

**Docket No. DE 15-303**  
**Vivint Solar Inc., Petition for Declaratory Ruling**  
**regarding RSA 362:2, 362-A:2-a and Rule PUC 2002.05**

**VIVINT SOLAR, INC.**

**RESPONSE TO STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**  
**STAFF DATA REQUESTS**

Vivint Solar, Inc. (“Vivint Solar”) hereby responds to Data Requests from Commission Staff to Petitioner – Set 1. Vivint Solar is seeking confidential treatment of several of these responses and attachments hereto pursuant to PUC Rule 203.08(d). The responses and attachments for which Vivint Solar will move to obtain a protective order for confidential treatment are indicated in its responses below. All pages containing information which is intended to be the subject of such protective order are marked “CONFIDENTIAL” in the upper right hand corner of the page and the text to be redacted in the redacted version is highlighted in light grey per PUC Rule 201.04(c). Vivint Solar will seek a protective order for the following documents attached in response to this request to be treated as confidential in their entirety: PPA, Lease, Exhibit B to the PPA, Exhibit B to the Lease and Customer Packet.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-1

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please provide a copy of the form of solar power purchase agreement (PPA) that Vivint Solar, Inc., or any of its subsidiaries or other affiliates (individually and collectively, Vivint), would propose to use in connection with residential photovoltaic installations in New Hampshire, if available, including any related warranties, exhibits, notices, and customer disclosures.

**RESPONSE:**

Vivint Solar objects to this data request to the extent it seeks sensitive confidential and commercial information, the public disclosure of which would harm Vivint Solar in a competitive marketplace. Pursuant to N.H. Code Admin. R. Ann. PUC 203.08(d), Vivint Solar has a good faith basis for seeking confidential treatment of its PPA and will file a motion for confidential treatment before commencement of the hearing and request a protective order by the Commission providing that its PPA is subject to confidential treatment pursuant to RSA 91-A:5 as it is sensitive confidential and commercial information as well as a trade secret, and that therefore it should be disclosed only to Commission Staff and Commissioners, and not other parties to this proceeding.

Subject to the foregoing, Vivint Solar is providing the attached draft form of PPA it seeks to offer in New Hampshire. Also in response to question 1, Vivint Solar is providing a complete draft example of Vivint Solar's PPA Customer Packet for New Hampshire, which provides detailed information about our photovoltaic systems to our customers. Vivint Solar will seek confidential treatment of the entirety of the draft form of PPA and example Customer Packet.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-2

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

If no such PPA as referenced in question 1 is available, please provide copies of the forms of PPA that Vivint currently uses in connection with residential photovoltaic installations in Massachusetts and Connecticut, including any related warranties, exhibits, notices, and customer disclosures.

**RESPONSE:**

Not applicable. Vivint Solar has provided the PPA referenced in question 1.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-3

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please provide a copy of the form of solar lease (Lease) that Vivint would propose to use in connection with residential photovoltaic installations in New Hampshire, if available, including any related warranties, exhibits, notices, and customer disclosures.

**RESPONSE:**

Vivint Solar objects to this data request to the extent it seeks sensitive confidential and commercial information, the public disclosure of which would harm Vivint Solar in a competitive marketplace. Pursuant to N.H. Code Admin. R. Ann. PUC 203.08(d), Vivint Solar has a good faith basis for seeking confidential treatment of its Lease and will file a motion for confidential treatment before commencement of the hearing and request a protective order by the Commission providing that its Lease is subject to confidential treatment pursuant to RSA 91-A:5 as it is sensitive confidential and commercial information as well as a trade secret, and that therefore it should be disclosed only to Commission Staff and Commissioners, and not other parties to this proceeding.

