REWG Economic Development Committee
Supplemental Information
Suggested Legislative Concepts
August 14, 2008

Sandra Walden – Real Energy Solutions/Commercial Solar Ventures/OSEIA
Robert Grout - NEBC

#3 Bonding, Insurance & Warranty challenges

Insurance

Issue: In third party financing projects where the host is self insured or can't add the system to an existing policy the cost to obtain required insurance coverage is a major barrier to installation.

Reference

Solar Photovoltaic Financing: Deployment on Public Property by State and Local Governments
Technical Report NRTEL/TP-670-43115 May 2008

"Insurance can be a "below the radar" issue in the PV industry."
"Depending on the cost of coverage, this insurance premium could materially impact the feasibility of the project. If insurance costs are high enough, it is possible that a PV system will be downsized or abandoned to avoid insurance requirements, instead of optimizing it for the host's load profile."

Oregon Example

The quote received for a solar installation for a City property where the City is self-insured and unable to carry the 3rd party installation on their policy is 1 ½ times the income received by the sale of the power if the power is priced at it's current tariff.

POSSIBLE SOLUTIONS AND RECOMMENDATIONS

1. The Oregon Insurance Division has available Market Assistance Plan that is funded to study and analyze the issue and make recommendations. The Division is very cooperative and willing to work with us to study the problem in detail. This can accomplished without a Legislative Action but their recommendations may result in a proposed Legislative Action. There are existing programs that are assisted by the State that could serve as models for their proposals. It could take the form of a government owned insurance company that would be able to provide insurance at a wholesale price similar to SAIF.

RECOMMENDATION(S):

a. A place holder is submitted to the Legislature to address this issue in the event the outcome of the Oregon Insurance Division analysis requires action. The REWG provide support and guidance to the Insurance Division in identifying the problem and possible solutions. Any resulting suggestion should carry an A rating or better.
b. The State of Massachusetts was looking at how to provide an umbrella policy that may be more cost-effective than one-off policies for each project at the end of 2007. Follow-

up with Meg Lusardi, Division of Energy Resources, Commonwealth of Massachusetts (http://www.mass.gov/doer/) should be contacted as a part of the Insurance Division analysis or by a this subcommittee to provide a guideline for a program here.

2. A Risk Retention Group (RRG) is an owner (member) -controlled insurance company. An RRG provides Liability Insurance to members who engage in similar or related business activities for all or any portion of the exposures of group members, excluding firs party coverage's such as property and workers compensation. This type of insurance is regulated thru the Federal Insurance Division. Potentially the state would set up the group. Each member would have a member fee. An assessment of risk would be determined based on perceived risk and track history. An RRG would not be able to guarantee fund availability to members and might not comply with proof of financial responsibility laws.

RECOMMENDATION(S): Although an interesting insurance vehicle that has been used for some applications it is risky for the members and would not be recommended for a State provided program. Note it could be a beneficial opportunity for developers of projects to band together and potentially cause an RRG to be established.

3. The third option is a public/private partnership. The state would be a repository of project information for a private insurance company that could establish a Group policy with wholesale rates. (The cheaper by the dozen theory.)

An exclusive appointment can be made to establish a Renewable Energy Group of Oregon. The group would have various underwriters and companies offering a variety of insurance products thru a single, experienced renewable insurance broker to address biofuels, ethanol, geothermal, solar, hydro, bind, biomass, biogas or tidal/wave. The group affiliation would be thru the State. A traditional policy with an A-Rated Insurance Company would be offered at a discounted price because of the size of the group. Funds would be guaranteed and proof of financial responsibility laws would be provided.

RECOMMENDATION(S): This option should be considered in the Market Assistance Plan mentioned above. Note: a list of potential projects would need to be provided in order to establish the Group. An RFP may need to be issued by the state to avoid state procurement issues.

Bonding

ISSUE: Removal Bonds are common with many municipalities. They became commonplace in leasing of telecommunications facilities to the major wireless companies. This requirement is also now being required of some renewable projects, specifically wind, solar and wave. From the municipalities perspective they do not want a defunct facility abandoned with no funds available for them to use to return the property to a usable condition.

It is not possible to obtain a 20 year Removal bond. Bonding companies are not willing to do more and one or two years. They offer renewals but there is no guarantee or obligation that they will renew. The fee is about 2% of the estimated cost of removal and would escalate potentially with the cost of labor and material disposal at each renewal. This uncertainty is not acceptable to an investor in a system.

The telecommunications industry is able to provide the bonds due to the number required nationwide and the size and balance sheet of the companies such as AT&T Wireless that need to obtain the bonding.

Projects for which a bond is required now usually need to negotiate a Letter of Credit or actually escrow funds to satisfy the obligation. This takes capital out of the developer's control that could be utilized for additional project financing. It also impacts the viability of the project pro-forma

RECOMMENDATION(S):

A surety bond is backed by insurance. If acceptable to the Insurance division the removal bonding issue should be considered in their analysis.

Warranty Backing

ISSUE: Companies entering the renewable market with products that are innovative and using the latest technologies usually will provide a warranty for their products. If the company is not well capitalized and/or has a long history in business the warranty is not acceptable. This is evident in 3rd party transactions but can also be seen in small private projects where the long standing companies will continue to have a greater share of the market even when a better product (made in Oregon) is available.

Canada is reported to offer a warranty back-stop to companies in this situation. Little information is currently available to assess their structure and success.

RECOMMENDATION(S):

We continue to explore ways for the state to be a backstop to the warranties for companies that are established and are low risk. More research is necessary to fully vet the options and propose potential Legislative Action. A legislative placeholder could be submitted.

GENERAL COMMENTS

1. The insurance industry needs a better understanding of the risks for the various different segments of renewables and a history of claims. Suggest the ODOE and the Insurance Division of the State provide informational sessions coordinated perhaps thru the Green Workforce educational institutions to insurance professionals that are interested in broadening their businesses.