

C-PACE Advisory Committee Meeting

September 24, 2020

Susan Morth/EIC: Good morning, we will keep this to half an hour, we have five topics on the agenda. Today the first is new construction. At this point I am sure you are all aware that the new construction amendment was signed by the Governor into law a couple of days ago and NYSERA has released the revised guidelines that include new construction. We received the guidelines yesterday morning, along with the rest of you, we've had a little bit of time to review and I actually spoke to NYSERDA this morning, there will be a look at the guidelines. I had raised one question regarding a sort of a return to SIR which was a surprise to me. If you look on page 9, you will see some reference to a SIR requirement which has not been the case in New York for some years it has been a CBR and while I am not an engineer, I understand there is a significant difference between the two. They are looking into see if it just wasn't a mistake. But having said that, we are going to try to ask all of you to engage with your engineers, whomever they might be nationally, Missouri or Texas, it doesn't matter but if those folks have a chance to review this guidance document NYSERDA has agreed to do a call, following questions from capital providers, we are hoping for the week of October 5th, we could do another advisory call but it would really just to focus on guidelines and giving NYSERDA the opportunity to look at everybody's questions and address them in short order in that format. If anyone wants to jump in and say they have a different idea or a better idea, feel free to do so now or feel free to email me. I am looking for questions about the guidelines so that we could put together another call the week of October 5th.

Cliff Kellogg (10:31) Susan, that is to be scheduled, not yet locked down?

Susan: Correct, they have agreed to do the call and they have also suggested the best format, Cliff, would be for engineers to read the guidelines, submit to me the questions and we should have enough material by the week of October 5th to be able to answer questions, so that is the plan. Hopefully IBTS or whoever the folks from Missouri are using are welcome to be on this call. Secondly, we did want to speak to the group and our wonderful counsel at Norton Rose are here, we have all heard from Patrick and his view on the Yankee season, Anna Lee is on the line and Randy Mayer is on the line and we wanted to discuss lookback for new construction. We have a lot of issues as it relates to what is appropriate and if someone from Norton would like to give us a view on that, a summary, to the group would be great.

Anna Lee/Norton: Hi, everyone. This is Anna Lee from Norton Rose, there is some background noise and I apologize in advance. We have been discussing retroactive PACE financing for both new construction as well as other projects. Right now I think we have an agreement on the new construction retroactive financing and that would be, we would allow financing for projects that were completed before the new legislation was introduced which was last year on May 23, 2019, in the Assembly and that would be the lookback period we could allow comfortably. With respect to other retroactive PACE financing not involving new construction, we are still trying to develop some guidelines for that and we will update you at the next call.

Susan: Thanks, Anna. The new news here is the new construction and the retrofits will not become more stringent, they may become a little more liberal but to be determined. In our handbook right now we say a two year lookback but we are taking a closer look at what makes sense there.

Next topic is the engineering review. Many of you may be aware that EIC no longer employs an engineer internally and we are now using outside engineering firms to review the energy audits and scope of work. We have been underway with a copy of projects using that new method of having the review take place and it seems to be going well, but for anyone wondering what do I do now, instead of sending the documentation and the energy audit, etc. the one you would send to Bob, you can send it to me and I will be sending it out

to either Taitem Engineering, ERS or potentially another firm that will be working with us to do our due diligence to make sure these projects do meet the NYSERDA C-PACE guidelines.

The second change we are making in the program is, we have talked to many of you about servicing and as new constructions has been approved, we do appreciate that the servicing of some of these transactions is a little bit more detailed and labor intensive and that combined with our very strong desire to make sure that these C-PACE assessments that are 25 or 30 years in length are properly serviced and professionally serviced in the event that Alain and I move onto something else, or die in a plane crash, so we are outsourcing that to Portland. They will be able to accommodate construction period, interest-only period, CAP I and we are trying to take responsibility for everyone feeling comfortable but there is a professional entity outside of EIC responsible for the servicing.

