Cost Breakthrough in Department of Energy Loan Guarantees

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January 5, 2021 Print This Article Share it With Friends

(Alternative Fuels & Chemicals Coalition/CISION) The Alternative Fuels & Chemicals Coalition ("AFCC") worked closely with policy makers and appropriators this year to provide changes to the U.S. Department of Energy ("DOE")'s Title XVII Innovative Technology Loan Guarantee Program (the "Title XVII Program"), which were realized through the recent enactment of the Consolidated Appropriations Act of 2021.

The Alternative Fuels & Chemicals Coalition ("AFCC") (founded by Mark J. Riedy, Partner, Kilpatrick Townsend Stockton and AFCC General Counsel, CJ Evans, Managing Director, American Diversified Energy and AFCC Executive Director, and Rina Singh, AFCC Executive Vice President), worked closely with policy makers and appropriators this year to provide changes to the U.S. Department of Energy ("DOE")'s Title XVII Innovative Technology Loan Guarantee Program (the "Title XVII Program"), which were realized through the recent enactment of the Consolidated Appropriations Act of 2021.

The Title XVII Program has the authority to disperse up to approximately $25.5 billion in remaining low-interest loans for clean energy projects such as biofuels, renewable chemicals, biobased products, advanced fossil energy and chemicals, carbon capture and storage technologies, renewable power and nuclear energy.

The Title XVII Program focuses on providing the hard-to-find financing to commercialize innovative, first-of-a-kind technologies. By stimulating construction and the deployment of new technologies, it has the ability to add thousands of new high-paying jobs, get people back to work, and aid economic recovery.

The Program was authorized in the Energy Policy Act of 2005 to support the deployment of large projects that avoid, reduce or sequester planet-warming emissions. In the American Recovery and Reinvestment Act of 2009, in response to the last financial crisis, Congress temporarily expanded the program.

The significant high costs for applying into the Title XVII Program for Phase 1 and Phase 2, along with the excessive time frame to financial closing, have been enormous deterrents for technology innovators and project developers, especially those in early-stage and first-of-a-kind technologies. AFCC and many of the Title XVII Program advocates felt there was a need to reform the Title XVII Program to make it accessible for a greater number of project developers by removing and/or reducing several of the applicant borrower fees to the government, moving any such fees to financial closing and compressing the time to reach financial closing.

As AFCC stated in its fiscal year 2021 appropriation request to the House and Senate Appropriations Subcommittee members and staff, removing and/or reducing several of the applicant borrower fees for the DOE's Title XVII Program would "enable more companies with innovative technologies to participate in the Title XVII Program's loan guarantees." To broaden participation, AFFC proposed that Congress "remove the cost and time barriers that prevent many small businesses from participating in the Program," by directing DOE to remove and/or reduce several of the applicant borrower's fees payable to DOE and compress the time to reach financial closing.

The AFCC, including Mark J. Riedy, CJ Evans, Rina Singh, and its member companies would like to thank the leadership team in both the Senate and House Appropriations Committees and the Subcommittees for Energy and Water Development, and Related Agencies, for their hard work in the enactment of the bipartisan, bicameral Energy Act of 2020 which has been included as Division Z of the Consolidated Appropriations Act of 2021, which was signed into law by President Trump on Sunday, December 27, 2020.

We also would like to thank and applaud, Senators Murkowski (R-AK) and Manchin (D-WV), Chairman and Ranking Member of the Senate Committee on Energy and Natural Resources, and Chairman Frank Pallone (D-NJ) and Ranking Member Greg Walden (R-OR) of the House Committee on Energy and Commence, as well as Chairwoman Eddie Bernice Johnson (D-TX) and Ranking Member Frank Lucas (R-OK) of the House Committee on Science, Space, and Technology for their support of the Title XVII Program and their efforts in making these necessary changes.

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The full text of the Energy Act of 2020 can be found here. The section-by-section analysis can be found here. Section 9010 (page 1227 in the section-by-section analysis) represents the Title XVII Program changes, which amend and reform its Renewable Energy, Advanced Fossil Energy and Nuclear Energy subprograms, established through the Energy Policy Act of 2005, to defer the collection of fees and other expenses from applicant borrowers until financial closing, and to potentially reduce such fees, compress the time to financial closing and expand project eligibility. It also adds provisions regarding analysis by the Secretary of the Treasury, application status, outreach, coordination, and reports to Congress.

