

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Case 15-M-0180 In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products

SUPPLEMENTAL COMMENTS ON DER OVERSIGHT

I. Introduction

Phillips Lytle LLP and Tolerable Planet Enterprises, which have collectively built a cross-sector clean energy alliance to engage in prospective regulatory design and analyze the impact of the proposed UBP-DERS on behalf of Advanced Energy Management Alliance; AEE Institute; Bluerock Energy, Inc.; Cypress Creek Renewables, LLC; Direct Energy; Consumer Power Advocates; Environmental Defense Fund; New York Battery & Energy Storage Technology Consortium; Pace Law Energy and Climate Center; Atlantic Energy LLC; Mission: data, Inc.; Whisker Labs; Sealed, Inc.; and Stem, Inc. (collectively, the “DER Advocates”), appreciate the opportunity to provide the following supplemental comments for the Commission’s consideration regarding regulatory oversight of Distributed Energy Resource (“DER”) providers and products. These businesses and organizations have a direct interest in this proceeding, and each brings a unique perspective which represents a wide-ranging cross section of the DER community.

The DER Advocates appreciate Staff’s attention to this proceeding, thoughtful consideration of the parties’ comments, and the time spent organizing technical conferences and roundtable discussions. Through those efforts, a recurring observation noted by numerous parties is that the proposed UBP-DERS would duplicate or conflict with an already-existing web of laws and regulations at the federal, state and local levels, leading to

uncertainty, confusion, and increased costs. The Commission has long recognized “the risk of duplicative or overlapping regulation and oversight,” vowing to restrict its oversight to avoid negatively impacting the nascent DER marketplace. *See Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan*, at 105 (issued Feb. 26, 2015). At the same time, the DER Advocates recognize that consumer confidence is critical to the creation of a robust marketplace and consumers must have an effective form of redress in the event of market abuse. The DER Advocates, consistent with requests and observations from DPS Staff, offer these comments to inform the conversation in this proceeding with a fair and objective assessment of the complex web of consumer protection rules and regulations governing the DER industry.

II. Legal Review

In an effort to advance the Commission’s understanding of these issues, the DER Advocates commissioned a review of existing rules and regulations applicable to the DER community. To that end, Phillips Lytle LLP collaborated with market participants familiar with the regulatory landscape in New York State and elsewhere in order to identify specific areas of overlap between existing law and the proposed UBP-DERS. The following table analyzes the rules and regulations governing consumer protection in the DER industry, the remedies available to consumers, and the degree to which the proposed UBP-DERS would overlap with these existing measures. ***See Exhibit A: Consumer Protection Table.*** The table is organized by the following categories of consumer protections as outlined on the far left-hand column:

1. deceptive business practices, generally;
2. false advertising;
3. telemarketing;
4. home improvement contracts;
5. contractual requirements, generally;
6. personal property;
7. lease requirements;
8. licensing requirements;
9. warranties; and
10. application for credit.

Within each category, the Consumer Protection Table outlines a number of consumer protection laws and/or regulations at the federal, state, and local level and the corresponding legal citation. For each law or regulation, a brief overview of the relevant rules and remedies is provided. Finally, for each law or regulation, the table provides the relevant proposed UBP-DERS sections which appear to duplicate, overlap, or conflict with the corresponding federal, state, or local consumer protection measures. In addition to the Consumer Protection Table found in **Exhibit A**, an index and summary for each law and UBP-DERS section is included to enable convenient cross-referencing. *See Exhibit B: Summary of Relevant Laws and Regulations.*

The UBP-DERS, as outlined in the *Supplemental Staff Whitepaper on DER Oversight*, propose ten sections of regulatory oversight, seven of which contain rules which, to some extent, overlap or conflict with pre-existing consumer protection laws:

- Section 2: Eligibility Requirements
- Section 3: Customer Information
- Section 4: Marketing Standards
- Section 5: Customer Agreement
- Section 6: Customer Inquiries
- Section 8: Requirements of DERS Concerning the DSP
- Section 9: Reporting Requirements

The DER Advocates recognize and acknowledge the Commission's desire to establish an oversight regime that complements existing laws and regulations, and does not suggest that no degree of oversight is warranted. These supplemental comments are intended to aid the Commission in determining which regulatory oversight provisions are prudent and necessary and which are unduly duplicative or contradictory. In that regard, the following discussion analyzes the extent to which the seven UBP-DERS sections mentioned above overlap or conflict with the existing consumer protection laws as outlined in **Exhibit A** and **Exhibit B**, and provides further insight into how such a regulatory regime could impact the DER community and stifle market growth.

A. UBP-DERS Section 2: Eligibility Requirements

Section 2 of the UBP-DERS would establish an application and approval process for a DER provider to be eligible to acquire customer data and/or sell DER into the market. While it is reasonable that the Commission establish a basic application and review process, the proposed UBP-DERS process, as set forth in Section 2.B-2.D, could duplicate and/or conflict with the efforts of other federal, state, and local enforcement bodies. Section 2.B.1.n would require a DER provider to submit for review all sample sales agreements for each customer class, presumably so the Commission can ensure the contract language does not contain unfair or deceptive terminology and could request modifications to the contract if necessary. Similarly, Section 2.D.1-3 would require regular updates to a DER provider's application materials, including an in-depth review of its terms and conditions and process for termination of sales agreements. At least twenty laws and regulations govern the prevention and prosecution of unfair, deceptive, or abusive business practices, false advertising, and the content of contract terms and conditions. This type of review may

burden the agency with a duplicative role and could lead to inconsistent or conflicting review standards resulting in a confusing patchwork of contracts that companies may be forced to adopt which differ among states and customer classes. One clear example of this is the Section 2.D.3.d requirement for a DER provider to post a product price on the Digital Marketplace and guarantee that no customer will pay more than that posted price. Unlike commodity service, DER products and services inherently come with customer-specific prices based on the unique characteristics, desires, and location of the customer. Requiring a DER provider to post a cookie-cutter price for its products and services could put the company at risk of violating the multitude of deceptive business practices and false advertising regulations, including the UBP-DERS itself. The requirement to honor a posted price is simply unworkable in application to the DERS market, at least where pricing will be customer- or location-specific.

The proposed framework for determining consequences for noncompliance with the UBP-DERS suffers from the same defects mentioned above. Surely, the Commission should have the authority to impose consequences on DER providers in extreme circumstances, but with at least twenty laws and regulations governing unfair, deceptive, or abusive business practices which are enforced by a web of federal, state, and local entities, the Commission's role of policing false or misleading information should be a limited one. Further, the existing consumer protection laws and regulations establish a highly-complex, detail-oriented, and concrete framework for protection that contains predictable outcomes. The UBP-DERS, as currently drafted, give unbounded and unpredictable authority to the Commission to take literally “any other measures”—in certain cases, without even providing a cure period—for vaguely defined violations. To the extent the Commission

does intend to police false or misleading information, the DER Advocates believe the Commission should consider establishing predictable and specific rules with defined consequences and reasonable boundaries—consistent with nearly every other consumer protection law or regulation on the books. In conjunction with those rules, the Commission should consider enhancing procedural protections, particularly when DER providers make large upfront capital commitments.¹ Such protections, which are found in many consumer protection laws, may include cure periods, acceptable pre-deprivation due process, and an opportunity to confront witnesses and rebut false allegations.

UBP Section	Relevant Laws or Regulations
2.B	Federal Trade Commission Act, 15 USC §41 et seq. Federal Trade Commission Regulations, 16 CFR 260 et seq. N.Y.C. Admin. Code §§20-700 et seq. New York General Business Law §349 New York General Business Law §350 Dodd-Frank Reform Act, 12 USC §5481 et seq. SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 Lanham Act, 15 USC § 1125 Truth in Lending Act, 15 USC 1667c Bureau of Consumer Financial Protection Regulations, 12 CFR § 1013 New York Civil Practice Law and Rules §4544 NY-Sun Addendum to Customer Agreement ESIGN Act, 15 U.S.C. §§ 7701 et seq. Electronic Signatures and Records Act, NYS Technology Law §§ 301-309 Electronic Funds Transfer Act, 15 U.S.C. §§ 1693 et seq. Consumer Leasing Act, 15 USC § 1667b NY Department of State Division of Licensing Services, 19 NYCRR 197 New York Banking Law, Article IX
2.C	N.Y.C. Admin. Code §§20-700 et seq. ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 NY Department of State Division of Licensing Services, 19 NYCRR 197 New York Banking Law, Article IX
2.D	Federal Trade Commission Act, 15 USC §41 et seq. Federal Trade Commission Regulations, 16 CFR 260 et seq. N.Y.C. Admin. Code §§20-700 et seq. New York General Business Law §349 New York General Business Law §350

¹ See Case 15-M-0180, *In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products*, Comments of Solar Liberty Energy Systems, Inc. (filed June 19, 2017), p. 8-9; Comments of Atlantic Energy LLC (filed June 19, 2017), p. 5-6.