Subject to the foregoing, Vivint Solar is providing its form of Lease. The Lease document includes Vivint Solar's Lease Disclosures. In response to this request, we have also included an example of Vivint Solar's Lease Customer Packet, which provides detailed information about our photovoltaic systems to our customers. Vivint Solar will seek confidential treatment of the entirety of the draft form of Lease and example Customer Packet.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-4

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

If no such Lease as referenced in question 3 is available, please provide copies of the forms of Lease that Vivint currently uses in connection with residential photovoltaic installations in Massachusetts and Connecticut, including any related warranties, exhibits, notices, and customer disclosures.

**RESPONSE:**

Not applicable. Vivint Solar has provided the Lease referenced in question 3.

**REDACTED**

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-5

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state whether or not any amounts payable to Vivint by any residential solar customer under a Lease are based on, determined with respect to, or calculated using, the actual, estimated, or anticipated electrical output of the photovoltaic system installed at the customer's residence. If so, please describe in detail the basis for such payments or charges and how such amounts are determined and calculated.

**RESPONSE:**

Vivint Solar objects to this data request to the extent it seeks sensitive confidential and commercial information, the public disclosure of which would harm Vivint Solar in a competitive marketplace. Pursuant to N.H. Code Admin. R. Ann. PUC 203.08(d), Vivint Solar has a good faith basis for seeking confidential treatment of its response to this question and will file a motion for confidential treatment before commencement of the hearing and request a protective order by the Commission providing that its response to this question is subject to confidential treatment pursuant to RSA 91-A:5 as it is sensitive confidential and commercial information as well as a trade secret, and that therefore it should be disclosed only to Commission Staff and Commissioners, and not other parties to this proceeding.

Subject to the foregoing, Vivint Solar uses non-recourse project financing to provide the capital necessary to procure and build residential solar projects. Accordingly, Vivint Solar's agreements with its customers (whether PPA or Lease) must provide for a predictable stream of payments by Customers for the solar service (PPA) or facilities (Lease) being provided. The customer payment obligation reflects the size and value of the system, the term of the PPA or Lease, and other factors. Under a PPA, the Customer pays for energy produced by the PV system and delivered to the Customer on a monthly basis. Under a Lease, the Customer pays a fixed monthly lease payment to rent the PV system that will roughly equate to the same amount of payments that would have been paid under the PPA. **BEGIN CONFIDENTIAL** [

**] END CONFIDENTIAL**

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-6

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please list all states or other jurisdictions in which Vivint offers, markets, sells, installs, operates, maintains, owns, leases, and/or otherwise contracts with respect to any solar photovoltaic systems installed at customer residences.

**RESPONSE:**

Vivint Solar currently offers its PPA in the following states and territories:

Connecticut  
Hawaii  
Maryland  
Massachusetts  
New Jersey  
New Mexico  
New York  
Pennsylvania

Vivint Solar currently offers its Lease in the following states and territories:

Arizona  
California  
South Carolina  
Utah

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-7

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state whether or not Vivint is required to register with or be licensed or approved by any agency, board, commission, department, division, or other regulatory authority (Regulatory Agency) in any of the states or other jurisdictions listed in response to question 6 above. If so, please describe such registration, license, or approval requirements, and provide copies of or links to any applications or other submittals provided to the relevant Regulatory Agency and any public orders or other issuances of the relevant Regulatory Agency, regarding Vivint's registration, license, or approval in such state.

**RESPONSE:**

Most of the states in which Vivint Solar operates require persons who alter or modify a residence or install solar panels to comply with general contractor, home improvement contractor and/or electrical contractor requirements, including licensure and/or registration. For example, in Connecticut, any person who undertakes or offers to undertake a "home improvement" must register as a home improvement contractor. Conn. Gen. Stat. §20-420.

Vivint Solar obtains all applicable general contractor licenses and electrical contractor licenses or registrations to install and maintain the solar photovoltaic systems on its customers' roofs during the term of its PPA and Lease. Other states in which Vivint Solar operates have laws regulating the sales or solicitation of home improvements, or door-to-door salespersons. Vivint Solar requires its employed sales personnel to obtain all such applicable licenses in the jurisdictions where required.

