

From: James Ramsay <jramsay@naruc.org>
Sent: Tuesday, March 27, 2012 2:54 PM
To: !FHFA REG-COMMENTS
Subject: NARUC Comments RE: RIN 2590-AA53

March 26, 2012

Mr. Alfred Pollard
General Counsel
Federal Housing Finance Agency
1700 G Street, NW
4th Floor
Washington, DC 20552

Re: RIN 2590-AA53 - Mortgage Assets Affected by Property Assessed Clean Energy (PACE) Programs
NARUC Comments on Advanced Notice of Proposed Rulemaking and EIS Scoping Comments.

Dear Mr. Pollard,

Property Assessed Clean Energy (PACE) Programs, which allow local governments to leverage their bonding and property taxing authority to finance the installation of energy efficiency measures and clean, distributed generation on homes, represent a key policy innovation to support deployment of these technologies. Because of its unique ability to spur homeowner investment in energy efficiency and clean, on-site renewable energy, PACE legislation was passed by 28 states in under 3 years. Unfortunately, your agency, The Federal Housing Finance Authority (FHFA) July 6, 2010 policy decisions effectively enervate PACE programs. We appreciate the opportunity to comment on the FHFA's Advanced Notice of Proposed Rulemaking, 77 Federal Register 3958 (January 26, 2012) (Notice).

The National Association of Regulatory Utility Commissioners (NARUC) represents the State public service commissioners who regulate essential utility services throughout the country. As regulators, our members are charged with protecting the public and ensuring that rates charged by regulated utilities are fair, just, and reasonable. Energy efficiency and clean distributed generation, projects that benefit from PACE financing, can help promote these regulatory goals.

In a resolution adopted during our Winter 2011 meetings, NARUC encourages the FHFA to reevaluate its policy and guidance on PACE programs, giving due consideration to the reductions in energy cost available through PACE financed distributed generation and energy efficiency investments that may reduce rather than increase mortgage default risk. We urge the FHFA to rescind or substantially amend those policies and guidelines that substantially impede the viability of PACE programs including, but not necessarily limited to, the application of more stringent mortgage underwriting standards for homes with PACE financing and for borrowers generally in localities where PACE is available. (The resolution is attached).

NARUC's resolution does not address all of the questions raised in the Notice, but, as noted earlier, it does specifically suggest that such programs may well reduce rather than increase default risk. There is no record evidence that supports the Notice assertions that PACE presents "significant safety and soundness" concerns. To the contrary, logic and common sense strongly suggest that energy efficiency and renewable energy improvements reduce homeowners' energy bills and increase their property's value, thereby strengthening the property owners' financial position and increasing the value

of a lender's collateral. PACE financed improvements are designed to allow homeowners to hedge themselves against fuel price spikes and rising fuel costs over time. These factors lessen, if not eliminate, the safety and soundness risk than the FHFA has asserted. Local governments that established PACE programs prior to the July 6, 2010 action by FHFA developed program standards to protect lenders and consumers. The White House (October 18, 2009) and the Department of Energy (May 7, 2010) both have also already published national PACE guidelines with clear, strong underwriting standards to ensure that homeowners are able to afford the improvements.

Please see the attached resolution for additional information. If you have any questions, please contact the undersigned at 202-898-2207.

Respectfully submitted,

James Bradford Ramsay
NARUC General Counsel

Robin Lunt
NARUC Assistant General Counsel

Resolution Supporting Property Assessed Clean Energy Programs and Amendment of Federal Housing Finance Agency Guidelines Inhibiting States' Pursuit Thereof

WHEREAS, Energy efficiency and clean, distributed generation play a key role in reducing the need for fossil fuels, promoting energy security, and stimulating economic growth through energy cost savings and job creation; and

WHEREAS, Energy efficiency and clean, distributed generation promote public and environmental health by avoiding the adverse health effects and environmental impacts resulting from the combustion of fossil fuels; and

WHEREAS, Energy efficiency is recognized as the most cost-effective approach to mitigating greenhouse gas emissions and addressing global climate change; and

WHEREAS, The residential sector accounts for over twenty percent of total U.S. energy consumption and greenhouse gas emissions;[1] and

WHEREAS, Widespread deployment of energy efficiency measures, and clean, distributed generation, particularly in the residential sector, face a number of barriers including limited access to financing to cover upfront costs of energy efficiency improvements and/or clean, distributed generation technologies, and housing markets that may not fully or accurately capitalize the value of energy efficiency measures and clean, distributed generation into property values; and

WHEREAS, Property Assessed Clean Energy (PACE) programs, which allow local governments to leverage their bonding and property taxing authority to finance the installation of energy efficiency measures and clean, distributed generation on homes, represent a key policy innovation to support the deployment of these technologies in the residential sector; and

WHEREAS, The importance of PACE programs to profoundly influence and broaden adoption of energy efficiency and clean, distributed generation in the residential sector has been recognized by the Obama

Administration, as well as over 20 State governments which have adopted PACE-enabling legislation and/or policies[2]; and

WHEREAS, The determination by the Federal Housing Finance Agency (FHFA), in the wake of the financial crisis, that PACE property tax liens present “significant safety and soundness concerns”[3] to home mortgages, and the FHFA’s subsequent guidance to Fannie Mae and Freddie Mac to not underwrite mortgages for properties with a PACE assessment; and furthermore, to apply more stringent mortgage underwriting standards for all borrowers in localities offering PACE programs, has had a deleterious impact on the ability of PACE programs to move forward nationally; and

WHEREAS, Nothing contained in this resolution is intended to increase the scope of a State’s PACE program; now, therefore be it

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Winter Committee Meetings in Washington, D.C., supports the efforts of States and local government to implement PACE programs as a critical tool to address a number of the cost and financing barriers that currently challenge widespread deployment of energy efficiency measures in the residential sector; and it be further

RESOLVED, That NARUC urges the FHFA to reevaluate its policies and guidance to Fannie Mae and Freddie Mac regarding PACE financing, by giving appropriate consideration to the reductions in energy costs that energy efficiency measures deployed under PACE programs provide homeowners, and the extent to which these financial benefits reduce, rather than increase, mortgage default risk; and it be further

RESOLVED, That NARUC urges the FHFA to rescind or substantially amend those policies and guidelines that substantially impede the viability of PACE programs including, but not necessarily limited to, the application of more stringent mortgage underwriting standards for homes with PACE financing and for borrowers generally in localities where PACE is available.

Sponsored by the Committees on Electricity and Energy Resources and the Environment
Adopted by the NARUC Board of Directors February 16, 2011

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[1]EIA; see <http://www.eia.doe.gov/oiaf/1605/ggrpt/carbon.html> and http://www.eia.doe.gov/aer/pdf/pages/sec2_6.pdf

[2] Database of State Incentives for Renewables and Efficiency; see <http://dsireusa.org/summarymaps/index.cfm?ee=1&RE=1>

[3] <http://www.fhfa.gov/webfiles/15884/PACESTMT7610.pdf>