



# WYOMING INFRASTRUCTURE AUTHORITY

200 E. 17<sup>th</sup> Street, Suite B  
Cheyenne, Wyoming 82001

June 19, 2009

Mr. Matthew Rodgers, Economic Stimulus Program Director  
Mr. David Frantz, Renewable Loan Guarantee Program Director  
United States Department of Energy  
Washington, District of Columbia

Re: Implementation of the DOE Section 1705 Renewable Energy Loan Guarantee Program

Dear Mr. Rogers and Mr. Frantz:

The purpose of this letter is to forward concerns related to the content of pending departmental regulations addressing the implementation of Section 1705 of the Department's Renewable Loan Guarantee Program, which was authorized in the American Recovery and Reinvestment Act (ARRA). Areas of concern include the following:

### **Risk Sharing with Private Lenders**

Based on current drafts, it appears the Department plans to evaluate the credit worthiness of potential renewable projects by "outsourcing" the risk analysis function of the program to commercial banks per a delegated lending authority approach. Furthermore, it also appears that by requiring private lenders to retain project debt that will not be fully guaranteed by the Department's Loan Guarantee program, the Department in effect is relying upon the private sector to underwrite renewable project loans.

While it is important that only creditworthy projects receive federal guarantees, the ARRA does not require the sharing of risk by lenders. It appears that the assumption by Congress and renewable energy sponsors is that the DOE should provide up to 100% loan guarantees to facilitate lending and that project risk sharing can be adequately measured by the degree of sponsor equity invested in renewable projects. Requiring a second level of lender risk-sharing as a proxy for the Department performing its own project evaluation does not appear to be consistent with the goal of rapidly bringing needed long term debt capital to qualified, worthy projects.

### **Expanding the Universe of Qualified Lenders**

Given the current condition of credit markets, it is our position that the success of the program will require the provision of incentives to all potential lenders for renewable projects, including commercial banks, investment banks and private debt markets. It appears that the Department intends to pre-qualify only commercial banks as potential users

if the program, which we believe will limit the program's overall effectiveness for the following reasons:

- (1) Commercial banks are stressed financially and have a modest history of lending to renewable projects.
- (2) Commercial banks tend to loan for shorter terms (5-7 years) than the depreciable life of renewable assets (i.e. transmission lines, wind farms, solar projects, and bio-digesters).
- (3) Bond markets typically provide larger financing amounts for projects of scale than is possible from commercial banks.

Traditional bond markets have historically provided a good source of stable, long-term fixed rate capital for assets of this nature. It is imperative that the Department permits a variety of solutions and mechanisms (including bonds) for renewable assets to qualify for loan guarantees. If risk sharing is deemed essential (which can be addressed by sponsor equity), then it is possible to market separate tranches of parity bonds, one tranche guaranteed and another tranche unguaranteed.

### **Federal Financing Bank**

In addition to private sector lenders, the Department should also permit access to the Federal Financing Bank for Section 1705 loans. Such access will provide the most attractive cost of capital to renewable projects.

### **Lien and Collateral Sharing**

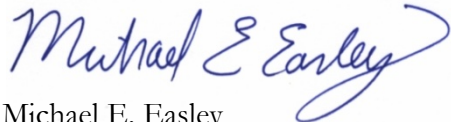
While the program should protect the interests of the federal government, the Department should also strive to find flexible solutions to lien sharing and collateral sharing arrangements with private lenders. Insisting upon both a private risk sharing component for a project loan and then also insisting upon a superior government lien on assets and project collateral will make the program untenable to most, if not all, sources of credit. Additionally, the federal government's ability to negotiate "work out arrangements" in the event of project default is untested and less likely to be more effective than that of private lenders.

### **Summary**

In Wyoming, Governor Freudenthal has implemented a measured and practical approach to the development of abundant renewable resources and their delivery to those markets with significant demand for the same. His engagement on issues related to renewable energy at the federal level has been well received and the Wyoming Infrastructure Authority has worked hard to assist in the implementation of his vision. While it is not yet clear regarding the degree to which this Authority is poised to assist in financing new and upgraded transmission projects for Wyoming's abundant wind, there is no need to limit the effectiveness of such an important tool associated with this effort. Additionally, it is highly unlikely that our nation's major banks will take the time to travel to the rural areas of our state to evaluate renewable transmission projects. In the end, if the DOE relies only on a

delegated commercial bank model for implementation of the Section 1705 program, Wyoming renewable energy resources may see little benefit. In closing, thank you for your consideration of these comments. We appreciate your efforts towards implementation of the Section 1705 Loan Guarantee program regulations and your understanding of the urgency to issue such regulations, which will result in our mutual objective: a well received, large scale and easily implemented renewable energy financing assistance program.

Sincerely,

A handwritten signature in blue ink that reads "Michael E. Easley". The signature is fluid and cursive, with the first and last names being more prominent.

Michael E. Easley  
Chairman  
Wyoming Infrastructure Authority

C.C. Honorable Jeff Bingaman  
Chairman, Energy & Natural Resources  
Senate Committee on Energy & Natural Resources

Honorable Henry A. Waxman  
Chairman, Energy & Commerce  
House Committee on Energy and Commerce

pc: The Honorable Dave Freudenthal, Governor  
Mr. Rob Hurless, Energy Advisor to the Governor