New York General Business Law §771 Dodd-Frank Reform Act, 12 USC §5481 et seq. SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 Lanham Act, 15 USC § 1125 Truth in Lending Act, 15 USC 1667c Bureau of Consumer Financial Protection Regulations, 12 CFR 1013 New York Civil Practice Law and Rules §4544 NY-Sun Addendum to Customer Agreement ESIGN Act, 15 U.S.C. §§ 7701 et seq. Electronic Signatures and Records Act, NYS Technology Law §§ 301-309 Electronic Funds Transfer Act, 15 U.S.C. §§ 1693 et seq. Consumer Leasing Act, 15 USC § 1667b NY Department of State Division of Licensing Services, 19 NYCRR 197 New York Banking Law, Article IX

B. UBP-DERS Section 3: Customer Information

Section 3 establishes practices for the release and protection of customer information.

As New York embarks on creating a transactive energy marketplace, it is important that customers feel confident that the information they release is protected. But it is equally important that the Commission avoid imposing regulations that overlap and contradict with pre-existing and ever-evolving regulatory frameworks. The proposed UBP-DERS Section 3.B.1 and 3.E require DER Providers to abide by currently-unknown and unwritten rules regarding the release, content, and protection of customer information to be established by future Commission orders. The Commission should be aware that there are a significant number of laws and regulations that govern protection of customer information, including, but not limited to, the Federal Trade Commission Act (which prohibits unfair or deceptive practices that fail to safeguard customer information, privacy, or personal data); the Gramm-Leach-Bliley Act (which regulates the collection, use, and disclosure of financial information); Fair Credit Reporting Act (which governs protection of a consumer's creditworthiness, credit history, credit capacity, character, and general reputation which are used to evaluate a consumer's eligibility for credit or insurance); the CAN-SPAM Act and

the Telephone Consumer Protection Act (which regulate the collection and use of e-mail addresses and telephone numbers, respectively). Release and protection of consumer information is also governed by regional, county, and city consumer protection offices and New York statutes addressing deceptive and unfair business practices.

One emerging area of consumer information and data privacy which may become more prevalent in coming years is the application of virtual currencies in transactive energy markets. As former PSC Chair Audrey Zibelman stated, the endgame of REV is a platform where “resources will respond to the prices, and there could be like a blockchain-type platform that could price it out.” *See Zibelman Exit Interview*, UtilityDive (published Feb. 1, 2017). Novel trading paradigms for buying and selling energy are being developed which involve blockchain software technology (the software currently used in Bitcoin) to provide a streamlined and automated transaction model that enables secure and transparent consumer-to-consumer energy transactions without centralized intermediaries. *See Solar Experiment Lets Neighbors Trade Energy Among Themselves*, New York Times (published March 13, 2017) (discussing the Brooklyn Microgrid Project and virtual trading platforms). This type of paradigm shift may aid New York in achieving its clean energy goals, but clearly involves unanswered questions about consumer information and data privacy. Regulatory clarity and uniformity are key to enabling these business developments and the Commission should be careful to avoid duplicative or contradicting rules which could hinder this progress.

UBP Section	Relevant Laws or Regulations
3.B	Federal Trade Commission Act, 15 USC §41 et seq. N.Y.C. Admin. Code §§20-700 et seq. New York General Business Law §349 New York General Business Law §399-p

	New York General Business Law §349-pp New York General Business Law §399-z Telephone Consumer Protection Act, 47 USC §227 Telemarketing and Consumer Fraud Prevention Act, 15 USC §6102 ESIGN Act, 15 U.S.C. §§ 7701 et seq. Electronic Signatures and Records Act, NYS Technology Law §§ 301-309 Electronic Funds Transfer Act, 15 U.S.C. §§ 1693 et seq. Dodd-Frank Reform Act, 12 USC §5481 et seq. SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 NY Department of State Division of Licensing Services, 19 NYCRR 197 Truth in Lending Act, 15 USC 1667c Fair Credit Reporting Act, 15 USC §§1681-1681u Equal Credit Opportunity Act, 15 USC 1691-1691f Bureau of Consumer Financial Protection Regulations, 12 CFR 202 Bureau of Consumer Financial Protection Regulations, 12 CFR 226
3.E	Federal Trade Commission Act, 15 USC §41 et seq. N.Y.C. Admin. Code §§20-700 et seq. New York General Business Law §349 ESIGN Act, 15 U.S.C. §§ 7701 et seq. Electronic Signatures and Records Act, NYS Technology Law §§ 301-309 Electronic Funds Transfer Act, 15 U.S.C. §§ 1693 et seq. Dodd-Frank Reform Act, 12 USC §5481 et seq. SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 NY Department of State Division of Licensing Services, 19 NYCRR 197 Truth in Lending Act, 15 USC 1667c Fair Credit Reporting Act, 15 USC §§1681-1681u Equal Credit Opportunity Act, 15 USC 1691-1691f Bureau of Consumer Financial Protection Regulations, 12 CFR 1013 Bureau of Consumer Financial Protection Regulations, 12 CFR 202 Bureau of Consumer Financial Protection Regulations, 12 CFR 226

C. UBP-DERS Section 4: Marketing Standards

Section 4 establishes marketing standards for DER providers and their representatives, including training of sales representatives, contact with customers, conduct, and dispute resolution. The thrust behind the UBP-DERS marketing standards section appears to be focused on preventing unfair, deceptive, or abusive business practices. As discussed above, there are dozens of laws and regulations governing such practices, which are enforced at the federal, state, and local level. In addition, some portions of the DER industry, such as solar, have developed industry-specific codes of ethics which require training and establish rules governing sales and marketing interactions. *See e.g.* SEIA Solar

Business Code. While the DER community should certainly abide by appropriate marketing standards, the DER Advocates seek only to avoid duplicative and overlapping regulatory frameworks that may complicate compliance. Instead of attempting to redraft the multitude of marketing standards that already exist, which could lead to inconsistent application in practice, it may be prudent and appropriate to defer to the preexisting marketing standards framework that comprehensively govern the DER industry. This approach, which has been adopted by the SEIA Solar Business Code, has proved successful and would ensure regulatory predictability by creating consistency of language, rules, and remedies.

With regard to the dispute resolution provisions in Section 4.E, the DER Advocates urge the Commission to clarify its intended procedure for resolving contractual complaints between DER Providers and *non-residential* customers. In the ESCO context, long-standing Commission precedent has held that such disputes are more appropriately resolved by contract law and judicial redress than by the PSC's complaint handling procedures. *See Case 12-M-0113, Complaint of Metro Eleven Hotels, LLC Regarding Alleged Slamming by Just Energy, Order Resolving Slamming Allegations* (issued May 21, 2013) at 12 (stating that "16 NYCRR Parts 12 and 13 do not provide for non-residential customers to utilize [the PSC's] consumer complaint procedures to resolve disputes with ESCOs. . . . [t]he resolution of such disputes is governed by the provisions of the contract between the non-residential customer and the ESCO"). DER providers that offer expensive products to sophisticated small business or commercial customers must be confident that those arms-length negotiated contracts are secured by rules of procedure and due process consistent with contract law and judicial precedent, rather than the vaguely-defined and informal QRS/SRS dispute

resolution process which may allow a sophisticated customer to force a settlement based on unsubstantiated allegations.

UBP Section	Relevant Laws or Regulations
4.B	SEIA Solar Business Code, §2, §3, §4
4.C	<p>Federal Trade Commission Act, 15 USC §41 et seq.</p> <p>Federal Trade Commission Regulations, 16 CFR 260 et seq.</p> <p>N.Y.C. Admin. Code §§20-700 et seq.</p> <p>New York General Business Law §349</p> <p>New York General Business Law §350</p> <p>New York General Business Law §399-p</p> <p>New York General Business Law §349-pp</p> <p>New York General Business Law §399-z</p> <p>SEIA Solar Business Code §§2-5</p> <p>Dodd-Frank Reform Act, 12 USC §5481 et seq.</p> <p>ConEd Programs (as presented in Case 13-E-0573)</p> <p>Regulations of the Superintendent of Financial Services, 23 NYCRR 200</p> <p>Lanham Act, 15 USC § 1125</p> <p>Truth in Lending Act, 15 USC 1667c</p> <p>Bureau of Consumer Financial Protection Regulations, 12 CFR 1013</p> <p>Telephone Consumer Protection Act, 47 USC §227</p> <p>Telemarketing and Consumer Fraud Prevention Act, 15 USC §6102</p> <p>CAN-SPAM Act, 15 USC 7701 et seq.</p> <p>NY Department of State Division of Licensing Services, 19 NYCRR 197</p> <p>Magnuson-Moss Warranty Act, 15 USC 2301 et seq.</p> <p>New York Personal Property Law §425 et. seq.</p>
4.D	<p>Federal Trade Commission Act, 15 USC §41 et seq.</p> <p>Federal Trade Commission Regulations, 16 CFR 260 et seq.</p> <p>N.Y.C. Admin. Code §§20-700 et seq.</p> <p>New York General Business Law §349</p> <p>New York General Business Law §350</p> <p>New York General Business Law §399-p</p> <p>New York General Business Law §349-pp</p> <p>New York General Business Law §399-z</p> <p>SEIA Solar Business Code §§2-5</p> <p>Dodd-Frank Reform Act, 12 USC §5481 et seq.</p> <p>ConEd Programs (as presented in Case 13-E-0573)</p> <p>Regulations of the Superintendent of Financial Services, 23 NYCRR 200</p> <p>Lanham Act, 15 USC § 1125</p> <p>Truth in Lending Act, 15 USC 1667c</p> <p>Bureau of Consumer Financial Protection Regulations, 12 CFR 1013</p> <p>Telephone Consumer Protection Act, 47 USC §227</p> <p>Telemarketing and Consumer Fraud Prevention Act, 15 USC §6102</p> <p>CAN-SPAM Act, 15 USC 7701 et seq.</p> <p>NY Department of State Division of Licensing Services, 19 NYCRR 197</p> <p>Magnuson-Moss Warranty Act, 15 USC 2301 et seq.</p> <p>New York Personal Property Law §425 et. seq.</p> <p>Consumer Leasing Act, 15 USC § 1667b-d</p> <p>NY-Sun Addendum to Customer Agreement</p>