Section 9010 authorizes funding from fiscal year ("FY") 2021-2025 for administrative and other expenses in the amount of $32 million for each fiscal year, and additional funding for FY 2021 in the amount of $25 million for administrative expenses not otherwise covered by fees collected from project applicant borrowers in order to reduce their fees payable to DOE. All fees, including the underwriting fees and the credit subsidy cost, are moved to at least financial closing and can be reduced at the discretion of the Secretary of Energy.

The last new project approved under the Title XVII Program occurred in late 2016, a loan to a carbon capture and storage plant in Louisiana, which still awaits financial closing. The Trump administration has had one financial closing for a nuclear reactor project in Georgia in 2019 (its second such closing), but the process for its application began under the Obama administration where its initial loan was financially closed.

The Energy Act of 2020, which is part of the Consolidated Appropriations Act of 2021 features consensus provisions from the Senate's American Energy Innovation Act (S. 2657) and the House's Clean Economy Innovation and Jobs Act (H.R. 4447). It stands to become the first comprehensive modernization of our nation's energy policies in 13 years.

As Chairwoman Murkowski (R-AK) said, "The Energy Act represents the first modernization of our nation's energy policies in well over a decade. This bipartisan package will foster innovation across the board on a range of technologies that are critical to our energy and national security, our long-term economic competitiveness, and the protection of our environment." In total, nearly 70 senators sponsored, or cosponsored provisions included in the Energy Act. All or part of 37 Senate bills are included, including 29 bipartisan bills.

The Alternative Fuels & Chemicals Coalition ("AFCC") Advocates for Public Policies in the Biobased Economy to Promote the Development & Production of Alternative Fuels, Renewable Chemicals, Biobased Products, and Sustainable Aviation Fuels.

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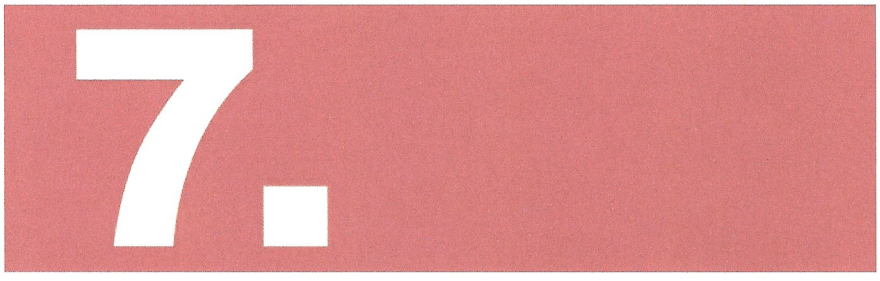
January 5, 2021 | Jim Lane



7. The DOE Loan Guarantee Program re-invented, re-programmed, re-vived

If you were counting, there has not been a new closing for a novel project using the DOE Loan Guarantee Program since 2014, we're told. Despite a stellar less-than-3-percent default rate that any small business lender would kill for. And, despite more than $25 billion in the kitty.

We predict that this is the year that the DOE Loan Program will roar to life.

What is the program? The Title XVII Program was supposed to provide the hard-to-find financing to commercialize innovative, first-of-a-kind technologies. Whether measured by loan activity (zilch) or the default rate (less than 3 percent) we can't say it was doing a good job of unleashing those high-risk, high-reward technologies. What went wrong with Title 17, and what got fixed this week?

The problem was significant high costs for applying into the Title XVII Program for Phase 1 and Phase 2, along with the excessive time frame to financial closing, have been enormous deterrents for technology innovators and project developers, especially those in early-stage and first-of-a-kind technologies.

