

**BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

Docket No. 15-303

**Vivint Solar, Inc. Petition for Declaratory Ruling
Regarding RSA 362:2, 362-A:2-a and Rule Puc 2002.05**

STIPULATION OF FACTS

Pursuant to N.H. Code Admin. Rules Puc 203.20, which provides for the filing of stipulations of facts in writing with the Commission when the parties agree upon the facts, Vivint Solar, Inc. (“Vivint Solar”), The Alliance for Solar Choice (“TASC”), Freedom Logistics, LLC d/b/a Freedom Energy Logistics, and the Staff of the New Hampshire Public Utilities Commission (“Staff”), for the purpose of limiting the issues to be adjudicated in this proceeding, hereby stipulate and agree that the following facts are undisputed:

1. On August 14, 2015, Vivint Solar, Inc. filed a Petition for Declaratory Ruling (“Petition”) with the New Hampshire Public Utilities Commission (“Commission”) seeking clarification that, in offering solar power purchase agreements (“PPAs”) or solar leases (“Solar Leases”) to residential customers in the State of New Hampshire, neither Vivint Solar nor its subsidiary, Vivint Solar Developer, LLC, or affiliates, will be regulated by the Commission as (1) a “public utility” under N.H. Rev. Stat. Ann. Section 362:2, (2) a “competitive electric power supplier” (“CEPS”) under N.H. Code Admin. R. Ann. PUC 2002.05, or (3) a limited producer of electrical energy (“LPEE”) under N.H. Rev. Stat. Ann. Section 362-A:2-a.

Description of Residential Solar Business

2. Vivint Solar offers solar energy to qualified residential customers primarily through long-term customer contracts in the form of PPAs, under which a customer agrees to purchase all of the power generated by a solar energy system installed on the customer's rooftop, as well as Solar Leases, under which a customer leases the solar energy system which is installed on the customer's real property.
3. Under either the PPA or the Solar Lease arrangement, Vivint Solar installs, operates, and maintains the solar energy system throughout the term of the agreement, and the solar energy systems installed under Vivint Solar's PPAs and Solar Leases are owned by its affiliates and financing parties.
4. Vivint Solar believes that because many homeowners are unable or unwilling to pay the upfront costs of a rooftop solar system, which range from \$20,000 to \$50,000 for systems with capacity ranging from 5 kW DC to 12.5 kW DC, Vivint Solar's PPAs and Solar Leases enable these customers to generate renewable electricity on their homes using third party financing through contractual arrangements that enable investors with tax exposure to utilize efficiently the Federal Investment Tax Credit for installations of solar power, accelerated tax depreciation, as well as state and utility solar incentive programs, where applicable.
5. Under the Solar PPA, the Customer pays Vivint Solar for each kilowatt-hour of energy produced by the solar energy system at a fixed energy price that escalates each year by not more than a specified percentage for a term of 20 years.
6. Under the Solar Lease, the Customer pays Vivint Solar a fixed monthly lease payment that escalates each year by not more than a specified percentage for a term of 20 years.

7. According to GTM Research's report, U.S. Residential Solar Financing 2015-2020, 72% of all residential solar systems installed in the U.S. in 2014 were third-party owned in the form of Solar Leases and PPAs. *See Nicole Litvak, GTM Research, U.S. Residential Solar Financing 2015-2020 (2015).*
8. Vivint Solar's PPAs and Solar Leases are offered only to homeowners that meet Vivint Solar's and its financing partners' credit and underwriting criteria and whose homes meet additional physical and safety criteria, such as solar irradiance, roof pitch and condition, shading and local electrical distribution system requirements.
9. Vivint Solar's PPAs and Solar Leases are only offered in jurisdictions that provide for net metering or equivalent programs that reimburse customers at retail rates for their exports of energy to the distribution system.
10. During the term of its PPA or Solar Lease, Vivint Solar possesses an irrevocable license coupled with an interest to enter onto its customers' property, install its solar energy systems on their rooftops, access the solar energy systems in order to provide maintenance and repairs, and to remove the solar energy systems, if and when necessary. Vivint Solar does not pay the customer to lease the space where the solar energy system is located or for the access rights to the property and the solar energy system.
11. Vivint Solar has the right to terminate its PPAs or Solar Leases if its customers fail to make payments when due, fail to perform their obligations, such as providing access rights, or go into bankruptcy or foreclosure. Customers have the right to terminate their PPAs or Solar Leases if Vivint Solar fails to perform its material obligations thereunder and the effect of the failure is not cured within 30 days after written notice is given by the customer to Vivint Solar.