D. UBP-DERS Section 5: Customer Agreement

Section 5 requires customer sales agreements to contain certain content. Once again, the thrust behind these rules appears to be focused on preventing unfair, deceptive, or abusive business practices contained in the terms and conditions of sales agreements. Such practices are governed at the federal, state, and local level by a multitude of laws and regulations and enforced by numerous enforcement bodies, as described above. Many of those laws and regulations specify that certain content be included in sales agreements. The DER Advocates are particularly concerned with the concept expressed in Section 5.B that would require the use of standardized contract provisions—especially when it is unclear at this time what those provisions will be. It appears that in Section 5.B, and elsewhere throughout the proposed oversight rules, the UBP-DERS provides an initial framework for further Commission Orders and regulations, such as standardized contract provisions, which will be determined at a later date. The DER Advocates urge the Commission to address any such further regulations through the required notice and comment procedures and receive input from market participants in order to fully understand how such provisions could impact the industry. Unlike energy commodity, DER providers represent an extraordinarily broad group of companies with vastly different products, services, and business models which require flexibility to grow and evolve. Boxing these companies together with standard contract provisions may stifle development of the DER industry, reduce innovation, and could hamper compliance with other rules and regulations governing those businesses. Also concerning is the provision in Section C.3.a.3.b, which would allow a term or condition in a one-page Customer Disclosure Statement to override a potentially conflicting term described elsewhere in the contract. Such a requirement may

complicate contractual drafting and could expose DER providers to liability for unintentional or insignificant inconsistencies. This concern is amplified when, as described above, the Commission has fully clarified that DER providers' contracts with non-residential customers are secured by long-established legal rules of procedure and due process, rather than an informal dispute resolution process.

UBP Section	Relevant Laws or Regulations
5.B	Federal Trade Commission Act, 15 USC §41 et seq. Federal Trade Commission Regulations, 16 CFR 260 et seq. N.Y.C. Admin. Code §§20-700 et seq. New York General Business Law §349 New York General Business Law §771 Dodd-Frank Reform Act, 12 USC §5481 et seq. SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 NY-Sun Addendum to Customer Agreement New York Civil Practice Law and Rules §3015 New York Civil Practice Law and Rules §4544 ESIGN Act, 15 U.S.C. §§ 7701 et seq. Electronic Signatures and Records Act, NYS Technology Law §§ 301-309 Electronic Funds Transfer Act, 15 U.S.C. §§ 1693 et seq. New York Personal Property Law §401 et. seq. New York Personal Property Law §425 et. seq. New York Personal Property Law §440 et. seq. Consumer Leasing Act, 15 USC 1667b Truth in Lending Act, 15 USC 1667c Bureau of Consumer Financial Protection Regulations, 12 CFR 1013 Bureau of Consumer Financial Protection Regulations, 12 CFR 226 NY Department of State Division of Licensing Services, 19 NYCRR 197 Magnuson-Moss Warranty Act, 15 USC 2301 et seq.
5.C	Federal Trade Commission Act, 15 USC §41 et seq. Federal Trade Commission Regulations, 16 CFR 260 et seq. N.Y.C. Admin. Code §§20-700 et seq. New York General Business Law §349 New York General Business Law §771 Dodd-Frank Reform Act, 12 USC §5481 et seq. SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 NY-Sun Addendum to Customer Agreement New York Civil Practice Law and Rules §3015 New York Civil Practice Law and Rules §4544 ESIGN Act, 15 U.S.C. §§ 7701 et seq. Electronic Signatures and Records Act, NYS Technology Law §§ 301-309 Electronic Funds Transfer Act, 15 U.S.C. §§ 1693 et seq. New York Personal Property Law §401 et. seq. New York Personal Property Law §425 et. seq. New York Personal Property Law §440 et. seq.

	Consumer Leasing Act, 15 USC 1667b Truth in Lending Act, 15 USC 1667c Bureau of Consumer Financial Protection Regulations, 12 CFR 1013 Bureau of Consumer Financial Protection Regulations, 12 CFR 226 NY Department of State Division of Licensing Services, 19 NYCRR 197 Magnuson-Moss Warranty Act, 15 USC 2301 et seq.
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E. UBP-DERS Section 6: Customer Inquiries

Section 6 regulates how DER providers respond to customer inquiries concerning their products and services. Certainly each DER company should maintain appropriate processes and procedures for resolving customer inquiries, but the DER Advocates are concerned about the language in Section B.1 that requires “consistent and fair treatment to customers.” First, as expressed above, there are a multitude of laws and regulations which govern and enforce unfair, deceptive, and abusive business practices, which adequately address the Commission’s underlying consumer protection concern. But beyond mere duplication, this provision may directly contradict other Commission orders and policies related to DER generally, which are inherently designed to treat customers differently depending on a customer’s location, system load, nearby hosting capacity, and a host of other factors. Such a provision could allow a customer to challenge a DER provider’s eligibility to provide products and services simply because those products and services are not consistent and uniform across the state. When regulations such as UBP-DERS give the Commission broad authority to revoke a DER provider’s license for seemingly minor violations, the words must be carefully crafted to ensure DER industry has regulatory confidence and contractual security.

UBP Section	Relevant Laws or Regulations
6.B	Federal Trade Commission Act, 15 USC §41 et seq. N.Y.C. Admin. Code §§20-700 et seq. New York General Business Law §349 New York General Business Law §399-p

Dodd-Frank Reform Act, 12 USC §5481 et seq. SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 NY-Sun Addendum to Customer Agreement Consumer Leasing Act, 15 USC 1667b NY Department of State Division of Licensing Services, 19 NYCRR 197 Magnuson-Moss Warranty Act, 15 USC 2301 et seq. Truth in Lending Act, 15 USC 1667c Fair Credit Reporting Act, 15 USC §§1681-1681u Equal Credit Opportunity Act, 15 USC 1691-1691f Bureau of Consumer Financial Protection Regulations, 12 CFR 1013 Bureau of Consumer Financial Protection Regulations, 12 CFR 202 Bureau of Consumer Financial Protection Regulations, 12 CFR 226

F. UBP-DERS Section 8: Requirements of DERS Concerning the DSP

Section 8 establishes rules related to business interactions between the DSP and DER providers, as well as creditworthiness requirements. It is important to ensure that this section does not conflict with or duplicate proposed utility operating procedures. For example, ConEdison has proposed certain requirements that aggregators would be required to meet in order to participate in demand response programs, such as advertising and marketing standards, as well as contractual and operational requirements. *See Case 13-E-0573.* Utility operating procedures must be either consistent with, or preempted by, the UBP-DERS to ensure regulatory certainty and a workable DERS marketplace. With regard to creditworthiness requirements, it is difficult to determine whether such a rule is duplicative or conflicting with other laws or regulations because the underlying purpose behind the creditworthiness requirements remains unknown. If the purpose is to protect customers, the NY-Sun Addendum to Customer Agreement requires contractors to offer a full and transferable warranty to the purchase of a solar PV system to cover the full cost of repair or replacement of the system, and the Department of Financial services requires virtual currency businesses to maintain surety bonds or trust accounts for the protection of customers. DER providers selling into the NYISO markets are also required to, among

other things, satisfy creditworthiness requirements set forth in Section 26.1 of Attachment K to NYISO's Market Administration and Control Area Services Tariff.

UBP Section	Relevant Laws or Regulations
8.B	ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200 NYISO Market Administration and Control Area Services Tariff

G. UBP-DERS Section 9: Reporting Requirements

Section 9 requires DER providers to provide operational and financial data to the Commission. While this section does not directly duplicate or conflict with preexisting laws or regulations, its underlying purpose appears to be to protect against unfair, deceptive, or abusive business practices, which are adequately covered by the laws and regulations referenced above. The DER Advocates are also concerned that the scope of this section is unnecessarily broad, requiring DER providers to provide any “other information” as requested by the Commission, leading to regulatory uncertainty regarding how this provision will be utilized.

