20Disclosure%20Form%20%28fillable%29%20-%201.13.2016.pdf>.

Other potential charges to the consumer may appear later in the contract, or distributed throughout the document, including return check fees, late payment fees, product change fees, default remedies, charges for loss or damage, reconnection fees, arbitration filing fees, system removal fees, or other.³⁹ For solar leases, it really is “caveat emptor.” As recommended by the SEIA consumer guide, it seems arguably more of a requirement that the homeowner retain an attorney and financial advisor to review the document and understand the all-in costs they are committing to paying, ranging from \$10,000 to \$50,000 over the life of a lease for up to 20 years.

As touched on, some lease agreements include escalator clauses, or provisions in the contract stating the monthly lease payments will rise by a certain percentage following the first year of the contract for each year during the duration of the lease which might be as long as 20 years. Escalator clauses can increase a customer’s monthly payment on an annual basis accounting for the solar company’s projected annual increases in electricity rates. These are typically compounding rates, meaning that the annual percentage increase applies to the increases made each year, not just to the initial payment rate. The rates in solar leasing contracts range from 1% to 3% or more.

Home Sale Challenges. Since the average homeowner is expected to stay in their home for approximately 13 years before moving, those homeowners leasing solar systems for up to twenty years will likely attempt to sell their home during the term of their lease.⁴⁰ Some solar lease contracts contain language asserting that if the homeowner wishes to sell their home, their options include: (1) requiring the new homebuyer to qualify to take over the remaining term of the lease (often requiring the homebuyer to meet a credit score of 650, 700, or higher); (2) requiring the current homeowner to purchase the remaining time on the lease outright (costing from \$10,000 to \$50,000 depending on the length of time remaining on the lease); or (3) allowing the homeowner to move their solar system to their new home (if in the same electric utility service area as the current home) at their own cost.⁴¹

There have been reports of families being unable to sell their homes under these circumstances.⁴² Homeowners have asserted claims that their leased solar panels have required them to lower their home selling price to entice potential buyers to incur the remainder of their lease.⁴³ Alternatively,

³⁹ See SolarCity, Residential Solar Lease Contract Sample at http://solar.solarcity.com/downloads/SolarCity_Residential%20Solar-Lease%20Contract_sample.pdf.

⁴⁰ See National Association of Homebuilders, Latest Study Shows Average Buyer Expected to Stay in a Home 13 Years (Jan. 3, 2013) at <http://eyeonhousing.org/2013/01/latest-study-shows-average-buyer-expected-to-stay-in-a-home-13-years/>.

⁴¹ For example, see SolarCity sample lease agreement, Section 12, Selling Your Home: http://solar.solarcity.com/downloads/SolarCity_Residential%20Solar-Lease%20Contract_sample.pdf.

⁴² See *Los Angeles Times*, Leased Solar Panels can Complicate or Kill a Home Sale (March 22, 2015) at <http://www.latimes.com/business/realestate/la-fi-harney-20150322-story.html>. The article references a Fresno couple who unsuccessfully attempted to sale their home to two potential buyers who thought the long-term cost of the lease was too high or had concerns with the credit qualifications necessary to take over the lease. The couple finally ended up paying \$22,000 to get out of the solar lease and sold their home. See also, *Arizona Capitol Times*, SB 1465 Would Protect Public Against Questionable Tactics of Rooftop Solar Companies (Feb. 13, 2015) at <http://azcapitoltimes.com/news/2015/02/13/sb1465-would-protect-public-against-questionable-tactics-of-rooftop-solar-companies/>. The article references a senior couple who, after showing their home 149 times, was unable to sell their home after adding a twenty-year solar panel lease to their home.

