

C A M P A I G N F O R ACCOUNTABILITY

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BY FACSIMILE: (916) 323-5225

Kamala Harris
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Dear Attorney General Harris:

Campaign for Accountability (CfA) requests that you open an investigation into companies that provide solar panels to individual homes in California. A review of the extensive consumer complaints filed with the California Public Utilities Commission (CPUC) – which lacks jurisdiction to resolve complaints against non-regulated entities – reveals many of these companies have engaged in false and misleading acts in the marketing and sale or lease of solar panels, in apparent violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200.

Factual Background

In response to a public information request submitted by CfA, the CPUC released a redacted summary of the 125 consumer complaints it had received from 2012 through the present pertaining to the sale or leasing of solar panels and their installation on the roofs of customers’ homes.¹ Complainants identified more than 30 different solar companies that had provided poor or inadequate service, falsely represented the savings customers would realize from solar power, lured them in with low price quotes that later proved to be false, performed shoddy installation of the solar panels, and in a significant number of cases made harassing phone calls, often to individuals who had placed their numbers on a do not call registry. By far the largest number of complaints were lodged against Solar City and Vivint Solar.

It appears from many of the complaints that solar companies routinely promised significant savings in customers’ monthly utility bills with the installation of rooftop solar panels, but those savings never materialized. For example, one customer claimed of feeling “cheated” by the solar company Solplicity, which was unwilling to do anything about the resulting higher bills (No. 394718),² while another customer of Verengo Solar-Sunrun Solar

¹ CfA submitted a similar request to your office, which was denied on the ground your office is not subject to the California Public Records Act. Thus, while we do not know the volume of complaints your office has received, it likely exceeds those received by the CPUC.

² Copies of the complaint summaries referenced herein are enclosed as Exhibit A.

complained of bills that nearly doubled after installing solar panels (No. 226305). A customer of Solar City complained that the company had admitted it had installed the wrong system but was refusing to install a new one, resulting in higher bills (No. 366343). This same complaint was echoed by another Solar City customer who said of the company: it “took the money and ran and now do[esn’t] want to deal with the problem.” (No. 319923). A third Solar City customer complained of paying hundreds of dollars more in energy costs since the installation of solar panels, writing “It may be a green option but it is most definitely not saving us money.” (No. 402987). These are just a few of the Solar City customers who described energy bills increasing – sometimes by twice as much – once solar panels were installed, despite the company’s promise they would reduce costs dramatically.

A customer of Verengo Solar whose utility costs increased after the addition of solar panels wrote “this system is not now, ever has worked as advertised and reported to us.” (No. 337887). Smart Energy Solar had promised the addition of solar panels would eliminate a complainant’s utility bill; instead utility charges increased. (No. 357831). Customers of Vivint Solar complained of being promised savings of 20-30 percent on their electric bill, but after solar panels were installed their electric bill increased by 80 percent the first month and 100 percent the second month. (No. 364558). This complainant stated, “I feel so exploited . . . by this company.”

The CPUC also received complaints of false representations. For example, a customer of Vivint Solar complained of signing up for solar energy under false pretenses after the company misrepresented it was affiliated with a utility company. (No. 324550). The complainant sought unsuccessfully to have the solar panels removed, but the company stopped returning her calls. Similarly, NRG Solar signed up a complainant’s parents for solar panels against their wishes, after falsely claiming the company was affiliated with the utility company. (No. 360963). Another complainant reported that Solar City tried to get her mother to sign a 20-year contract before the company would even give her mother an estimate. (No. 384784). Yet another complainant wrote to express her concern about Vivint Solar and the company’s insistence that she pay for a solar package that was installed for her now deceased mother. The package was sold when her mother was “old and sick” and her mother was not given full information. (No. 393720).