UBP Section	Relevant Laws or Regulations
9.B	SEIA Solar Business Code §§2-5 ConEd Programs (as presented in Case 13-E-0573) Regulations of the Superintendent of Financial Services, 23 NYCRR 200

III. Opportunities

As demonstrated by the above analysis, it appears many of the proposed regulations are addressed in whole or in part by federal, state, or local laws and/or regulations. Existing remedies include, but are not limited to, fines, injunctions, contract nullification, civil and criminal liabilities, punitive penalties, equitable relief, and judicial redress. In addition to oversight from the Public Service Commission, these rules and laws are enforceable by a multitude of agencies and enforcement bodies, including the New York

Attorney General, New York Secretary of State, Federal Trade Commission, Federal Communications Commission, Consumer Finance Protection Bureau, United States Department of Justice, local government consumer protection divisions, and private plaintiffs. The DER Advocates recognize that the Commission intends to establish regulations and procedures to compliment these existing rules, but feel that there are other opportunities—such as industry-led initiatives to develop codes of conduct, educate consumers, and provide dispute resolution—which better leverage existing consumer protection law to ensure consumer confidence while promoting innovation. The DER Advocates welcome the opportunity to engage in ongoing discussions toward this end.

While there are a wide range of laws and regulations applicable to the DER industry—beyond those listed in these comments—the intent of this filing is to prioritize laws and regulations that deal specifically with consumer protection, as requested by DPS Staff at the June 19, 2017 Technical Conference. It is important to note that beyond this consumer protection framework there are a multitude of other laws and regulations generally applicable to the DER industry which also overlap with certain provisions of the UBP-DERS. While those laws and regulations are numerous and wide-ranging, the following have been referenced in the comments and record of this proceeding, including:

(1) NYISO market rules and tariffs, which require market participants to, among other things, satisfy eligiblitiy requirements, creditworthiness requirements, and other participation critieria as set forth in Section 26.1 of Attachment K to NYISO's Market Administration and Control Area Services Tariff, (2) the eligibiliy and contracting rules applicable for DER providers that work as agents of the utility, (3) Section 7202 of the New York State Education Law, which imposes a licensing regime for professional engineering

practices, sets forth standards for professional conduct, and provides for felony charges against unauthorized practitioners, and (4) Occupational Safety & Health Administration (“OSHA”) standards, which protect workers in the solar industry or other DER installers who may potentially be exposed to hazardous conditions—particularly OSHA's Electric Power Generation, Transmission and Distribution Standard, 29 CFR 1910.269, which requires safe work practices and training requirements.

The DER Advocates are supportive of many of these laws and regulations which govern the DER industry, but are cognizant of the fact that overlapping and duplicative regulation will inevitably increase the cost of doing business, which is ultimately passed on to consumers. As New York moves into the next phase of REV, the DER Advocates appreciate the opportunity to provide these supplemental comments for the Commission's consideration and look forward to working with Staff on developing future iterations of the DER oversight regime. The DER Advocates strongly encourage the Commission to reconsider any proposed UBP-DERS provisions that overlap or conflict with existing requirements that are already in place. To the extent that more collaborative discussion is necessary between DPS Staff and participants from the DER industry, the DER Advocates would welcome the opportunity to further assist with these efforts.

Dated: August 23, 2017

Respectfully submitted,

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CC: All Parties (by electronic filing).

Doc #01-3061052.1

Exhibit A: Consumer Protection Table

Category	Law/Regulation	Section	Rules	Remedies	Duplicative UBP-DERS Regulations
Deceptive Business Practices, Generally	Federal Trade Commission Act	15 USC §41 et seq.	<p>Empowers the Federal Trade Commission (“FTC”) to develop rules and enforcement mechanisms to prevent persons or companies from “using unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce.”</p> <p>The FTC also enforces a variety of specific consumer protection statutes (e.g., the Equal Credit Opportunity Act, Truth-in-Lending Act, Fair Credit Reporting Act, the Do-Not-Call Implementation Act of 2003, the Fair and Accurate Credit Transactions Act of 2003, and others) which prohibit specifically-defined trade practices. The FTC treats violations of those acts as if they were “unfair or deceptive” acts or practices.</p>	<p>FTC may issue a complaint when there is “reason to believe” that a violation has occurred.</p> <p>U.S. Attorney General may bring an action against any entity that violates an FTC order, and a court may grant injunctions, equitable relief, redress, or civil penalties of up to \$10,000 per violation.</p>	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C) §6(B)
	Regional, County, and City Consumer Protection Law	<i>e.g.</i> N.Y. Admin. Code, Title 20, §20-700 et seq.	<p>City, county, and regional consumer protection offices license and regulate service providers, conduct investigations, prosecute consumer abuses, mediate complaints, and advocate for consumer rights.</p> <p>For example, New York City’s Consumer Protection Law prohibits unfair trade practices when dealing in consumer goods or services, such as false advertising, deceptive marketing practices, and special offers with hidden conditions. These laws also address contractual requirements, delivery of major appliances, receipts, refunds, and pricing disclosures.</p>	<p>Violators are subject to a civil penalty between \$50-\$350 for a single violation. In the case of repeated, multiple, or persistent violations, the city may bring an action to compel payment of all money, property, and proceeds received as a result of such violations, or direct that the money be paid into an account used to redress each person who purchased those goods or services during the period of violation.</p> <p>The city may apply to the supreme court for an order enjoining such acts or practices and for an order granting a temporary or permanent injunction, restraining order, or other order enjoining such acts or practices.</p>	§2(B) §2(B)(1)(n) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C) §6(B)
	New York General Business Law	§349	“Deceptive acts or practices in the conduct of any business... or in the furnishing of any service... are ... unlawful.”	<p>N.Y. Attorney General may bring action to enjoin such acts or practices and/or obtain resolution of money or property obtained directly or indirectly by the violating entity. Any injured person may also bring an action to enjoin an unlawful practice and/or recover actual damages or \$50, whichever is greater.</p> <p>Violators are subject to a civil penalty of up to up to \$5,000 for each violation, or \$10,000 per violation if perpetrated against an elderly person.</p>	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C) §6(B)

	Dodd-Frank Wall Street Reform and Consumer Protection Act	12 U.S.C. §§ 5481 et seq.	<p>Authorizes the Consumer Financial Protection Bureau (“CFPB”) to ensure “consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination” with respect to consumer financial products and services. (12 U.S.C. § 5511(b)). This covers all aspects of the relationship with consumers, including marketing, disclosures, terms, underwriting, options, closings, ancillary products, fees, complaint resolution, servicing, and default.</p>	<p>The CFPB or a court may order violators to compensate victims directly or the Bureau may compensate victims from the Bureau’s Civil Penalty Fund. Enforcement is in coordination with the FTC.</p>	<p>§2(B)(1)(n) §2(B)(3) §2(D) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C) §6(B)</p>
	SEIA Solar Business Code	\$2	<p>Requires members of the solar industry to conduct all aspects of their business without any unfair, deceptive, or abusive acts or practices.</p>	<p>SEIA has adopted a Complaint Resolution Process to resolve complaints arising from the Solar Business Code.</p>	<p>§2(B)(1)(n) §2(B)(3) §2(D) §3(B)(1) §3(B)(6) §3(E) §4(B) §4(C) §4(D) §5(B) §5(C) §6(B) §9(B)</p>
			<p>Requires regular examination of business practices to ensure compliance with all aspects of federal, state, and local law, and regular reminders and trainings of employees of consumer protection and how to avoid unfair, deceptive, or abusive acts or practices.</p>		
	Utility Operating Procedures	<i>e.g.</i> ConEdison’s proposed aggregator eligibility requirements in 13-E-0573	<p>ConEdison has proposed certain requirements that aggregators would be required to meet in order to participate in its demand response programs, such as a requirements that aggregators must accurately describe products and services offered to customers, and may not engage in deceptive or misleading conduct.</p>	<p>ConEdison proposed that the utility may suspend a company from enrollment new customers until violations are corrected, and noncompliance may result in denial or revocation of an aggregator’s ability to participate in utility demand response programs.</p>	<p>§2(B)(1)(n) §2(B)(3) §2(D) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C) §6(B) §8(B) §9(B)</p>
	Regulations of the Superintendent of Financial Services	23 NYCRR 200 et seq.	<p>Prohibits a licensed virtual currency business from engaging in false, misleading, or deceptive representations or omissions.</p> <p>Requires a licensed virtual currency business to disclose all material risks associated with its products or services, provide all general terms and conditions, disclosure the terms of each transaction, furnish receipts upon completion of each transaction, and take reasonable steps to prevent fraud by maintaining an anti-fraud policy.</p>	<p>The superintendent may suspend or revoke a license for violation of any provision, for good cause shown, or for failure of a licensee to pay a judgment by a claimant or creditor.</p>	<p>§2(B)(1)(n) §2(B)(3) §2(D) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C) §6(B) §9(B)</p>

