

"ARRA"

MY PERSPECTIVE ON THE ENERGY INITIATIVES IN THE AMERICAN RECOVERY AND REINVESTMENT ACT

Presented by:

Roger K. Ferland

March 27, 2009

Quarles & Brady LLP

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THREE INTERRELATED DRIVERS

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Driver #1

-  **Obama**: Number one national security priority is reducing the threat of climate change.




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THREE INTERRELATED DRIVERS

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Driver #2

-  Obama: Number one domestic priority is getting the country out of the recession







THREE INTERRELATED DRIVERS

Driver #3

- 🌍 **State and national renewable electricity standards**
 - Obama/House 25% renewable energy by 2025
 - Senate 20% by 2021
- 🌍 **Will create green jobs (whatever they are)**




WILL DISCUSS

-  **Pre-ARRA incentives for renewables, energy efficiency projects**
-  **ARRA incentives**
-  **How they change the available financing options**
-  **The future**



WILL NOT DISCUSS

- 
- A. Grant or loans such as for the smart grid, alternative fueled vehicles, energy efficiency, except where they are in lieu of investment tax credits
 - B. One practical word of advice as far as grants:

"Don't do this at home"

Obtaining competitive grants from DOE and block grants for state and local programs and for private entities for: energy efficiency projects, weatherization, photovoltaic projects – get expert help:

- **Mike McClure at Honeywell Energy Systems (602-313-3138) Local, very knowledgeable and free.**



MAJOR PRE-ARRA INCENTIVES




A. Loan Guarantees (DOE)

- 🌍 For electric power transmission systems and renewable energy systems
- 🌍 Problem: Substantial up front costs to qualify
- 🌍 Problem: Long lead time



MAJOR PRE-ARRA INCENTIVES

B. Clean Renewable Energy Bonds ("CREBs")

-  Tax credit bond issued by electric cooperatives, public (governmental, tribal) power systems for wide range of renewables including biomass, hydro.
-  Issuer does not make interest payment but bondholder takes tax credit comparable to payment.
-  Up front interest free financing unlike direct tax credits that only useable when project built and revenue generated.



MAJOR PRE-ARRA INCENTIVES

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Problem: Very limited credits available (less than \$1 Billion)





Problem: Certain categories, e.g., tribes, have separate cap

Problem: Short project completion time frames for eligibility



MAJOR PRE-ARRA INCENTIVES

C. Production or Investment Tax Credits

-  Covers 30% of renewable project costs
-  Problem: Requires income to be offset by credits but most projects don't generate sufficient revenue to benefit
-  Problem: Must have a project that generates revenues but financing not available for many projects
-  Problem: Credits not transferable, so tribal projects get no benefit because no taxes paid.



A. Loan Guarantees (\$6 plus billion)

- 🌍 Available by summer 2009
- 🌍 Lower up front costs
- 🌍 More affordable



AARA INCENTIVES

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B. CREBs (\$4 billion)




- 🌍 Much higher total cap
- 🌍 Available for additional purposes, e.g., mass transit



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C. Tax Credits

-  Investment tax credits (up to \$2.3 billion) for "advanced energy projects"
-  Production tax credit (varies year to year, determined as ¢/KWH).
-  Transferable by tribes



D. Grants

-  In lieu of tax credits which only assist certain projects
-  Covers 30% of costs, with other mechanisms, e.g., loan guarantees, opens up new financing



D. Grants – new options






Creates opportunity for sale-leasebacks

- **Developer cannot use tax credit because of small tax burden, sells project to utility but leases back to operate. Utility takes tax credit.**
- **Sales contract + Power Purchase Agreement sufficient to secure lower rate financing for developer**
- **Alternatively – utility leaves tax credit with developer and claims depreciation on the project**



E. Proposed Green Bank

-  Initial capitalization of \$10 billion.
-  Treasury issues green bonds to provide additional capitalization
-  Purpose: Additional source of low-priced financing for clean energy and energy efficiency projects for credit-worthy borrowers



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