



Major Solar Energy Provisions in the House and Senate Passed Energy Bills

Background

The solar energy industry's top legislative priority for 2007 continues to be the enactment of long-term extensions of the investment tax credits ("ITC") under Internal Revenue Code section 25D (residential) and 48 (commercial). The most common way that energy tax legislation passes Congress is through its incorporation into broader energy policy bills. Congress is currently debating national energy policy and is in the midst of a major re-write of some of our nation's most basic energy laws. In addition to tax provisions, these energy policy bills also contain numerous other solar provisions of great interest to the solar energy industry. This memo briefly describes some of the major solar energy provisions that are currently under consideration.

On June 21, 2007 the Senate approved the *Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007* (H.R. 6). On August 4, 2007, the House passed both the *Renewable Energy and Energy Conservation Tax Act of 2007* (H.R. 2776), the energy tax package, and the *New Direction for Energy Independence, National Security, and Consumer Protection Act* (H.R. 3221), the overall energy bill. Upon passage, the House enrolled H.R. 2776 into H.R. 3221. Currently H.R. 6 and H.R. 3221 are waiting to be reconciled in a House – Senate Energy Conference Committee.

House Solar Provisions

We succeeded in securing House passage of an extension of and improvements to the solar investment tax credits. The solar ITC provisions in the legislation are as follows:

- Eight-year extension of the 30% business ITC under Section 48 (Sec. 11003);
- Permit corporate and individual taxpayers to claim the ITC against the Alternative Minimum Tax (AMT);
- Waiver of the public utility exception to the ITC (i.e., permits investor-owned utilities to claim the ITC for solar investments);
- Elimination of the existing \$2,000 maximum dollar limitation on section 25D residential solar ITCs (Sec. 11006); and
- \$2.4 billion in bonding authority for the issuance of Clean Renewable Energy Bonds. (Sec. 11004)

H.R. 3221, which incorporates energy policy measures from nine other committees, includes a number of provisions relating to solar energy, including:

- **Renewable Electricity Standard (RES):** An amendment offered by Rep. Tom Udall (D-NM) would require utilities to obtain 15% of their power portfolio from renewable sources by 2020, 4% of which could be satisfied with electricity efficiency measures. The RES does not pre-empt state RPS requirements or statutes. Eligible solar technologies under the RES include both solar electric and solar water heating technologies. For distributed generation (including distributed solar), a 3x credit multiplier would be issued for each kilowatt-hour generated. (Sec. 9611)
- **Long-term Federal Solar Power Purchase Agreements:** Authorizes 25 year federal power purchase agreements for solar energy (current maximum duration is 10 years). (Sec. 9086)
- **Strategic Solar Reserve Program:** Lands under the Bureau of Land Management's jurisdiction must be identified that can accommodate up to 25 GW of solar energy development. Provides favorable terms and conditions for permitting, leasing and site identification. (Sec. 7304)
- **Bureau of Reclamation Solar Suitability Land Inventory:** Lands under its jurisdiction must be evaluated for suitability for solar energy development projects. Given the western nature of these land holdings, it is anticipated that land suitable for utility-scale solar deployments will be identified. (Sec. 7302)
- **Government and Non-Profit Solar Assistance:** Authorizes the Department of Energy, subject to appropriation, to assist state, county, local government, schools, universities, airports and other qualifying entities, to provide technical assistance to increase the deployment of solar energy systems. (Sec. 9072-9075)
- **Small Business Solar Assistance:** Provides grants, subject to appropriation, and authorizes technical assistance to small businesses to assist them in evaluating the suitability of using solar energy. (Sec. 3005)
- **The Solar Energy Research and Advancement Act of 2007:** provides funds, subject to appropriations, to support the research, development, and commercial application of solar energy technologies. Special emphasis is placed on concentrating solar power thermal storage research, solar lighting and cooling and advanced photovoltaic technology development. (Sec. 4301-4308)
- **International Solar Cooperation:** Authorizes heightened cooperation between the U.S. and Israel on innovative solar energy technology development. (Sec. 9321-9328)
- **Solar Energy Industries Research and Promotion Board --** Creates a Solar Energy Industries Research and Promotion Board to increase consumer awareness nationwide of solar energy options and appropriate certifications. The solar program would be funded entirely by a small portion of industry revenues. No appropriations are authorized. (Sec. 4311-4316)
- **Solar Workforce Training:** Provides funds, subject to appropriation, for grants for solar industry workforce training and internship programs. (Sec. 1002)

- **Rayburn House Office Building Solar Feasibility Study:** Provides that the Architect of the Capitol will determine the feasibility of installing PV panels on the largest House Office Building, Rayburn. (Sec. 8651)
- **Department of Energy “Solar Wall” Funding:** Appropriates \$30 million for the installation of a PV system at DOE Headquarters. (Sec. 8603)
- **Accelerated Depreciation for “Smart-Meters”:** Allows utilities a five-year accelerated depreciation for the installation and use of smart-meters. Cost \$1.3 billion over 10 years. (Sec. 12015)

Senate Solar Provisions

The Senate energy bill (H.R. 6), does not contain a tax title. When Senate Finance Committee Chairman Max Baucus (D-MT) attempted to offer the Finance Committee tax package as an amendment to the underlying energy bill, a vote to invoke cloture and cut off debate on the package failed by a vote of 57-36, largely along party lines. This political setback occurred for reasons unrelated to the solar provisions, and support for an ITC extension in the Senate remains strong. The energy tax package approved by the Senate Finance Committee contained the following solar provisions:

- Eight-year extension of the 30% business ITC under Section 48;
- Six-year extension of the residential ITC under Section 25D;
- Doubling of the existing maximum dollar limitation on section 25D residential solar ITCs to \$4,000 and retroactive to 12/31/06; and
- Waiver of the public utility exception to the ITC (i.e., permits investor-owned utilities to claim the ITC for solar investments).

For reasons that are fully discussed in the ITC strategy memo, *Solar Investment Tax Credits, SEIA Strategic Plan for Fall 2007 and Beyond*, we are confident that we will ultimately prevail in securing Senate passage of solar tax credits. However, despite this current shortcoming, H.R. 6 includes a number of non-tax provisions relating to solar energy, including:

- **Solar Innovation Manufacturing Partnerships:** Establishes a Renewable Energy Innovation Manufacturing Partnership Program. The program would make awards for research, development and demonstration related to the manufacture of renewable energy technologies. (Sec. 270B)
- **Solar Workforce Training:** Establishes a workforce training program for jobs in the renewable energy and energy efficiency sectors and authorizes \$100 million annually for the effort. (Sec. 277)
- **Long-term Federal Solar Power Purchase Agreements:** Authorizes 50 year federal power purchase agreements for solar energy (current maximum duration is 10 years). (Sec. 262)

- **Federal Building PV Deployment:** Requires DOE to issue regulations that requires each federal agency to increase alternative fuel use by 10 percent annually by 2015. (Sec. 262)
- **Federal Facility RES:** Requires to the extent that it is "economically feasible and technically practicable" that 15 percent of the federal government's electricity use come from renewable sources by the year 2015. Also puts in place new energy management requirements for federal buildings and new energy efficiency performance standards. (Sec. 262)
- **Federal Solar Hot Water:** Requires that, if cost-effective as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new or substantially modified Federal building be met through the installation and use of solar hot water heaters. (Sec. 270A)
- **Department of Energy "Solar Wall" Funding:** Installation of a PV system at DOE Headquarters. (Sec. 411)
- **Clean Energy Corridors:** Calls for the designation of electric transmission corridors in any area experiencing transmission capacity constraints or congestion. (Sec. 269)