⁴³ See *Bloomberg*, Rooftop Solar Leases Scaring Buyers When Homeowners Sell (June 24, 2014) at <http://www.bloomberg.com/news/articles/2014-06-23/rooftop-solar-leases-scaring-buyers-when-homeowners-sell>.

a California survey of homeowners, who purchased their solar systems, saw an increase in the value of their home.⁴⁴

In addition, some solar leases may contain language allowing the company to have a Uniform Commercial Code fixture filing (which may be similar to a lien) on the home preventing the homeowner from selling their home.⁴⁵ In regards to refinancing a home, some consumers have likewise faced difficulties with their lending institutions due to their long-term solar leases.⁴⁶

Warranties, Disclosures & Homeowner Requirements. Consumers need to understand which party, the homeowner or leasing/sales company, is responsible for installation, repair and maintenance of the solar system. As a homeowner, certain requirements may be placed upon them in the solar lease or purchase contract requiring they help maintain the system including: tree trimming; panel cleaning (e.g., snow, dust, debris); preventing modifications to the home that result in shading (e.g., tree planting, trellis, deck); preventing or rectifying any condition that might inhibit the system's operation (e.g., neighbor's tree or new structure building impact); required maintenance of a functioning internet connection at the homeowner's cost; visual inspection or notification to the leasing company of any damage or concerns related to the system; or other.⁴⁷ Personally, it is difficult to imagine my grandparents having to climb a ladder to clear debris or snow from their solar panels to ensure optimal generation production.

Consumers must also carefully review their contract to understand potential warranties offered by the company including: professional installation; a defect-free system; system performance; quality of materials and components and their coverage; roof warranty (damage and repair due to installation or roof penetration and length of warranty based on completion date or existing roof installation warranty or home builder performance standard); repair or replacement of defective parts; materials; component or workmanship at no cost to homeowner including labor cost; payment for damage caused to property by company; length of warranty for entire system lease; the possibility of a refund check if the actual annual kilowatt hours (kWh) generated by the system is less than the guaranteed annual kWh amount; force majeure provisions and any temporary relief of company or homeowner obligations; monetary limitations on liability for system replacement and home, belongings, or property damage; payment for direct damages (except in those states that disallow exclusion or limitation on incidental or consequential damages); solar equipment for life of lease; workmanship of the system; and other.

⁴⁴ See Lawrence Berkeley National Laboratory, Exploring California PV Home Premiums (Dec. 2013) at <https://emp.lbl.gov/sites/all/files/lbnl-6484e.pdf>.

⁴⁵ See Watchdog.org, Surprised Solar Customers Find Themselves with Liens (April 15, 2015) at <http://watchdog.org/212170/surprise-solar-liens/>.

⁴⁶ See CBS Boston, I-Team: Hidden Cost of Solar Panels (May 12, 2016) at <http://boston.cbslocal.com/2016/05/12/i-team-hidden-cost-of-solar-panels/>. The story reports that a mortgage company refused to refinance a couple's home because of the 20-year lease language in the solar system contract. The Massachusetts Attorney General acknowledged her office had received other complaints related to refinancing and other problems involving residential solar panels, and she encourages consumers to "read the fine print" and find someone to help them understand contract language if they do not.

⁴⁷ It is very difficult to find sample solar leases online. SolarCity has made their available, but no others could be found after extensive research. See SolarCity sample lease agreement, Section 5, Lease Obligations: http://solar.solarcity.com/downloads/SolarCity_Residential%20Solar-Lease%20Contract_sample.pdf.

Each of these items alone may provide a legitimate reason for a consumer to file a complaint or lawsuit against the solar company; however, some solar leases contain provisions requiring the homeowner to go to arbitration (paying a portion of the filing fee), giving up their right to going to court, including the right to a jury and right to participate in a class action.⁴⁸ I am curious as to how many solar consumers read the fine print and really understand the legal rights they are waiving in signing these contracts.

Other Issues

Issues not specifically addressed by the FTC request, but of importance, include what states, associations and others are currently doing to address solar consumer protection issues and the types of complaints being filed.