False Advertising	New York General Business Law	\$350	<p>“False advertising in the conduct of any business... or in the furnishing of any service... is declared unlawful.”</p> <p>False advertising means “advertising, including labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising is misleading in a material respect.”</p>	<p>N.Y. Attorney General may bring action to enjoin such acts or practices and/or obtain resolution of money or property obtained directly or indirectly by the violating entity.</p> <p>Any injured person may also bring an action to enjoin an unlawful practice and/or recover actual damages or \$50, whichever is greater.</p>	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §4(C) §4(D)
			<p>False advertising includes displaying or announcing “the price of an item after deduction of a rebate unless the actual selling price is displayed or announced, and clear and conspicuous notice is given in the advertisement that a mail-in rebate is required to achieve the lower net price.”</p>	<p>Violators are subject to a civil penalty of up to up to \$5,000 for each violation, or \$10,000 per violation if perpetrated against an elderly person.</p>	
			<p>“Any person or business who uses a senior specific designation [e.g. title, professional designation, credential, certification, or professional description that indicates the person has expertise] ...shall clearly and prominently disclose, in any advertisement and in writing to any prospective client at the initial meeting or consultation with such prospective client, the basis or source of such senior specific designation, including whether the senior specific designation was created by the person or business using it.”</p>	<p>With regard to senior specific designations, in addition to civil penalties outlined above, the AG may bring an action to enjoin and restrain violations, without requiring proof that any person has in fact been injured.</p>	
	Federal Trade Commission Regulations	15 USC §52; 16 CFR 260	<p>The FTC enforces truth-in-advertising laws, and it applies the same standards no matter what form the advertisement, whether in print, online, mail, etc.</p> <p>The FTC’s “Green Guides” describe the types of environmental claims the FTC may find deceptive. The guides apply to claims about environmental attributes of a product or service in labeling, advertising, promotional materials, and all other forms of marketing in any medium, whether asserted directly or by implication.</p> <p>The guides also include (1) general principles that apply to all environmental marketing claims; (2) how consumers are likely to interpret particular claims and how marketers can substantiate these claims; and (3) how marketers can qualify their claims to avoid deceiving consumers.</p>	<p>FTC may bring suit to enjoin the dissemination of an advertisement when it has “reason to believe” that the injunction would be in the public interest.</p> <p>The FTC may take action under the FTC Act if a marketer makes an environmental claim inconsistent with the guides. <i>See e.g. FTC Approves Final Orders Settling Charges that Window Marketers Made Deceptive Energy Efficiency and Cost Savings Claims</i>, May 18, 2012 (available at https://www.ftc.gov/news-events/press-releases/2012/05/ftc-approves-final-orders-settling-charges-window-marketers-made).</p>	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §4(C) §4(D) §6(B)
	Lanham Act	15 USC § 1125	<p>Prohibits the use in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which: (1) is likely to cause confusion... or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or (2) misrepresents the nature, characteristics, qualities, or geographic origin of goods, services, or commercial activities.</p>	<p>Creates civil liability for any violators to any person who believes that he or she is likely to be damaged by the forbidden act under 15 U.S.C. § 1125.</p>	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §4(C) §4(D)

	Truth in Lending Act	15 USC § 1667c 12 CFR § 1013	Requires advertisements for a consumer lease to include certain statements, such as the total amount of any payments required, whether a security deposit is required, the number, amount, and timing of scheduled payments, and extra charges imposed at the end of the lease term.	Any lessor who fails to comply with these requirements may be liable for any actual damages, statutory penalties, and attorney's fees. All of the functions and powers of the FTC under the Federal Trade Commission Act are available to the FTC to enforce compliance. Also enforced by the CFPB, US DOJ, and private parties.	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §4(C) §4(D)
	SEIA Solar Business Code	§3	Prohibits deceptive or misleading advertising claims made in any medium, whether by affirmative statement, implication or omission, including claims about products or services, pricing, quality and performance. The Solar Business Code, among other things, requires that system production calculations take into account material factors (hardware specifications, tilt, azimuth, shading, etc.); projections of future utility prices must be based on accepted sources and methods; and endorsements must be genuine and authorized.	SEIA has adopted a Complaint Resolution Process to resolve complaints arising from the Solar Business Code.	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §2(D)(7) §4(B) §4(C) §4(D) §6(B) §9
	Utility Operating Procedures	<i>e.g.</i> ConEdison's proposed aggregator edibility requirements in 13-E-0573	ConEdison has proposed certain requirements that aggregators would be required to meet in order to participate in its demand response programs, such as giving ConEdison the right to review any marketing materials developed by aggregators that use ConEdison program names.	Noncompliance may result in denial or revocation of an aggregator's ability to participate in utility demand response programs.	§2(B) §2(C) §2(D) §3 §4(C) §4(D) §5(B) §5(C) §6(B) §8(B) §9(B)
	Regulations of the Superintendent of Financial Services	23 NYCRR 200 et seq.	Prohibits a licensed virtual currency business from advertising without including a statement that the licensee is licensed by the NYS Department of Financial Services. Requires a licensee to maintain for examination by the NYS Department of Financial Services all advertising and marketing materials for a period of seven years.	The superintendent may suspend or revoke a license for violation of any provision, for good cause shown, or for failure of a licensee to pay a judgment by a claimant or creditor.	§2(B) §2(C) §2(D) §4(C) §4(D) §6(B) §9

Telemarketing	New York General Business Law	§399-p	<p>Requires persons making consumer calls through the use of automatic-dialing-announcing devices to disclose “at the beginning of the call nature of the call and the name of the person or on whose behalf the message is being transmitted and at the end of such message the address, and telephone number of the person on whose behalf the message is transmitted.”</p>	<p>Authorizes the AG to bring an action for injunction, which the court may grant without requiring proof that any person has, in fact, been injured. Authorizes any person who has received a telephone call in violation of this section to bring an action for injunction and/or recover actual damages or \$50, whichever is greater. Permits a court to impose a civil penalty of up to \$2,000 per call, for a total of up to \$20,000.</p>	§3(B)(6) §4(C)(2) §4(D) §6(B)
	§399-pp	Extends the federal TCPA to New York State, such that it is fully enforceable by state and local officials. Imposes additional requirements applicable to the telemarketing industry not present in the federal statute, including:	<ol style="list-style-type: none"> 1. detailed registration requirements with the NY Secretary of State; 2. bonding requirements; 3. procedures for license suspension and/or revocation; 4. prohibition of deceptive or abusive telemarketing acts and practices; and 5. recordkeeping requirements. 	<p>The Secretary of State may suspend or revoke a telemarketers’ certificate, or issue a fine of up to \$1,000 per violation for, among other things, violations of this section, article 10-B of the personal property law, or the federal TCPA. In addition to those penalties, if a court determines a violation of this section has occurred, it may impose a fine between \$1,000-\$2,000 for each violation.</p> <p>Persons convicted of knowingly acting as a telemarketer without first having received the proper certificate, or knowingly giving false or misleading information, or otherwise misrepresenting himself or herself to be registered, is guilty of a Class B Misdemeanor.</p>	§3(B)(6) §4(C)(2) §4(D)

	Telephone Consumer Protection Act (“TCPA”)	47 USC § 227	Prohibits any person from initiating a phone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party.	<p>Any person or entity may bring an action based on a violation of this section to recover actual monetary loss, or to receive \$500 in damages for each violation, whichever is greater. Also enforced by the FTC, CFPB, FCC, and US DOJ.</p> <p>In the event of a willful violation of the TCPA, a subscriber may sue for up to three times the damages (\$1,500, for each violation).</p>	§3(B)(6) §4(C)(2) §4(D)
			Requires that all artificial or prerecorded messages state the identity of the business, individual, or entity initiating the call, and the telephone number or address of the business, and to automatically release the called party's line within five seconds of hang up.		
			Requires solicitors maintain a company-specific "do-not-call" (DNC) list of consumers who asked not to be called, and to comply with the National Do Not Call Registry		
	Telemarketing and Consumer Fraud and Abuse Prevention	15 USC § 6102	Authorizes the FTC to prescribe rules prohibiting deceptive or abusive telemarketing acts or practices, including restrictions on the hours of day and night where calls can be made, disclosure requirements regarding the purpose of the call and nature of goods or services being sold, among others.	N.Y. AG can bring an action to enjoin telemarketing in violation of FTC's rules to enforce compliance, obtain damages, restitution, or other compensation.	§3(B)(6) §4(C)(2) §4(D)
	CAN-SPAM Act	15 USC § 7701 et seq.	<p>Extends the TCPA to calls and faxes originating from outside the U.S.</p> <p>Prohibits false, misleading, or deceptive header information in electronic mail messages and requires provision of an opt-out mechanism for recipients to prevent them from receiving future commercial messages from the sender.</p>	<p>Authorizes the FTC to enforce the Act as if the violations were an unfair or deceptive act or practice pursuant to 15 USC §41 et seq. and may seek penalties of up to \$16,000 per email, with no maximum penalty limit.</p> <p>Entities that fall outside the scope of FTC jurisdiction are subject to enforcement by Securities and Exchange Commission (SEC), the FCC, CFPB, Internet Service Providers, among others. The NY Attorney General may also bring claims for violations affecting state residents.</p>	§4(C)(2) §4(D)
	SEIA Solar Business Code	§4	<p>Requires compliance with all federal, state, and local laws regarding restrictions on contacting customers, and requires protocols to ensure employees, agents, and contractors do not initiate contact with customers on do-not-contact lists.</p> <p>Requires company representatives to clearly and truthfully identify the company they represent, and to ensure all contractors and agents do the same.</p>	SEIA has adopted a Complaint Resolution Process to resolve complaints arising from the Solar Business Code.	§3(B)(6) §4(C) §4(D)

