

## Residential PACE Consumer Protection Task Force

### DRAFT Minutes

Thursday, October 5, 2017

**Present:** Anne O'Connor (Chair), Paul Eger (MN Realtors), Chris Duffrin (Center for Energy & Environment), Janet Johnson (MN Bankers Assn), Ron Elwood (Legal Aid), Ryan Smith (MN Credit Union Network), John Kearney (MnSEIA), Craig Johnson (League of MN Cities), Emily Murray (Assn of MN Counties), Mary Jo George (AARP), Dylan Sievers (delegate of Will Nissen, Fresh Energy), Annie Levenson-Falk (Citizens Utility Board of MN), Logan O'Grady (Clean Energy Economy), Sue Basiago (MN Land Title Assn), Julie Padilla (Renovate America)

Acting Chair Megan Verdeja called the meeting of the Task Force to order at 9:00 AM

#### **AGENDA:**

- Welcome and Introductions
- State Statute Comparison
- The Vermont Experience
- Break
- Energy Audit Presentation
- The California Experience
- Public Comment
- Adjourn

The Task Force approved minutes from the meetings of September 21, 2017.

#### **State Statute Comparison**

Mark Hastie, Director of Non-Depository Financial Institutions with the Commerce Department, gave a presentation on different State's PACE statutes. The presentation was included in members' folders.

Comments/Questions:

- *Question:* Do you know what parts of California PACE statute are waived?
- *Response:* Some income verification data can be waived but must be verified at later date.

- *Question: How is this enforced?*
- *Response: That will be covered on the next slide*
  
- *Comment: Oversight in California goes into effect April 1, 2018, with PACE companies paying the fiscal note.*
- *Question: Do you know if Solicitors are licensed?*
- *Response: California Consumer Licensing board does both, CSLB licensing is separate from PACE Auditor.*

*Mark Hastie drew the Task Forces attention to the two forms that were handed out at the start of the meeting, which were California's Right to Cancel Form and Financing Form.*

### **The Vermont Experience**

Peter Aramchuck and Zoe Erdman from Efficiency Vermont gave an overview of PACE Programs in Vermont

Highlights from Efficiency Vermont's presentation:

- Vermont the Third State in the Nation to do PACE after California and Colorado
- Vermont saw PACE as a good financing alternative
- After Federal Government shut down PACE in 2010, Vermont changed program from Senior Lien to Junior Lien position. The junior lien position forced Vermont to "go it alone."
  
- *Question: Does VT have Commercial PACE?*
  - *Response: No, there is not a demand in the state as it is primarily rural.*
- *Question: Does VT PACE legislation allow for Commercial Pace?*
  - *Response: No, only residential.*
- State Treasurer required public vote if town wanted to do PACE bond.
- Only 42 out of Vermont's 241 towns ended up doing some kind of PACE project
- When Vermont's PACE Program was set up the State's Department of Financial Regulation was very cautious and put in place debt to income requirements. Had the "worst characteristics of a bank loan and an assessment." Peter recommended to the task force that MN not make the requirements so onerous.
  - *Question: Can you explain your comments on ability to repay and onerous requirements?*
    - *Response: Not advocating for PACE, not selling concept. Savings to investment ratio that equals or exceeds tax assessment savings allows for paying PACE assessment. DOE best practices says it can't exceed 100%, VT only allows for 90%.*
  - *Question: Is there a determination of income?*
    - *Response: No, but Efficiency Vermont has a contractor network in place and the ability to evaluate savings and compare to assessment.*
  - *Question: Is there any kind of process of going back to make sure that the savings exceed the payments?*

- *Response: Energy Prices continue to increase, so it is certain that energy costs will go up. People who sign up for PACE program consent to random audit, which checks in and verifies that the ratio is trending in positive direction.*
- *Question: Is the Audit Process something that Efficiency Vermont does on its own?*
  - *Response: Yes, it is part of the service they provide. VT PUC has budget that funds the audits.*
- *Question: Is Vermont still heating with fuel oils?*
  - *Response: 20% Natural Gas, 80% propane fuel oil*

Peter then handed off to Zoe Erdman who gave an update on where Vermont is currently with its PACE Program

