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Grant Programs & Tax Credits

Steptoe's Renewable Energy attorneys are well-equipped to provide legal counsel and support to companies seeking grant programs and/or tax credits for their energy projects. The Department of Energy ("DOE") offers a variety of these grant programs and tax credits to promote energy efficiency and the use of renewable energy. Our Renewable Energy attorneys frequently assist clients in navigating the complex web of federal and state funding to obtain the grant programs and tax credits necessary for project financing.

There are four basic categories that provide a significant source of federal funding, including: Smart Grid Technologies, Renewables and Transmission, Energy Efficiency, and Carbon Capture and Sequestration. These four categories received significant funding under The American Recovery and Reinvestment Act of 2009 ("ARRA"), and continue to serve as major initiatives for the federal government. There are complimentary state programs that also provide these programs.

Smart Grid Technologies

For Smart Grid Technologies, Congress provided \$4.5 billion in funds to the Office of Electricity Delivery and Energy Reliability ("OE"), for a variety of programs that previously were unfunded but authorized in the 2007 Energy Independence and Security Act ("EISA"). These programs include grants for research and development, regional demonstration programs, and matching grants to a variety of stakeholders, including utilities, for expenditures such as monitoring and communications devices, metering and control functions, and other smart grid functions. The ARRA increased the cost-share amounts previously authorized in EISA from 20% to as much as 50% for demonstration projects and for investment in smart grid devices previously were authorized in EISA. Section 1306 would allow advance payment of as much as the full amount of projected reimbursements to creditworthy applicants whose ability to make qualified investments may be hindered by a lack of initial capital.

The OE continues to provide funding for the creation, advancement and deployment of the new technologies. The office seeks to fund initiatives that enable the delivery of clean energy sources such as renewables, clean coal, and nuclear power, or that develop a new smart grid and plug-in hybrid electric vehicles. The United States will continue to make major investments in this type of technology.

Renewables and Transmission

Renewables and transmission projects are addressed in the ARRA through the authorization of a new section to Title XVII of the DOE Loan Guarantee program (Section 1705), which was originally authorized in the EPAct. Title

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XVII was intended to assist in the commercialization of innovative energy technologies that were not yet commercial in the United States. The ARRA added Section 1705 to Title XVII that authorizes loan guarantees for renewable energy systems, electric power transmission systems, and leading biofuels projects, notwithstanding the commercialization restrictions in the EPA Act authorized program. In other words, ARRA directs the program to renewable energy and transmission projects that already are in commercial use in the United States. Congress appropriated credit subsidy costs to enable the program to support \$60 billion in loan guarantees.

Carbon Capture and Sequestration

The Office of Fossil Energy (“FE”) is funding research to transform the fundamental science of carbon sequestration into a portfolio of practical, affordable and safe technologies and mitigation strategies that the energy industry can use to reduce emissions of greenhouse gases. The ARRA provide \$3.4 billion to the FE to use coal and other fossil fuels more cleanly and efficiently. Of this amount, \$1.52 billion will be used for a competitive program for a range of industrial carbon capture and energy efficiency improvement projects. These funds will likely be targeted at both electric power and industrial gasification projects that implement Carbon Capture and Sequestration (“CCS”). Still another \$800 million is targeted as additional funding for the Clean Coal Power Initiative Round III funding opportunity announcement, which is managed by National Energy Technology Laboratory (“NETL”) and the Office of Fossil Energy. The President’s budget this year continues to increase funding for FE and new CCS initiatives.

Energy Efficiency and Renewable Energy Jobs

Energy Efficiency and Renewable Energy Jobs are funded through a \$500 million appropriation to fund Title X of EISA and the Workforce Investment Act of 1998 which works in a way to fund so called “green jobs.” These two authorizations, working together, created five specific programs that are funded by ARRA: A National Research Program to track green workforce trends; National Energy Training Partnership Grants; a State Labor Market Research, Information, and Labor Exchange Research Program; a State Energy Training Partnership-Program; and a Pathways out of Poverty Demonstration program.

Lawmakers are currently considering a “Jobs Bill” that would continue to provide significant funding for “green jobs.” If passed, the funds would be available to states later this year. Also in the Renewables and Efficiency area, funding is available for applied research, development, demonstration, and technology deployment for the Office of Energy Efficiency and Renewable Energy. Half of this funding is directed to three technology areas: geothermal,

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biomass and energy efficiency. The other half of the funding is directed towards existing ongoing programs that run the gamut of renewable technologies for applied research, demonstration and deployment.

Representative Matters

- Advice on tax credits for the production and use of alternative fuels and the application of the excise tax rules for a major manufacturer of paper products.
- Advice on various federal and state tax issues on the development, financing, construction, and operation of a solar generation facility in Arizona.