

Pennsylvania Commercial Property Assessed Clean Energy (C-PACE)

Stakeholder Meeting Notes 10.12.18

Overview of Legislation

- County approves and provides notification to municipality. Municipality can negotiate with County to be exempt from ordinance, if desired.

C-PACE Overview

- Working on getting clarification/approval regarding use for new construction
- Lenders and owners negotiate terms (financing %, term)
- All properties have a Parcel ID and so can have assessment billed even if exempt from taxes
- PWC advised that tax treatment of C-PACE on its own is not off-balance sheet if it is set-up as a loan or lease. If different structure (ex. energy services agreement) - may be off-balance sheet.

Lender Consent

- Consent required from all parties that have liens against the property
- Lender consents to each specific transaction versus C-PACE as a whole

Program Key Features

- Bonds are optional, but cannot be general obligation bonds.
- Servicing: Administrator provides information for tax assessment (tax bill) to the county - provision of the legislation. Noted variation between counties in how taxes are collected
- Municipalities with an economic or community development department can opt-in to C-PACE even if county does not
- Partial tax payments by owner: Applied to property taxes first then C-PACE assessment
- Counties will transmit funds to the administrator
- Data regarding % of projects that do not proceed because lenders refuse consent:
 - PACE Nation: no data, but offers tools to help get consent
 - John: Local /Regional lenders – some are receptive, others categorically refuse
 - NY: Consent has not been a major issue. HUD has been the only denial
- Federal and State programs/ agencies giving consent (Genevieve from PFS) :
 - Several agencies have published guidance on C-PACE, including HUD and SBA.
 - HUD has program requirements for C-PACE guidelines that impact if their money can be used
 - USDA consents
 - SBA had guidelines against consent, but this year rescinded those guidelines

- If there are multiple programs in PA, would federal agencies need to approve each program (for consent) or just approval by state?
 - Can approve at state level as long as guidelines are consistent across programs.

Discussion about financing of projects: *The below reflects comments and/ or questions from the 50+ stakeholders that were at the meeting. These points do not reflect necessarily what the final program guidelines will include.*

- In SB-234 the term “Financial Institution” describes the organizations that give consent (not capital providers).
- Definition of lender is intended to identify who is subject to consent, rather than who can function as a capital provider. Uncertain whether this is accurate.
- Definition of bond seems to include a mortgage. Potentially include Power Purchase Agreement
- Potentially ESA as well. Would need to incorporate lender, owner, and county into agreement.
- Municipality can be a capital provider- so could the state be a capital provider? Follow the process in CT and that Green Bank acts as a credit enhancement to get C-PACE interest started
- Commonwealth could be a funder per statute. Treasury would be interested in being a funder if loans met investment criteria.
- County restrictions on lenders beyond general requirements set by the program
 - County could apply further limitations on lenders, but need to balance limitations with the need to have open market and program consistency
- Need to protect against participation of brokers in the program as lenders. Concern from other programs about brokers not being able to provide capital - can ruin program.
- Recommendation to provide credit enhancement from the state – noted success of CT model.
 - Genevieve - Examples of CT, OH, and CA as states that provide credit enhancements for C-PACE. CT changed model to credit enhancement to avoid competing with the private market.
 - Treasury – may be Interested in investing, but not in program funding (credit enhancement would be program funding?)
- PA Treasury - could aggregate loans and function as warehouse?
 - Treasury - Open to consideration
 - Comment: There is sufficient capital available without credit enhancement or warehousing. Concern about warehousing leading to setting a price, which negates open market objective. Example of Sonoma County initially doing warehouse, but finding unnecessary and leaving to the private lenders.

Comments on Information to Include in Public Reporting of C-PACE Project: *The below reflects comments and/ or questions from the 50+ stakeholders that were at the meeting. These points do not reflect necessarily what the final program guidelines will include.*

- Limit reporting to what must be recorded anyways (already in public record).
- Only interest should be in documenting the terms of the financing
- Concern from lender that reporting interest rates, spreads, and terms would compromise competitiveness
- Legislation requires disclosure of owners, property description, project information, bond rate (in this context refers to any individual financing), description of the project, loan term. Fees not required to be reported
- Concern that building owners view energy information as proprietary and reporting energy information would limit participation
- Arguments for including energy savings/generation info:
 - Future owners will ask for energy data anyway
 - Program has greater impact if administrator reports
 - Better data will help to sell the program for additional projects.
 - Alternative: Option of having administrator aggregate data
 - Reference to Keystone HELP question regarding data reporting - recommendation of aggregation approach.
- PACE Nation - has not been a problem to disclose
 - Large variation in program administrator fees - flat fees vs. bps
 - Program design will dictate administrator fees for PA
- Reporting requirements / Lender opinion
 - No chilling effect
 - Understands need for reporting
 - OK as long as PII not disclosed
 - Owner may have more concerns than lenders about disclosure
 - Experience from IL program - Concern about quality of energy savings data ongoing - rely on assessment instead. Administrator not equipped to obtain this data from owners after the project
- Careful how to present rates in the report so that users understand that rates reflect a point in time and account for project-specific elements.
- Need clarification regarding financing charges reporting requirements. All soft costs? Administrator fees? Other?

Responsibility of Obtaining Lender Consent

- Suggestion that this is a key function of the lender/ capital provider or project developer.
- SEF already reached out to PA Banking association to start dialogue.
- Owner is ultimately responsible for obtaining consent because failure to do so would create default on mortgage.

Use of C-PACE for new construction

- Statute uses "retrofit existing buildings" repeatedly. One reference to new construction. Building industry rep very supportive of enabling new construction.
- NY - energy improvements above building code for C-PACE on new construction
- CO - 30% of CO projects are new construction, typically 5-10% of total financing. Recommends using code, rather than making higher requirement.