12. In the event that a PPA or Solar Lease is terminated or that a solar energy system is temporarily shut down, the customer will continue to take electric delivery service from the local utility and receive power from the local utility or a competitive electric power supplier without any interruption of service.

13. TASC's members offer PPAs and Solar Leases in a manner substantially similar in most material respects to Vivint Solar's services outlined in paragraphs 2 to 12 above.

Physical Solar Energy System

14. Vivint Solar designs, installs, maintains, repairs, monitors, and insures the solar energy system at no additional cost to the customer.

15. To the extent possible, Vivint Solar designs each solar energy system to serve 90-100% of the customer's annual electric energy requirements (except as otherwise provided under the applicable law or utility tariff).

16. The solar energy systems installed on customers' rooftops pursuant to Vivint Solar's PPAs and Solar Leases are located on the customers' private property, and all energy production from such solar energy systems occurs on the customers' side of the utility electrical meters.

17. Installation of solar energy systems on customers' rooftops may sometimes require utility interconnection upgrades and, in cases in which such upgrades are required, Vivint Solar bears such costs unless it cancels the agreement due to prohibitive cost estimates provided by the utility.

18. Vivint Solar is licensed to construct solar energy systems in every state in which it operates where licensing is required, and Vivint Solar complies with the relevant electrical code and all applicable state and local laws, rules, regulations, codes, and ordinances.

19. Vivint Solar warranties all its work for 20 years and its roof penetrations for between 10-20 years and will fix and pay for any damage caused to a customer's property or belongings. The solar energy system equipment components are covered by the respective manufacturer's warranty.
20. Vivint Solar carries commercial general liability insurance, workers' compensation, and property insurance covering the systems installed on its customers' property.
21. Vivint Solar will not place a lien on customers' real property, but may file a Uniform Commercial Code-1 (UCC-1) financing statement with the appropriate state or local filing office reflecting Vivint Solar's ownership of the solar energy system.
22. Vivint Solar will pay for any personal property taxes assessed on the solar energy system and will assist customers in informing local real property tax assessors regarding Vivint Solar's ownership of the solar energy systems installed on customers' property and the personal property nature of such installed systems. If the solar energy system is not assessed separately, then Vivint Solar will not pay any real property tax associated with the solar energy system or any portion of the customer's property.
23. Vivint Solar's solar energy systems interconnect directly with the electrical panel in each customer's home and do not use the central electric utility stations, wires, distribution, or transmission facilities of any public utility to provide electricity to customers.
24. Independent of Vivint Solar's solar energy system, customers remain connected to, and a customer of, their local utility for delivery of electricity.
25. TASC's members build and finance solar energy systems in a manner substantially similar in most material respects to Vivint Solar's solar energy systems outlined in paragraphs 14 to 24 above.

Consumer Protection and Options

26. Vivint Solar allows its customers to cancel a Solar PPA or Solar Lease within three (3) days of the date on which it is signed by both parties pursuant to the Federal Trade Commission's Cooling-Off Rule and state equivalents. Vivint Solar goes beyond the customer protections provided under these laws by allowing all customers to cancel at any time until the start of installation of the solar energy systems. Vivint Solar's customers may cancel by calling the toll-free number or writing to the email address listed on the first page of its PPA and Solar Lease, or by mail or telegram.