State Solar Consumer Legislation. It is timely that the FTC should be seeking information on solar consumer protection issues with numerous states coast to coast contemplating and addressing solar consumer protection legislation, including: Arizona (SB 1417);⁴⁹ California (AB 2699);⁵⁰ Florida (Solar Ballot Initiative);⁵¹ Hawaii (SB 3049);⁵² Maine (HP 1120);⁵³ Minnesota (HF 3074

⁴⁸ See SolarCity Residential Solar Lease Sample, Section 18, Applicable Law; Arbitration at http://solar.solarcity.com/downloads/SolarCity_Residential%20Solar-Lease%20Contract_sample.pdf.

⁴⁹ See Arizona legislation: <http://www.azleg.gov/legtext/52leg/2r/bills/sb1417s.pdf>. Section 44-1762(D) requires solar devices to comply with all applicable state and federal consumer protection, rating, certification, performance, marking, installation and safety standards required by law. Section 44-1763 provides numerous requirements for system agreements and disclosures to consumers, including requiring a signed agreement, in at least ten-point type, with a right of rescission clause, disclosing the total purchase price of the system with any interest, installation fees and costs listed and substantiate the methodology used to calculate any proposed savings the system might result in. The bill passed the state house and senate in March 2016.

⁵⁰ See California legislation: http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_2651-2700/ab_2699_bill_20160413_amended_asm_v98.pdf. Bill requires solar energy system companies to make available on their websites a “solar energy system disclosure statement” prior to the completion of a sale, financing, or lease of a solar system which includes, among other things, the total system costs and payments, any associated fees, calculations used to determine how much energy the panels will generate, and where to file complaints. The bill is currently in committee.

⁵¹ See Florida legislation: <http://dos.elections.myflorida.com/initiatives/fulltext/pdf/64817-1.pdf>. The constitutional amendment petition, Rights of Electricity Consumers Regarding Solar Energy Choice, establishes a right under the state constitution for consumers to own or lease solar equipment on their property for their own use and grants state and local governments retention of their abilities to protect consumer rights and public health, safety and welfare, and to ensure that consumers who do not choose to install solar are not required to subsidize the costs of backup power and electric grid access to those who do. The language was approved by the Florida Supreme Court in March 2016.

⁵² See Hawaii legislation: <http://www.capitol.hawaii.gov/session2016/bills/SB3049.pdf>. The bill provides requirements for consumer solar contracts similar to the previously mentioned Arizona legislation. The bill did not pass.

⁵³ See Maine Legislature, Legislative Information: http://legislature.maine.gov/bills/display_ps.asp?PID=1456&snum=127&paper=HP1120. Section 9 of the legislation would have required the Maine Public Service Commission (commission) to “establish by rule consumer protection standards to protect subscribers from fraud and other unfair and deceptive business practices” and would have allowed the commission to “impose administrative penalties and order restitution for any party injured by a violation for which a penalty was assessed. The legislation passed the House and Senate, but it was vetoed by the Governor in April 2016.

and SF 3286); New Mexico (HB 256);⁵⁴ South Carolina (Distributed Energy Resource Program Act);⁵⁵ and Washington (HB 1927).⁵⁶ Both utility commissioners and consumer advocates are being called up on to provide legislative testimony and filings in these proceedings, and I believe it would be beneficial for the FTC to review these documents prior to the workshop and during the course of this proceeding.

These acts are addressing consumer and constituent concerns as they relate to requiring solar devices to comply with state and federal consumer protection standards (Arizona); ensuring fair and accurate marketing practices (South Carolina); requiring solar energy companies to register with the regulatory utility commission subjecting those companies to certain registration, disclosure of terms of service and consumer protection requirements (Washington); and other issues being faced by constituent consumers in these states. Again, I believe it would be highly beneficial for the FTC to invite testimony and hear from state regulatory commissioners and consumer advocates participating in legislative proceedings and commission dockets relating to solar consumer protection standards.

