Cantwell-LeMieux Amendment to Extend the "Section 1603" Clean Energy Treasury Grant Program

The Treasury Grant Program (TGP) has been widely credited with maintaining strong growth in the renewable energy sector in 2009 and 2010, despite the severe economic downturn. Established under Section 1603 of the American Recovery and Reinvestment Act (ARRA), the Treasury Grant Program has proven a particularly effective job creation tool. According to a recent Lawrence Berkeley National Laboratory Report[1], the TGP program will create over 143,000 jobs by the end of the year and enable 4,250 megawatts of renewable power projects to come online.

With utilities still unable to utilize production and investment tax credits, and additional job opportunities the key to our nation's economic recovery, extending the successful TGP is critical. While the program does not end until the end of 2010, it needs to be extended now, along with other expiring credits, to prevent the rate of project development from slowing down dramatically in anticipation of its impending expiration.

The amendment contains the following six provisions:

1. **Extends the Treasury Grant Program by two years, through the end of 2012.** Prior to the economic meltdown, clean energy project developers relied on "tax equity partnerships" with Wall Street to take advantage of clean energy tax incentives, even though the big banks involved often kept about a third to half of the value of these U.S. taxpayer funded incentives. In 2008, the economic meltdown froze the $8 billion "tax equity" market, jeopardizing billions of dollars in clean energy investment. The Treasury Grant Program proved an effective replacement for these partnerships and provided a much more direct and effective use of clean energy tax incentives.

   With tax equity partnership opportunities remaining scarce and costly, the TGP program needs to be extended to meet our national goals of decarbonizing and diversifying our nation's energy mix. The program has awarded grants to a wide range of projects including biomass, combined heat and power, solar photovoltaic, solar thermal electric, solar heat and hot water, wind, landfill gas, hydropower, geothermal, and fuel cell.

   A recent study[2] found that a 2-year extension of the TGP will result in nearly 65,000 more jobs in the solar industry alone, and would result in enough additional solar to power more than 1.2 million homes. However, if the TGP program is not extended until the end, the uncertainty would harm investment, costing 8,300 solar jobs. The study also found that extending the Section 1603 program would yield an estimated $400 million in net savings to U.S. taxpayers between 2010 and 2016 thanks to additional income tax revenue and avoided unemployment costs.

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[1] *Preliminary Evaluation of the Impact of the Section 1603 Treasury Grant Program on Renewable Energy Deployment in 2009*, Lawrence Berkeley National Laboratory, April 2010 (http://eetd.lbl.gov/ea/emp/reports/lbnl-3188e.pdf)

2 *U.S. Solar Policy Impact Analysis*, EuPD Research, May 19, 2010 (http://seia.org/galleries/pdf/EuPD_Research_Solar_Report.pdf)

2. **Extends TGP eligibility to non-profit power producers (publics, co-ops, and mutuals).** The amendment would extend TGP eligibility to public power producers, rural electric co-ops, and mutuals. As non-income-tax-paying entities, these organizations are currently excluded from receiving grants under the program. This amendment would establish parity in federal incentives for over a quarter of Americans who receive their electricity from non-profit utilities. Eligibility for these entities would be retroactive to the date of passage of the American Recovery and Reinvestment Act (except for projects that had received an allocation under the Clean Renewable Energy Bonds program).

   While some non-profit power producers have been able to take advantage of the TGP program indirectly by signing Power Purchase Agreements (PPAs) with private developers, allowing them to take the credit directly will enable public entities to pass the full benefits along to their ratepayers, provide capital to build additional clean energy projects, and speed job creation by eliminating the need for lengthy negotiations with third party developers.

3. **Extends TGP eligibility to the Tennessee Valley Authority and entities that partner with power marketing administrations.** The amendment would also extend eligibility to the Tennessee Valley Authority and projects that have a contract or business arrangement (such as a power purchase agreement) with a Federal Power Marketing Administration.

4. **Makes real estate investment trusts (REITs) eligible for the TGP.** REITs own approximately six billion square feet of commercial real estate, about 10 percent of all commercial real estate in the U.S. Since buildings represent about 40 percent of all U.S. energy use and approximately 70 percent of all electricity consumption, providing incentives for REITs to engage in energy efficiency projects could significantly contribute to achieving our nation's energy reduction goals.

5. **Technical correction clarifying that "normalization" rules should not apply to the TGP.** Normalization is a regulatory accounting treatment that restricts the ability of a regulated utility to pass federal tax benefits through to ratepayers. Normalization was originally added to the tax code in the 1970's to ensure that the Investment Tax Credit would be an incentive to shareholders for investing in qualified projects, rather than simply a means to reduce the cost of power for ratepayers.

   Normalization rules do not apply to the Section 45 renewable energy production tax credit, and have not been applied to grant programs in the past, but the IRS has indicated that the legislative language in ARRA requires them to apply these rules to Section 1603 grants. This would significantly devalue the incentive for regulated utilities and their ratepayers, in one example reducing the value to ratepayers by two-thirds.

6. **Offsetting the cost of extending and expanding the TGP.** While the Joint Committee on Taxation (JCT) is still working on scoring this request, a number of outside experts believe the cost will be minimal. The original program scored at only $5 million, because JCT assumed that TGP recipients would have otherwise utilized Section 45 production tax credits or Section 48 investment tax credits.

   Extending and expanding the program to allow parity with public utilities may increase TGP utilization and thus its JCT score, but that increased cost will be offset by a provision stipulating that contributions to the Oil Spill Liability Trust Fund made by companies with annual revenues in excess of $100 million shall not be deductible as a business expense.