Let me give an example to illustrate. Say you are building a $400 million, 100 million gallons bioeconomy project. You pay a $400,000 application fee for a Loan Guarantee. You pay a $4.5 million facility fee to the government for the cost of the LG. You pay at least $19.6 million toward the credit subsidy (the fund that pays off banks in case of defaults), and possibly as much as $28 million more. You pay a $300,000 loan guarantee maintenance fee. In all, as much as $82.1 million for the

loan guarantee. And you have to, usually, put up 30 percent or so of the project cost as equity, or $120 million.

Usually

At this point, you're thinking that Visa would probably charge less to put this on a credit card, after all we're looking at as much as 19 percent of the loan proceeds in fees. But it gets worse. You see, you are not allowed to pay for this out of the loan proceeds. Nor are you allowed to pay for this out of the minimum project equity you had to raise for your project. You had to go raise this as additional equity, and good luck giving anyone any security for their investment because you can't pledge the project's assets as collateral, either.

But that's not the bad news.

The bad news is that, once you've paid all those fees, you might wait 50 years to get a loan guarantee closed. The DOE had no time limit, and typical wait times were 2 years. If this Program had been the only thing available to help vaccine development in this pandemic crisis, we might be waiting for years to get out of the lockdowns. Companies might have gone bust handling the fees associated with the loans.

Mark Riedy, general counsel for the American Fuels & Chemicals Coalition, said "This Program amendment is likely the largest win in the history of revising US federal government loan guarantee programs. The changes effected are very broad and can be further expanded and bettered through the inevitable rule-making process that will follow in 2021, as the new Administration is seated and gets up and running."

Section 9010 represents the Title XVII Program changes, which amend and reform its Renewable Energy, Advanced Fossil Energy and Nuclear Energy subprograms, established through the Energy Policy Act of 2005, to defer the collection of fees and other expenses from applicant borrowers until financial closing, and to potentially reduce such fees, compress the time to financial closing and expand project eligibility. It also adds provisions regarding analysis by the Secretary of the Treasury, application status, outreach, coordination, and reports to Congress.

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ASSOCIATION, GOVERNMENT, INVESTMENTS, PRESS RELEASE

Restriction eases for DOE Loan Guarantees

POSTED BY DORIS DE GUZMAN · JANUARY 11, 2021

FILED UNDER DOE, LOAN PROGRAMS

I don't really analyze deeply some of the policies surrounding the renewable chemicals and biofuels/bioenergy markets although I do recognize that the renewable chemicals industry seems to be always trying to catch up with its bigger sibling when it comes to policies enabling tax credits, government incentives and loans for renewable chemicals projects and products.

The Alternative Fuels & Chemicals Coalition ("AFCC") seems to be working on that gap and one of the founders noted that big events will be coming our way this year targeting the renewable chemicals market. Founded by AFCC General Counsel Mark J. Riedy (Kilpatrick Townsend Stockton), AFCC Executive Director CJ Evans (American Diversified Energy) and AFCC Executive Vice President Rina Singh, the organisation advocates for public policies in the biobased economy to promote the development & production of Alternative Fuels, Renewable Chemicals, Biobased Products, and Sustainable Aviation Fuels.

Anyway, the AFCC recently announced that it has been working closely last year with policymakers and appropriators to provide changes to the U.S. Department of Energy ("DOE")'s Title XVII Innovative Technology Loan Guarantee Program (the "Title XVII Program"), which were realized through the recent enactment of the Consolidated Appropriations Act of 2021.

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THE TRANSFORMATION OF THE ENERGY SECTOR

POLITICS

DOE program may save — or thwart — Biden's energy plan

David Iaconangelo, E&E News reporter

Published: Tuesday, January 26, 2021

Former Michigan Gov. Jennifer Granholm (D), President Biden's nominee for secretary of Energy. Kevin Lamarque/REUTERS/Newscom

A Department of Energy program considered critical to President Biden's clean energy agenda is changing focus — and may open the administration to political attack, analysts say.

When Biden was vice president, the Energy Department's Loan Programs Office (LPO) distributed tens of billions of dollars in loans and loan guarantees intended to scale up new clean technologies. The office helped launch the first utility-scale wind and solar farms in the country. And it made a $535 million loan to Tesla Inc., now the world's most valuable automaker, to open its first factory in Silicon Valley.