Home Improvement Contracts	New York General Business Law	§771	<p>Requires home improvement contracts to be in writing, signed by all parties, and contain a number of consumer protection disclosures, including:</p> <ol style="list-style-type: none"> 1. the dates when work will begin and be substantially completed; 2. a description of the work to be performed; 3. notice to the owner that the contractor or subcontractor may have a valid mechanic's lien filed against the property in the event of nonpayment; 4. notice to the owner that the contractor is legally required to deposit all payments received prior to completion in accordance with the Lien Law §71-a; and 5. notice to the owner that he or she may cancel the home improvement contract until midnight of the third business day after the day on which the agreement was signed. 	<p>Technical violations of this section may result in a contractor paying a penalty of up to \$100. Substantial violations of this section, such as failing to deposit funds in an escrow account or provide a bond or contract of indemnity or irrevocable letter of credit in compliance with the requirements of N.Y. Lien Law § 71-a, or failure to provide a properly executed written contract, are subject to a penalty of the greater of \$250 for each violation or 5% of the aggregate contract price, up to \$2,500 for each contract.</p> <p>Authorizes the AG to bring an action for injunction, which a court may grant without requiring proof that any person has, in fact, been injured or damaged.</p> <p>Authorizes concurrent enforcement of this article by the director of a municipal consumer affairs office, or by the town attorney, city corporation counsel, or other lawful designee of a municipality.</p>	§5(B) §5(C)
		§771	<p>Establishes penalties for home improvement contractors who induce customers using false or fraudulent representations.</p>	<p>Permits any owner induced to contract in reliance on false or fraudulent representations to recover \$500, plus attorney fees, in addition to any damages sustained.</p>	§2(D)(4)
	NY-Sun Addendum to Customer Agreement	Page 5	<p>Requires contractors to comply with the notice requirements of NYS General Business Law §770, et seq. if the project is classified as a home improvement contract.</p>	<p>See above for New York General Business Law remedies.</p>	§5(B) §5(C)

Contract Requirements, Generally	New York Civil Practice Law and Rules	§3015	Sets general framework for pleadings regarding breaches of contract.	Noncompliant contracts are unenforceable against the customer.	§5(B) §5(C)(3)(c)
		§4544	Prohibits a company from introducing a “small print” residential contract (less than 8 point font) into evidence at any trial, hearing or proceeding, effectively prohibiting a company from proving the existence of such a contract.		§2(B)(1)(n) §2(D)(4) §5(B) §5(C)
	NY-Sun Addendum to Customer Agreement	Page 3	Requires a contractor to include “any and all costs associated with the complete installation of the proposed PV system.”	If a contractor imposes additional costs on the customer, the agreement may be cancelled without penalty and the customer may seek a full refund of any deposit paid to Contractor or costs the Customer incurred, less any reasonable site visit fees.	§2(B)(1)(n) §2(D)(4) §5(B) §5(C)
			Protects consumers from situations in which (1) a contractor does not submit a completed project to NYSERDA, (2) a project is not approved by NYSERDA, or (3) if NYSERDA approves a lower incentive than initially estimated by the contractor.		
			Contracts for PPA/lease projects receiving the Affordable Solar additional incentive must not contain price escalators over the life of the agreement, and all projects receiving this incentive shall provide a cost savings to the customer over the life of the agreement.		
	Electronic Signatures In Global and National Commerce Act	15 U.S.C. §§ 7701 et seq.	Requires consumer consent and sets written disclosure requirements including the ability for the consumer to access information in electronic form.	Enforced by FTC as if the violation were an unfair or deceptive act or practice, as described above. NY Attorney General or state agency may also bring a civil action for an injunction or to obtain damages.	§2(B)(1)(n) §2(D)(4) §3(B)(1) §3(B)(6) §3(E) §5(B) §5(C)
	Electronic Signatures and Records Act	NY State Technology Law §§ 301-309	Establishes that use of electronic signatures is voluntary. Prohibits disclosure of personal information. Protects customers by requiring affirmative consent and ensuring clear and conspicuous disclosure of terms.	Enforced by private plaintiffs.	§2(B)(1)(n) §2(D)(4) §3(B)(1) §3(B)(6) §3(E) §5(B) §5(C)

	Electronic Funds Transfer Act	15 U.S.C. §§ 1693 et seq.	Establishes terms and conditions of transfers including disclosures, and requirements for preauthorized transfers. The act also requires disclosure of terms and conditions at contract execution, establishment of procedures for correcting electronic fund transfer errors, and limits consumer liability for unauthorized transfers.	Willful violations are subject to civil and criminal penalties, and is enforced by the FTC, CFPB, USDOJ, and individuals.	§2(B)(1)(n) §2(D)(4) §3(B)(1) §3(B)(6) §3(E) §5(B) §5(C)
	SEIA Solar Business Code	§5	Requires written contract terms to reflect verbal representations; requires contracts to be clear and understandable, and material terms to be prominently placed; requires material terms to be included in contracts, such as costs, ownership terms, financing, warranties, and consumer rights; requires companies to offer customers the right to rescind the contract within three days from execution and clear written notice of rescission rights.	SEIA has adopted a Complaint Resolution Process to resolve complaints arising from the Solar Business Code.	§2(B)(1)(n) §2(D)(4) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C)
	Utility Operating Procedures	<i>e.g.</i> ConEdison's proposed aggregator edibility requirements in 13-E-0573	ConEdison has proposed requirements that aggregators maintain legally binding customer contracts, maintain proof that each customer has been informed of enrollment, and a requirement that aggregators requesting customer information must obtain a letter of authorization.	Noncompliance may result in denial or revocation of an aggregator's ability to participate in utility demand response programs.	§2(B)(1)(n) §2(D)(4) §3(B)(1) §3(B)(6) §3(E) §5(B) §5(C) §8(B)
Personal Property	New York Personal Property Law	§401 et seq.	Establishes the Retail Installment Sales Act, which provides consumer protections for retail customers who enter into an agreement to furnish or render services for a time sale price payable in installments.	Willful violations of any provision may result in a fine of up to \$500. Gives the buyer the right to recover an amount equal to the credit service charge or service charge imposed and the amount of any delinquency, collection, extension, deferral or refinance charge imposed.	§5(B) §5(C)
		§425 et seq.	Establishes the Door-to-Door Sales Protection Act, which affords consumers a 3-day "cooling-off" period to cancel contracts which are entered into as a result of high pressure door-to-door sales tactics.	Authorizes the customer to rescind the contract within three days. If the seller fails to disclose conspicuously the applicable refund policy, the seller will be liable	§4(C)(1) §4(D) §5(B) §5(C)

			Requires a seller pursuant to a door-to-door sale to provide the buyer with a Statement of Buyer's Rights, orally inform the buyer that he or she has a right to cancel, and furnish a receipt that conspicuously discloses the seller's refund policy.	to the buyer for a cash refund of the total price or a credit of the total price, at the buyer's option, to be paid within 10 days of the return.	
			Prohibits a seller from negotiating, transferring, selling or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed.	If the seller refuses to return all payments made by the buyer within 10 days, the seller will be liable to the buyer for one hundred dollars plus reasonable attorney's fees and costs, in addition to such payments.	
			§440 et seq.	A series of statutes created to afford consumers a "cooling-off" period to cancel a sale which is made as a result of high pressure telephone sales tactics.	Allows the customer to rescind the contract within the cooling off period.
	New York Uniform Commercial Code	§2-601	Sets out uniform rules governing sales, leases and commercial transactions, which promote fair and predictable commercial practices. Establishes the right of the buyer to reject, accept, or accept in part and reject in part any delivery of goods which fails to conform to the contract requiring their delivery.	Enforced by private plaintiffs.	§5(B) §5(C)
	New York General Obligations Law	§5-901	Requires notice to a customer between 30 and 15 days prior to the contractual renewal date calling attention to the existence of a renewal provision in a contract, thus protecting customers from unknowingly having their contract extended.	Noncompliance with the notice provisions renders the contract unenforceable.	§5(B) §5(C)
	Consumer Leasing Act	15 USC § 1667b	Sets basic requirements for certain dispute clauses within Lessee/Lessor contracts including liability on expiration and penalties/charges for default.	The statute protects customers from hidden fees and overly complex terms by creating individual liability for any violators in the event that actual damages are suffered by the consumer pursuant to 15 U.S.C. § 1640. Both individual and class action suits are authorized under this section. Also enforced by US DOJ, CFPB, and FTC.	§2(B)(1)(n) §2(D)(4) §4(D)(5) §4(E) §5(B) §5(C)
		15 USC § 1667d	Creates civil liability for violators of the Consumer Leasing Act pursuant to U.S.C. § 1640.		