The next topic we wanted to discuss, is we have done a sort of clean up and little bit of revising of our administration and assignment agreement. This was based on our experience with the first several transactions and reflects how the real world works and how the business works as it relates to assignment and now the documents are two separate things. The first one is really meant to address EIC and our municipal members concerns about indemnification and the second piece, the assignment agreement, is really meant to allow assignments to occur with a little less friction than perhaps we had originally envisioned in the initial administration agreement and I will defer to our partners at Norton Rose to give a brief explanation of that and everyone did received those agreements and of course at any time if you any questions, we are here.

Patrick: In substance a number of provisions have been moved from the EIC administration agreement over to the assignment agreement. We now have two documents: Administration Agreement and the Assignment Agreement. The gist really is that in the assignment document there is no threshold for approving a subsequent assignment as long as the assignee agrees to be bound by the agreement. The remaining obligations in favor of EIC which are still in the administration agreement there the threshold for assignment is subject to the consent of EIC but those remaining obligations in the EIC administration agreement are a much smaller subsidy. What most of you will find is that it will make things a lot easier.

Susan: We are hoping that will make it the case. Thanks to everybody for their comments and observations. This is really a work in progress and we are not going to be satisfied ever with the program we are always going to be looking to do things better, more professionally and to provide more security as time marches on it is our understanding this is the long haul and want to be prepared for twenty years from now not just next week.

The last thing we have on the agenda, then we will open it for questions, is Sarah Smiley, our most wonderful Director of Municipal Membership, who has done an unbelievable job for us and the numbers are staggering in terms of what she has been any to accomplish in terms of municipal opt-in, so I will turn it over to Sarah to give an update.

Sarah Smiley/EIC: Thanks so much Susan. We now have a total of 54 municipal members that includes 23 counties, 19 cities and 12 towns and villages with in Westchester County. Since the last meeting the newest members to EIC have been Nassau County, Montgomery County and Columbia County and the Town of Greenburgh, here in Westchester, City of Lockport and importantly the City of Buffalo. You can find the full list of our members on the website and that is continuously updated. Three additional cities have completed the legislative process and we expect to receive their signed agreements in the next few weeks. Those are the City of Peekskill, City of Ithaca, and the City of Hudson. Orange County has finished the legislative process and are a little slower in receiving the municipal agreement but that is in process. After some delays due to CoVid, Open C-PACE is back on the agenda in Erie County in October and within Erie County the City of Lackawanna has it on their agenda for next week. We are also in active discussions with Steuben County, Tompkins County, Ontario County, St. Lawrence County and Orleans County. If you have any projects

waiting in the pipeline in those municipalities and you can share your information, please let me know, that could help move things along faster in those locations. Thank you very much.

Susan: Thank you Sarah. So after this record thirteen minute call, I am happy to take questions from the audience and if there are no questions, I will just remind you of something before we hang up.

Sarah: I neglected to mention another upcoming city is city of the City of Rochester. We should have their agreement very soon.

Susan: Thank you, that's important.

Cliff: Can I just ask a quick question, maybe to Anna? Can I just clarify the retroactive new construction? You speeded through that so fast, I just wanted to clarify is that back to the legislation was introduced or before that and if so can you clarify what date that was?

Anna: Sure, we would want to have the project completed by the time the legislation was first introduced into the Assembly on May 23, 2019, that would be the operative date, we feel like that date property owners could rely on this new construction being passed or have some expectation it would be passed. So we feel comfortable with that date.

Cliff: Okay, great, appreciate that, thank you.

Susan: I understand if people have questions sometimes it is easier to ask one-on-one. We are here, please let us know if you have any questions. One last time, if you all could please send the NYSERDA Guidelines to whomever you use as in-house engineering firms, we'll make everyone aware and this will be a call open to anyone who would like to listen as an interest in understanding C-PACE Guidelines, please send the questions to me to my attention in advance so NYSERDA can have the questions in advance of the call and they can go through them, frequently everyone is asking the same thing so just to make a more organized use of their time that would be great. If that is all, thank you so much for attending and we are really looking forward to seeing a lot of projects in the program.