Should the program set LTV (and PACE-to-value) requirements? *The below reflects comments and/ or questions from the 50+ stakeholders that were at the meeting. These points do not reflect necessarily what the final program guidelines will include.*

- Lenders will set this (not administrator) Don't see risk to municipality.
- Decision should be between owner and lender
- Municipalities have interest in ensuring that assessment does not exceed a certain LTV from the perspective of not pushing owners into default.
- CA Context - Prop 13 sets value at transaction amount and limits annual increases so that assessed value is much lower than actual value, therefore should not be used as a model for PA.
- Genevieve - MD has some counties with LTV limits and some without. Setting limits penalizes owners who want to pay off loan faster. Lender consent is a key check in limiting LTV to reasonable levels. If setting a limit, need to consider options for determining value.
- How is property owner protected against project that stalls after partial completion?
 - Lender - Refund unused funds and establish assessment based on work completed
 - Generally a commercial loan includes a completion guarantee.
 - Draw request process is an effective protection
 - Q: Do other programs have requirements for completion bonds?
 - Genevieve - No - usually up to owner and lender to negotiate terms
- Who should vet the contractors?
 - Recommendation that licensing be required, but not beyond that
 - In general, no electrical licensing required in PA
 - NECA should have voice in setting standards - contractors who meet their standards ensure quality.
 - PV association rep - NABCEP or UL certification are the only applicable credentials. Unclear how prevalent these credentials are in PA
 - Localities have different requirements for permitting, some of which may reference local licensing?
 - Off topic- Keystone HELP - Gave interest rate incentive if using better qualified contractor. Goal of tiered approach was to drive greater EE. Recommend similar for C-PACE - not clear how this would apply, unless using a credit enhancement
 - John - determining contractor qualifications will be one of the biggest challenges. Anticipates setting qualifications for some trades, but not for all. Will rely on lender vetting to some extent.
 - Difference in urban vs. rural settings in regards to standards for contractors

- Legislation states that the county MAY enforce the assessment in the case of default. 3 party agreement will need to require the county to enforce the assessment.
 - Lender - advise that 3 party agreement include as few business terms as possible in order to avoid need for individual reviews by lenders.
- Legislation includes a requirement that an independent professional inspector confirm satisfactory completion of the project. What is the appropriate protocol for ensuring completion and complying with legislation? Possibly building inspector
 - ITPR - TX, third party also does review of initial assessment- works, but adds to cost
 - Lender - typically require some type of inspection/review at completion. Concern about commissioning adding cost and complexity. Need to be mindful of novelty (and resulting challenges) of C-PACE financing in general and therefore need to minimize unnecessary fees and compensation.
 - NECA - In PA, electrical inspectors are private and are hired by electricians - this structure compromises independence of inspector.
 - Distinction between lender's need to confirm that work was installed (completion certification/inspection), vs. the program's interest in ensuring that project performs as expected (commissioning).
 - Requirement should depend on the work that was performed. If applicable, certificate of occupancy should serve the purpose. When a CO is not applicable, the requirement should be different.
 - Advocate for value of commissioning in ensuring success
 - Note that statute includes assurance that project was properly completed - goes beyond just completion.
 - Ongoing reporting requirement may drive demand for commissioning.

Discussion Notes: *Each stakeholder was given an opportunity to provide one final point at the end of the meeting to help inform the development of PA C-PACE program.*

- Address billing and collections or assessment enforcement process.
- Incorporate voice of property owners into the stakeholder process.
- Minimize contractor roadblocks
- Scalable is dependent on ESP's being able to operate with few barriers
- PACE Nation - Importance of ensuring the integrity of the program and projects for the general success of C-PACE nationally.
- Balance goals of making program attractive to lenders with ensuring that there are protections needed to ensure public policy goals
- C-PACE is a financing tool, rather than an energy program.
- Recommendation that program use institutional grade loan servicing. If bonds will not be used, recommend some type of certification from administrator indicating that projects meet the program criteria.
- Keys to success are open market tool, focus on financing program, rather than energy aspect.
- In successful programs, administrators protect the interests of the stakeholders and get out of the way. Loan terms for commercial financing are not public (unlike residential). Ensure protection of proprietary information for lenders.

- Include new construction. Leverage design professionals who are already in the process, rather than bringing in more parties.
- General appreciation for stakeholder process
- Reinvestment Fund - do not have big expectations for C-PACE. Views it as a credit enhancement that applies to longer term loans. Role of administrator. Ensure quality of energy assessment, but avoid LTV rules, because lender will do this.
- Minimize/ streamline program guidelines – essential for property owner interests
- Avoid over-regulation - Simplicity will enable smaller owners to participate
- Need more outreach to government stakeholders
- Legislation requires measurable savings - implies need to establish a baseline
- Promote flexibility for lending terms – brings more lenders and lender types
- Be creative in how to assess success of program in terms of energy savings.
- Recommend clarification of process for determining measure life.
- Remember goal of the C-PACE legislation focused on energy/climate benefits
- Water conservation needs to be discussed - look at application of C-PACE for resiliency funding. Acknowledge connection between energy efficiency and water resiliency. Consider connection between resiliency and insurance costs.
- Energy Star Portfolio Manager as a solution for balancing goals of simplicity and assessing performance. Recommendation to get utilities and commonwealth to enable automation of loading energy data into Portfolio Manager.

Next Steps

- 10/24 meeting time changed to 1:30-4:30
- Stakeholder meeting in November for counties and municipalities
- Feedback on draft guidelines that will be published.