	15 USC § 1667c	<p>Requires that consumer lease advertisements include, as applicable:</p> <ol style="list-style-type: none"> 1. that the transaction advertised is a lease; 2. the total amount of any initial payments required on or before consummation of the lease or delivery of the property, whichever is later; 3. that a security deposit is required; 4. the number, amount, and timing of scheduled payments; and 5. with respect to a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term. 		§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §4(D) §5(B) §5(C) §6(B)
NY-Sun Addendum to Customer Agreement	Page 3	<p>Requires a contractor to offer a protection guarantee to the customer which will provide the customer with compensation if the system produces less than the guaranteed output as specified in the PPA or lease agreement.</p> <p>Requires the lease to be fully transferable to a new lessee should the customer sell the residence at which the solar facility is located.</p>	Contracts that do not comply with these provisions are unenforceable against a customer.	§2(B)(1)(n) §2(B)(3) §2(D)(4) §2(D)(5) §2(D)(6) §4(D) §5(B) §5(C) §6(B)
Regulations for Implementing the Truth in Lending Act	12 CFR §§ 1013 et seq.	The CFPB has established general disclosure requirements for lessors, contents of disclosures, and general rules for advertising.	Failure to comply may result in administrative enforcement action by the FTC.	§5(B) §5(C)

Licensing Requirements	Regional, County, and City Consumer Protection Law	<i>e.g. N.Y. Admin. Code, Title 20</i>	<p>The New York City Licensing Law imposes general licensing rules and requirements in addition to industry-specific rules applicable to the home improvement industry.</p>	<p>A person who engages without a license may be subject to fines ranging from \$25 to \$2,000 and/or imprisonment of up to sixty days.</p>	§2(B) §2(C) §2(D) §4(C) §4(D) §5(B) §5(C) §6(B)
	New York Department of State Division of Licensing Services	19 NYCRR 197	<p>The Department of State is provided statutory authority for the licensing and regulation of various occupations, such as home inspectors, which includes HVAC and electrical systems. Home inspectors must abide by a code of ethics and regulations which prohibit misrepresentations, dishonesty, or fraudulent activity. The Division of Licensing Services intakes and resolves public complaints when a person believes a licensee has acted in an untrustworthy or incompetent manner.</p>	<p>Anyone who believes that he or she is a victim of an untrustworthy or incompetent licensee of the Department of State, or who is aware of unlicensed conduct by a person or business engaging in the occupations or businesses regulated by the Department of State, may file a complaint with the Department of State. Licensees may be subject to reprimand, fine, suspension, or revocation.</p>	§2(B) §2(C) §2(D) §3(B)(1) §3(B)(6) §3(E) §4(C) §4(D) §5(B) §5(C) §6(B)
	Regulations of the Superintendent of Financial Services	23 NYCRR 200 et seq.	<p>Requires persons engaging in virtual currency business activity to obtain a license from the New York State Department of Financial Services, which includes a \$5,000 application fee to cover the cost of processing, reviewing the application, investigating the financial and business experience of the applicant, and ensuring general character and fitness of the applicant.</p> <p>Requires each licensee to designate a compliance officer dedicated to maintaining and enforcing written compliance policies with respect to consumer protection, cyber security, privacy and information security, among others.</p>	<p>The superintendent may suspend or revoke a license for violation of any provision, for good cause shown, or for failure of a licensee to pay a judgment by a claimant or creditor.</p>	§2(B) §2(C) §2(D) §3(B)(1) §3(B)(6) §3(E) §4 §5(B) §5(C) §6(B)
	New York Banking Law	Article IX	<p>Requires a license from the superintendent of the Department of Financial Services for a person or entity to engage in the business of making loans of \$25,000 or less for personal, family, household, or investment purposes, or \$50,000 for business and commercial purposes.</p>	<p>Any person or entity in which violates these provisions is guilty of a misdemeanor. In addition, the superintendent is authorized to make rules, regulations and findings necessary to enforce Article IX.</p>	§2(B) §2(C) §2(D)

	Magnuson-Moss Warranty Act	15 USC §§ 2301 et seq.	<p>Requires any warranty for a consumer product to include, among other things, full and conspicuous disclosure in readily understood language of the products or parts covered by the warranty, a statement of what the warranty will do in the event of a defect or malfunction, a statement of what the consumer must do to fulfill the warranty, a step-by-step procedure which the customer should take in order to obtain performance of any warranty obligation, information about the dispute resolution process, description of customer legal remedies, among others.</p>	<p>Warrantors are encouraged to establish procedures to handle customer disputes in a fair and expeditious manner through information dispute settlement mechanisms.</p> <p>The Attorney General or FTC may bring an action to restrain any warrantor from making deceptive warranties, or for failing to comply with a warranty requirement. Also enforced by the CFPB, US DOJ, and private plaintiffs.</p> <p>A consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief.</p>	§4(C) §4(D) §5(B) §5(C) §6(B)
	NY-Sun Addendum to Customer Agreement	Page 3	<p>Requires a contractor to offer a full and transferable warranty (covering the full cost, including labor and repair or replacement of defective components or systems) to the purchaser of a PV system for five years after installation is complete and NYSERDA issues final approval.</p>	<p>Contracts that do not comply with these provisions are unenforceable against a customer.</p>	Laws and Regulations Beyond Proposed UBP-DERS
	SEIA Solar Business Code	§5	<p>Requires solar companies to include all material terms in their contracts, including warranties, consumer options in the event of a home sale, termination and removal options and costs, and consumer rights regarding property damage due to installation.</p>	<p>SEIA has adopted a Complaint Resolution Process to resolve complaints arising from the Solar Business Code.</p>	§5(B) §5(C) §6(B)(1)
	Regulations of the Superintendent of Financial Services	23 NYCRR 200 et seq.	<p>Requires each licensed virtual currency business to maintain a surety bond or trust account for the benefit and protection of customers.</p>	<p>The superintendent may suspend or revoke a license for violation of any provision, for good cause shown, or for failure of a licensee to pay a judgment by a claimant or creditor.</p>	§8(B)(5) §6(B)(1)

Application for Credit	Equal Credit Opportunity Act	15 U.S.C. §1691-1691f 12 CFR 202	<p>Applies to the granting of “credit,” which is defined broadly to include any agreement in which the obligation to pay is deferred. The ECOA prohibits credit discrimination, such as altering or denying credit terms to residents that live in certain neighborhoods or because part of an applicant’s income derives from public assistance programs.</p> <p>The Bureau of Consumer Financial Protection prescribes regulations to carry out the purposes of the ECOA, which, among other things, give consumers the right to cancel certain credit transactions that involve a lien on a consumer’s principal dwelling, regulate certain credit card practices, and provide a means for fair and timely resolution of credit billing disputes.</p>	<p>Any creditor who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class, and for separate and additional punitive damages of up to \$10,000. Also authorizes the Attorney General to bring an action for any appropriate relief.</p> <p>Permits a court to grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this subchapter.</p> <p>Enforced by US DOJ, CFPB, FTC, and private plaintiffs.</p>	§3(B)(1) §3(B)(6) §3(E) §6(B)(1)
	Fair Credit Reporting Act	15 U.S.C. §§1681-1681u 16 CFR Subchapter F	<p>The FRCA promotes accuracy, fairness, and privacy of information used by consumer reporting agencies and sets forth consumer rights to obtain certain information and correct inaccurate or incomplete information.</p> <p>Requires customer disclosures when a business relies on information in a consumer report to deny or alter credit terms.</p>	<p>Enforced by consumers, the New York Attorney General, US DOJ, CFPB, and the FTC through cease and desist orders, court action, restitution, injunctive relief, statutory damages, and attorney’s fees. For example, the FTC may commence an action to recover up to \$2,500 for each knowing violation.</p>	§3(B)(1) §3(B)(6) §3(E) §6(B)(1)
	Truth in Lending Act	15 U.S.C. §§1601 et seq. 12 C.F.R. Part 226	<p>Regulates transactions in which a finance charge is imposed, such as when a debt is deferred and an interest rate is charged for installment payments.</p> <p>Credit transactions subject to TILA trigger disclosure, procedural, and substantive requirements.</p>	<p>All of the functions and powers of the FTC under the Federal Trade Commission Act are available to the FTC to enforce compliance by any person with the requirements under this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act. Also enforced by the CFPB, US DOJ, and private parties.</p> <p>Willful and knowing violations of this subchapter result in fines of up to \$5,000 and/or imprisonment of up to 1 year.</p> <p>Provides a consumer with the right to rescind if the required notice and material disclosures are not delivered.</p>	§3(B)(1) §3(B)(6) §3(E) §6(B)(1)

Exhibit B: Summary of Relevant Laws and Regulations

The following laws, regulations and specific sections were included within the overall review of the Uniform Business Practices for Distributed Energy Resource Suppliers ("UBP- DERS").

