

RENEWABLE ENERGY TERMS AND CONCEPTS: A BEGINNER'S GLOSSARY

With 292 sunny or partly sunny days each year, Las Vegas has always shown great potential for solar energy. The 2013 annual report of the Environment America Research and Policy Center ranks Nevada third among the states with the highest cumulative installed solar energy capacity per resident. Our favorable access to the Sun's abundant resource, together with improvements in solar technologies and a simultaneous decrease in the price of solar panels, has resulted in tremendous growth in solar electric generation in Nevada in recent years.

With this expansion, Nevada businesses are looking at different ways of participating in renewable energy, including commercial and industrial property owners who are looking at rooftop solar installations to benefit from various federal and state incentive programs and from long-term contracted electricity rates. Consequently, even if you have limited experience dealing with energy development and regulation, you may soon be called upon to review complex and novel energy-related legal issues and to structure and negotiate high-dollar agreements with project developers, governmental entities, and utility companies.

To help prepare you for these transactions, this article provides the following brief explanations of a few common terms and concepts that you will likely encounter, along with a few basic “takeaways” to keep in mind as you address these topics.

DISTRIBUTED GENERATION (DG): Distributed Generation, or "DG", is the term used for smaller energy generation projects located at or near the site where the energy will be used. Energy generation has traditionally focused on large generation facilities, located far from population centers, which sell energy wholesale to utility companies that then transport the energy by transmission lines to the retail energy users. Distributed generation allows property owners to generate their own energy on or near their premises. The most common examples of DG projects in Nevada are rooftop solar installations.

INTERCONNECTION (Public Utility Commission of Nevada (PUCN) Rule No. 15): Because of the natural intermittency of renewable resources, properties with DG facilities must still be physically interconnected with a utility's distribution system. To protect the electrical grid, the PUCN has adopted technical standards and procedures for interconnection of DG systems of up to 20 MW.

Takeaway: Contact the utility early to commence and ensure compliance with the interconnection process.

NET METERING (NRS 704.766 *et seq.*): Net metering is the method by which an owner of a DG system receives credit from its public electric utility for the excess electricity the DG system generates and provides back to the electric grid. In Nevada, solar DG systems having a capacity of no more than 1 MW (or 100 percent of the owner's annual electric requirements, if less than 1 MW) may qualify for net metering.

Takeaway: Determine whether your project will qualify for and benefit from net metering. If so, you will need to apply with your utility and satisfy the requirements of your utility's net metering program.

POWER PURCHASE AGREEMENT (PPA): A Power Purchase Agreement, or "PPA", is a contract used by an electricity generator to sell its product to a purchaser or "offtaker". A PPA provides the terms of delivery of the electricity to the offtaker, such as any minimum production requirements, the price to be paid for the electricity, any damages applicable if the required energy is not supplied, and possibly monitoring and maintenance requirements. PPAs are also commonly used as financing tools in connection with rooftop solar projects. Under this structure, a developer will own, operate, and maintain the rooftop solar system and sell the generated electricity to the property owner for a contracted price, often over a 15-20 year term. A property owner opting for a PPA structure will not own its DG system and may not receive the tax or Portfolio Energy Credits (PEC) benefits applicable to the DG system, but the PPA structure can provide for relatively low up-front costs. Another common method for financing rooftop solar is through an operating or capital lease of the DG system.

Takeaway: Identify the advantages and disadvantages of the available financing options, such as up-front and overall financing costs, ownership of PECs and tax attributes, accounting treatment, and operation and maintenance obligations.

RENEWABLE PORTFOLIO STANDARD (RPS) (NRS 704.7801 *et seq.*): A Renewable Portfolio Standard, or "RPS", is a legislated minimum percentage of electricity required to be generated or acquired by a public utility from an eligible renewable energy source. For example, the Nevada RPS requires that by 2025 Nevada utilities generate or acquire at least 25 percent of the electricity they sell from qualifying renewable energy sources.

PORTFOLIO ENERGY CREDITS (PECs) (NRS 704.7821): Portfolio Energy Credits, or "PECs", are issued as evidence of electricity generated from eligible renewable energy facilities registered with the PUCN. PECs are tradable and can be sold to utility companies that employ the PECs to satisfy their RPS. Each PEC generally represents 1 kW hour of renewable generation, but certain net metered systems may qualify for a higher value PEC.

Takeaway: Determine whether your project and financing structure will allow you to obtain and maintain PECs.

STATE AND FEDERAL TAX INCENTIVES (26 U.S.C. § 48; NRS 701A): Unique tax opportunities exist for renewable energy projects at both the state and federal levels. Among other things, the federal business energy investment tax credit may be available for certain eligible systems, and these tax credits may be used as a financing tool. Also, depending on the size and nature of the project, Nevada law may provide for the abatement or exemption of certain sales and use taxes or property taxes.

Takeaway: Tax implications and strategies should be considered and discussed with tax professionals in the early stages of structuring a renewable energy project.

While these summaries are a good preliminary guide, there are many other terms and concepts you will encounter as you delve into transactions in this industry. Here's one final takeaway to help make that first deal easier to navigate: surround yourself with advisors who have specific experience working in the renewable energy field. Knowledge, like solar energy, is indeed power.