After more than a decade of loan-making, the LPO has collected more in interest than it has lost to project failures, giving it a respectable record by Wall Street standards. It has also gone close to dormant.

After high-profile disappointments like the bankruptcy of solar producer Solyndra — which received a DOE loan in 2009 for $535 million — Republican leaders pilloried the office's work as cronyist and speculative. The Trump administration's budget directors have closed on loan guarantees for just one project, the Plant Vogtle nuclear units in Georgia.

Yet as Biden takes office, the LPO is sitting on a pile of money: About $43 billion in loan authority remains available for "innovative" low-carbon technologies, clean vehicles and energy on tribal lands.

For DOE, the loans could be a central lever for speeding the energy transition and restarting the economy — particularly if broader legislation has trouble getting through Congress, say policy experts on both sides of the aisle.

"If you're looking at the spectrum of things the administration can do no matter what, the loan program is one of them," along with stricter regulations on greenhouse gas emissions, said Joe Britton, executive director of the Zero Emission Transportation Association, which lobbies for clean vehicles. "[Biden] is going to have near-uniform authority to go in and use the loan program."

Many experts say they think Biden will move quickly to get money out the door.

In a memo of top recommendations for the first 100 days, former Obama administration officials and Biden's new chief of staff at EPA have urged Biden to "prepare DOE to administer" the loans. Prior to Biden's inauguration, Marlo Lewis, a senior fellow at the conservative Competitive Enterprise Institute, said he expected Biden to take action quickly.

Jason Bordoff, a former special assistant to Obama who now directs Columbia University's Center on Global Energy Policy, and Udai Rohatgi, a partner at government affairs firm Boundary Stone Partners, signed the letter, along with Dan Utech, who was named EPA chief of staff last week.

But there are signs that ideological battles could resurface.

The Energy Act of 2020, for instance, included language shaving off $1.9 billion from the debt costs that the federal government can shoulder in association with advanced vehicle projects, at the behest of Republicans. That could foreshadow revived conservative scrutiny on what happens to taxpayers' money used to back clean energy loans.

While Biden's DOE could move loans without GOP support, history suggests the loans would be a quick target for Republicans, particularly if any new financial support from DOE is called for in a package that moves through Congress. Solyndra, for instance, still is frequently mentioned in criticisms of government energy spending. Since Biden's election, it has appeared in op-eds published by the *Chicago Tribune*'s editorial board and by staffers at the free-market American Consumer Institute, for instance.

In an April 2020 op-ed, George W. Bush adviser Karl Rove said the 2009 stimulus during the Obama administration was full of supposedly shovel-ready programs that "ended as badly as Solyndra's balance sheet" (***Energywire***, May 7, 2020).

"As I see it, these sorts of programs are well-suited to this marriage between big government and big business, which causes folks like me to be skeptical. I think these programs will be as much about practical politics, and paying off your friends, as they are about making changes to the environment," said Chuck DeVore, vice president of policy at the Texas Public Policy Foundation.

"I'm going to guess that there's going to be some stupid misstep like we saw with Solyndra, because that's the nature of these things," he added. "It's almost inevitable."

Moving beyond wind and solar

If and when the Loan Programs Office begins making new awards, the wind and solar industries may not be major beneficiaries, having already planted deep roots in America's energy ecosystem, according to former energy officials from the Trump and Obama administrations.

This time, batteries and their mineral inputs, along with the electric vehicles and storage applications that use them, are widely expected to emerge as a chief technological priority of the office. That expectation was encouraged by loan office guidance issued last month favoring critical minerals projects, as well as the nomination of Jennifer Granholm as Energy secretary.

When governor of Michigan from 2003 to 2011, Granholm helped broker the Obama administration's bailout of the auto industry, noted Tristan Abbey, a former Republican policy adviser for the Senate Energy and Natural Resources Committee and former energy staffer on President Trump's National Security Council.

"In general, [her nomination] is supportive of the theory that they're going to focus a lot on batteries," Abbey said.

Efforts to launch a domestic battery industry would dovetail with the aims of energy officials in California, who have funded pilots to extract lithium from geothermal brines and say they want to eventually host material processing and battery production plants in an impoverished corner of the state.