• Bureau of Consumer Financial Protection Regulations	12 CFR §1013	<u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.E Unauthorized Information IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General
• Bureau of Consumer Financial Protection Regulations	12 CFR §202	<u>Relevant UBP Regulations</u> III.B Customer Authorization III.E Unauthorized Information VI.B General
• Bureau of Consumer Financial Protection Regulations	12 CFR §226	<u>Relevant UBP Regulations</u> III.B Customer Authorization III.E Unauthorized Information V.B Standard contract provisions V.C Sales agreement VI.B General
• CAN-SPAM Act	15 USC §7701 <i>et seq.</i>	<u>Relevant UBP Regulations</u> IV.C Contact with Customers IV.D Conduct

• ConEd Programs	<i>as presented in Case 13-E-0573</i>	<u>Relevant UBP Regulations</u>
• Consumer Leasing Act	<i>15 USC §1667b</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.C Department Review Process II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General VIII.B DERS selling to the DSP IX.B DERS and ESCOs selling DER
• Consumer Leasing Act	<i>15 USC §1667c</i>	<i>comment:</i> Solar lease agreement disclosures and structure (FTC) <u>Relevant UBP Regulations</u> V.C Sales agreement
• Consumer Leasing Act	<i>15 USC §1667d</i>	<u>Relevant UBP Regulations</u> IV.D Conduct VI.B General
• Consumer Product Safety Commission	<i>15 USC 1278a et seq.</i>	<u>Relevant UBP Regulations</u> V.C Sales agreement <i>comment:</i> Addresses third-party testing and certification
• Consumer Product Safety Commission	<i>15 USC 2051 et seq.</i>	<i>comment:</i> Addresses recalls and foreign imports

• Dodd-Frank Wall Street Reform and Consumer Protection Act	<i>12 USC §5481 et seq.</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General
• Electronic Funds Transfer Act	<i>15 USC §1693 et seq.</i>	<i>comment:</i> These laws extend beyond the scope of the proposed UBP regulations. <u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information V.B Standard contract provisions V.C Sales agreement
• Electronic Signatures and Records Act	<i>New York State Technology Law §301-309</i>	<i>comment:</i> These laws extend beyond the scope of the proposed UBP regulations. <u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.D Conduct V.B Standard contract provisions V.C Sales agreement

• Electronic Signatures in Global and National Commerce Act	<i>15 USC §7701 et seq.</i>	<i>comment:</i> These laws extend beyond the scope of the proposed UBP regulations. <u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.D Conduct V.B Standard contract provisions V.C Sales agreement
• Equal Credit Opportunity Act	<i>12 CFR 202</i>	<u>Relevant UBP Regulations</u> VI.B General
• Equal Credit Opportunity Act	<i>15 USC §1691 -1691f</i>	<u>Relevant UBP Regulations</u> III.B Customer Authorization III.E Unauthorized Information VI.B General
• Fair Credit Reporting Act	<i>15 USC §1681 -1681u</i>	<u>Relevant UBP Regulations</u> III.B Customer Authorization III.E Unauthorized Information VI.B General
• Fair Credit Reporting Act	<i>16 CFR Subchapter F</i>	
• Fair Debt Collection Practices Act		<i>comment:</i> Establishes legal protection from abusive debt collection practices as amendment to the Consumer Credit Protection Act, as Title VIII of that Act.

• Federal Trade Commission Act	<i>15 USC §41 et seq</i>	<i>comment:</i> Unfair and deceptive advertising, marketing and sales practices (FTC) <u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement
• Federal Trade Commission Regulations	<i>15 USC §52; 16 CFR 260</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement
• HEFPA Complaint Resolution Process / Rules		
• Lanham Act	<i>15 USC §1125</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility IV.C Contact with Customers IV.D Conduct
• Magnuson-Moss Warranty Act	<i>15 USC §2301 et seq.</i>	<u>Relevant UBP Regulations</u> IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General

• New York Banking Law	<i>Article IX</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.C Department Review Process II.D Maintaining DERS Eligibility
• New York Civil Practice Law and Rules	<i>§3015</i>	<u>Relevant UBP Regulations</u> V.B Standard contract provisions V.C Sales agreement
• New York Civil Practice Law and Rules	<i>§4544</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility V.B Standard contract provisions V.C Sales agreement
• New York Department of State Division of Licensing Services	<i>19 NYCRR 197</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.C Department Review Process II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General VIII.B DERS selling to the DSP IX.B DERS and ESCOs selling DER

- **New York General Business Law** §349
 - comment:*
Addresses deceptive and misleading business practices.
(Attorney General)

Relevant UBP Regulations
II.B Application Requirements
II.D Maintaining DERS Eligibility
III.B Customer Authorization
III.E Unauthorized Information
IV.C Contact with Customers
IV.D Conduct
V.B Standard contract provisions
V.C Sales agreement
VI.B General

- **New York General Business Law** §349-*pp*
 - comment:*
Telemarketing and Consumer Fraud and Abuse Prevention Act.

The provisions of this law extend beyond the proposed regulations of the UBP.

Relevant UBP Regulations
III.B Customer Authorization
IV.C Contact with Customers
IV.D Conduct

- **New York General Business Law** §350
 - comment:*
Addresses false advertising.
(Attorney General)

Relevant UBP Regulations
II.B Application Requirements
II.D Maintaining DERS Eligibility
IV.C Contact with Customers
IV.D Conduct

- **New York General Business Law** §399-*p*
 - comment:*
Restrictions on automated telemarketing devices.
(Attorney General)

Relevant UBP Regulations
III.B Customer Authorization
IV.C Contact with Customers
IV.D Conduct
VI.B General

- **New York General Business Law** §399-z
 - comment:*
No Telemarketing Sales Call Registry
(New York Department of State)
 - Relevant UBP Regulations
 - III.B Customer Authorization
 - IV.C Contact with Customers
 - IV.D Conduct
- **New York General Business Law** §771-772
 - comment:*
Home Improvement Contracts & Frauds
(Attorney General)
 - Relevant UBP Regulations
 - II.D Maintaining DERS Eligibility
 - IV.D Conduct
 - V.B Standard contract provisions
 - V.C Sales agreement
- **New York General Obligations Law** §5-901
 - comment:*
Limitations on Enforceability of Automatic Lease Renewal Provisions
(Attorney General)
 - Relevant UBP Regulations
 - V.B Standard contract provisions
 - V.C Sales agreement
- **New York Personal Property Law** §401 *et seq.*
 - comment:*
Retail Installment Sales Act
(Attorney General)
 - Relevant UBP Regulations
 - V.B Standard contract provisions
 - V.C Sales agreement
- **New York Personal Property Law** §425 *et seq.*
 - comment:*
Door-to-Door Sales Protection Act
(Attorney General)
 - Relevant UBP Regulations
 - IV.C Contact with Customers
 - V.B Standard contract provisions
 - V.C Sales agreement

- **New York Personal Property Law** §440 *et seq.*

comment:
Telephone Sales Protection Act
(Attorney General)

Relevant UBP Regulations

V.B Standard contract provisions
V.C Sales agreement

- **New York Uniform Commercial Code** §2-601

comment:
Nonconforming Goods Right of Recession

Relevant UBP Regulations

V.B Standard contract provisions
V.C Sales agreement

- **NY-SUN Addendum to Customer Agreement**

comment:
These laws extend beyond the scope of the proposed UBP regulations.

Relevant UBP Regulations

II.B Application Requirements
II.D Maintaining DERS Eligibility
IV.D Conduct
V.B Standard contract provisions
V.C Sales agreement
VI.B General

- **NYISO Market Administration and Control Area Services Tariff**

Relevant UBP Regulations

VIIIB DERS selling to the DSP

- **OSHA laws and regulations**

- **Regional, County and City Consumer Protection Law** *NYC Administrative Code §§20-700 et seq.*

Relevant UBP Regulations

II.B Application Requirements
II.C Department Review Process
II.D Maintaining DERS Eligibility
III.B Customer Authorization
III.E Unauthorized Information
IV.C Contact with Customers
V.B Standard contract provisions
V.C Sales agreement
VI.B General

• Regulation of the Superintendent of Financial Services	<i>23NYCRR 200 et seq.</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.C Department Review Process II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General VIII.B DERS selling to the DSP IX.B DERS and ESCOs selling DER
• Regulations for Implementing the Truth in Lending Act	<i>12 CFR §1013 et seq.</i>	<u>Relevant UBP Regulations</u> V.B Standard contract provisions V.C Sales agreement
• Right to Financial Privacy Act		
• SEIA Solar Business Code		<u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.B Training of Marketing IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General IX.B DERS and ESCOs selling DER
• Service Members Civil Relief Act		

• Telemarketing and Consumer Fraud and Abuse Prevention	<i>15 USC §6102</i>	<u>Relevant UBP Regulations</u> III.B Customer Authorization IV.C Contact with Customers IV.D Conduct
• Telephone Consumer Protection Action	<i>47 USC §227</i>	<u>Relevant UBP Regulations</u> III.B Customer Authorization IV.C Contact with Customers IV.D Conduct
• Truth in Lending Act	<i>12 CFR Part 226</i>	
• Truth in Lending Act	<i>15 USC §1601 et seq.</i>	
• Truth in Lending Act	<i>15 USC §1667c</i>	<u>Relevant UBP Regulations</u> II.B Application Requirements II.D Maintaining DERS Eligibility III.B Customer Authorization III.E Unauthorized Information IV.C Contact with Customers IV.D Conduct V.B Standard contract provisions V.C Sales agreement VI.B General