In addition to the foregoing, pursuant a South Carolina's 2014 Distributed Energy Resource Program Act, Vivint Solar has applied and received from the South Carolina Office of Regulatory Staff a certificate to lease a "renewable electric generating facility." *See* S.C. Code Ann. § 58-27-2620(A).

If Vivint Solar's Petition is granted by the Commission, Vivint Solar would use licensed electricians in good standing with the New Hampshire Electricians' Board to install its Systems (as defined in the PPA and Lease) and seek any salesperson licenses as required.



Vivint Solar respectfully objects to the Commission Staff's request to the extent it requests "copies of or links to any applications or other submittals provided to the relevant Regulatory Agency and any public orders or other issuances of the relevant Regulatory Agency, regarding Vivint Solar's registration, license, or approval in such state." As Vivint Solar applies for the licenses described above in every state in which it operates, this request would be extremely burdensome for Vivint Solar to satisfy. Vivint Solar further objects that this part of the request is overbroad. Vivint Solar would be happy to answer specific questions of Commission Staff at the technical session or otherwise.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-8

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state whether or not the forms of PPA, Lease, marketing, sales, disclosure, and/or other contractual documents used by Vivint in any state or other jurisdiction listed in response to question 6 above are required to be submitted for review or approval by any Regulatory Agency. If so, please describe in detail the nature and scope of any such review or approval and the basis for any rejection or denial of a submitted document form by any such Regulatory Agency.

**RESPONSE:**

Vivint Solar was required to submit its Lease, marketing, sales, disclosure and other contractual documents to the South Carolina Office of Regulatory Staff in order to obtain its leasing certificate described in response to question 7. Information about the scope of this review is available on the Office of Regulatory Staff's website at: <http://www.regulatorystaff.sc.gov/electric/Pages/LeasingInformation.aspx>. Vivint Solar Developer, LLC's certificate (SL-0002) was issued on September 30, 2015.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-9

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state whether or not Vivint is required to provide any disclosures or truth-in-lending or financing notices to customers in any state or other jurisdiction identified in response to question 6 above. If so, please describe the disclosures and/or notices in detail and identify the statute, regulation, rule, or other authority under which such disclosures and/or notices are provided.

**RESPONSE:**

Vivint Solar objects to this data request to the extent it seeks sensitive confidential and commercial information, the public disclosure of which would harm Vivint Solar in a competitive marketplace. Pursuant to N.H. Code Admin. R. Ann. PUC 203.08(d), Vivint Solar has a good faith basis for seeking confidential treatment of Exhibit B to each of its PPA and Lease, as well as its Lease Disclosures. The Lease document includes Vivint Solar's Lease Disclosures. Vivint Solar intends to submit a motion for confidential treatment before commencement of the hearing and request a protective order by the Commission providing that Exhibit B to each of its PPA and Lease, as well as its Lease Disclosures are subject to confidential treatment pursuant to RSA 91-A:5 as they are sensitive confidential and commercial information as well as trade secrets, and that therefore they should be disclosed only to Commission Staff and Commissioners, and not other parties to this proceeding.

Vivint Solar provides numerous disclosures to its customers to comply with all applicable federal, state and local law in the jurisdictions in which it operates. For example, Vivint Solar complies with the Consumer Leasing Act, 15 U.S.C. § 1667 *et seq.*, and Regulation M thereunder, 12 CFR Part 213.1 *et seq.*, when it offers the Lease in Arizona, California, South Carolina and Utah. Vivint Solar complies with disclosures applicable to "independent solar energy producers" under California Public Utilities Code §2869. Vivint Solar also provides certain disclosures in response to home improvement or other contractor requirements, as well as state or utility-sponsored renewable energy incentive program requirements.