- The Program has not been successful in Vermont
- Program structure is complex for homeowners, contractors, municipalities and small towns.
- In light of 6 current assessments active in the state, Vermont has decided to suspend the PACE program in favor of a less complicated “Heat Saver” loan program, which is a \$35,000 unsecured loan that is funded by State and Credit Unions and easier for consumers
- Statute will stay on books but Efficiency Vermont will not be doing any new PACE financing.
- *Question: What have the PACE Projects been in Vermont*
  - *Response: Mostly efficiency projects, a few with solar panels. Primarily insulation and air sealing. Portion of VT PACE loans are allowed for health and safety (asbestos remediation, etc.)*

## **15 Minute Break**

## **Energy Audit Presentation**

With Bill Grant and Jessica Burdette from Commerce unavailable, Chris Duffrin from the Center for Energy and the Environment filled in and gave a presentation on Energy Audits. Here are some highlights from the presentation:

- Energy Audits purpose is to help homeowners understand energy costs. The auditor has no financial interest the homeowner. Each Audit has 4 goals; make the home efficient, have proper heating, durable and comfortable in the most cost effective way.
- Minnesota homes use \$1,864 worth of energy each year. 65% of \$1,864 is heating and cooling, 15% is water heating and the rest is appliances.
- Audits focus on 6 main areas:
  - Prevent Conditioned Air From Escaping
  - Using efficient systems
  - Heating and cooling when homeowner not at home
  - Low energy lighting appliances (Energy Star)

- Make sure that combustion appliances are venting properly
  - Fresh air to breathe inside home
- CEE Auditors are required to use blower doors, not all contractors doing energy audits do.
- Question: How long does Energy Audit take?
  - Response: 2 hours
- Question: How long does it take to get someone to come out to do audit?
  - Response: 2 days to a week.
- Question: Do all your (CEE) financing programs require audits?
  - Response: Some CEE/ Minnesota Housing Finance Programs do not require audit.
- Question: Do any programs require audit, and can the task force get list of which do and don't?
  - Response: Yes
- Attic Insulation is an easy way to help make homes energy efficient, but the story and a half attics that are found in large numbers in the Twin Cities are hard to deal with. Contractors sell scams like reflective film, and contractors that are going door to door are most likely not legit.
- Wall insulation is a difficult area for homeowners, as there is no good way to know how much insulation is in there. This is an area where there are scams as some contractors use fill in foam rather than the dense insulation needed.
- CEE Energy Auditors provide an energy report with the results of the audit to the homeowner. The homeowners then can make plan with an energy advisor from CEE who can connect them with financing.
- *Question: What are CEE's business practices? Are you talking with someone about financing as well as report?*
  - *Response: Energy Auditor refers to a professional that knows about lending, either CEE lending or other non- profits. Also refer to Department of Energy Weatherization / CIP.*
- *Question: Does CIP have a savings to investment ratio?*
  - *Response: It is about cost effectiveness. CEE discusses what measures the homeowner can do to save money. All options are regulated by MN Department of Commerce. CEE does not do windows as they do not pay for themselves.*
- *Question: Are people going to CEE or MHFA? Do they seek you out?*
  - *Response: They seek out CEE or go to utility company.*
- *Question: What is the cost of an audit?*
  - *Response: Audits that are subsidized by the utility company cost \$60-100. Xcel and Centerpoint Energy offer subsidies, Muni-Coops do as well.*
- *Question: What is unsubsidized cost?*
  - *Response: \$200-300*
- *Question: It seems like contractor requirements are similar to California's requirements.*
  - *Response: Have not read California law so cannot speak to it.*

Chris went on to say that Quality Assurance Programs are important. Third party inspectors inspect jobs, provide feedback to contractors. CEE will put contractors on probation or remove completely if not doing job properly. This is especially important with insulation contractors.

- *Question: Does CEE use audit software?*
  - *Response: Yes, CEE has software package for testing*

Acting Chair Verdeja then ended the discussion on Energy Audits, pointing out that the next PACE Task Force Meeting would pick the discussion back up. The meeting then turned to hearing from Katerina Robinson, Legislative Director to California State Senator Mary Skinner.

### **The California Experience**

Katerina Robinson, Legislative Director to California State Senator Mary Skinner gave an overview of PACE legislation in California. Here are some highlights of her presentation:

- Both of the most recent 2017 PACE bills were signed into law by Governor Jerry Brown on October 4<sup>th</sup>.
- California has had success with PACE Programs, the City of Berkeley was the first to do PACE. It is a growing way of financing clean energy projects. It has grown from \$350Million in 2014 to \$2.6 Billion in 2017. As the program grew issues arose that needed to be addressed by the legislature.
- California is committed to clean energy policy, it has goals of a 40% reduction in Green House Gas by 2030. The state is committed to making the PACE program work but also needed to make sure that the program worked for homeowners.
- The main issues that arose around contractors not representing the program properly, especially to seniors and the elderly.
- There have been no actual foreclosures in California. There have been instances of default when first payment came due but these homeowners worked with state to get this worked out.
- Bankers and Credit Unions in California had issues with lien position, this issue was not addressed in the recently passed legislation.

