

DOCKETED

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Renew Financial Comments

Additional submitted attachment is included below.



October 22, 2020

California Energy Commission
1516 9th Street
Sacramento, CA 95814

Andrew McAllister, Commissioner
Bryan Early, Advisor
Fritz Foo, Advisor

RE: Docket 18-OIR-01

Dear Commissioners,

Thank you for the opportunity to comment on the California Energy Commission's upcoming rulemaking process which would establish annual data reporting requirements for Property Assessed Clean Energy ("PACE") financing providers. We appreciate the collaborative approach and the Commission's wish to incorporate comments from PACE administrators and other parties to inform the proposed rulemaking.

Renew Financial supports the goals of Senate Bill 350 and the aggregation of estimated greenhouse gas emission reductions and energy efficiency savings in California as mandated by Public Resources Code §25310.

Renew Financial believes the draft regulations provide a workable framework for PACE administrators to report information to the Commission on PACE programs for the previous year. However, there are two concerns (see Key Concerns below) where the proposed rules, as written, may compromise program participant's Nonpublic Personal Information (NPI), and unduly burden the PACE administrators as the report is due the same way as the Department of Business Oversight (DBO) report. We have offered some alternative approaches that would be equally effective in carrying out the same policy objectives of the proposed rulemaking.

We request the Commission carefully consider these concerns and suggested alternatives. Renew Financial is committed to working with the Commission to ensure the final rulemaking meets the needs of the Commission and the state's energy efficiency goals.

KEY CONCERNS

1. § 1312. Energy Efficiency Program Data Collection from Non-Utility Programs
 - **Current Language:** *"(d) Assessor's Parcel Number (APN): the county name and assessor's parcel number (APN) of the site at which the project was implemented; (e) Project Address: the street address of the project;"*
 - **Policy Objective:** The proposed fields for reporting requires PACE program administrators to provide the APN and Project Address in order to use analytical methods, similar to the CalTRACK platform, in order to provide a before and after view on how PACE changes energy consumption at a location.
 - **Concerns:** The proposed language as written requires a level of data sharing not currently required in other state mandated reports and includes Nonpublic Personal Information ("NPI") or information that is not publicly available and that a PACE administrator obtains in confidence from a consumer in connection with providing PACE financing products. Renew Financial's policy is that in order to preserve customer

¹ CEC Proposed Data Requirements § 1312.(d)(e)

confidentiality and maintain effective information security policies and procedures, any nonpublic personal information relating to consumers will not be shared with third parties, unless an exception applies.

- **Suggested Alternative:** The California Public Records Act (“CPRA”) does not require disclosure of any of the following records: (i) personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy; and (ii) geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person². Unless required to complete the Policy Objective, Renew Financial recommends the Commission collect PACE administrator data in an aggregated form.

If the APN and Project Address are required in order to achieve the Policy Objective, Renew Financial believes that disclosure of nonpublic personal information is not in the public interest and should be kept confidential. Renew financial recommends the Commission not disclose and take all commercially reasonable measures to protect any nonpublic personal information in accordance with applicable laws, including, but not limited to, the Gramm-Leach Bliley Act of 1999, title V, its implementing regulations, and other similar laws and regulations (collectively, the “GLBA”) received from the PACE administrator and will not disclosure to (i) any third party or (ii) any employee, officer, or partner who is not engaged in the implementation and execution of the Commission’s compliance with SB 350.

Further, Renew Financial Recommends that the Commission agrees that the Commission has developed, implemented and will maintain at all relevant times as contemplated by this rulemaking, effective information security policies and procedures in accordance with applicable law that include administrative, technical and physical safeguards designed to (i) ensure the security and confidentiality of NPI, (ii) protect against anticipated threats or hazards to the security or integrity of NPI, (iii) protect against unauthorized access or use of NPI, and (iv) ensure the proper disposal of NPI. All personnel handling NPI shall be appropriately trained in the implementation of such information security policies and procedures.

2. § 1312. Energy Efficiency Program Data Collection from Non-Utility Programs³

- **Current Language:** *“Beginning in 2021, and every year thereafter, each PACE program administrator shall report no later than March 15 to the Commission its annual investments in energy efficiency programs for the previous fiscal year.”*
- **Policy Objective:** The proposed data regulations require that beginning 2021, PACE program administrators provide their annual reports to the Commission no later than March 15.
- **Concerns:** The proposed language as written requires that beginning 2021, the last day to submit the PACE administrator annual report to the Commission as March 15. This date falls on the same date the Department of Business Oversight (DBO) annual report is due and because of the unique nature of each report, may create an undue burden for PACE administrators.

² Cal. Gov. Code § 6254(c), (e)

³ CEC Proposed Data Requirements § 1312.



- **Suggested Alternative:** Unless required to comply with SB 350, Renew Financial Recommends that the last day for each PACE program administrator to provide the Commission with its annual report is no later than April 1st.

Thank you for the opportunity to submit our comments to the proposed rulemaking. We look forward to continuing to work with the California Energy Commission to review our concerns and suggestions in more detail.

Sincerely,

Leah Wiggs

Vice President, Government Affairs

Renew Financial