Subject to PUC 203.08(d), the disclosures and notices applicable to Vivint Solar's PPA and Lease are presented in the PPA and Lease provided in response to questions 1 and 3 above. We have also included in response to this question Exhibit B to each of the PPA and the Lease for the states in which Vivint Solar is currently operating. Exhibit B is a state-specific exhibit. For example, Massachusetts residents are only provided with Exhibit B – Massachusetts State

Notices and Disclosures to the PPA. If Vivint Solar is permitted to operate in New Hampshire, New Hampshire customers would be provided with Exhibit B to its PPA for New Hampshire.

The source of the disclosure included on the New Hampshire version of Exhibit B in paragraph A is N.H. Rev. Stat. Ann. Section 359-G:7, which requires a written notice to the homeowner of the “contractor’s right to resolve alleged construction defects before a homeowner may commence litigation against the contractor.” Pursuant to the statute, if a contract provides third party insured warranty programs, then the contractor must provide homeowners with warranty documents at or before closing. *See id.* In Vivint Solar’s PPA and Lease offerings, Vivint Solar retains ownership of the solar photovoltaic system throughout the term, and as such retains the right and obligation to enforce the manufacturers’ warranties. Vivint Solar processes any manufacturer warranty claims.

As to paragraph B of New Hampshire Exhibit B, Vivint Solar is not required to provide such notice or disclosure about its contractor licenses, but Vivint Solar customarily makes available such information to its customers as a matter of good business practice.

To cite the source of every disclosure or notice that is provided in compliance with a statute, regulation, rule or other authority in all of the jurisdictions in which Vivint Solar operates, however, would be overly burdensome to Vivint Solar. Vivint Solar therefore respectfully objects to the breadth of this data request and instead provides Exhibit B for each state in which it operates for the Commission’s review. Vivint Solar would be happy to answer further follow-up questions regarding its disclosures at the technical session or otherwise.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-10

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state whether or not Vivint has been the subject of any investigation or complaint proceeding by or before a Regulatory Agency in any state or other jurisdiction listed in response to question 6 above with respect to any PPA, Lease, or related transaction with or marketing efforts directed to residential customers. If so, please describe in detail the nature and scope of any such investigation or complaint proceeding and the final disposition or current status of such investigation or complaint proceeding, including the relevant Regulatory Agency and the docket or case number of the investigation or proceeding.

**RESPONSE:**

Vivint Solar is aware of two investigations that relate to its operations, but do not specifically relate to any PPA, Lease, or related transaction with or marketing efforts directed to residential customers:

1. On June 9, 2014, a complaint was filed against Vivint Solar with the Hawaii Department of Department of Commerce and Consumer Affairs, Regulated Industries Complaints Office (“HRICO”). The complaint alleges that, in 2012 and 2013, Vivint Solar Holdings, Inc. (f/k/a Vivint Solar, Inc.) violated Hawaii Administrative Rules by failing to insure that each electrical contractor’s responsible managing employee (“RME”) (1) resided in the State of Hawaii and (2) was performing necessary supervisory functions of electrical work performed in the state. In response to the complaint, in 2014, HRICO conducted an investigation of Vivint Solar. Vivint Solar cooperated fully with HRICO, but has not received any further communications from HRICO to date. While Vivint Solar is unsure whether or how HRICO may act, Vivint Solar does not anticipate any significant penalties or repercussions to its operations in Hawaii given the measures available to HRICO under applicable law if HRICO finds that Vivint Solar violated rules.
2. In Massachusetts, Vivint Solar was investigated by Commonwealth of Massachusetts’ Division of Professional Licensure regarding two instances when the Vivint Solar allegedly failed to observe the ratio of Journeyman electricians to non-Journeyman employees at a job-site as required by 237 Code Mass. Regs. 18.01(7) and another instance when Vivint Solar allegedly failed to display contractor license numbers on lawn

signs on a job site advertising Vivint Solar's services as required by 237 Code Mass. Regs. 18.01(2). All claims have been settled and the investigations terminated.

