

Legal Issues in Financing Energy Efficiency

George Washington University Law School

Next Generation Energy and the Law

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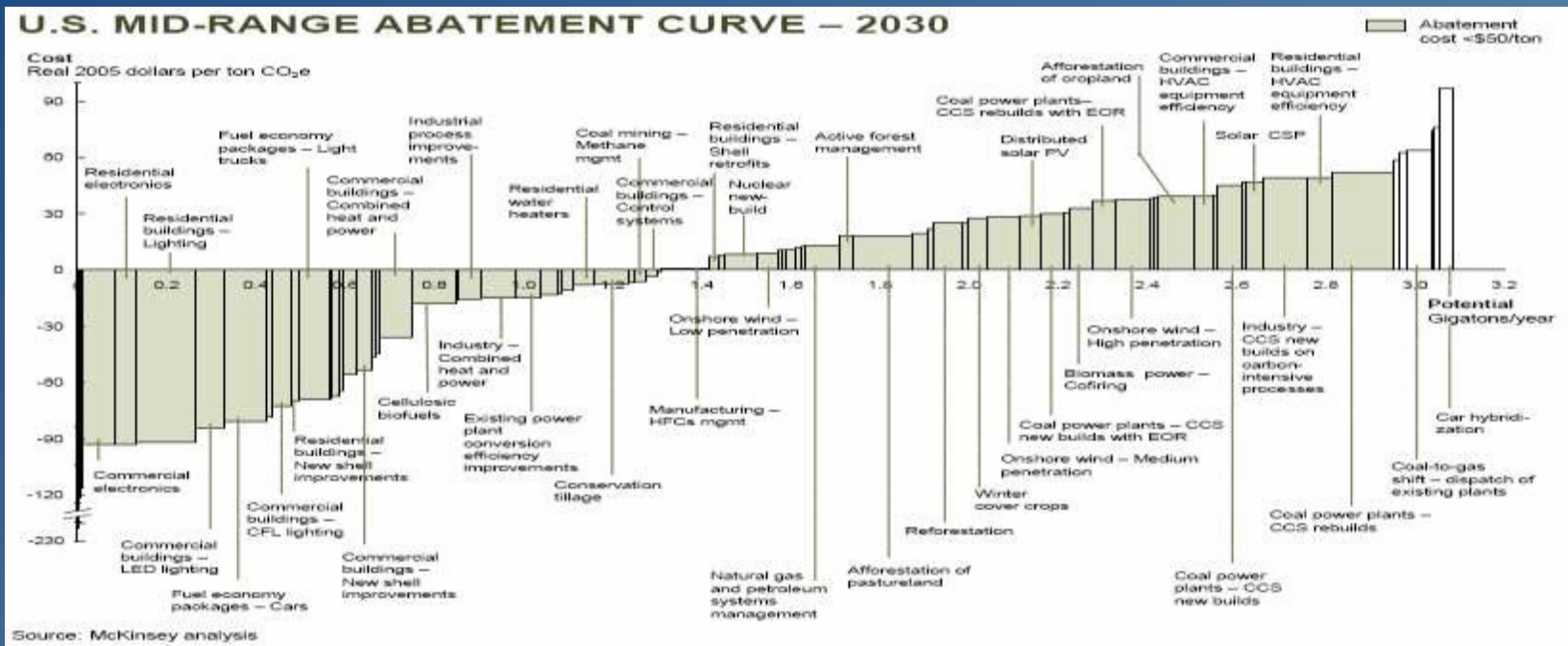
Executive Director, Pace Energy and
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Overview

- Why Energy Efficiency?
 - Most cost-effective means of reducing Greenhouse Gas (GHG) emissions
 - Less risk than clean energy technologies
- Financing energy efficiency
 - PAYS[®]
 - PACE

Why Energy Efficiency?



Less Risky

“Venture capital 2009 investments in clean tech fell 50% to \$2.6 billion as investors shift focus to energy efficiency”

Ernst & Young Report
February 2010

Less Risky (continued)

- Shift toward energy efficiency products with lower funding requirements and potentially faster commercialization
- 11% growth in number of venture capital deals for energy efficiency in 2009
- \$593.3 million in 2009
- \$105.0 million for Silver Spring Networks, provider of networking infrastructure and services for smart grids

Financing Energy Efficiency

- Pay As You Save (PAYS[®])
- Property Assessed Clean Energy (PACE)

Pay As You Save (PAYS®)

- Specific form of On-Bill Financing
- Four elements:
 - Independent third-party certification of savings claims
 - Obligation “runs with the meter”
 - No up-front payment
 - Repayment of energy efficiency investments collected through utility tariffs

PAYS[®] (continued)

- Legal Issues
 - Ability to disconnect for non-payment of non-commodity portion of bill
 - Implementation challenges
- Financial Issues
 - Lessons from the New York pilot program
 - Ability to raise capital on more reasonable terms

Property Assessed Clean Energy (PACE)

- Elements of PACE financing
 - Municipalities provide financing for “clean energy” measures
 - Funding provided by municipal bonds, backed by Federal loan guarantee
 - Funding agency granted senior tax lien on real property
 - Repayment through property tax bill
 - Obligation “runs with the land”

PACE (continued)

- “Clean Energy” Measures
 - Energy efficiency improvements
 - Renewable energy systems
 - Must be supported by energy audit, feasibility study
- Financing elements
 - Term tied to useful lives of measures
 - Extended repayment period results in immediate cash flow savings

PACE (continued)

- Modeled after “BerkeleyFIRST” program implemented in 2008
- Supported by funding under American Reinvestment and Recovery Act (ARRA)
- 14 states have enacted enabling legislation
- Alternatives:
 - Babylon model: defining carbon as “waste”

Questions?

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