



March 26, 2012

Mr. Alfred M. Pollard
Attn: Comments/RIN 2590-AA53
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street, SW
Washington, DC 20024

***Comments from the Center for Environmental Innovation in Roofing
Re: Advanced Notice of Proposed Rulemaking, RIN 2590-AA53***

Dear Mr. Pollard,

The Center for Environmental Innovation in Roofing (Center) is a non-profit organization whose mission is to promote the development and use of environmentally responsible, high performance roof systems and technologies. The Center represents a broad range of organizations, including Fortune 500 companies, family-owned businesses and non-profit organizations. A strong market for energy efficient and clean energy technologies employs thousands of American workers and reduces the United States' appetite and reliance on fossil fuels.

Property Assessed Clean Energy (PACE) is an innovative mechanism that breaks down financing barriers to allow homeowners to undertake energy efficient home upgrades and clean energy installations. PACE enables investment in such measures by spreading the cost over the lifetime of the improvement, reducing otherwise prohibitive upfront costs and unleashing the demand for technology on an unparalleled level. Twenty-eight states have passed PACE enabling legislation, and the financing program enjoys broad bipartisan support at the local, state and federal levels.

The Center believes that the July 6, 2010, statement by the Federal Housing Finance Agency (FHFA) to halt unilaterally local government PACE programs was unwarranted. This Advanced Notice of Proposed Rulemaking (ANPR) provides an opportunity to establish a fact-based record and correct misinformation and misunderstandings, to the benefit of all stakeholders: local governments, mortgage lenders, homeowners and our nation.

In General

The FHFA expressed a fundamental concern that PACE financing programs "may present significant safety and soundness concerns" to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (Government Sponsored Enterprises or

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“GSEs”). The Center asserts that PACE financing programs do not present a *significant* risk to GSEs or other lending institutions, and in fact reduces risk and provides significant benefits to homeowners enrolled in the programs.

1. PACE assessments are valid and are not “loans” as asserted by the FHFA

The FHFA frequently mischaracterizes PACE assessments as “loans.” Such a characterization jeopardizes a range of traditional property tax assessments relied upon by local governments to finance critical infrastructure projects. Some 37,000 property tax assessments are currently used in the United States.

FHFA suggests federal standards are unavailable for implementation, yet the U.S. Department of Energy drafted such standards when the agency proposed a PACE pilot program in May 2010. Furthermore, the PACE Assessment Protection Act of 2011 (H.R. 2599) sets forth similar standards that were developed with input from the FHFA’s counsel.

2. PACE programs present a minimal risk to lenders, investors, homeowners and GSEs

The FHFA erroneously asserts that PACE programs present “significant safety and soundness” concerns. Long-standing experience, borne out by studies, shows that energy efficiency and renewable energy improvements reduce a homeowner’s energy bills, which improves the homeowner’s financial position and allows him or her to better meet existing financial obligations while allowing the homeowner to hedge against the rising cost of energy. Studies also have shown that such improvements increase the subject property’s value thereby improving the value of the lender’s collateral. These factors lessen, if not eliminate altogether, the safety and soundness risk that the FHFA has asserted.

Local governments that established PACE programs prior to the July 2010 action by FHFA—Boulder County, Colorado; Sonoma County and Palm Desert, California; and Babylon, New York—show that PACE presents a minimal risk to GSEs and other financial institutions. In the programs named above, there are only a handful of known defaults out of nearly 3,200 upgraded properties—a number substantially below the rate of default for non-PACE property owners in the same districts. Further, there is no established causal link between those defaults and the property upgrades.

3. PACE improvements provide important economic and environmental benefits

PACE programs have gained popularity in a majority of the states because it allows state and local government to attain important economic and environmental goals at an unparalleled scale and pace. For example, a May 2011 Department of Energy study found that the



Boulder County Colorado PACE program created over 120 jobs, generated more than \$20 million in overall economic activity and reduced consumers' energy use by more than \$125,000 in the first year alone. These benefits, important by themselves, are critical given the high unemployment numbers in the construction industry and the still-strained budgets of many American households. In developing a rule that serves the public interest, the FHFA must weigh *perceived* risks against economic benefits that clearly reduce default rates.

4. Proposed Rule

The Center strongly urges the FHFA to reconsider its blanket opposition to PACE programs and revise the Statement and the Directive. The Center recommends that FHFA's proposed rule allow GSEs and any other mortgage lenders regulated by the FHFA to buy residential mortgages with PACE assessments that are originated by programs that conform to the standards and guidelines established in the Department of Energy's proposed pilot program or the PACE Assessment Protection Act of 2011 (H.R. 2599). Both directives establish standards and guidelines that protect the interests of local governments, homeowners, mortgage lenders and GSEs.

5. EIS Scoping Comments

The Proposed Action in FHFA's Environmental Impact Statement (EIS) should be changed to provide that GSEs may purchase mortgages subject to a first-lien PACE obligation or that could become subject to first-lien PACE obligations if the originating PACE program conforms to substantially similar standards and guidelines as those established in the PACE Assessment Protection Act of 2011 (H.R. 2599) or the Department of Energy's "Guidelines for Pilot PACE Financing Programs" (May 7, 2010). The Proposed Action is disproportionate to the actual risk of PACE financing programs, particularly in light of the demonstrated economic and environmental benefits of such programs.

If FHFA does not alter the Proposed Action, one of the alternatives analyzed in the EIS should be revisions to the FHFA's July 6, 2010, Statement and the February 28, 2010, Directive to provide that the GSEs are permitted to purchase mortgages subject to a first-lien PACE obligation or that could become subject to first-lien PACE obligations so long as the applicable PACE program conforms to standards and guidelines such as those established in H.R. 2599 (2011) or the DOE Guidelines referenced above.



Conclusion

The Center for Environmental Innovation in Roofing (Center) appreciates the opportunity to comment on this important issue. If any clarifications or further information is needed regarding these comments, the Center would be pleased to assist wherever possible. Please contact Justin Koscher at the Center (JustinK@RoofingCenter.org or 202.380.3371).

Sincerely,
Center for Environmental Innovation in Roofing

/s/ Justin Koscher
By: Justin Koscher, *Staff Counsel*