**REDACTED**

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-11

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state the percentage of Vivint’s residential solar customers who have executed PPAs and the percentage of Vivint’s residential solar customers who have executed Leases, both in total and for each individual state or other jurisdiction in which both PPAs and Leases are offered by Vivint to residential customers.

**RESPONSE:**

Vivint Solar objects to this data request to the extent it seeks sensitive confidential and commercial information, the public disclosure of which would harm Vivint Solar in a competitive marketplace. Pursuant to N.H. Code Admin. R. Ann. PUC 203.08(d), Vivint Solar has a good faith basis for seeking confidential treatment of its response to this question and will file a motion for confidential treatment before commencement of the hearing and request a protective order by the Commission providing that its response to this question is subject to confidential treatment pursuant to RSA 91-A:5 as it is sensitive confidential and commercial information as well as a trade secret, and that therefore it should be disclosed only to Commission Staff and Commissioners, and not other parties to this proceeding.

**BEGIN CONFIDENTIAL** At present, approximately [ ] of all Vivint Solar residential customers have executed PPAs and approximately [ ] of all Vivint Solar residential customers have executed leases. [

**] END CONFIDENTIAL**

**REDACTED**

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-12

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state the percentage of Vivint’s residential solar customers who have defaulted on their obligations under their respective PPAs or Leases, both in total and for each individual state or other jurisdiction in which PPAs and/or Leases are offered by Vivint to residential customers.

**RESPONSE:**

Vivint Solar objects to this data request to the extent it seeks sensitive confidential and commercial information, the public disclosure of which would harm Vivint Solar in a competitive marketplace. Pursuant to N.H. Code Admin. R. Ann. PUC 203.08(d), Vivint Solar has a good faith basis for seeking confidential treatment of its response to this question and will file a motion for confidential treatment before commencement of the hearing and request a protective order by the Commission providing that its response to this question is subject to confidential treatment pursuant to RSA 91-A:5 as it is sensitive confidential and commercial information as well as a trade secret, and that therefore it should be disclosed only to Commission Staff and Commissioners, and not other parties to this proceeding.

Subject to PUC 203.08(d), Vivint Solar responds as follows:

**BEGIN CONFIDENTIAL** At present, across all states in which Vivint Solar is operating, only [ ]% of all residential customers have accounts that are in default. Individual state percentages are as follows:

State	Default %
AZ	[ ]%
CA	[ ]%
CT	[ ]%
HI	[ ]%
MA	[ ]%
MD	[ ]%
NJ	[ ]%
NM	[ ]%
NY	[ ]%



**REDACTED**

PA [ ]%  
SC [ ]%  
UT [ ]% **END CONFIDENTIAL**

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-13

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state whether or not Vivint is subject to renewable portfolio standard (RPS) compliance obligations in any state or jurisdiction. If so, please identify each such state and provide a copy of all RPS compliance reports filed in each such state during the past three years.

**RESPONSE:**

Vivint Solar is not subject to RPS compliance obligations in any state or jurisdiction in which it operates.

**VIVINT SOLAR, INC.**

**DOCKET NO. DE 15-303**

**DATA REQUESTS FROM COMMISSION STAFF TO PETITIONER – SET 1**

Date Request Received: 10/16/15  
Request No. Staff 1-14

Date of Response: 10/26/15  
Witness: Garner Meads

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**REQUEST:**

Please state whether or not Vivint has been notified by any Regulatory Agency that it is liable for any RPS alternative compliance payments (ACPs) or similar payment obligations that it has not paid. If so, for each such instance, please identify the Regulatory Agency, and provide the relevant compliance year, amount of the alleged ACP liability, docket or case number, and a full description of the proceeding and its final disposition or current status.

**RESPONSE:**

Vivint Solar has not been notified by any Regulatory Agency that it is liable for any RPS ACPs or similar payment obligations that it has not paid.