The United States' dependence on Chinese supply chains for lithium-ion batteries, which are also used by the military and in consumer electronics, has riled concerns among Republicans, giving the clean energy issue a certain degree of national security credibility. Despite past conservative objections, that could open the door to bipartisanship on DOE loans, some say.

"The loan programs could be very important for Biden's battery agenda — especially because that's a place where he could find GOP support," said Abbey.

One area of likely consideration for the Loan Programs Office, Abbey added, could be the processing of raw minerals to prepare them for use in batteries. "The Chinese import dependence is also on the processing side. Even if we were to extract more minerals, we'd have to ship them to China to process. That's a missing piece of the puzzle," he said.

'Incredibly valuable'

DOE has also taken recent steps indicating it will expand on the Trump administration's focus on creating domestic supplies of battery minerals.

This month, the agency said it was creating a new division of minerals sustainability under an existing fossil energy office, with the intent of reusing minerals from fossil fuel waste streams that could power electric vehicles,

next-generation nuclear, renewables and other technology.

That followed the December guidance from the Loan Programs Office, which clarified critical minerals' eligibility for loans and loan guarantees. Officials said they would give special consideration to those projects, which could include new techniques for extracting key battery minerals like lithium (***Energywire***, Dec. 2, 2020).

Gene Berdichevsky, chief executive at Sila Nanotechnologies, said he was optimistic that companies like his would qualify for a loan. The startup makes a silicon anode that can be incorporated into batteries to improve their energy density. It has won grants from DOE's Advanced Research Projects Agency-Energy (ARPA-E) to scale up production for electric vehicles.

"The ability of the incoming administration to bring [the loan] program back is going to be incredibly valuable," said Berdichevsky.

On Jan. 13, electric truck maker Lordstown Motors Corp. announced that its outstanding application for a loan was moving along at the LPO.

Steve Burns, the company's chief executive, said in a statement that the funds would "enable us to increase production capacity" for its Endurance pickup truck while "simultaneously advancing research and development of future vehicles."

Still, the December guidance clarified that the office's loans could support numerous other low-carbon technologies as well. Hydrogen fuel cell and biofuels advocates have expressed interest in the program to lawmakers, according to lobbying disclosures.

Advanced nuclear and fossil energy technologies enjoy special set-asides: $10.9 billion in guarantee authority for the former, and $8.5 billion for the latter. That's compared with $17.7 billion for advanced vehicles and their components, which may be the central source for battery technologies.

In one early November letter to Congress, 30 companies spanning virtually every kind of low-carbon power and transportation asked for greater flexibility on the fees charged to loan applicants — a request that was granted in the Energy Act of 2020.

That letter hailed the loans as "one of the most vital programs to advance America's clean energy economy" and called them "the best and often only way" for innovative technologies to find widespread deployment.

Other groups are planning to press for additional expansions of the loan programs. The National Association of State Energy Officials, for instance, wants state-run energy financing programs to become eligible. And some former DOE officials who served under Democratic presidents are retaking decade-old calls for an entirely new federal financing agency for deploying clean energy.

All that comes at a time when corporations like Amazon.com Inc., billionaire investors like Bill Gates and ARPA-E have pledged more money and resources toward commercializing energy prototypes. That's partly in response to the International Energy Agency's warnings that much of the global CO_2 emissions reductions necessary for a net-zero energy system will have to come from technologies that aren't in widespread use yet.

Some former Energy officials say they believe the partisan politics around the LPO loans have evolved, too.

"I think the politics are completely different today from what they were when I headed the agency," said Jonathan Silver, who directed the LPO for a prolific three-year period under Obama.

Democratic control of government, corporate climate action, consumer demand and increased Republican support for a federal role in clean energy R&D mean the LPO's work will be "significantly less political in nature," said Silver, now a senior adviser for sustainability at investment bank Guggenheim Partners.

"Even if the occasional project doesn't work out, [the LPO's work] has more support in 2021 than it did in 2011," he said.

Twitter: **@diaconangelo** | Email: **diaconangelo@eenews.net**