Solar Association Activities. The Solar Energy Industries Association (SEIA) is the national trade association in the U.S. working with its 1,000 member companies and representing organizations that promote, manufacture, install and support the development of solar energy.⁵⁷

SEIA's Solar Business Code. In September 2015, SEIA introduced an eight-page "Solar Business Code," a "pro-competitive business code to promote transparency, good faith, and understanding in the US solar energy industry," and it provided that its solar member companies "are expected to abide by this Code in their regular business practice" as well as the law and applicable ethical business guidelines set forth by the BBB, FTC, Consumer Financial Protection Bureau (CFPB), relevant state consumer protection bureaus, and other regulatory bodies with jurisdiction.⁵⁸

The code has been promoted as a basis for solar consumers to file complaints with SEIA (through its complaint resolution process, further discussed below) about their solar company's violations of code provisions; however, in reviewing the code, there are no enforceable requirements on SEIA member companies, and there is no requirement that member companies provide the code to consumers (they must only provide the code to "employees and representatives who have contact with consumers"). It would be interesting to learn how many consumers are actively going to the SEIA website to download the code and how many consumers have filed complaints since the release of the code, nearly ten months ago. In addition, the code only generally instructs solar companies to comply with federal, state and local laws without much specificity as to the language or sources of those laws, and asserts SEIA will cooperate with federal, state and local law enforcement regarding violations of the code and any related laws.

⁵⁴ See New Mexico legislation: <https://www.nmlegis.gov/Sessions/16%20Regular/bills/house/HB0256.pdf>. The bill provides requirements for consumer solar contracts similar to the previously mentioned Arizona and Hawaii legislation. The bill did not pass.

⁵⁵ See South Carolina legislation: http://www.scstatehouse.gov/sess120_2013-2014/bills/1189.htm.

⁵⁶ See Washington legislation: <http://lawfilesexternal.wa.gov/biennium/2015-16/Pdf/Bills/House%20Bills/1927.pdf>.

⁵⁷ See SEIA, About at <http://www.seia.org/about>.

⁵⁸ See SEIA, Solar Business Code:

http://www.seia.org/sites/default/files/SEIA%20Solar%20Business%20Code_Sep2015.pdf.

SEIA's Process for Addressing Consumer Protection Complaints. In January 2016, SEIA also published a document entitled, "Process for Addressing Consumer Protection Complaints Arising under the SEIA Solar Business Code."⁵⁹ The eight-page document outlines each of the twenty-two steps related to filing a consumer complaint with SEIA.

Upon review, however, the complicated process has the appearance of a legal proceeding or a mediation even though it asserts "SEIA strives for a cooperative, non-adversarial hearing; the hearing is not intended to be conducted as a trial, but to resolve the complaint fairly and simply." It contains legalese (e.g., complainant, respondent, *de novo*) and a multitude of procedural rules and requirements that must be strictly adhered to by the consumer throughout the complaint process. The process states that the resolution panel, tasked with reviewing the consumer's complaint, may consult with outside counsel on relevant issues, and the SEIA General Counsel may also file a complaint against the solar company further elevating the legal appearance of the proceeding. Unfortunately, this may be confusing to the average homeowner as they may deem it necessary to hire and take on the expense of an attorney to navigate the process, as the code provides parties "may" be represented by counsel and SEIA "will" be represented by its General Counsel, though the ultimate result may only be to have the solar company's membership in SEIA revoked, temporarily suspended, or at most, have their complaint referred to a government entity with jurisdiction, such as an attorney general.

Further lending to the legal appearance of the process, it places the burden of proof on the consumer to find a specific provision(s) in the code that the solar company has violated. Discretion is freely given to the resolution panel, a three-person panel selected by the SEIA Ethics Committee, to determine what does and does not qualify as a valid violation or claim. The process further provides that a complaint cannot be filed with SEIA if there is another complaint or proceeding that is ongoing. It is unclear why both a legal proceeding and a SEIA complaint may not be filed simultaneously as both will clearly have different end results. The resolution panel has the discretion on deciding the location and participation of the hearing. If the panel deems it necessary for the hearing to be in person, rather than telephonic, this could place further burdens on the consumers (i.e., financial burden of travel or taking off time from work). Also, parties to the proceeding, and really all involved, are "required" to keep the complaint confidential during the proceeding and after the conclusion, but SEIA does not have any enforcement authority over confidentiality, and the claimant seemingly may cite to the SEIA finding, especially if found in their favor, in another filed legal complaint or government proceeding.