### **Key Components of recent Pace Legislation:**

1. Confirmed terms call
2. Documents made available to homeowner and follow up call to make sure they understand the terms of the contract including the estimated monthly payment
3. Must provide follow up phone call in homeowners primary language
4. Extended right to cancel (3 days)
5. Added reporting requirements that require PACE providers to report to local government and make public on local government website copies of the report.
6. Specifies what contractors cannot do:
  - Need to be licensed
  - Cannot offer cash payment discount
  - Can't say they are tax experts
  - Can't offer reduced percentages of interest
  - Can't say it is a free program

7. Requires PACE providers to be licensed by the California Department of Business Oversight and requires training for contractors. Background checks and fingerprinting also required by DBO.
8. Sets basic requirements for PACE Contracts

- *Question: Are you anticipating another round of bills in 2018?*
  - *Response: Not anticipating big item bill but could do some "clean-up"*
- *Question: Around the reasonable good faith effort provisions in the bill, is that where you started or is that where you ended up?*
  - *Response: It evolved and we ended up somewhere in "the middle"*
- *Question: This sounds like quite a process, if you had to start over, what would you do differently? Can you provide a lessons learned?*
  - *Response: Most helpful major thing is getting everyone around a table to go through areas where there are issues. Get it all out on the table. It took some putting aside broader political issues with PACE and working to get the consumer problem first and then other issues. Also found it hard that many of the consumer groups did not have the capacity and funding to be in continuous negotiations and made the process hard. Leadership was key in this process: Governor's office, Committee Chairs and Bill Authors worked to get these bills done.*
- *Question: One of the pieces of the bill was the lien database, can you talk a little bit about that?*
  - *Response: I know less about the database. State needed to get answers about property defaults up not just PACE, could not tell on tax rolls which had PACE assessment and which did not. Needed reporting requirements and oversight. Hope to get better numbers by Zip Code where PACE is going and track over time.*
- *Question: Can you talk about not requiring audit for CA-PACE?*
  - *Response: We do not require audit, but have pretty good estimates of the savings. For energy efficiency if you spend all time on audits you won't get the savings on the ground. Hard to develop economic model and it makes process more onerous for contractors and consumers. Utilities do them for free in California, some homeowners do it before they look into PACE.*
- *Question: In place of an Audit does CA have a list of approved measures?*
  - *Response: It is in existing law, has list of approved measures, did not get into 2017 bills. Had more robust ideas that could go farther on list of approved appliances and upgrades.*
- *Question: We spoke to Vermont earlier, and they said that Federal Guidance came out in 2010 and caused them to switch to junior lien position. Was this a concern for California?*
  - *Response: We said we were not dealing with this. Governor Brown did not want to deal with lien priority, left matter to the Federal Government.*
- *Question: Ideas about language or process in truth in lending?*
  - *Response: Yes, starting point for lenders, mortgage banks, realty. Thought CA should adopt Federal Standards for PACE. California thinks PACE is different and is a local issue. It is a different type of tool and should be treated as such. To lump it in with banks would make it not as competitive. Some homeowners not eligible, State needed to create a new tool. California took as many protections as it could and applied in slightly different way to PACE.*
- *Question: Can you clarify not structuring PACE like another loan product?*

- *Response: Banks not always going to offer financing for upgrades. PACE developed because traditional financing not available, needed something to “bridge the gap”*

With no more questions the call with Katerina Robinson ended.

### **Public Comment**

- Acting Chair Verdeja opened it up to Public Comments. There were no public comments.

### **Closing / Wrap-up**

- Acting Chair Verdeja asked Task Force Members to send outstanding questions by October 6<sup>th</sup>.
- Informed members that next meeting would be October 19<sup>th</sup> and that this would be the final meeting prior to starting the draft report and legislation.
- Asked if there were any other items the Task Force wanted to cover
  - Paul Eggers from the MN Realtors asked that the TF go over the NCLC report in the next meeting.

### **Adjourn**

- With no further business the October 5<sup>th</sup> meeting of the PACE Task Force Adjourned.