**NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

**Resolution 2014-05**

**Urging Broad Consumer Protections for Distributed Generation Customers**

**Whereas**, distributed generation (DG) can be defined as decentralized electricity generation, usually on a small scale, which is interconnected with the distribution system, located at or near the load (i.e., a customer’s home, business or other facility) and includes energy sources such as solar panels, small wind, energy storage devices, fuel cells and microturbines; and

**Whereas**, in recent years, development of distributed generation has increased in many states which is attributable, in large part, to the adoption of public policies supporting the development of decentralized or small-scale renewable energy generation; and

**Whereas**, twenty-nine states plus the District of Columbia and two territories have promulgated statutory Renewable Portfolio Standards mandating the integration of renewable energy sources in their fuel mix; and

**Whereas**, forty-three states plus the District of Columbia and four territories have adopted net energy metering regulations for small-scale renewable generation; and

**Whereas**, the federal government and several states have codified tax incentives for renewable energy generation; and

**Whereas,** in many jurisdictions, wider commercial deployment of solar energy technologies, such as rooftop solar photovoltaics and solar thermal systems, has played a central role in the expansion of distributed generation; and

**Whereas**, within the past few years, the cost of rooftop solar energy systems has fallen significantly and there is growing consumer demand for solar energy in some regions; and

**Whereas**, the increasing affordability of DG for residential consumers is, in part, attributable to DG providers (third-party DG providers), such as solar companies, offering more financing options which allow customers to participate in DG without having to make large capital investments and owning and bearing the responsibility for maintaining the energy systems installed at their property; and

**Whereas**, these financing arrangements may include third-party ownership business models (third-party DG contracts) such as power purchase agreements and lease agreements which may require little or no upfront down payments; and

**Whereas,** although these third-party DG ownership models may provide benefits for consumers, entities such as the Better Business Bureau have received complaints regarding the business practices of certain third-party DG providers; and

**Whereas,** these complaints demonstrate that more oversight and consumer education is warranted because of the potentially significant risks for consumers engaging in DG contracts, including but not limited to:

1. Fraudulent and deceptive business practices by DG providers, such as misrepresentation of the potential energy output of the DG system, exaggeration of the value of the DG system, and withholding information or misleading customers regarding information related to property repairs or upgrades necessary for installation of the DG system;
2. Improperly installed DG systems, including poor workmanship or systems failing to meet interconnection requirements which can result in safety hazards;
3. Unfulfilled contract obligations, such as third-party DG providers’ failure to maintain or repair the system pursuant to contract terms;
4. Limits on consumer legal remedies, such as mandatory arbitration clauses and unfair limits on damages that DG customers could be awarded in a legal dispute with third-party DG providers; and
5. Inadequate disclosure of contract terms, such as failure of third-party DG providers to engage the DG consumer in a true “arm’s length” transaction where the consumer is fully aware of their obligations under the contract.

***Now, therefore, be it resolved***, NASUCA acknowledges the growing distributed generation market and supports efforts to establish measures that enhance protection of DG customers; and

***Be it further resolved***, that NASUCA encourages state legislatures, state public utility commissions, consumer advocates, state attorneys general and other consumer protection agencies to coordinate their respective activities in regard to this market in order to:

1. Ensure that the rights of DG customers are fully and fairly protected and enforced under existing, or if necessary, new statutes and regulations;
2. Educate consumers regarding their rights and obligations under third-party DG contracts either from a utility or third party program;
3. Establish and enforce standards for the DG marketplace which promote equitable treatment and safety of consumers; and

***Be it further resolved***, that state legislatures are encouraged to require that state public utility commissions, and other relevant consumer protection agencies, establish standards that require third-party DG providers to fully and accurately disclose and explain information related to the installation of DG systems on consumers’ property including, but not limited to, the expected energy output and value of the DG system, the extent of property alterations necessary for the realization of the full benefit of the DG system and the terms and conditions in their contracts; and

***Be it further resolved*,** that state legislatures are encouraged to review and delineate the jurisdiction of state public utility commissions over third-party DG providers and conduct reviews of complaint resolution processes and legal remedies available to consumers in third-party DG contracts in order to determine whether such remedies are sufficient, reasonable and fair; and

***Be it further resolved***, that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution.  The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible, and shall notify the membership of any action taken pursuant to the resolution.

Submitted by the Distributed Energy Resources Committee

Approved: November 18, 2014

San Francisco, California
Abstained: Michigan