These complaints of false promises, unreturned phone calls, and factual misrepresentations tell a common story: consumers are lured in by promises of significant cost savings, then find themselves facing huge debts not offset by savings in their utility costs. Further, sales personnel use misleading and high-pressure tactics. For example, a representative of Solar City claimed to be taking over the electric service and raised a false threat of upcoming rolling blackouts that solar could cure. (No. 322011). Other customers waited months for promised installations and for service activation, all once the solar companies had their money in hand. The CPUC also received complaints of shoddy installation that caused roof leaks (*e.g.*, Nos. 384033, 361952).

Solar companies also seem to have preyed on the most vulnerable: the aged, the sick, and those with more limited resources. One complaint described being lured in by Verengo Solar and its promise the monthly bills would not exceed \$101, the maximum the complainant told the company it could afford. In fact, however, the complainant's bills soared after solar panels were installed. "We are older and they are taking advantage of us and keep stringing us along. That's how they make money and steal from us." (No. 399443).

A significant number of complaints concerned harassing and improper telephone calls. Many explained that although they were registered with the Federal Trade Commission's (FTC) Do Not Call registry, they nevertheless received numerous harassing phone calls from a variety of solar companies.³ The CPUC received complaints of solar companies using robocalls (Nos. 330247, 340553), calling individuals multiple times per day (Nos. 334134, 398668, 400621), sometimes at all hours of the day and night (No. 340533), and ignoring requests to cease calling.

Potential Violations of Law

California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (UCL), provides broad protection against, *inter alia*, "unlawful," "unfair," and "fraudulent" business acts or practices. California courts have confirmed its broad reach, acknowledging the legislature's "apparent[] intent[] to permit courts to enjoin ongoing wrongful business conduct in whatever context such activity might occur." *Comm. on Children's Television, Inc. v. Gen. Foods Corp.*, 35 Cal. 3d 197, 210 (1983).⁴ The statute provides for injunctive relief, restitution, and in government enforcement actions civil penalties. Cal. Bus. & Prof. Code §§ 17203, 17206.

The practices of numerous solar companies outlined in the complaints received by the CPUC appear to violate the UCL. By falsely representing the savings customers would receive from solar energy roof panels and the overall impact of solar energy as a more cost-effective energy alternative, companies like Solar City and Vivint Solar appear to have violated § 17200 of the UCL. Further, by falsely representing themselves to be associated with local utilities, salesmen for Vivint Solar and NRG appear to have violated § 17200 of the UCL.

The complaints reflect the harsh reality that solar companies operating in California often take advantage of a particularly vulnerable population. As a result, the impacts of these apparently fraudulent practices are all the more devastating, leaving low-income customers or those living on fixed incomes with even higher monthly utility costs and loans that often exceed what they can afford to pay, and plunging them into a cycle of debt.

Many solar companies also appear to have made unlawful telephone solicitations to those who have registered with the Federal Trade Commission's Do Not Call Registry. From the limited information provided, CfA cannot ascertain all the companies that have engaged in this illegal practice. Nor are we able to confirm that call recipients had, in fact, listed their telephone

³ See Complaint Nos. 271421, 288006, 322905, 346056, 383509.

⁴ A companion statute, the Consumers Legal Remedies Act, Cal. Civ. Code § 1770, provides a private right of action for California consumers subject to certain enumerated deceptive business acts or practices.

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numbers on the Do Not Call Registry. Further investigation by your office can confirm how widespread these illegal telephone solicitations may be.

If, however, solar companies have engaged in telephone solicitations of California residents who have registered their telephone numbers with the FTC's Do Not Call Registry, your office has jurisdiction to bring civil actions pursuant to Cal. Bus. & Prof. Code §17593.

Conclusion

Solar companies operating in California are employing a variety of strategies and practices that may enhance their bottom line, but are leaving customers frustrated, unhappy, and facing even bigger utility bills. Laws like California's UCL protect against the kinds of fraudulent practices that seem so prevalent in the solar energy industry, but their utility depends on more aggressive enforcement. CfA therefore requests that your office launch a statewide investigation into the consumer practices of solar energy companies, drawing on the many examples found in the complaints lodged with the CPUC. If these companies have violated California law, they must be held accountable.

Sincerely,



Anne L. Weismann
Executive Director

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