March 12, 2012

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 Seventh Street, SW
8th Floor
Washington, DC 20024
Transmitted via e-mail

RE: Mortgage Assets Affected by PACE Programs (RIN 2590-AA53)

Mr. Pollard:

SCHOTT Solar PV, Inc appreciates the opportunity to submit public comments for the record to the Federal Housing Financing Agency (FHFA) on the Property Assessed Clean Energy (PACE) program. SCHOTT Solar has a 53 year history in the solar module business and works with numerous small businesses who install solar photovoltaic (PV) products in the residential sector.

As you may know, small businesses are responsible for creating 7 out of 10 new jobs. In this current economic downturn, it is important that our federal government provide the necessary tools to provide continued growth and roll back unnecessarily burdensome regulations that harm such growth.

Thank you for this opportunity to submit a response to the FHFA's Advance Notice of Proposal regarding mortgage assets affected by PACE programs.

Sincerely,

Tom M. Hecht

Tom Hecht
President, Sales, Marketing, and Business Development
SCHOTT Solar PV, Inc.

About SCHOTT Solar
SCHOTT Solar has over 53 years experience in solar technology. The company develops, manufactures, and markets innovative, high-quality photovoltaic products. The company has a U.S. manufacturing facility in Albuquerque, NM supported by over 300 employees.

GENERAL COMMENTS

Pursuant to state laws, municipalities across the United States provide benefits to their residents, and community, by financing public-wide improvements such as roads, sewers, sidewalks, parks, water systems and the like with assessments added to property owners' tax bills.

In 2007, a new application of this municipal financing vehicle for the public good was developed - the Property Assessed Clean Energy (PACE) program. The PACE program enables property owners to take out a loan to pay for energy efficiency and renewable energy improvements, resulting in added value to such properties, reduction in utility bills, creation of local jobs, and enhancement of the overall community. The loan is repaid over several years through a special assessment added to the participant's property tax bill. The key difference in the PACE program from more traditional property tax assessments is the voluntary nature of the program; only property owners who choose to participate receive an assessment.

To-date, twenty-seven states have recognized the significant local economic benefits for both the individual property owners and the community by approving legislation to allow PACE programs to be established.

It is important to note that this long-established mechanism for municipal financing, and a voluntary program under PACE, implemented by local governments to create jobs and allow property owners to finance energy efficiency and renewable energy investments for their homes and commercial buildings is done <u>without requiring federal subsidies</u>. The taxable municipal bond is sold to the capital markets without any state or federal funding assistance.

Within the solar PV industry, many of the businesses that install solar panels on residential property are family-owned small businesses. On the commercial property side, in addition to the small businesses, there are many construction, roofing, and electrical contracting firms who have been able to expand their services to their customers by offering solar panel installation. All of these businesses have been able to grow in our nation's struggling economy, and hire new workers. The PACE program is a key tool in their toolbox that allows for this continued growth of their business, while putting extra money in a property owners' pocket from savings on utility bills, and providing significant environmental stewardship to the community.

Additionally, the PACE program provides several other benefits that are not as apparent, but are equally important in providing an efficient mechanism for expanding solar installations and accruing the benefits of this to the economy at large. For one, by funding a solar install through a municipality, the cost of financing passed on to the homeowner is substantially reduced versus financing the install through a private entity. This results in more savings over the life of the solar install for the homeowner, and an increased ability to not only cover their liabilities, but also to return money to the economy through spending.

Furthermore, with the expiration of the 1603 Treasury cash grant for solar installs, tax equity investors have again become the key conduit to financing solar, given their ability to monetize the tax advantages of a solar install. These tax equity investors mainly come in the form of large, institutional banks, who will take advantage of the newfound supply/demand imbalance in the tax equity space and charge higher rates of return for their money. This will slow the growth of the solar industry, and it is unfortunate that the monetary benefits of a solar install are isolated to the financial services industry. With the PACE structure, homeowners are able to utilize the tax benefits of a solar install while also benefitting from a financial product that minimizes the high up-front capital cost of a solar install. This provides a unique solution that is not otherwise available, and keeps the benefit of a solar install in the hands of the individual to return to the economy through consumer spending.

Finally, the municipality can also benefit from a PACE program beyond the job growth and community benefits of solar. A municipality will receive a return on its capital deployed through the tax assessment, which can be secured by a soundly structured underwriting process for PACE subscribers. It is widely cited that solar adopters are typically financially sound with a strong educational background, which is protected by underwriting standards such as loan to value ratios and FICO score metrics.

SCHOTT Solar appreciates the concerns the Federal Housing Financing Agency (FHFA) has raised regarding the PACE program as it relates to the secondary mortgage market. As the regulator and conservator of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), the FHFA has a responsibility to ensure both entities remain sound and solvent.

SCHOTT Solar agrees the FHFA holds valid concerns regarding the process of collateral claims during foreclosure proceedings when a failing mortgage is subject to a PACE lien. However, we respectfully disagree with the solution the FHFA has implemented - blocking mortgages backed by Fannie Mae and Freddie Mac from participating in the PACE program. This move has precluded 90 percent of mortgage holders in the market from participating in PACE. With data from surviving PACE programs showing actual senior lien exposure to be about $3 per home, the FHFA's blanket ban on the PACE program creates burdensome new regulations that are not only harmful to firms across the country that utilize PACE program financing, but is unfair to those private property holders who are in good standing with their mortgage obligations.

Instead of an outright ban of participation in the PACE program, SCHOTT Solar encourages the FHFA to implement simple conditions to assure PACE participation by property owners will not put the secondary mortgage market at excessive risk of losing investment in case of foreclosures. We would urge the FHFA to outline specific requirements a PACE program must meet to be entitled to participate, require detailed obligations of property owners with respect to PACE assessments, require the local government to disclose to the participating property owner the costs and risk associated with participating in the PACE program, limit the total amount of PACE assessments for a property to 10 percent of its estimated value, and require the property owner to have equity in the property of at least 15 percent. Further, the addition of underwriting standards, established rights of rescission, consumer protections and limitations on delinquent payment collection should be considered.

With unemployment at a daunting 8.3 percent, it is important that the federal government does not unintentionally stifle job creation at the local level by barring property owners from participating in PACE. To reiterate, allowing property owners to finance energy efficiency and renewable energy projects for their homes and commercial buildings, without any government subsidies or taxes, means lower utility bills for property owners and job creation in the hard hit construction, roofing and electrical industries.

SCHOTT Solar respectfully requests the FHFA to re-consider private property owners' right to participate in the PACE program and urges review of suggested modifications laid out in this statement that protect state and municipality rule of law, private property owner rights, and ensure a safe and sound secondary mortgage market.

SCHOTT Solar looks forward to working with the FHFA to re-institute the PACE program in a fiscally responsible and sensible manner.