According to the document, after the hearing has concluded, or if the resolution panel has issued a summary resolution or recommendation, the panel must reach a resolution and/or make a recommendation within five business days to the SEIA Executive Committee of the Board. The resolution or recommendation must include the panel's findings and suggested remedy, including: (1) voluntary course of action to be taken by the parties, such as restitution, monetary settlement,

⁵⁹ See SEIA, Process for Addressing Consumer Protection Complaints Arising under the SEIA Solar Business Code: <http://www.seia.org/sites/default/files/SEIA%20SBC%20Complaint%20Resolution%20Process%20v%201.1%20-%20Jan%202016.pdf>.

amended agreement, or otherwise; (2) cautionary verbal or informal admonition (not published); (3) private letter of censure (not published); (4) public letter of censure (including providing information to the media on the precise reason for, and scope of, censure); (5) public or private loss of one or more SEIA membership benefits; (6) public or private suspension of SEIA membership; (7) public expulsion from SEIA membership; or (8) referral of the matter to the government authority or authorities having jurisdiction.

On at least a quarterly basis, SEIA claims it will publish summary information on the SEIA website “or elsewhere” regarding each complaint that has been addressed through the process through a decision by the Executive Committee not changed by an appeal to the Board. The summary information will have names and other identifying information removed, and the purpose of the publication is “primarily educational and not punitive.” The first quarter of 2016 concluded in March and the second quarter concludes at the end of this month; yet, to date, there does not appear to be any published information by SEIA on any received complaints. It will be interesting to see what information is filed by SEIA in future quarters on its website.

Consumer Complaints. Routinely, when a solar customer has a complaint, they file that complaint with the Better Business Bureaus (nonprofit organizations across North America that serve accredited BBB businesses and consumers in their local communities), Yelp.com, or RipOffReport.com. Consumers may file their complaint with their state utility commission, attorney general or department of justice; however, those state agencies either may not have the jurisdiction, or quite frankly, the agency resources to investigate the claims.

Consumer complaints found on Better Business Bureau, Yelp and Ripoffreport.com websites include: misleading advertising, overestimation of bill savings, inaccurate information, undisclosed fees, faulty installation and inability to obtain inspections due to faulty installation, inaccurate representation to solar panel production, aggressive or harassing sales practices, advertising/sales issues, delivery issues, guarantee/warranty issues, problems with product/service, design and contract mistakes, delayed installation timelines, personal losses to home/property damage, poor customer service, allegations that solar installation companies do not inspect the installation to ensure the net meter is connected, and allegations of failure to comply with FTC regulations relating to phone and mail sales. Please see the Attachment A, Sample of Solar Consumer Complaints, filed with these comments for specific examples of solar complaints researched.⁶⁰ This is not an exhaustive list and only provided an illustration for the FTC to review.

In addition to the BBB filed complaints, there are numerous articles relating to homeowner complaints about aggressive or fraudulent solar sales tactics, scams, and lawsuits against solar

⁶⁰ Attachment A is only offered as examples of some complaints filed against three solar companies. Certainly, other companies’ and complaints may be found on the BBB website. This attachment is only provided for illustrative purposes with a sampling of redacted complaints from January 2015 through September 2015 with a Google search of three companies on the BBB website. More recent complaints (through late May/early June 2016) may be found on the BBB website for SolarCity at: <http://www.bbb.org/greater-san-francisco/business-reviews/solar-energy-system-design-and-installation/solarcity-corporation-in-san-mateo-ca-187674/complaints#sthash.8LRxgmbq.dpuf>; SunRun at <http://www.bbb.org/greater-san-francisco/business-reviews/solar-energy-equipment-and-systems-dealers/sunrun-inc-in-san-francisco-ca-312886/complaints>; and Vivint at

companies.⁶¹ In a recent television news investigation, California homeowners were told their utility costs “would be cut in half,” the costs of the solar panels and installation were sponsored by a “government program,” and a portion of their property taxes would be utilized to pay off the loan costs for the system.⁶² In the investigation, a representative of the state licensing board affirmed it had received numerous solar complaints, with the majority of such complaints coming from senior citizens.⁶³