27. Vivint Solar conducts a recorded telephone interview or an electronic questionnaire with customers after they have signed the PPA or Solar Lease, but before the customer's cancellation right has expired, and asks a series of questions to confirm certain information regarding the homeowner's circumstances and to ensure that the customer understands the key terms of the relevant agreement, including ownership of the home, restrictions imposed by a homeowner's association or other similar arrangements, the term, pricing, escalation, billing, and payment terms of the relevant agreement, the need to maintain internet connectivity and utility electric delivery service, and the customer's right to cancel the transaction.

28. Not less than 30 days prior to the end of the term of a Solar PPA or Solar Lease, a customer may renew the agreement for a subsequent term of five years, purchase the solar energy system at its then fair market value, as determined by a binding appraisal by an independent third party, or request that Vivint Solar remove the system at no cost to the customer.

29. If a customer moves during the term of a Solar PPA or Solar Lease, the customer may transfer the Solar PPA or Solar Lease to the new homeowner without any minimum credit requirement or other restriction, prepay the agreement, or relocate the solar energy system to a

new home. In addition, any customer has the right, after the sixth year, to purchase the solar energy system pursuant to a one-time purchase option.

30. To enable its customers to conduct roof repairs or for other reasons, Vivint Solar's PPAs and Solar Leases provide that, after the 5th anniversary of the in-service date of the solar energy system, Vivint Solar will temporarily remove and reinstall the system within thirty days for a set fee. Prior to the 5th anniversary of the in-service date of the solar energy system, Vivint Solar will temporarily remove and reinstall the system if and when reasonably necessary and at a mutually-agreed upon cost.


31. Vivint Solar and its financing partners retain all tax incentives and benefits and all environmental attributes of the installed solar energy system, including all Renewable Energy Certificates ("RECs"), during the period of Vivint Solar's ownership of the system. If the customer purchases the solar energy system at any time, the customer obtains ownership of all RECs associated with the solar energy system's production from and after the transfer of ownership.

32. Vivint Solar prefers to offer its PPA to customers in New Hampshire because the payment structure is easier for customers to understand, as the customer pays only for the electricity produced by the solar energy system.

33. TASC's members offer consumer protections and customer options in a manner substantially similar in most material respects to Vivint Solar's as outlined in paragraphs 26 to 32 above.

Dated: December 1, 2015

Vivint Solar, Inc.

By: 
Name: Todd G. Glass
Title: Attorney representing Vivint Solar, Inc.

Dated: December 1, 2015

Staff of the New Hampshire Public Utilities
Commission

By: David K. Wiesner
Name: David K. Wiesner
Title: Staff Attorney

Dated: December 1, 2015

The Alliance for Solar Choice

By: Jason B. Keyes
Name: Jason B. Keyes
Title: Attorney representing TASC

Dated: December 1, 2015

Freedom Logistics, LLC, d/b/a Freedom
Energy Logistics

By: James Roden
Name: James Roden
Title: Freedom Logistics, LLC

AFFIDAVIT

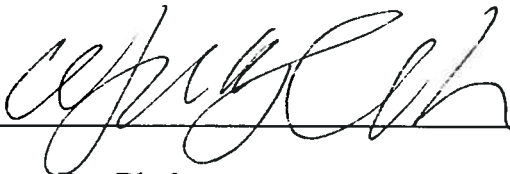
STATE OF UTAH

COUNTY OF UTAH, ss.

I, C. Dan Black, Affiant, being duly sworn and affirmed according to law, do hereby depose and say as follows:

1. That I am the duly appointed, authorized and acting Associate General Counsel of Vivint Solar, Inc. ("Vivint");
2. That I am authorized to and do make this affidavit for and on behalf of Vivint; and
3. That each of the factual representations made by or on behalf of Vivint in the foregoing Stipulation of Facts is true and correct, to the best of my knowledge and belief, after due inquiry.

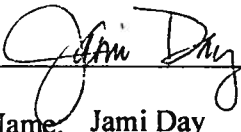
FURTHER AFFIANT SAYETH NOT.



Name: Dan Black

Title: Associate General Counsel

Sworn and subscribed before me, the undersigned officer, this 1st day of December, 2015.



Name: Jami Day

Notary Public, State of Utah

My Commission Expires: February 26, 2019