Another complaint resource is ConsumerAffairs.com, a consumer news and advocacy organization founded in 1998 by a journalist and public affairs executive.⁶⁴ The website includes consumer news, recall information and consumer reviews. Likewise, the website publishes solar energy company reviews by consumers with a breakdown by company and type of complaint.⁶⁵

Though the BBB provides a decent repository for consumer solar complaints and assists consumers in conversing with the BBB company to seek resolution of their issues, it is not enough. For those consumers alleging fraud or other misconduct by the companies, giving jurisdiction, and possibly more importantly, the necessary accompanying financial and human resources, to a state or federal agency may prove more effective in helping consumers understand their rights and resolve their complaints.

Conclusion

Debates and discussions on net metering are ongoing nationwide with the majority of states addressing the issues in their jurisdictions. Consumer advocates have voiced their concerns about the fairness of certain pricing policies. And, clearly, as evidenced, there is a continued need for additional consumer education and protection measures in today’s growing residential solar market. State legislatures and agencies are enacting proactive measures to address these ever-growing concerns and complaints they are receiving from constituents and consumers. I appreciate the FTC timely taking up these important issues, and I am available to address any questions the

⁶¹ See FTC Press Release, FTC and DOJ Bring Action Against Lead-Generator Using Robocalls to Pitch Energy Savings (Mar. 10, 2016) at <https://www.ftc.gov/news-events/press-releases/2016/03/ftc-department-justice-bring-action-against-lead-generator-using>; *The Arizona Republic*, Judge Voids Hundreds of Solar Leases in Arizona (June 23, 2015) at <http://www.azcentral.com/story/money/business/2015/06/23/arizona-judge-voids-hundreds-solar-leases/29145723/>; *Hartford Courant*, Warnings: Solar-Panel Sales Calls (April 24, 2015) at <http://www.courant.com/consumer/bottom-line/hc-bottom-line-solar-panels-scam-20150424-column.html>; *The Orange County Register*, As the Push for Solar Increases, so do the Scams, Sketchy Sales Tactics (Oct. 5, 2015) at <http://www.ocregister.com/articles/solar-686007-state-california.html>; *The New Orleans Advocate*, Nearly \$2M Lawsuit Accuses Sader Power Enterprises of Breach of Contract (Details consumer complaints, federal class action lawsuit for overstatement of potential savings from solar lease and reprimand for unlicensed installation) (Jan. 1, 2015) at <http://www.theneworleansadvocate.com/news/11222295-171/nearly-2m-lawsuit-accuses-sader>

⁶² See CBS Los Angeles, Goldstein Investigation: How Going Green Might Have You Seeing Red in the End (an undercover investigation of the California HERO Solar Program with article and video) at <http://losangeles.cbslocal.com/2016/04/30/goldstein-investigation-those-solar-panels-that-should-make-you-see-green-might-have-you-seeing-red/>.

⁶³ Id.

⁶⁴ See ConsumerAffairs.com at <https://www.consumeraffairs.com/about/>.

⁶⁵ See ConsumerAffairs.com, Compare Reviews for Solar Energy Companies, at <https://www.consumeraffairs.com/solar-energy/#>. The website allows consumers to compare brands and read reviews of solar energy companies.

Commission might have. I look forward to the upcoming workshop and the opportunity to file additional comments, if warranted, based on those discussions.

Sincerely,

Sheri Givens

Sheri Givens
President, Givens Consulting LLC